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Short Title: Environmental Agency Consolidation.

(Public)

Sponsors:

Referred to:

March 7, 1989

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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 G.S. 143B-275 through G.S. 143B-281 are repealed.

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

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

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

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

6 **"§ 143B-279.2. Department of Environment, Health, and Natural Resources–**
7 **duties.**

8 It shall be the duty of the Department:

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

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

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

13 **"§ 143B-279.3. Department of Environment, Health, and Natural Resources–**
14 **structure.**

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

19 (1) Governor's Waste Management Board, Department of Human
20 Resources.

21 (2) Radiation Protection Section, Division of Facility Services,
22 Department of Human Resources.

23 (3) Radiation Protection Commission, Department of Human Resources.

24 (4) Division of Health Services, Department of Human Resources.

25 (5) Commission for Health Services, Department of Human Resources.

26 (6) Water Treatment Facility Operators Board of Certification,
27 Department of Human Resources.

28 (7) Council on Sickle Cell Syndrome, Department of Human Resources.

29 (8) Perinatal Advisory Council, Department of Human Resources.

30 (9) Adolescent Pregnancy Advisory Board, Department of Human
31 Resources.

32 (10) Governor's Council on Physical Fitness and Health, Department of
33 Human Resources.

34 (11) Commission of Anatomy, Department of Human Resources.

35 (12) Coastal Management Division, Department of Natural Resources and
36 Community Development.

37 (13) Coastal Resources Commission, Department of Natural Resources and
38 Community Development.

39 (14) Environmental Management Division, Department of Natural
40 Resources and Community Development.

41 (15) Environmental Management Commission, Department of Natural
42 Resources and Community Development.

43 (16) Air Quality Council, Department of Natural Resources and
44 Community Development.

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

1 Protection Division of the Department of Environment, Health, and
2 Natural Resources.

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

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

14 **"§ 143B-279.4. The Department of Environment, Health, and Natural Resources–**
15 **Secretary; Deputy Secretaries.**

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

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

19 **"§ 143B-279.5. Biennial State of the Environment Report.**

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

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

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

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

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

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

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

38 (7) Suggested legislation, if necessary; and

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

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

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

3 **"§ 143B-279.6. Wildlife Resources Commission—transfer; independence preserved;**
4 **appointment of Executive Director and employees.**

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

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

17 **"§ 143B-430. Secretary of Commerce – powers and duties.**

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

28 (b) The Secretary of Commerce shall have the power and duty to accept and
29 administer federal funds provided to the State through the Job Training Partnership
30 Act."

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

32 **"§ 143B-432. Transfers to Department of Commerce.**

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

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

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

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

12 **"§ 143B-138. Department of Human Resources – functions.**

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

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

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

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

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

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

19 "**§ 143B-344.14. Coordinating Council.**

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

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

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

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

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

- 33 (1) Overseeing the meeting of the State's goals for employment and
 34 training.
- 35 (2) Continuously reviewing the plans and programs of agencies operating
 36 federally funded programs related to employment and training and of
 37 other agencies providing employment and training-related services in
 38 the State that may be funded with State funds.
- 39 (3) Conducting studies, preparing reports and analyses, including an
 40 annual published report to the Governor and General Assembly, and
 41 providing such advisory services as may be authorized or directed by
 42 the Governor.

- 1 (4) Recommending the allocation of Job Training Partnership Act funds
2 not subject to the seventy-eight percent (78%) that flows directly to
3 service delivery areas.
- 4 (5) Recommending program goals to insure job training for unskilled
5 youth and adults is a matter of the highest priority and encouraging
6 Service Delivery Areas (SDA's) to reflect these goals in their SDA
7 plans.
- 8 (6) Developing a long term tracking system to measure the effectiveness
9 of the Job Training Partnership Act with respect to permanent job
10 placements. Such a tracking system shall not be less than one year and
11 shall be implemented by July 1, 1986.
- 12 (7) Insuring compliance with the provisions of Sections 122(b)(7)A and B
13 and 122(b)(8) of the Job Training Partnership Act no later than May 30
14 of every year, requiring the following:
 - 15 a. Identification of employment and training and vocational
16 education needs throughout the State;
 - 17 b. Assessing the extent to which existing programs are meeting
18 these needs.
 - 19 c. Repealed by Session Laws 1985, c. 791, s. 26.1(b), effective
20 July 1, 1985.
- 21 (8) Annually measuring the increase in employment and earnings and the
22 reductions in welfare dependency by SDA resulting from participating
23 in the Job Training Partnership Act program and reporting those
24 findings to the Governor and General Assembly.
- 25 (9) Annually reporting to the Governor and General Assembly on funds
26 expended by each SDA for job training services and the reason service
27 providers were chosen.
- 28 (10) Providing management guidance and review of all State administered
29 employment and training programs and encouraging compliance by
30 the SDA's with the goals and purposes outlined by the General
31 Assembly, the Governor, and the State Council.
- 32 (11) Insuring that service delivery area plans are submitted to the General
33 Assembly within 30 days after received by the Council as prescribed in
34 Section 105(a)(1)A and B of Public Law 97-300.
- 35 (12) Obtaining other information from recipients of Job Training
36 Partnership Act funds, as requested by the Governor and General
37 Assembly.
- 38 (f) The State Job Training Coordinating Council:
 - 39 (1) Shall be appointed by the Governor in a manner consistent with
40 Section 122 of Public Law 97-300.
 - 41 (2) Shall meet at the call of the chairman. A majority of the Council shall
42 constitute a quorum for the transaction of business. Members shall
43 receive per diem and necessary travel and subsistence expenses in

1 accordance with the provisions of G.S. 138-5, 138-6 or 120-3.1, as the
2 case may be.

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

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

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

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

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

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

40 "(a) Before an approval certificate may be issued for a motor vehicle, the vehicle
41 must be inspected by a safety equipment inspection station, and if required by Chapter
42 20 of the General Statutes of North Carolina, must be found to possess in safe operating
43 condition the following articles and equipment:

44 (1) Brakes,

- 1 (2) Lights,
- 2 (3) Horn,
- 3 (4) Steering mechanism,
- 4 (5) Windshield wiper,
- 5 (6) Directional signals,
- 6 (7) Tires,
- 7 (8) Rearview mirror or mirrors.

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

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

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

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

24 "**§ 74-51. Permits – Application, granting, conditions.**

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

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

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

38 Before deciding whether to grant a new permit, the Department shall circulate copies
39 of a notice of application for review and comment as it deems advisable. The
40 Department shall grant or deny the permit requested as expeditiously as possible, but in
41 no event later than 60 days after the application form and any relevant and material
42 supplemental information reasonably required shall have been filed with the
43 Department, or if a public hearing is held, within 30 days following the hearing and the
44 filing of any relevant and material supplemental information reasonably required by the

1 Department. Priority consideration shall be given to applicants who submit evidence
2 that the mining proposed will be for the purpose of supplying materials to the Board of
3 Transportation.

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

10 The Department may deny such permit upon finding:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **"§ 87-95. Injunctive relief.**

19 Upon violation of any of the provisions of or any order issued pursuant to this
20 Article, or duly adopted ~~regulation-rule~~ of the Commission implementing the provisions
21 of this Article, the Secretary of the Department of ~~Natural Resources and Community~~
22 ~~Development-Environment, Health, and Natural Resources~~ may, either before or after
23 the institution of proceedings for the collection of the penalty imposed by this Article
24 for such violations, request the Attorney General to institute a civil action in the
25 superior court in the name of the State upon the relation of the Department of ~~Natural~~
26 ~~Resources and Community Development-Environment, Health, and Natural Resources~~
27 for injunctive relief to restrain the violation or require corrective action, and for such
28 other or further relief in the premises as said court shall deem proper. Neither the
29 institution of the action nor any of the proceedings thereon shall relieve any party to
30 such proceedings from the penalty prescribed by this Article for any violation of same."
31

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

33 **"§ 87-96. Conflict with other laws.**

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

42 ~~This Article or any rules or regulations adopted pursuant thereto, shall not be in~~
43 ~~conflict with any laws, rules, or regulations of the Commission for Health Services~~
44 ~~pertaining to public health, wells and groundwater supplies. All laws, rules, and~~

1 ~~regulations presently in effect that are administered by the Department of Human~~
2 ~~Resources shall remain in effect. Rules relating to public health, wells, or groundwater~~
3 ~~adopted by the Commission for Health Services shall prevail over this Article or rules~~
4 ~~adopted pursuant to this Article. This Article shall not be construed to repeal any law or~~
5 ~~rule in effect as of the effective date of this Article."~~

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

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

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

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

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

26 "**§ 95-149. Authority to enter into contracts with other State agencies and**
27 **subdivisions of government.**

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

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

34 "**§ 100-13. Fees for use of improvements; fees for other privileges; leases; rules and**
35 **regulations.**

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

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

1 **"§ 100-14. Use of fees and other collections.**

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

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

9 **"§ 100-15. Annual reports.**

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

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

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

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

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

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

1 that said certificate has been obtained and submitted to the ~~Division of Health Services~~
2 ~~of the Department of Human Resources~~Department of Environment, Health, and
3 Natural Resources.

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

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

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

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

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

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

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

36 "(6) Special nuclear materials held for or in the process of manufacture,
37 processing, or delivery by the manufacturer or processor thereof, regardless whether the
38 manufacturer or processor owns the special nuclear materials. The terms 'manufacture'
39 and 'processing' do not include the use of special nuclear materials as fuel. The term
40 'special nuclear materials' includes (i) uranium 233, uranium enriched in the isotope 233
41 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing,
42 but not including source material. 'Source material' means any material except special
43 nuclear material which contains by weight one twentieth of one percent (0.05%) or
44 more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however,

1 that to qualify for this exemption no such nuclear materials shall be discharged into any
2 river, creek or stream in North Carolina. The classification and exclusion provided for
3 herein shall be denied to any manufacturer, fabricator or processor who permits burial
4 of such material in North Carolina or who permits the discharge of such nuclear
5 materials into the air or into any river, creek or stream in North Carolina if such
6 discharge would contravene in any way the applicable health and safety standards
7 established and enforced by the Department of ~~Human Resources, the North Carolina~~
8 ~~Department of Natural Resources and Community Development, Environment, Health,~~
9 ~~and Natural Resources~~ or the ~~Federal Atomic Energy Nuclear Regulatory~~ Commission.
10 The most stringent of these standards shall govern."

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

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

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

40 b. Real or personal property that is used or, if under construction,
41 is to be used exclusively for recycling or resource recovering of
42 or from solid waste, if the Department of ~~Human Resources~~
43 Environment, Health, and Natural Resources furnishes a
44 certificate to the tax supervisor of the county in which the

1 property is situated stating the Department of ~~Human Resources~~
2 Environment, Health, and Natural Resources has found that the
3 described property has been or will be constructed or installed,
4 complies or will comply with the regulations of the Department
5 of ~~Human Resources~~Environment, Health, and Natural
6 Resources, and has, or will have as its primary purpose
7 recycling or resource recovering of or from solid waste.

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

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

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

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

21 **"§ 110-92. Duties of State and local agencies.**

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

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

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

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

1 **"§ 113-8. Powers and duties of the Department of Natural Resources and**
2 **Community Development ~~Environment, Health, and Natural Resources.~~**

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

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

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

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

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

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

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

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

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

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

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

- 1 (6) Act as liaison between agencies of the State, local government, and
2 agencies of the federal government concerned with development of the
3 seacoast region;
- 4 (7) Repealed by Session Laws 1973, c. 1262, s. 28;
- 5 (8) Make such reports to the Governor as he may request;
- 6 (9) File such recommendations or suggestions as it may deem proper with
7 other agencies of the State, local or federal governments."

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

9 **"§ 113-14.3. Publications.**

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

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

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

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

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

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

28 **"§ 113-17. Agreements, negotiations and conferences with federal government.**

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

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

38 **"§ 113-18. Department authorized to receive funds from Federal Power**
39 **Commission.**

40 All sums payable to the State of North Carolina by the Treasurer of the United States
41 of America under the provisions of section 17 and other sections of the Federal Water
42 Power Act shall be paid to the account of the ~~State Department of Natural Resources~~
43 ~~and Community Development~~ as the authorized agent of the State for receipt of said
44 payments. Such sums shall be used by the Department of ~~Natural Resources and~~

1 ~~Community Development~~ in prosecuting investigations for the utilization and
2 development of the water resources of the State."

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

4 **"§ 113-19. Cooperation with other State departments.**

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

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

16 **"§ 113-20. Cooperation with counties and municipal corporations.**

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

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

25 **"§ 113-21. Cooperation of counties with State in making water resource survey.**

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

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

33 **"§ 113-22. Control of State forests.**

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

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

38 **"§ 113-23. Control of Mount Mitchell Park and other State parks. parks in the**
39 **North Carolina State Parks System.**

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

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

1 **"§ 113-26.1. Bureau of Mines; mineral museum.**

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

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

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

16 **"§ 113-28. Reimbursement of government for expense of emergency conservation**
17 **work.**

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

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

1 **"§ 113-28.1. Designated employees commissioned special peace officers by**
2 **Governor.**

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

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

13 **"§ 113-28.2. Powers of arrest.**

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

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

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

26 **"§ 113-28.23. Designation of administering agency powers and responsibilities.**

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

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

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

35 **"§ 113-29. Policy and plan to be inaugurated by ~~Department of Natural Resources~~**
36 **~~and Community Development~~Environment, Health, and Natural**
37 **Resources.**

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

41 (b) The Department of ~~Natural Resources and Community Development~~
42 Environment, Health, and Natural Resources shall inaugurate the following policy and
43 plan looking to the cooperation with private and public forest owners in this State

1 insofar as funds may be available through legislative appropriation, gifts of money or
2 land, or such cooperation with landowners and public agencies as may be available:

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

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

24 **"§ 113-29.1. Growing of timber on unused State lands authorized.**

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

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

42 **"§ 113-30. Use of lands acquired by counties through tax foreclosures as**
43 **demonstration forests.**

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

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

8 **"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.**

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

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

23 **"§ 113-32. Purchase of lands for use as demonstration forests.**

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

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

32 **"§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases**
33 **by United States; leases for recreational purposes; rules governing public**
34 **use.**

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

1 appropriations or funds available. The ~~State Department of Natural Resources and~~
2 ~~Community Development~~ shall also have the power to acquire by condemnation under
3 the provisions of Chapter 40, such areas of land in different sections of the State as may
4 in the opinion of the Department of ~~Natural Resources and Community Development~~ be
5 necessary for the purpose of establishing and/or developing State forests, State parks
6 and other areas and developments essential to the effective operation of the State
7 forestry and State park activities with which the Department of ~~Natural Resources and~~
8 ~~Community Development~~ has been or may be entrusted. Such condemnation
9 proceedings shall be instituted and prosecuted in the name of the State of North
10 Carolina, and any property so acquired shall be administered, developed and used for
11 experiment and demonstration in forest management, for public recreation and for such
12 other purposes authorized or required by law: Provided, that before any action or
13 proceeding under this section can be exercised, the approval of the Governor and
14 Council of State shall be obtained and filed with the clerk of the superior court in the
15 county or counties where such property may be situate, and until such approval is
16 obtained, the rights and powers conferred by this section shall not be exercised. The
17 Attorney General of the State is directed to see that all deeds to the State for land
18 mentioned in this section are properly executed before the gift is accepted or payment of
19 the purchase money is made.

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

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

- 40 (1) The erection, maintenance and use of docks, piers and such other
41 structures as may be permitted in or on said waters under its own
42 ~~regulations~~rules;
- 43 (2) Fishing privileges in said waters, provided that such privileges shall be
44 extended only to holders of bona fide North Carolina fishing licenses,

1 and provided further that all State fishing laws and rules are complied
2 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 make reasonable rules for the regulation of the use by the
8 public of said lands and waters and of public service facilities and conveniences
9 constructed thereon, and said rules shall have the force and effect of law and any
10 violation of such rules shall constitute a misdemeanor and shall be punishable by a fine
11 of not more than fifty dollars (\$50.00) or imprisonment of not more than 30 days.

12 The authority herein granted is in addition to other authority now held and exercised
13 by the Department of ~~Natural Resources and Community Development~~.

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

15 "**§ 113-35. State timber may be sold by Department of ~~Natural Resources and~~
16 ~~Community Development~~ Environment, Health, and Natural Resources;
17 forest nurseries; control over parks, etc.; operation of public service
18 facilities; concessions to private concerns.**

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

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

- 1 (1) The erection, maintenance and use of docks, piers and such other
2 structures as may be permitted in or on State lakes under its own
3 regulations;
- 4 (2) Hunting privileges on State forests and fishing privileges in State
5 forests, State parks and State lakes, provided that such privileges shall
6 be extended only to holders of bona fide North Carolina hunting and
7 fishing licenses, and provided further that all State game and fish laws
8 are complied with.

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

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

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

23 **"§ 113-35.1. Uniforms for seasonal park employees.**

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

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

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

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

39 "(b) Tree Cone and Seed Purchase Fund. – A percentage of the money obtained
40 from the sale of seedlings and remaining unobligated at the end of a fiscal year, shall be
41 placed in a special, continuing and nonreverting Tree Cone and Seed Purchase Fund
42 under the control and direction of the Secretary, ~~Department of Natural Resources and~~
43 ~~Community Development~~. The percentage of the sales placed in the fund shall not
44 exceed ten percent (10%). At the beginning of each fiscal year, the secretary shall

1 select the percentage for the upcoming fiscal year depending upon the anticipated costs
2 of tree cones and seeds which the department must purchase. Money in this fund shall
3 not be allowed to accumulate in excess of the amount needed to purchase a four-year
4 supply of tree cones and seed, and shall be used for no purpose other than the purchase
5 of tree cones and seeds."

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

7 "**§ 113-40. Donations of property for forestry or park purposes; agreements with**
8 **federal government or agencies for acquisition.**

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

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

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

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

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

32 "**§ 113-51. Powers of Department of ~~Natural Resources and Community~~**
33 **~~Development~~ Environment, Health, and Natural Resources.**

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

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

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

44 "**§ 113-52. Forest rangers.**

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

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

6 **"§ 113-54. Duties of forest rangers; payment of expenses by State and counties.**

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

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

40 "(a) Forest rangers shall prevent and extinguish forest fires and shall have control
41 and direction of all persons and equipment while engaged in the extinguishing of forest
42 fires. During a season of drought, the Secretary of the ~~Department of Natural Resources~~
43 ~~and Community Development~~ or his designate may establish a fire patrol in any district,
44 and in case of fire in or threatening any forest or woodland, the forest ranger shall attend

1 forthwith and use all necessary means to confine and extinguish such fire. The forest
2 ranger or deputy forest ranger may summon any resident between the ages of 18 and 45
3 years, inclusive, to assist in extinguishing fires and may require the use of crawler
4 tractors and other property needed for such purposes; any person so summoned and who
5 is physically able who refuses or neglects to assist or to allow the use of equipment and
6 such other property required shall be guilty of a misdemeanor and upon conviction shall
7 be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred
8 dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy
9 forest ranger, or person summoned by him for crossing lands, backfiring, burning out or
10 performing his duties as a forest ranger or deputy forest ranger."

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

12 **"§ 113-55.1. Powers of forest law-enforcement officers.**

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

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

28 **"§ 113-56. Compensation of forest rangers.**

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

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

2 **"§ 113-56.1. Overtime compensation for forest fire fighting.**

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

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

8 **"§ 113-58. Misdemeanor to destroy posted forestry notice.**

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

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

17 **"§ 113-59. Cooperation between counties and State in forest protection and**
18 **development.**

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

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

25 **"§ 113-60. Instructions on forest preservation and development.**

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

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

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

1 **"§ 113-60.1. Authority of Governor to close forests and woodlands to hunting,**
 2 **fishing and trapping.**

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

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

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

20 **"§ 113-60.2. Publication of proclamation; annulment thereof.**

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

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

29 **"§ 113-60.4. Purpose and intent.**

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

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

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

40 **"§ 113-60.5. Authority of the ~~Department of Natural Resources and Community~~**
 41 **~~Development. Department.~~**

42 The authority and responsibility for carrying out the purpose, intent and provisions
 43 of this Article are hereby delegated to the Department of ~~Natural Resources and~~
 44 ~~Community Development~~. The administration of the provisions of this Article shall be

1 under the general supervision of the Secretary of Natural Resources and Community
2 Development. The provisions of this Article shall not abrogate or change any power or
3 authority as may be vested in the North Carolina Department of Agriculture under
4 existing statutes."

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

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

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

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

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

14 **"§ 113-60.7. Action against insects and diseases.**

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

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

28 **"§ 113-60.8. Authority of Secretary of Natural Resources and Community
29 Development and his agents to go upon private land within control zones.**

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

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

1 **"§ 113-60.9. Cooperative agreements.**

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

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

7 **"§ 113-60.10. Annulment of control zone.**

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

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

15 **"§ 113-61. Private limited dividend corporations may be formed.**

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

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

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

28 **"§ 113-62. Manner of organizing.**

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

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

41 **"§ 113-63. Directors.**

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

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

2 "**§ 113-64. Duties of supervision by Secretary of ~~Natural Resources and~~**
3 **~~Community Development Environment, Health, and Natural Resources.~~**

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

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

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

33 "**§ 113-65. Powers of Secretary.**

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

- 35 (1) Examine at any time all books, contracts, records, documents and
36 papers of any such corporation.
- 37 (2) In his discretion prescribe uniform methods and forms of keeping
38 accounts, records and books to be observed by such corporation, and
39 prescribe by order accounts in which particular outlays and receipts are
40 to be entered, charged or credited. The Secretary ~~of Natural Resources~~
41 ~~and Community Development~~ shall not, however, have authority to
42 require any revaluation of the real property or other fixed assets of
43 such corporations, but he shall allow proper charges for the depletion
44 of timber due to cutting or destruction.

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

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

11 **"§ 113-66. Provision for appeal by corporations to Governor.**

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

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

24 **"§ 113-68. Issuance of securities restricted.**

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

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

32 **"§ 113-70. Earnings above dividend requirements payable to State.**

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

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

43 **"§ 113-71. Dissolution of corporation.**

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

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

8 **"§ 113-72. Cutting and sale of timber.**

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

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

18 **"§ 113-73. Corporation may not sell or convey without consent of Secretary, or pay**
19 **higher interest rate than 6%.**

20 No such corporation shall:

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

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

37 **"§ 113-74. Power to borrow money limited.**

38 Any such corporation formed under this Article may, subject to the approval of the
39 Secretary of ~~Natural Resources and Community Development~~, borrow funds and secure
40 their payment thereof by note or notes and mortgage or by the issue of bonds under a
41 trust indenture. The notes or bonds so issued and secured and the mortgage or trust
42 indenture relating thereto may contain such clauses and provisions as shall be approved
43 by the Secretary of ~~Natural Resources and Community Development~~, including the right
44 to enter into possession in case of default; but the operations of the mortgagee or

1 receiver entering in such event or of the purchaser of the property upon foreclosure shall
2 be subject to the ~~regulations~~rules of the Secretary of Natural Resources and Community
3 ~~Development~~ for such period as the mortgage or trust indenture may specify.”

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

5 **"§ 113-75. Secretary to approve development of forests.**

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

9 (1) The Secretary ~~of Natural Resources and Community Development~~
10 shall have received a statement duly executed and acknowledged on
11 behalf of the corporation proposing such project, in such adequate
12 detail as the Secretary ~~of Natural Resources and Community~~
13 ~~Development~~ shall require of the activities to be included in the
14 project, such statement to set forth the proposals as to

- 15 a. Fire prevention and protection,
- 16 b. Protection against insects and tree diseases,
- 17 c. Protection against damage by livestock and game,
- 18 d. Means, methods and rate of, and restrictions upon, cutting and
19 other utilization of the forests, and
- 20 e. Planting and spacing of trees.

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

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

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

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

39 **"§ 113-76. Application of corporate income.**

40 The gross annual income of any such corporation, whether received from sales of
41 timber, timber operations, stumpage permits or other sources, shall be applied as
42 follows: first, to the payment of all fixed charges, and all operating and maintenance
43 charges and expenses including taxes, assessments, insurance, amortization charges in
44 amounts approved by the Secretary ~~of Natural Resources and Community Development~~

1 to amortize mortgage or other indebtedness and reserves essential to operation; second,
2 to surplus, and/or to the payment of dividends not exceeding the maximum fixed by this
3 Article; third, the balance, if any, in reduction of debts."

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

5 **"§ 113-77. Reorganization of corporations.**

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

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

11 **"§ 113-81.1. Authority to render scientific forestry services.**

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

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

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

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

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

37 **"§ 113-81.2. Services under direction of Secretary of ~~Natural Resources and~~
38 ~~Community Development~~; compensation; when services without charge.**

39 The administration of the provisions of this Article shall be under the direction of the
40 Secretary of ~~Natural Resources and Community Development~~. The Secretary of
41 ~~Natural Resources and Community Development~~, or his authorized agent, upon receipt
42 of a request from a forest landowner or operator for technical forestry assistance or
43 service, may designate forest trees for removal for lumber, veneer, poles, piling,
44 pulpwood, cordwood, ties, or other forest products by blazing, spotting with paint or

1 otherwise designating in an approved manner; he may measure or estimate the
2 commercial volume contained in the trees designated; he may furnish the landowner or
3 operator with a statement of the volume of the trees so designated and estimated; he
4 may assist in finding a suitable market for the products so designated, and he may offer
5 general forestry advice concerning the management of the forest.

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

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

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

20 "**§ 113-81.3. Deposit of receipts with State treasury.**

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

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

26 "**§113-151.1. License agents.**

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

33 License agents shall be compensated by retaining fifty cents (50¢) from each license
34 sold. If more than one license is listed on a consolidated license form, the license agent
35 shall be compensated as if a single license were sold and he shall retain fifty cents
36 (50¢)."

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

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

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

42 "(d) It is lawful to transplant to private beds in North Carolina oysters taken from
43 public beds designated by the Marine Fisheries Commission as natural seed oyster

1 areas. Such areas shall be designated as natural seed oyster areas in the following
2 manner:

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

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

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

22 **"§ 113-204. Propagation of shellfish.**

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

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

36 "(d) In the interest of conservation of the marine and estuarine resources of North
37 Carolina, the Department of ~~Natural Resources and Community Development~~ may
38 institute an action in the superior court to contest the claim of title or claimed right of
39 fishery in any navigable waters of North Carolina registered with the Secretary. In such
40 proceeding, the burden of showing title or right of fishery, by the preponderance of the
41 evidence, shall be upon the claiming title or right holder. In the event the claiming title
42 or right holder prevails, the trier of fact shall fix the monetary worth of the claim. The
43 Department of ~~Natural Resources and Community Development~~ may elect to condemn
44 the claim upon payment of the established owners or right holders their pro rata shares

1 of the amount so fixed. The Department of ~~Natural Resources and Community~~
2 ~~Development~~ may make such payments from such funds as may be available to it. An
3 appeal lies to the appellate division by either party both as to the validity of the claim
4 and as to the fairness of the amount fixed. The Department of ~~Natural Resource and~~
5 ~~Community Development~~ in such actions may be represented by the Attorney General.
6 In determining the availability of funds to the Department of ~~Natural Resources and~~
7 ~~Community Development~~ to underwrite the costs of litigation or make condemnation
8 payments, the use which the Department of ~~Natural Resources and Community~~
9 ~~Development~~ proposes to make of the area in question may be considered; such
10 payments are to be deemed necessary expenses in the course of operations attending
11 such use or of developing or attempting to develop the area in the proposed manner."

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

13 **"§ 113-207. Clamming on posted oyster rocks forbidden; penalty.**

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

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

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

27 **"§ 113-223. Reciprocal agreements by Department of ~~Natural Resources and~~**
28 **~~Community Development~~ generally.**

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

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

38 **"§ 113-224. Cooperative agreements by Department of ~~Natural Resources and~~**
39 **~~Community Development~~.**

40 The Department of ~~Natural Resources and Community Development~~ is empowered
41 to enter into cooperative agreements with public and private agencies and individuals
42 respecting the matters governed in this Subchapter. Pursuant to such agreements the
43 Department of ~~Natural Resources and Community Development~~ may expend funds,
44 assign employees to additional duties within or without the State, assume additional

1 responsibilities, and take other actions that may be required by virtue of such
2 agreements, in the overall best interests of the conservation of marine and estuarine
3 resources."

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

5 "**§ 113-226. Administrative authority of Department of Natural Resources and**
6 **Community Development; administration of funds; delegation of powers.**

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

- 21 (1) With regard to the overall public interest that may result, and
22 (2) From a defined class upon such a rational basis open to all within the
23 class as to prevent constitutional infirmity with respect to requirements
24 of equal protection of the laws or prohibitions against granting
25 exclusive privileges or emoluments.

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

36 (c) If as a precondition of receiving funds under any cooperative program there
37 must be a separation of license revenues received from certain classes of licensees and
38 utilization of such revenues for limited purposes, the Department is directed to make
39 such arrangements for separate accounting or for separate funding as may be necessary
40 to insure the use of the revenues for the required purposes and eligibility for the
41 cooperative funds. In such instance, if required, such revenues may be retained by the
42 Department until expended upon the limited purposes in question. This subsection
43 applies whether the cooperative program is with a public or private agency and whether

1 the Department acts alone on behalf of the State or in conjunction with the Wildlife
2 Resources Commission or some other State agency.

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

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

5 **"§ 113-229. Permits to dredge or fill in or about estuarine waters or state-owned**
6 **lakes.**

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

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

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

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

- 30 (1) The size of the development;
- 31 (2) The impact of the development on areas of environmental concern;
- 32 (3) How often the class of development is carried out;
- 33 (4) The need for on-site oversight of the development; and
- 34 (5) The need for public review and comment on individual development
35 projects.

36 General permits may be issued by the Commission as rules under the provisions of G.S.
37 113A-107. Individual development carried out under the provisions of general permits
38 shall not be subject to the mandatory notice provisions of this section. The Commission
39 may impose reasonable notice provisions and other appropriate conditions and
40 safeguards on any general permit it issues. The variance, appeals, and enforcement
41 provisions of this Article shall apply to any individual development projects undertaken
42 under a general permit.

43 (d) An applicant for a permit, other than an emergency permit, shall send a copy
44 of his application to the owner of each tract of riparian property that adjoins that of the

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

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

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

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

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

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

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

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

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

40 (l) The Secretary may, either before or after the institution of proceedings under
41 subsection (k) of this section, institute a civil action in the superior court in the name of
42 the State upon the relation of the Secretary, for damages, and injunctive relief, and for
43 such other and further relief in the premises as said court may deem proper, to prevent
44 or recover for any damage to any lands or property which the State holds in the public

1 trust, and to restrain any violation of this section or of any provision of a dredging or
2 filling permit issued under this section. Neither the institution of the action nor any of
3 the proceedings thereon shall relieve any party to such proceedings from the penalty
4 prescribed by this section for any violation of the same.

5 (m) This section shall apply to all persons, firms, or corporations, their
6 employees, agents, or contractors proposing excavation or filling work in the estuarine
7 waters, tidelands, marshlands and state-owned lakes within the State, and the work to be
8 performed by the State government or local governments. Provided, however, the
9 provisions of this section shall not apply to the activities and functions of the ~~North~~
10 ~~Carolina Department of Human Resources~~ and local health departments that are
11 engaged in mosquito control for the protection of the health and welfare of the people of
12 the coastal area of North Carolina as provided under G.S. ~~130-206-130A-346~~ through
13 ~~130-209~~ G.S. 130A-349. Provided, further, this section shall not impair the riparian
14 right of ingress and egress to navigable waters.

15 (n) Within the meaning of this section:

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

17 (2) 'Estuarine waters' means all the waters of the Atlantic Ocean within
18 the boundary of North Carolina and all the waters of the bays, sounds,
19 rivers, and tributaries thereto seaward of the dividing line between
20 coastal fishing waters and inland fishing waters agreed upon by the
21 ~~Department of Natural Resources and Community Development~~ and
22 the Wildlife Resources Commission, within the meaning of G.S. 113-
23 129.

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

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

37 **"§ 113-230. Orders to control activities in coastal wetlands.**

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

1 reasonably deems necessary to affect by any such order in carrying out the purposes of
2 this section.

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

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

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

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

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

34 (g) After a finding has been entered that such order shall not apply to certain land
35 as provided in the preceding subsection, the Department of Administration, upon the
36 request of the Coastal Resources Commission, shall take the fee or any lesser interest in
37 such land in the name of the State by eminent domain under the provisions of Chapter
38 146 of the General Statutes and hold the same for the purposes set forth in this section.

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

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

43 "**§ 113-251. Definition of terms.**

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

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

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

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

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

14 **"§ 113-254. North Carolina members of Commission.**

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

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

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

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

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

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

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

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

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

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

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

30 "**§ 113-315.9. Bond of financial officer; audit.**

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

39 The chairman or executive head of such agency shall cause an annual certified audit
40 to be made of the financial records of the agency. Such audit shall include, among other
41 things, total annual compensation of each employee of the agency and detailed expenses
42 incurred and reimbursed for each employee of the agency. The chairman or executive
43 head of such agency shall cause a copy of the certified audit to be submitted to the
44 ~~Department of Natural Resources and Community Development~~ within 60 days of the

1 end of the agency's fiscal year and shall cause a copy of the audit, or a summary thereof,
2 to be published at least once in one or more newspapers having general circulation in
3 the area where the assessments are made within 60 days of the end of the agency's fiscal
4 year. If the chairman or executive head of the agency shall fail to carry out the
5 provisions of this paragraph, he shall be guilty of a misdemeanor."

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

7 **"§ 113-315.18. Fishermen's Economic Development Program.**

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

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

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

25 **"§ 113-316. General statement of purpose and effect of revisions of Subchapter IV**
26 **made in 1965 and 1979.**

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

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

41 **"§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

42 Any person, firm or corporation before making any drilling exploration in this State
43 for oil or natural gas shall register with the Department of ~~Natural Resources and~~
44 ~~Community Development~~ Environment, Health, and Natural Resources or such other

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

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

10 **"§ 113-379. Filing log of drilling and development of each well.**

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

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

17 **"§ 113-391. Jurisdiction and authority of Department of ~~Natural Resources and~~**
18 **~~Community Development~~; rules and orders.**

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

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

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

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

41 (2) To require directional surveys upon application of any owner who has
42 reason to believe that a well or wells of others has or have been drilled
43 into the lands owned by him or held by him under lease. In the event

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

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

37 **"§ 113-415. Conflicting laws.**

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

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

2 **"§ 113A-33. Definitions.**

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

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

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

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

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

36 **"§ 113A-42. Violations.**

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

41 (b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision
42 of this Article or regulation or order of the Secretary of ~~Natural Resources and~~
43 ~~Community Development~~ is guilty of a misdemeanor and may be punished by a fine of
44 not more than fifty dollars (\$50.00) for each violation, and each day such person shall

1 fail to comply, where feasible, after having been officially notified by the Department
2 shall constitute a separate offense subject to the foregoing penalty."

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

4 **"§ 113A-77. Expenditures authorized.**

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

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

9 **"§ 113A-103. Definitions.**

10 As used in this Article:

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

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

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

1 aforementioned points of confluence with tributary rivers shall include
2 the following:

- 3 a. On the Chowan River, its confluence with the Meherrin River;
- 4 b. On the Roanoke River, its confluence with the northeast branch
5 of the Cashie River;
- 6 c. On the Tar River, its confluence with Tranters Creek;
- 7 d. On the Neuse River, its confluence with Swift Creek;
- 8 e. On the Trent River, its confluence with Ready Branch.

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

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

16 (4a) 'Department' shall mean the North Carolina Department of
17 Environment, Health, and Natural Resources.

18 (5)

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

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

32 1. Work by a highway or road agency for the maintenance
33 of an existing road, if the work is carried out on land
34 within the boundaries of the existing right-of-way;

35 2. Work by any railroad company or by any utility and
36 other persons engaged in the distribution and
37 transmission of petroleum products, water, telephone or
38 telegraph messages, or electricity for the purpose of
39 inspecting, repairing, maintaining, or upgrading any
40 existing substations, sewers, mains, pipes, cables, utility
41 tunnels, lines, towers, poles, tracks, and the like on any
42 of its existing railroad or utility property or rights-of-
43 way, or the extension of any of the above distribution-

- 1 related facilities to serve development approved pursuant
2 to G.S. 113A-121 or 113A-122;
- 3 3. Work by any utility and other persons for the purpose of
4 construction of facilities for the development,
5 generation, and transmission of energy to the extent that
6 such activities are regulated by other law or by present or
7 future rules of the State Utilities Commission regulating
8 the siting of such facilities (including environmental
9 aspects of such siting), and work on facilities used
10 directly in connection with the above facilities;
- 11 4. The use of any land for the purposes of planting,
12 growing, or harvesting plants, crops, trees, or other
13 agricultural or forestry products, including normal
14 private road construction, raising livestock or poultry, or
15 for other agricultural purposes except where excavation
16 or filling affecting estuarine waters (as defined in G.S.
17 113-229) or navigable waters is involved;
- 18 5. Maintenance or repairs (excluding replacement)
19 necessary to repair damage to structures caused by the
20 elements or to prevent damage to imminently threatened
21 structures by the creation of protective sand dunes.
- 22 6. The construction of any accessory building customarily
23 incident to an existing structure if the work does not
24 involve filling, excavation, or the alteration of any sand
25 dune or beach;
- 26 7. Completion of any development, not otherwise in
27 violation of law, for which a valid building or zoning
28 permit was issued prior to ratification of this Article and
29 which development was initiated prior to the ratification
30 of this Article;
- 31 8. Completion of installation of any utilities or roads or
32 related facilities not otherwise in violation of law, within
33 a subdivision that was duly approved and recorded prior
34 to the ratification of this Article and which installation
35 was initiated prior to the ratification of this Article;
- 36 9. Construction or installation of any development, not
37 otherwise in violation of law, for which an application
38 for a building or zoning permit was pending prior to the
39 ratification of this Article and for which a loan
40 commitment (evidenced by a notarized document signed
41 by both parties) had been made prior to the ratification of
42 this Article; provided, said building or zoning
43 application is granted by July 1, 1974;

- 1 10. It is the intention of the General Assembly that if the
2 provisions of any of the foregoing subparagraphs 1 to 10
3 of this paragraph are held invalid as a grant of an
4 exclusive or separate emolument or privilege or as a
5 denial of the equal protection of the laws, within the
6 meaning of Article I, Secs. 19 and 32 of the North
7 Carolina Constitution, the remainder of this Article shall
8 be given effect without the invalid provision or
9 provisions.
- 10 c. The Commission shall define by rule (and may revise from time
11 to time) certain classes of minor maintenance and
12 improvements which shall be exempted from the permit
13 requirements of this Article, in addition to the exclusions set
14 forth in paragraph b of this subdivision. In developing such
15 rules the Commission shall consider, with regard to the class or
16 classes of units to be exempted:
- 17 1. The size of the improved or scope of the maintenance
18 work;
- 19 2. The location of the improvement or work in proximity to
20 dunes, waters, marshlands, areas of high seismic activity,
21 areas of unstable soils or geologic formations, and areas
22 enumerated in G.S. 113A-113(b)(3); and
- 23 3. Whether or nor dredging or filling is involved in the
24 maintenance or improvement.
- 25 (6) 'Key facilities' include the site location and the location of major
26 improvement and major access features of key facilities, and mean:
- 27 a. Public facilities, as determined by the Commission, on
28 nonfederal lands which tend to induce development and
29 urbanization of more than local impact, including but not
30 limited to:
- 31 1. Any major airport designed to serve as a terminal for
32 regularly scheduled air passenger service or one of State
33 concern;
- 34 2. Major interchanges between the interstate highway
35 system and frontage-access streets or highways; major
36 interchanges between other limited-access highways and
37 frontage-access streets or highways;
- 38 3. Major frontage-access streets and highways, both of
39 State concern; and
- 40 4. Major recreational lands and facilities;
- 41 b. Major facilities on nonfederal lands for the development,
42 generation, and transmission of energy.
- 43 (7) 'Lead regional organizations' means the regional planning agencies
44 created by and representative of the local governments of a multi-

1 county region, and designated as lead regional organizations by the
2 Governor.

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

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

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

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

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

15 **"§ 113A-105. Coastal Resources Advisory Council.**

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

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

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

23 (1a) The Secretary of the Department of Commerce or his designee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 b. Capacity use areas that have been declared by the
39 Environmental Management Commission pursuant to G.S. 143-
40 215.13(c) and areas wherein said Environmental Management
41 Commission (pursuant to G.S. 143-215.3(d) or 143-215.3(a)(8))
42 has determined that a generalized condition of water depletion
43 or water or air pollution exists;

- 1 c. Prime forestry land (sites capable of producing 85 cubic feet per
2 acre-year, or more, of marketable timber), as identified by the
3 Department of Natural Resources and Community
4 Development.
- 5 (4) Fragile or historic areas, and other areas containing environmental or
6 natural resources of more than local significance, where uncontrolled
7 or incompatible development could result in major or irreversible
8 damage to important historic, cultural, scientific or scenic values or
9 natural systems, which may include:
- 10 a. Existing national or State parks or forests, wilderness areas, the
11 State Nature and Historic Preserve, or public recreation areas;
12 existing sites that have been acquired for any of the same, as
13 identified by the Secretary of Natural Resources and
14 Community Development; and proposed sites for any of the
15 same, as identified by the Secretary of Natural Resources and
16 Community Development, provided that the proposed site has
17 been formally designated for acquisition by the governmental
18 agency having jurisdiction;
- 19 b. Present sections of the natural and scenic rivers system;
- 20 c. Stream segments that have been classified for scientific or
21 research uses by the Environmental Management Commission,
22 or that are proposed to be so classified in a proceeding that is
23 pending before said Environmental Management Commission
24 pursuant to G.S. 143-214.1 at the time of the designation of the
25 area of environmental concern;
- 26 d. Existing wildlife refuges, preserves or management areas, and
27 proposed sites for the same, as identified by the Wildlife
28 Resources Commission, provided that the proposed site has
29 been formally designated for acquisition (as hereinafter defined)
30 or for inclusion in a cooperative agreement by the governmental
31 agency having jurisdiction;
- 32 e. Complex natural areas surrounded by modified landscapes that
33 do not drastically alter the landscape, such as virgin forest
34 stands within a commercially managed forest, or bogs in an
35 urban complex;
- 36 f. Areas that sustain remnant species or aberrations in the
37 landscape produced by natural forces, such as rare and
38 endangered botanical or animal species;
- 39 g. Areas containing unique geological formations, as identified by
40 the State Geologist; and
- 41 h. Historic places that are listed, or have been approved for listing
42 by the North Carolina Historical Commission, in the National
43 Register of Historic Places pursuant to the National Historic
44 Preservation Act of 1966; historical, archaeological, and other

1 places and properties owned, managed or assisted by the State
 2 of North Carolina pursuant to Chapter 121; and properties or
 3 areas that are or may be designated by the Secretary of the
 4 Interior as registered natural landmarks or as national historic
 5 landmarks;

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

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

- 15 a. Sand dunes along the Outer Banks;
- 16 b. Ocean and estuarine beaches and shoreline;
- 17 c. Floodways and floodplains;
- 18 d. Areas where geologic and soil conditions are such that there is a
 19 substantial possibility of excessive erosion or seismic activity,
 20 as identified by the State Geologist;
- 21 e. Areas with a significant potential for air inversions, as
 22 identified by the Environmental Management Commission.

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

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

25 **"§ 113A-116. Local government letter of intent.**

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

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

39 **"§ 113A-117. Implementation and enforcement programs.**

40 (a) The Secretary of ~~Natural Resources and Community Development~~ shall
 41 develop and present to the Commission for consideration and to all cities and counties
 42 and lead regional organizations within the coastal area for comment a set of criteria for
 43 local implementation and enforcement programs. In the preparation of such criteria, the
 44 Secretary shall emphasize the necessity for the expeditious processing of permit

1 applications. Said criteria may contain recommendations and guidelines as to the
2 procedures to be followed in developing local implementation and enforcement
3 programs, the scope and coverage of said programs, minimum standards to be
4 prescribed in said programs, staffing of permit-letting agencies, permit-letting
5 procedures, and priorities of regional or statewide concern. Within 20 months after July
6 1, 1974, the Commission shall adopt and transmit said criteria (with any revisions) to
7 each coastal-area county and city that has filed an applicable letter of intent, for its
8 guidance."

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

10 **"§ 113A-118. Permit required.**

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

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

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

21 (d) Within the meaning of this Part:

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

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

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

41 (f) The Secretary of ~~the Department of Natural Resources and Community~~
42 ~~Development~~ may issue special emergency permits under this Article. These permits
43 may only be issued in those extraordinary situations in which life or structural property
44 is in imminent danger as a result of storms, sudden failure of man-made structures, or

1 similar occurrence. These permits may carry any conditions necessary to protect the
2 public interest, consistent with the emergency situation and the impact of the proposed
3 development. If an application for an emergency permit includes work beyond that
4 necessary to reduce imminent dangers to life or property, the emergency permit shall be
5 limited to that development reasonably necessary to reduce the imminent danger; all
6 further development shall be considered under ordinary permit procedures. This
7 emergency permit authority of the Secretary shall extend to all development in areas of
8 environmental concern, whether major or minor development, and the mandatory notice
9 provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the
10 extent feasible, these emergency permits shall be coordinated with any emergency
11 permits required under G.S. 113-229(e1)."

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

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

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

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

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

34 "(b) Any person having a recorded interest or interest by operation of law in or
35 registered claim to land within an area of environmental concern affected by any final
36 decision or order of the Commission under this Part may, within 90 days after receiving
37 notice thereof, petition the superior court to determine whether the petitioner is the
38 owner of the land in question, or an interest, therein, and in case he is adjudged the
39 owner of the subject land, or an interest therein, the court shall determine whether such
40 order so restricts the use of his property as to deprive him of the practical uses thereof,
41 being not otherwise authorized by law, and is therefore an unreasonable exercise of the
42 police power because the order constitutes the equivalent of taking without
43 compensation. The burden of proof shall be on petitioner as to ownership and the
44 burden of proof shall be on the Commission to prove that the order is not an

1 unreasonable exercise of the police power, as aforesaid. Either party shall be entitled to
2 a jury trial on all issues of fact, and the court shall enter a judgment in accordance with
3 the issues, as to whether the Commission order shall apply to the land of the petitioner.
4 The Secretary of ~~Natural Resources and Community Development~~ shall cause a copy of
5 such finding to be recorded forthwith in the register of deeds office in the county where
6 the land is located. The method provided in this subsection for the determination of the
7 issue of whether such order constitutes a taking without compensation shall be exclusive
8 and such issue shall not be determined in any other proceeding. Any action authorized
9 by this subsection shall be calendared for trial at the next civil session of superior court
10 after the summons and complaint have been served for 30 days, regardless of whether
11 issues were joined more than 10 days before the session. It is the duty of the presiding
12 judge to expedite the trial of these actions and to give them a preemptory setting over all
13 others, civil or criminal. From any decision of the superior court either party may
14 appeal to the court of appeals as a matter of right."

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

16 "**§ 113A-124. Additional powers and duties.**

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

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

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

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

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

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

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

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

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

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

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

32 "**§ 113A-168. Removal, etc., of unlawful advertising.**

33 Any outdoor advertising erected or established after May 26, 1975, in violation of
 34 the provisions of this Article shall be unlawful and shall constitute a nuisance. The
 35 Department of ~~Natural Resources and Community Development~~ Environment, Health,
 36 and Natural Resources shall give 30 days' notice by certified mail to the owner of the
 37 nonconforming outdoor advertising structure, if such owner is known or can by
 38 reasonable diligence be ascertained, to move the outdoor advertising structure or to
 39 make it conform to the provisions of this Article and rules ~~and regulations~~ promulgated
 40 by the Department of ~~Natural Resources and Community Development~~ Environment,
 41 Health, and Natural Resources hereunder. The Department of ~~Natural Resources and~~
 42 ~~Community Development~~ or its agents shall have the right to remove or contract to have
 43 removed the nonconforming outdoor advertising at the expense of the said owner if the
 44 said owner fails to act within 30 days after receipt of such notice. The Department of

1 ~~Natural Resources and Community Development~~ or its agents or contractor and his
2 employees may enter upon private property for the purpose of removing outdoor
3 advertising prohibited by this Article or its implementing rules without civil or criminal
4 liability."

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

6 "(23) The Governor's Waste Management Board, as established by ~~G.S. 143B-~~
7 ~~216.12.~~ G.S. 143B-344.53."

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

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

10 **"§ 130A-2. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

36 **"§ 130A-231. Agreements between ~~Department of Human Resources and~~
37 ~~Department of Natural Resources and Community Development~~ the State
38 Health Director and the Division of Marine Fisheries.**

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

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

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

4 **"§ 130A-291. Solid Waste Unit in Department of Human Resources.**

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

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

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

34 **"§ 130A-310.3. Remedial action programs for inactive hazardous substance or
35 waste disposal sites.**

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

- 40 (1) Monitoring the inactive hazardous substance or waste disposal site;
- 41 (2) Developing a plan for public notice and for community and local
42 government participation in any inactive hazardous substance or waste
43 disposal site remedial action program to be undertaken;

- 1 (3) Approving an inactive hazardous substance or waste disposal site
2 remedial action program for the site;
- 3 (4) Coordinating the inactive hazardous substance or waste disposal site
4 remedial action program for the site; and
- 5 (5) Ensuring that the hazardous substance or waste disposal site remedial
6 action program is completed.

7 (b) Where possible, the Secretary shall work cooperatively with any owner,
8 operator, responsible party, or any appropriate agency of the State or federal
9 government to develop and implement the inactive hazardous substance or waste
10 disposal site remedial action program. The Secretary shall not take action under this
11 section to the extent that ~~the Secretary of Natural Resources and Community~~
12 ~~Development, or the Environmental Management Commission, or the Commissioner of~~
13 ~~Agriculture, or the Pesticide Board~~ has assumed jurisdiction pursuant to Articles 21 or
14 21A of Chapter 143 of the General Statutes.

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

- 18 (1) To develop an inactive hazardous substance or waste disposal site
19 remedial action program for the site subject to approval by the
20 Department, and
- 21 (2) To implement the program within reasonable time limits specified in
22 the order.

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

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

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

37 "**§ 130A-325. Prohibited acts.**

38 The following acts are prohibited:

- 39 (1) Failure by a supplier of water to comply with this Article, an order
40 issued under this Article, or the drinking water rules;
- 41 (2) Failure by a supplier of water to comply with the requirements of G.S.
42 130A-324 or the dissemination by a supplier of any false or misleading
43 information with respect to remedial actions being undertaken to
44 achieve compliance with the drinking water rules;

- 1 (3) Refusal by a supplier of water to allow the Department or local health
 2 department to inspect a public water system as provided for in G.S.
 3 130A-17;
 4 (4) The willful defiling by any person of any water supply of a public
 5 water system or the willful damaging of any pipe or other part of a
 6 public water system;
 7 (5) The discharge by any person of sewage or other waste above the intake
 8 of a public water system, unless the sewage or waste has been passed
 9 through a system of purification approved by the Department ~~and the~~
 10 ~~Department of Natural Resources and Community Development~~; and
 11 (6) The failure by a person to maintain a system approved by the
 12 Department for collecting and disposing of all accumulations of human
 13 excrement located on the watershed of a public water system."

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

15 **"§ 130A-334. Definitions.**

16 The following definitions shall apply throughout this Article:

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

1 sewage reuse or recycle systems, mechanical or biological treatment
2 systems, or other such systems.

3 Properly managed chemical toilets used only for human waste at mass
4 gatherings, construction sites and labor work camps are considered
5 sanitary sewage systems.

6 (12) 'Septic tank system' means a subsurface sanitary sewage system
7 consisting of a settling tank and a subsurface disposal field.

8 (13) 'Sewage' means the liquid and solid human body waste and liquid
9 waste generated by water-using fixtures and appliances, including
10 those associated with foodhandling. The term does not include
11 industrial process wastewater or sewage that is combined with
12 industrial process wastewater."

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

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

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

24 "(d) (For effective date see note) If any action is brought against a vaccine
25 manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act
26 and subsection (c) of this section, the plaintiff in the action may recover damages only
27 to the extent permitted by subdivisions (1) through (3) of subsection (a) of G.S. 130A-
28 427. The aggregate amount awarded in any such action may not exceed the limitation
29 established by subsection (b) of G.S. 130A-427. Regardless of whether such an action
30 is brought against a vaccine manufacturer, a claimant who has filed an election pursuant
31 to Section 2121 of the Public Health Service Act, as enacted into federal law by Public
32 Law 99-660, permitting such a claimant to file a civil action for damages for a vaccine-
33 related injury or death, or who is otherwise permitted by federal law to file an action
34 against a vaccine manufacturer, may file a petition pursuant to G.S. 130A-425 to obtain
35 services from the Department and the Department of Human Resources pursuant to
36 subdivision (5) of subsection (a) of G.S. 130A-427 and, if no action has been brought
37 against a vaccine manufacturer, to obtain other relief available pursuant to G.S. 130A-
38 427."

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

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

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

6 (2) If, at any time after an award is made to a claimant pursuant to G.S.
7 130A-427, an individual recovers damages for the same vaccine-
8 related injury from a manufacturer pursuant to a judgment or
9 settlement, the individual who recovers the damages shall reimburse
10 the State for all amounts previously recovered from the State in the
11 prior proceeding. Before a defendant in any action for a vaccine-
12 related injury pays any amount to a plaintiff to discharge a judgment or
13 settlement, he shall request from the Secretary and the Secretary of
14 Human Resources a statement itemizing any reimbursement owed by
15 the plaintiff pursuant to this subdivision, and, if ~~the any~~ reimbursement
16 is owed by the ~~plaintiff, plaintiff to either department,~~ the defendant
17 shall pay the reimbursable amounts, as determined by ~~the each~~
18 Secretary, directly to the Department of Human Resources. the
19 department to which such reimbursement is owed. This payment shall
20 discharge the plaintiff's obligations to the State under this subdivision
21 and any obligation the defendant may have to the plaintiff with respect
22 to these amounts.

23 (3) If:

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

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

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

- 43 (1) The name and address of the claimant;
44 (2) The name and address of each respondent;

- 1 (3) The amount of compensation in money and services sought to be
2 recovered;
- 3 (4) The time and place where the injury occurred;
- 4 (5) A brief statement of the facts and circumstances surrounding the injury
5 and giving rise to the claim; and
- 6 (6) Supporting documentation and a statement of the claim that the
7 claimant or the person in whose behalf the claim is made suffered a
8 vaccine-related injury and has not previously collected an award or
9 settlement of a civil action for damages for this injury. This
10 supporting documentation shall include all available medical records
11 pertaining to the alleged injury, including autopsy reports, if any, and
12 if the injured person was under two years of age at the time of injury,
13 all prenatal, obstetrical, and pediatric records of care preceding the
14 injury, and an identification of any unavailable records known to the
15 claimant or the person in whose behalf the claim is made.

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

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

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

40 "**§ 130A-427. Commission awards for vaccine-related injuries; duties of Secretary**
41 **of Human Resources.**

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

- 1 (1) Actual and projected reasonable expenses of medical care,
2 developmental evaluation, special education, vocational training,
3 physical, emotional or behavioral therapy, and residential and
4 custodial care and service expenses, that cannot be provided by the
5 Department and the Department of Human Resources pursuant to
6 subdivision (5) of this subsection;
- 7 (2) Loss of earnings and projected earnings, determined in accordance
8 with generally accepted actuarial principles;
- 9 (3) Noneconomic, general damages arising from pain, suffering, and
10 emotional distress;
- 11 (4) Reasonable attorneys fees;
- 12 (5) Needs that the Secretary and the Secretary of Human Resources
13 determines on a case-by-case basis shall be met by medical, health,
14 developmental evaluation, special education, vocational training,
15 physical, emotional, or behavioral therapy, residential and custodial
16 care, and other essential and necessary services, to be provided the
17 injured party by the programs and services administered by the
18 Department and the Department of Human Resources. The Secretary
19 and the Secretary of Human Resources shall develop an itemized list
20 of the service needs of the injured party upon review and evaluation of
21 the injured party's medical record and shall present it to the
22 Commission prior to the Commission's determination. In the event
23 that the Commission's award includes the provision of any of these
24 services, the Secretary and the Secretary of Human Resources shall
25 develop a comprehensive, coordinated plan for the delivery of these
26 services to the injured party. Notwithstanding any other provision of
27 State law, the Secretary and the Secretary of Human Resources shall
28 waive all eligibility criteria in determining eligibility for services
29 provided by the Department and the Department of Human Resources
30 under the plan of care developed pursuant to this subdivision. If the
31 award includes any such services, these services shall be provided by
32 the Department and the Department of Human Resources free of any
33 cost to the injured party.

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

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

1 **"§ 130A-430. Right of State to bring action against health care provider and of**
2 **manufacturer.**

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

11 (b) Manufacturer. If the Industrial Commission makes an award for a claimant
12 who it determines has sustained a vaccine-related injury, the State may, within two
13 years of the date the Commission renders its decision, bring an action against the
14 manufacturer who made the vaccine on the ground that the vaccine was a defective
15 product. Damages in an action brought under this section are limited to the amount of
16 the award made by the Commission plus the estimated present value of all the services
17 to be provided to the claimant by the Department and the Department of Human
18 Resources under G.S. 130A-427, the reasonable costs of prosecuting the action,
19 including, but not limited to, attorneys fees, fees charged by witnesses, and costs of
20 exhibits. For purposes of this subsection, a defective product is a covered vaccine that
21 was manufactured, transported, or stored in a negligent manner, or was distributed after
22 its expiration date, or that otherwise violated the applicable requirements of any license,
23 approval, or permit, or any applicable standards or requirements issued under Section
24 351 of the Public Health Service Act, as amended, or the federal Food, Drug, and
25 Cosmetic Act, as these standards or requirements were interpreted or applied by the
26 federal agency charged with their enforcement. The negligence or other action in
27 violation of applicable federal standards or requirements shall be demonstrated by the
28 State, by a preponderance of the evidence, to be the proximate cause of the injury for
29 which an award was rendered pursuant to G.S. 130A-427, in order to allow recovery by
30 the State against the manufacturer pursuant to this subsection."

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

32 **"§ 130A-433. Contracts for purchase of vaccines; distribution; fee; rules.**

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

43 A health care provider who receives vaccine from the State may charge no more
44 than the cost of the vaccine and a reasonable fee for the administration of the vaccine.

1 Vaccines provided by the State to local health departments for administration shall be
2 administered at no cost to the patient."

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

4 "**§ 130A-434. Child Vaccine Injury Compensation Fund established; payments**
5 **from Fund; transfer of appropriations and receipts.**

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

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

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

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

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

26 "**§ 130A-441. Reporting.**

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

30 (a) (b) Each school having a kindergarten shall maintain on file the health
31 assessment results. The files shall be open to inspection by the ~~Department of Human~~
32 ~~Resources, the Department of Public Instruction~~ Department, the Department of Public
33 Instruction, or their authorized representatives and persons inspecting the files shall
34 maintain the confidentiality of the files. Upon transfer of a child to another
35 kindergarten, a copy of the health assessment results shall be provided upon request and
36 without charge to the new kindergarten.

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

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

43 "(a) Activities for Which Permits Required. – No person shall do any of the
44 following things or carry out any of the following activities until or unless such person

1 shall have applied for and shall have received from the Commission a permit therefor
2 and shall have complied with such conditions, if any, as are prescribed by such permit:

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

43 In the event that both effluent standards or limitations and classifications and water
44 quality standards are applicable to any point source or sources and to the waters to

1 which they discharge, the more stringent among the standards established by the
2 Commission shall be applicable and controlling.

3 In connection with the above, no such permit shall be granted for the disposal of
4 waste in waters classified as sources of public water supply where the ~~Department of~~
5 ~~Human Resources~~ head of the division which administers the public water supply
6 program pursuant to Article 10 of Chapter 130A of the General Statutes, after review of
7 the plans and specifications for the proposed disposal facility, determines and advises
8 the Commission that such disposal is sufficiently close to the intake works or proposed
9 intake works of a public water supply as to have an adverse effect on the public health.

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

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

15 **"§ 143-215.7. Effect on laws applicable to public water supplies and the sanitary**
16 **disposal of sewage.**

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

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

29 **"§ 143-215.26. Construction of dams.**

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

1 certificate of a registered professional engineer member of that staff legally qualified in
2 the State of North Carolina will constitute compliance.

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

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

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

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

19 "(d) The Secretary of the Department of Transportation and the Secretary [~~of the~~
20 ~~Department of Natural Resources and Community Development~~] or their designees
21 shall adopt rules for the placement of these trucks and shall determine the manner and
22 way in which they are to be used. The Secretary [~~of the Department of Natural~~
23 ~~Resources and Community Development~~] shall reimburse the Department of
24 Transportation for expenses incurred by the Department of Transportation during
25 cleanups as provided in G.S. 143-215.88."

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

27 **"§ 143-252. Article subject to Chapter 113.**

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

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

34 **"§ 143-253. Jurisdictional questions.**

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

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

43 **"§ 143-345.6. Land records management program.**

1 (a) The Department of ~~Natural Resources and Community Development~~
2 Environment, Health, and Natural Resources shall administer a land records
3 management program for the purposes (i) of advising registers of deeds, local tax
4 officials, and local planning officials about sound management practices, and (ii) of
5 establishing greater uniformity in local land records systems. The management program
6 shall consist of the activities provided for in subsections (b) through (e) of this section,
7 and other related activities essential to the effective conduct of the management
8 program.

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

15 (1) Uniform indexing of land records;

16 (2) Uniform recording and indexing procedures for maps, plats and
17 condominiums; and

18 (3) Security and reproduction of land records.

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

22 (c1) The Department of ~~Natural Resources and Community Development~~
23 Environment, Health, and Natural Resources shall, in cooperation with the Secretary of
24 Revenue, conduct a program for the preparation of county cadastral maps pursuant to
25 standards prepared by the Department of ~~Natural Resources~~Environment, Health, and
26 Natural Resources.

27 (d) Upon the joint request of any board of county commissioners and the register
28 of deeds and subject to available resources of personnel and funds, the Secretary shall
29 make a management study of the office of register of deeds, using assistance from the
30 Office of State Personnel. At the conclusion of the study, the Secretary shall make
31 nonbinding recommendations to the board, the register of deeds, and to the General
32 Assembly.

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

38 (1) Centralized recording systems;

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

40 (3) Computerized land records systems; and

41 (4) Storage and retrieval of land records.

42 (f) An advisory committee on land records is created to assist the Secretary in
43 administering the land records management program. The Governor shall appoint 12

1 members to the committee; one member shall be appointed from each of the
2 organizations listed below from persons nominated by the organization:

- 3 (1) The North Carolina Association of Assessing Officers;
- 4 (2) The North Carolina Section of the American Society of
5 Photogrammetry;
- 6 (3) The North Carolina Chapter of the American Institute of Planners;
- 7 (4) The North Carolina Section of the American Society of Civil
8 Engineers;
- 9 (5) The North Carolina Tax Collectors' Association;
- 10 (6) The North Carolina Association of Registers of Deeds;
- 11 (7) The North Carolina Bar Association;
- 12 (8) The North Carolina Society of Land Surveyors; and
- 13 (9) The North Carolina Association of County Commissioners.

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

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

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

1 ~~Services, Department of Human Resources, of the Department of Environment, Health,~~
2 ~~and Natural Resources. Each State agency represented on the Committee shall be~~
3 ~~appointed by the head of the agency. Other members of the Committee shall be~~
4 ~~appointed by the Board."~~

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

6 "**§ 143B-140. Department of Human Resources – organization.**

7 The Department of Human Resources shall be organized initially to include the
8 Board of Human Resources, ~~the Commission for Health Services, the Commission for~~
9 ~~Mental Health and Mental Retardation Services, the Eugenics Commission, the~~
10 ~~Commission for the Blind, the Professional Advisory Committee, the Blind Advisory~~
11 ~~Committee, the Social Services Commission, the Commission for Medical Facility~~
12 ~~Services and Licensure, the Council for Institutional Boards, the Council on~~
13 ~~Developmental Disabilities, the Governor's Coordinating Council on Aging, the~~
14 ~~Governor's Council on Employment of the Handicapped, the Governor's Advocacy~~
15 ~~Council on Children and Youth, the Mental Health Council, the Board of Directors of~~
16 ~~the North Carolina Sanatoriums for the Treatment of Tuberculosis, the Board of~~
17 ~~Directors of the Lenox Baker Cerebral Palsy and Crippled Children's Hospital of North~~
18 ~~Carolina, the Board of Directors of the North Carolina Orthopedic Hospital, the Board~~
19 ~~of Directors of the Governor Morehead School, the Board of Directors of the North~~
20 ~~Carolina Schools for the Deaf, the Board of Directors for the Confederate Women's~~
21 ~~Home, the Division of Health Services, the Division of Mental Health, Mental~~
22 ~~Retardation, and Substance Abuse Services, the Division of Social Services, the~~
23 ~~Division of Vocational Rehabilitation Services, the Division of Blind Services, the~~
24 ~~Division of Facility Services and Licensure, the Division of Institutional Services, the~~
25 ~~Division of Aging, and such other divisions as may be established under the provisions~~
26 ~~of this Chapter."~~

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

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

30 "**§ 143B-~~142~~344.20. Commission for Health Services – creation, powers and duties.**

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

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

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

- 39 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
40 (2) Establishing standards for approving sewage-treatment devices and
41 holding tanks for marine toilets as provided in G.S. 75A-6(o);
42 (3) Establishing specifications for sanitary privies for schools where
43 water-carried sewage facilities are unavailable as provided in G.S.
44 115C-522;

- 1 (4) Establishing requirements for the sanitation of local confinement
2 facilities as provided in G.S. 153-53.4; and
- 3 (5) Governing environmental impact statements and information required
4 in applications to determine eligibility for water supply systems under
5 the provisions of the Clean Water Bond Act.
- 6 (d) The Commission is authorized to create:
- 7 (1) Metropolitan water districts as provided in G.S. 162A-33;
- 8 (2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of
9 the General Statutes; and
- 10 (3) Mosquito control districts as provided in Part 2 of Article 12 of
11 Chapter 130A of the General Statutes.
- 12 (e) Rules adopted by the Commission for Health Services shall be enforced by
13 the Department of ~~Human Resources~~ Environment, Health, and Natural Resources.

14 **"§ 143B-~~1433~~44.21. Commission for Health Services – members; selection;
15 quorum; compensation.**

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

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

31 The North Carolina Medical Society shall have the right to remove any member
32 elected by it for misfeasance, malfeasance, or nonfeasance, and the Governor shall have
33 the right to remove any member appointed by him for misfeasance, malfeasance, or
34 nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive
35 Organization Act of 1973. Vacancies on said Commission among the membership
36 elected by the North Carolina Medical Society shall be filled by the executive
37 committee of the Medical Society until the next meeting of the Medical Society, when
38 the Medical Society shall fill the vacancy for the unexpired term. Vacancies on said
39 Commission among the membership appointed by the Governor shall be filled by the
40 Governor for the unexpired term.

41 A majority of the members of the Commission shall constitute a quorum for the
42 transaction of business.

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

1 **"§ 143B-~~144~~344.22. Commission for Health Services – officers.**

2 The Commission for Health Services shall have a chairman and a vice-chairman.
3 The chairman shall be designated by the Governor from among the members of the
4 Commission to serve as chairman at his pleasure. The vice-chairman shall be elected by
5 and from the members of the Commission and shall serve for a term of two years or
6 until the expiration of his regularly appointed term.

7 **"§ 143B-~~145~~344.23. Commission for Health Services – election meetings.**

8 The meeting of the Commission for Health Services for the election of vice-
9 chairman shall be at the first regular meeting after the joint session of the Commission
10 for Health Services and the North Carolina Medical Society at the annual meeting of the
11 North Carolina Medical Society each odd-numbered year.

12 **"§ 143B-~~146~~344.24. Commission for Health Services – regular and special
13 meetings.**

14 Each year there shall be four regular meetings of the Commission for Health
15 Services, one of which shall be held during the annual meeting and conjointly with a
16 general session of the North Carolina Medical Society at which time and place the
17 annual report shall be submitted by the Secretary of ~~Human Resources-Environment,~~
18 Health, and Natural Resources or his designee. The other three meetings shall be at
19 such times and places as the chairman of the Commission shall designate. Special
20 meetings of the Commission may be called by the chairman, or by a majority of the
21 members of the Commission."

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

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

25 **"§ 143B-~~188~~344.30. Council on Sickle Cell Syndrome; appointment; expenses;
26 terms.**

27 A Council on Sickle Cell Syndrome is created. The Council shall consist of a
28 chairperson and 14 other members appointed by the Governor. Members shall serve
29 without compensation except for reimbursement for travel and expenses in pursuit of
30 Council business. Except as provided in this subsection, Council members shall serve a
31 term of three years. To achieve a staggered term structure, five members shall be
32 appointed for a term of one year, five members for a term of two years, and five
33 members for a term of three years.

34 **"§ 143B-~~189~~344.31. Council membership.**

35 In making appointments, consideration shall be given to persons representing the
36 following areas:

- 37 (1) Members of community agencies interested in sickle cell syndrome;
- 38 (2) State and local officials concerned with public health, social services
39 and rehabilitation;
- 40 (3) Teachers and members of State and local school boards;
- 41 (4) Physicians in medical centers and physicians in community practice
42 who are interested in sickle cell syndrome;
- 43 (5) Persons or relatives of persons with sickle cell disease.

44 **"§ 143B-~~190~~344.32. Council role.**

1 The Council shall advise the Department of Environment, Health, and Natural
2 Resources and the Commission for Health Services on the needs of persons with sickle
3 cell syndrome, and shall make recommendations to meet these needs. Such
4 recommendations shall include but not be limited to recommendations for legislative
5 action and for rules regarding the services of the Sickle Cell Program. The Council
6 shall develop procedures to facilitate its operation. All clerical and other services
7 required by the Council shall be furnished by the Department of ~~Human Resources~~
8 Environment, Health, and Natural Resources within budget limitations."

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

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

12 **"§ 143B-204344.40. Commission of Anatomy – creation; powers and duties.**

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

21 **"§ 143B-205344.41. Commission of Anatomy – members; selection; term;
22 chairman; quorum; meetings.**

23 The Commission of Anatomy shall consist of five members, one from the
24 membership of the State Board of Mortuary Science, and one each from The University
25 of North Carolina School of Medicine, East Carolina University School of Medicine,
26 Duke University School of Medicine, and Bowman Gray School of Medicine. The dean
27 of each school shall make recommendations and the Secretary of ~~Human Resources~~
28 Environment, Health, and Natural Resources shall appoint from such recommendations
29 a member to the Commission. The president of the State Board of Mortuary Science
30 shall appoint one member from that Board to the Commission. The members shall
31 serve terms of four years except two of the original members shall serve a term of one
32 year, one shall serve a term of two years, one shall serve a term of three years, and one
33 shall serve a term of four years. The Secretary shall determine the terms of the original
34 members.

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

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

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

41 A majority of the Commission shall constitute a quorum for the transaction of
42 business.

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

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

3 "**§ 143B-~~206~~344.42. Commission of Anatomy – reference to former Board of**
4 **Anatomy in testamentary disposition.**

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

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

9 "Part ~~26~~31. Governor's Council on Physical Fitness and Health.

10 "**§ 143B-~~216.8~~344.47. Governor's Council on Physical Fitness and Health –**
11 **creation; powers; duties.**

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

- 15 (1) To promote interest in the area of physical fitness; to consider the need
16 for new State programs in the field of physical fitness; to enlist the
17 active support of individual citizens, professional and civic groups,
18 amateur and professional athletes, voluntary organizations, State and
19 local government agencies, private industry and business, and
20 community recreation programs in efforts to improve the physical
21 fitness and thereby the health of the citizens of North Carolina;
- 22 (2) To examine current programs of physical fitness available to the
23 people of North Carolina, and to make recommendations to the
24 Governor for coordination of programs to prevent duplication of such
25 services; to support programs of physical fitness in the public school
26 systems; to develop cooperative programs with medical, dental, and
27 other groups; to maintain a liaison with government, private and other
28 agencies concerning physical fitness programs; to stimulate research in
29 the area of physical fitness; to sponsor physical fitness workshops,
30 clinics, conferences, and other related activities pertaining to physical
31 fitness throughout the State;
- 32 (3) To serve as an agency for recognizing outstanding developments,
33 contributions, and achievements in physical fitness in North Carolina;
34 and
- 35 (4) The Council shall make an annual report to the Governor and to the
36 Secretary of ~~Human Resources~~ Environment, Health, and Natural
37 Resources, including therein suggestions and recommendations for the
38 furtherance of the physical fitness of the people of North Carolina.

39 "**§ 143B-~~216.9~~344.48. The Governor's Council on Physical Fitness and Health –**
40 **members; selection; quorum; compensation.**

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

- 1 (1) The composition of the Council shall be as follows: one member of the
2 Senate appointed by the President of the Senate, and one member of
3 the House of Representatives appointed by the Speaker of the House of
4 Representatives, and eight persons from the health care professions,
5 the fields of business and industry, physical education, recreation,
6 sports and the general public. The eight nonlegislative members of the
7 Council shall be appointed by the Governor to serve at his pleasure.
- 8 (2) The eight initial nonlegislative members of the Council shall be
9 appointed thusly: two for a term of one year, two for a term of two
10 years, two for a term of three years, two for a term of four years. At
11 the end of the respective terms of office of these initial members, all
12 succeeding appointments of nonlegislative members shall be for terms
13 of four years; nonlegislative members shall serve no more than two
14 consecutive four-year terms; all unexpired terms due to resignation,
15 death, disability, removal or refusal to serve shall be filled by a
16 qualified person appointed by the Governor for the balance of the
17 unexpired term.
- 18 (3) Legislative members of the Council shall serve two-year terms
19 beginning and ending on July 1 of odd-numbered years, and shall
20 serve no more than two consecutive terms.
- 21 (4) Members of the Governor's Council shall receive per diem and
22 necessary travel and subsistence expenses in accordance with G.S.
23 138-5 or 138-6, or travel and subsistence expenses under G.S. 120-3.1,
24 as appropriate.
- 25 (5) The Council shall meet no more than quarterly.
- 26 (6) A majority of the Governor's Council shall constitute a quorum for the
27 transaction of business."

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

30 **"PART ~~27~~32. GOVERNOR'S WASTE MANAGEMENT BOARD.**

31 **"§ ~~143B-216.10~~344.51. Declaration of findings.**

32 (a) The General Assembly of North Carolina hereby finds and declares that the
33 safe management of hazardous wastes and low-level radioactive wastes, and particularly
34 the timely establishment of adequate facilities for the disposal and management of
35 hazardous wastes and low-level radioactive wastes is one of the most urgent problems
36 facing North Carolina. The safe management and disposal of these wastes are essential
37 to continued economic growth and to protection of the public health and safety. When
38 improperly handled, these wastes pose a threat to the water, land, and air resources of
39 the State, as well as to the health and safety of its citizens. Consequently, cooperation
40 and coordination among the private sector, the general public and State and local
41 agencies to assure the prevention of unnecessary waste and the establishment of
42 adequate treatment and disposal facilities are essential. The General Assembly further
43 finds that cooperation and coordination among the private sector, the general public and

1 State regulatory agencies will be advanced by the creation of a Governor's Waste
2 Management Board.

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

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

38 (c) The General Assembly of North Carolina hereby finds and declares that
39 prevention, recycling, detoxification, and reduction of hazardous wastes should be
40 encouraged and promoted. These are alternatives which ultimately remove such wastes'
41 hazards to human health and the environment. When these alternatives are not
42 technologically feasible, retrievable above-ground storage is sometimes preferable to
43 other means of disposal of some types of waste until appropriate methods for recycling
44 or detoxification of the stored wastes are found. Landfilling shall be used only when it

1 is clearly appropriate. Hazardous waste landfill facilities and polychlorinated biphenyl
2 landfill facilities shall be detoxified as soon as technology which is economically
3 feasible is available and sufficient money is available without additional appropriation.

4 **"§ 143B-216.11344.52. Definitions.**

5 Unless the context otherwise requires, the following definitions shall apply to this
6 Part:

- 7 (1) 'Board' means the Governor's Waste Management Board.
- 8 (2) 'Hazardous waste' has the same meaning as in G.S. 130A-290(4).
- 9 (3) 'Hazardous waste facility' means a facility as defined in G.S. 130A-
10 290(5).
- 11 (4) 'Hazardous waste landfill facility' means a facility as defined in G.S.
12 130A-290(7).
- 13 (5) 'Hazardous waste management' has the same meaning as defined in
14 G.S. 130A-290(8).
- 15 (6) 'Low-level radioactive waste' has the same meaning as in G.S. 104E-
16 5(9a).
- 17 (7) 'Low-level radioactive waste facility' means a facility as defined in
18 G.S. 104E-5(9b).
- 19 (8) 'Low-level radioactive waste landfill facility' means a facility as
20 defined in G.S. 104E-5(9c).
- 21 (9) 'Low-level radioactive waste management' means the systematic
22 control of the collection, source separation, storage, transportation,
23 processing, treatment, recovery and disposal of low-level radioactive
24 waste.

25 **"§ 143B-216.12344.53. Creation; membership; terms; chairperson; vacancies;
26 removal; compensation; quorum.**

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

- 30 (1) ~~Five~~Four members from State government: the Secretary or
31 Commissioner of ~~Human Resources, Natural Resources and~~
32 ~~Community Development~~Environment, Health, and Natural
33 Resources, Commerce, Agriculture, and Crime Control and Public
34 Safety. At the request of such Secretary or Commissioner, the
35 Governor may appoint another official from the same department to
36 serve in his stead.
- 37 (2) Nine members appointed by the Governor from the following
38 categories: one from county government, one from municipal
39 government, two from private industry, two from the field of higher
40 education, research or technology, one who shall be a physician
41 licensed to practice medicine, and two from the public at large
42 interested in environmental matters.
- 43 (3) Two members appointed by the General Assembly, one upon the
44 recommendation of the Speaker of the House of Representatives, and

1 one upon the recommendation of the President of the Senate in
2 accordance with G.S. 120-121.

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

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

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

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

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

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

23 (h) A majority of the board shall constitute a quorum for the transaction of
24 business.

25 **"§ 143B-216.13344.54. Functions and powers of Board.**

26 The Board shall perform the functions and be empowered as follows:

27 (1) The Board shall periodically evaluate and assess the volume,
28 distribution, location, and physical and chemical characteristics of
29 hazardous waste and low-level radioactive waste generated or disposed
30 of in the State.

31 (2) The Board shall periodically review the State's comprehensive waste
32 management system and make recommendations to the Governor,
33 cognizant State agencies, and the General Assembly on ways to
34 improve waste management; reduce the amount of waste generated;
35 maximize resource recovery, reuse, and conservation; and minimize
36 the amount of hazardous waste and low-level radioactive waste which
37 must be disposed of.

38 (3) The Board shall study and make recommendations on policy issues
39 including but not limited to liability and financial responsibilities
40 within the waste management area. On or before January 1, 1983, the
41 Board shall prepare and present to the Governor and General
42 Assembly a report concerning the desirability of establishing by statute
43 a standard of strict liability for persons involved in storage,

1 transportation, treatment, or disposal of hazardous or low-level
2 radioactive waste in North Carolina.

- 3 (4) The Board shall promote research and development and disseminate
4 information on state-of-the-art means of handling and disposing of
5 hazardous waste and low-level radioactive waste. The Board is
6 authorized to establish a waste information exchange for the State.
- 7 (5) The Board shall promote public education and public involvement in
8 the decision making process for the siting and permitting of proposed
9 waste management facilities.
- 10 (6) The Board shall periodically evaluate and assess the type and number
11 of hazardous waste facilities, hazardous waste landfill facilities, low-
12 level radioactive waste facilities and low-level radioactive waste
13 landfill facilities in existence, under construction or planned in the
14 State and multi-State region and promote the development of
15 additional facilities particularly retrievable aboveground storage
16 facilities if existing or planned facilities are deemed inadequate or
17 unavailable.
- 18 (7) The Board shall prepare and file jointly with the Governor and the
19 General Assembly an annual report describing the Board's activities
20 and setting forth its recommendations for administrative or regulatory
21 action required to improve the State's comprehensive waste
22 management system or remedy noted defects in the system. A special
23 report shall be filed in January of 1983 which shall include an
24 evaluation on the possible need to organize State agencies more
25 efficiently to improve overall performance of waste management
26 functions. The report should give consideration to the advantages and
27 disadvantages of consolidating or centralizing administration of
28 programs that are now in separate agencies.

29 The Board shall provide a report to the General Assembly by February 1, 1985, to
30 include:

- 31 a. An analysis of the size, type and number of hazardous waste
32 facilities needed in North Carolina and a plan to meet these
33 needs;
- 34 b. An analysis of the system of collection of hazardous waste in
35 North Carolina, recommendations as to how that system might
36 be improved and a plan to implement these recommendations;
37 and
- 38 c. An analysis of the cost incurred by local government because of
39 the presence of a hazardous waste facility, a hazardous waste
40 landfill facility or a comprehensive hazardous waste treatment
41 facility.
- 42 (8) The Board shall each year recommend to the Governor a recipient for
43 a 'Governor's Award of Excellence' which the Governor shall award

1 for outstanding achievement by an industry or company in the area of
2 hazardous waste or low-level radioactive waste management.

3 (9) The Board shall promote and participate in discussion with other states
4 concerning development of regional hazardous waste and low-level
5 radioactive waste management agreements.

6 (10) The Board shall assist localities in which facilities are proposed in
7 collecting and receiving information relating to the suitability of the
8 proposed site. At the request of a local government in which facilities
9 are proposed, the Board shall direct the appropriate agencies of State
10 government to develop such relevant data as that locality shall
11 reasonably request.

12 (11) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1082, s. 14.1.

13 (12) The Board shall, in accordance with the procedures set forth in G.S.
14 160A-211.1 and 153A-152.1, review upon appeal specific privilege
15 license tax rates which localities may apply to waste management
16 facilities in their jurisdiction.

17 (13) The Board may insure its members against personal liability for any
18 actions they might take pursuant to the exercise of the functions and
19 powers of the Board.

20 (14) The Board may adopt, modify, or revoke any rules necessary to carry
21 out the functions and powers as set forth in this Part.

22 (15) The Board shall have any and all powers necessary or incidental to the
23 exercise of the functions and powers enumerated herein.

24 (16) The Board shall study the development of retrievable, aboveground
25 storage facilities for hazardous wastes.

26 (17) The Board shall certify comprehensive hazardous waste treatment
27 facilities which meet the criteria prescribed in G.S. 130A-290(1).

28 "**§ 143B-216.14344.55. Functions and powers of Department of ~~Human~~**
29 **ResourcesEnvironment, Health, and Natural Resources.**

30 The Department of ~~Human Resources~~Environment, Health, and Natural Resources
31 is authorized:

32 (1) To enter upon any lands and structures upon lands to make surveys,
33 borings, soundings and examinations as may be necessary to determine
34 the suitability of a site for a hazardous waste facility, hazardous waste
35 landfill facility, low-level radioactive waste facility or low-level
36 radioactive landfill facility. The Department shall give 30 days' notice
37 of the intended entry authorized by this section in the manner
38 prescribed for service of process by G.S. 1A-1, Rule 4. Entry under
39 this section shall not be deemed a trespass or taking; provided however
40 that the Department shall make reimbursement for any damage to such
41 land or structures caused by such activities;

42 (2) To provide necessary clerical, technical, and administrative assistance
43 to the Board, and to employ the necessary personnel for the
44 accomplishment of the purposes of this Part.

1 (3) To enforce any rules adopted by the Board pursuant to this Part in the
2 manner provided for by G.S. 130A-22(a) and 104E-24.

3 **"§ 143B-216.15344.56. Reporting procedures.**

4 The Governor's Waste Management Board shall report directly to the Governor
5 except as otherwise expressly provided."

6 Sec. 172. G.S. 143B-290 reads as rewritten:

7 **"§ 143B-290. North Carolina Mining Commission – creation; powers and duties.**

8 There is hereby created the North Carolina Mining Commission of the Department
9 of ~~Natural Resources and Community Development~~ Environment, Health, and Natural
10 Resources with the power and duty to promulgate rules and regulations for the
11 enhancement of the mining resources of the State.

12 (1) The North Carolina Mining Commission shall have the following
13 powers and duties:

- 14 a. To act as the advisory body to the Interstate Mining Compact
15 pursuant to G.S. 74-38(a);
- 16 b. To adopt and modify rules and regulations to implement
17 Chapter 74, Article 6, pursuant to G.S. 74-44(b);
- 18 c. To hear permit appeals, conduct a full and complete hearing on
19 such controversies and affirm, modify, or overrule permit
20 decisions made by the Department pursuant to G.S. 74-61; and
- 21 d. To promulgate rules and regulations necessary to administer the
22 Mining Act of 1971, pursuant to G.S. 74-63;
- 23 e. To promulgate rules and regulations necessary to administer the
24 Control of Exploration for Uranium in North Carolina Act of
25 1983, pursuant to G.S. 74-86.

26 (2) The Commission is authorized and empowered to make such rules and
27 regulations, not inconsistent with the laws of this State, as may be
28 required by the federal government for grants-in-aid for mining
29 resource purposes which may be made available to the State by the
30 federal government. This section is to be liberally construed in order
31 that the State and its citizens may benefit from such grants-in-aid.

32 (3) The Commission shall make such rules ~~and regulations~~, consistent
33 with the provisions of this Chapter. All rules ~~and regulations~~ adopted
34 by the Commission shall be enforced by the Department of ~~Natural~~
35 ~~Resources and Community Development~~ Environment, Health, and
36 Natural Resources."

37 Sec. 173. G.S. 143B-294 reads as rewritten:

38 **"§ 143B-294. Soil and Water Conservation Commission – creation; powers and**
39 **duties.**

40 There is hereby created the Soil and Water Conservation Commission of the
41 Department of ~~Natural Resources and Community Development~~ Environment, Health,
42 and Natural Resources with the power and duty to adopt rules ~~and regulations~~ to be
43 followed in the development and implementation of a soil and water conservation
44 program.

- 1 (1) The Soil and Water Conservation Commission has the following
2 powers and duties:
3 a. To approve petitions for soil conservation districts;
4 b. To approve application for watershed plans; and
5 c. Such other duties as specified in Chapter 139.
- 6 (2) The Commission shall adopt rules and regulations consistent with the
7 provisions of this Chapter. All rules and regulations not inconsistent
8 with the provisions of this Chapter heretofore adopted by the Soil and
9 Water Conservation Committee shall remain in full force and effect
10 unless and until repealed or superseded by action of the Soil and Water
11 Conservation Commission. All rules and regulations adopted by the
12 Commission shall be enforced by the Department of ~~Natural Resources~~
13 ~~and Community Development~~ Environment, Health, and Natural
14 Resources."

15 Sec. 174. G.S. 143B-300 reads as rewritten:

16 **"§ 143B-300. Wastewater Treatment Plant Operators Certification Commission –**
17 **creation; powers and duties.**

18 There is hereby created the Wastewater Treatment Plant Operators Certification
19 Commission of the Department of ~~Natural Resources and Community Development~~
20 Environment, Health, and Natural Resources with the power and duty to adopt rules ~~and~~
21 ~~regulations~~ with respect to the certification of wastewater treatment plant operators as
22 provided by Article 3 of Chapter 90A of the General Statutes of North Carolina.

23 The Commission is authorized and empowered to adopt such rules and regulations,
24 not inconsistent with the laws of this State, as may be required by the federal
25 government for grants-in-aid for programs concerned with the certification of
26 wastewater treatment plant operators which may be made available to the State by the
27 federal government. This section is to be liberally construed in order that the State and
28 its citizens may benefit from such grants-in-aid."

29 Sec. 175. G.S. 143B-470.4(c) reads as rewritten:

30 "(c) The Treatment Commission shall submit to the General Assembly by January
31 1, 1986, a comprehensive plan for the treatment of hazardous waste in North Carolina,
32 including a plan to provide for a statewide hazardous waste collection system. The
33 Governor's Waste Management Board, the ~~Solid and Hazardous Waste Branch of the~~
34 ~~Division of Health Services of the Department of Human Resources~~ Department of
35 Environment, Health, and Natural Resources, and other State agencies and departments
36 shall cooperate with the Treatment Commission in preparation of the plan. If the
37 Treatment Commission, in its report to the General Assembly, indicates that the needs
38 of the State for treatment of hazardous waste are being met, the Treatment Commission
39 shall cease to exist as of January 1, 1986. If not, the Treatment Commission shall report
40 periodically to the General Assembly or, if the General Assembly is not in session, to
41 the Joint Legislative Commission on Governmental Operations, on progress toward
42 meeting the State's needs."

43 Sec. 176. G.S. 153A-225(b) reads as rewritten:

1 "(b) If a prisoner in a local confinement facility dies, the medical examiner and the
2 coroner shall be notified immediately. Within five days after the day of the death, the
3 administrator of the facility shall make a written report to the local or district health
4 director and to the Secretary of ~~Human Resources~~Environment, Health, and Natural
5 Resources. The report shall be made on forms ~~provided by the [State Board of Health,~~
6 ~~and the Board of Health]~~ shall develop and distribute these forms developed and
7 distributed by the Department of Environment, Health, and Natural Resources."

8 Sec. 177. G.S. 153A-226(b) reads as rewritten:

9 "(b) The ~~[Commission for Health Services]~~Commission for Health Services shall
10 prepare a score sheet to be used by sanitarians of local or district health departments in
11 inspecting local confinement facilities. The sanitarians shall inspect local confinement
12 facilities as often as may be required by the Commission for Health Services. If an
13 inspector of the Department finds conditions that reflect hazards or deficiencies in the
14 sanitation or food service of a local confinement facility, he shall immediately notify the
15 local or district health department. The health department shall promptly cause a
16 sanitarian to inspect the facility. After making his inspection, the sanitarian shall
17 forward a copy of his report to the Department of Human Resources and to the unit
18 operating the facility, on forms prepared by the ~~[Department]~~Department of
19 Environment, Health, and Natural Resources. The report shall indicate whether the
20 facility and its kitchen or other place for preparing food is approved or disapproved for
21 public health purposes. If the facility is disapproved, the situation shall be rectified
22 according to the procedures of G.S. 153A-223."

23 Sec. 178. G.S. 159C-7 reads as rewritten:

24 **"§ 159C-7. Approval of project.**

25 No bonds may be issued by an authority unless the project for which the issuance
26 thereof is proposed is first approved by the Secretary of the Department of Commerce.
27 The authority shall file an application for approval of its proposed project with the
28 Secretary of the Department of Commerce, and shall notify the Local Government
29 Commission of such filing.

30 The Secretary shall not approve any proposed project unless he shall make all of the
31 following, applicable findings:

- 32 (1) In the case of a proposed industrial project,
33 a. That the operator of the proposed project pays, or has agreed to
34 pay thereafter, an average weekly manufacturing wage (i)
35 which is above the average weekly manufacturing wage paid in
36 the county, or (ii) which is not less than ten percent (10%)
37 above the average weekly manufacturing wage paid in the
38 State, and
39 b. That the proposed project will not have a materially adverse
40 effect on the environment;
- 41 (2) In the case of a proposed pollution control project, that such project
42 will have a materially favorable impact on the environment or will
43 prevent or diminish materially the impact of pollution which would
44 otherwise occur; and

- 1 (2a) In the case of a hazardous waste facility or low-level radioactive waste
2 facility which is used as a reduction, recovery or recycling facility, that
3 such project will further the waste management goals of North
4 Carolina and will not have an adverse effect upon public health or a
5 significant adverse effect on the environment.
- 6 (3) In any case (whether the proposed project is an industrial or a pollution
7 control project), except a pollution control project for a public utility,
8 a. That the jobs to be generated or saved, directly or indirectly, by
9 the proposed project will be large enough in number to have a
10 measurable impact on the area immediately surrounding the
11 proposed project and will be commensurate with the size and
12 cost of the proposed project,
13 b. That the proposed operator of the proposed project has
14 demonstrated or can demonstrate the capability to operate such
15 project, and
16 c. That the financing of such project by the authority will not
17 cause or result in the abandonment of an existing industrial or
18 manufacturing facility of the proposed operator or an affiliate
19 elsewhere within the State unless the facility is to be abandoned
20 because of obsolescence, lack of available labor in the area, or
21 site limitations.

22 In no case shall the Secretary of the Department of Commerce make the findings
23 required by subdivisions (1)b and (2) of this section unless he shall have first received a
24 certification from the Department of ~~Natural Resources and Community Development~~
25 Environment, Health, and Natural Resources that, in the case of a proposed industrial
26 project, the proposed project will not have a materially adverse effect on the
27 environment and that, in the case of a proposed pollution control project, the proposed
28 project will have a materially favorable impact on the environment or will prevent or
29 diminish materially the impact of pollution which would otherwise occur. In no case
30 shall the Secretary of Commerce make the findings required by subdivision (2a) unless
31 he shall have first received a certification from the Department of ~~Human Resources~~
32 Environment, Health, and Natural Resources that the proposed project is
33 environmentally sound, will not have an adverse effect on public health and will further
34 the waste management goals of North Carolina. In any case where the Secretary shall
35 make all of the required findings respecting a proposed industrial project except that
36 prescribed in subparagraph (1)a of this section, the Secretary may, in his discretion,
37 approve the proposed project if he shall have received (i) a resolution of the governing
38 body of the county requesting that the proposed project be approved notwithstanding
39 that the operator will not pay an average weekly manufacturing wage above the average
40 weekly manufacturing wage in the county and (ii) a letter from an appropriate State
41 official, selected by the Secretary, to the effect that unemployment in the county is
42 especially severe.

43 To facilitate his review of each proposed project, the Secretary may require the
44 authority to obtain and submit such data and information about such project as the

1 Secretary may prescribe. In addition, the Secretary may, in his discretion, request the
2 authority to hold a public hearing on the proposed project for the purpose of providing
3 the Secretary directly with the views of the community to be affected. The Secretary
4 may also prescribe such forms and such rules and regulations as he shall deem
5 reasonably necessary to implement the provisions of this section.

6 If the Secretary approves the proposed project, he shall prepare a certificate of
7 approval evidencing such approval and setting forth his findings and shall cause said
8 certificate of approval to be published in a newspaper of general circulation within the
9 county. Any such approval shall be reviewable as provided in Article 4 of Chapter 150B
10 of the General Statutes of North Carolina only by an action filed, within 30 days after
11 notice of such findings and approval shall have been so published, in the Superior Court
12 of Wake County. Such superior court is hereby vested with jurisdiction to hear such
13 action, but if no such action is filed within the 30 days herein prescribed, the validity of
14 such approval shall be conclusively presumed, and no court shall have authority to
15 inquire into such approval. Copies of the certificate of approval of the proposed project
16 will be given to the authority, the governing body of the county and the Secretary of the
17 Local Government Commission.

18 Such certificate of approval shall become effective immediately following the
19 expiration of such 30-day period or the expiration of any appeal period after a final
20 determination by any court of any action timely filed pursuant to this section. Such
21 certificate shall expire one year after its date unless extended by the Secretary who shall
22 not extend such certificate unless he shall again approve the proposed project as
23 provided in this section."

24 Sec. 179. G.S. 159D-7 reads as rewritten:

25 **"§ 159D-7. Approval of project.**

26 No bonds may be issued by the authority unless the project for which the issuance
27 thereof is proposed is first approved by the Secretary of the Department of Commerce.
28 The authority shall file an application for approval of its proposed project with the
29 Secretary of the Department of Commerce, and shall notify the Local Government
30 Commission of such filing.

31 The Secretary shall not approve any proposed project unless he shall make all of the
32 following, applicable findings:

- 33 (1) In the case of a proposed industrial project,
34 a. That the operator of the proposed project pays, or has agreed to
35 pay thereafter, an average weekly manufacturing wage (i)
36 which is above the average weekly manufacturing wage paid in
37 the county in which the project is to be located or (ii) which is
38 not less than ten percent (10%) above the average weekly
39 manufacturing wage paid in the State; and
40 b. That the proposed project will not have a materially adverse
41 effect on the environment;
42 (2) In the case of a proposed pollution control project, that such project
43 will have a materially favorable impact on the environment or will

- 1 prevent or diminish materially the impact of pollution which would
2 otherwise occur; and
- 3 (2a) In the case of a hazardous waste facility or low-level radioactive waste
4 facility which is used as a reduction, recovery or recycling facility, that
5 such project will further the waste management goals of North
6 Carolina and will not have an adverse effect upon public health or a
7 significant adverse effect on the environment; and
- 8 (3) In any case (whether the proposed project is an industrial or a pollution
9 control project),
- 10 a. That the jobs to be generated or saved, directly or indirectly, by
11 the proposed project will be large enough in number to have a
12 measurable impact on the area immediately surrounding the
13 proposed project and will be commensurate with the size and
14 cost of the proposed project,
- 15 b. That the proposed operator of the proposed project has
16 demonstrated or can demonstrate the capability to operate such
17 project, and
- 18 c. That the financing of such project by the authority will not
19 cause or result in the abandonment of an existing industrial or
20 manufacturing facility of the proposed operator or an affiliate
21 elsewhere within the State unless the facility is to be abandoned
22 because of obsolescence, lack of available labor in the area, or
23 site limitations.

24 In no case shall the Secretary of the Department of Commerce make the findings
25 required by subdivisions (1)b and (2) of this section unless he shall have first received a
26 certification from the Department of ~~Natural Resources and Community Development~~
27 Environment, Health, and Natural Resources that, in the case of a proposed industrial
28 project, the proposed project will not have a materially adverse effect on the
29 environment and that, in the case of a proposed pollution control project, the proposed
30 project will have a materially favorable impact on the environment or will prevent or
31 diminish materially the impact of pollution which would otherwise occur. In no case
32 shall the Secretary of Commerce make the findings required by subdivision (2a) unless
33 he shall have first received a certification from the Department of ~~Human Resources~~
34 Environment, Health, and Natural Resources that the proposed project is
35 environmentally sound, will not have an adverse effect on public health and will further
36 the waste management goals of North Carolina. In any case where the Secretary shall
37 make all of the required findings respecting a proposed industrial project, except that
38 prescribed in subdivision (1)a of this section, the Secretary may, in his discretion,
39 approve the proposed project if he shall have received (i) a resolution of the governing
40 body of the county in which the proposed project is to be located requesting that the
41 proposed project be approved notwithstanding that the operator will not pay an average
42 weekly manufacturing wage above the average weekly manufacturing wage in the
43 county and (ii) a letter from an appropriate State official, selected by the Secretary, to
44 the effect that unemployment in the county is especially severe.

1 To facilitate his review of each proposed project, the Secretary may require the
2 authority to obtain and submit such data and information about such project as the
3 Secretary may prescribe. In addition, the Secretary may, in his discretion, request the
4 authority to hold a public hearing on the proposed project for the purpose of providing
5 the Secretary directly with the views of the community to be affected. The Secretary
6 may also prescribe such forms and such rules and regulations as he shall deem
7 reasonably necessary to implement the provisions of this section.

8 If the Secretary approves the proposed project, he shall prepare a certificate of
9 approval evidencing such approval and setting forth his findings and shall cause said
10 certificate of approval to be published in a newspaper of general circulation within the
11 county in which the proposed project is to be located. Any such approval shall be
12 reviewable as provided in Article 4 of Chapter 150B of the General Statutes of North
13 Carolina only by an action filed, within 30 days after notice of such findings and
14 approval shall have been so published, in the Superior Court of Wake County. Such
15 superior court is hereby vested with jurisdiction to hear such action, but if no such
16 action is filed within the 30 days herein prescribed, the validity of such approval shall
17 be conclusively presumed, and no court shall have authority to inquire into such
18 approval. Copies of the certificate of approval of the proposed project will be given to
19 the authority, the governing body of the county in which the proposed project is to be
20 located and the secretary of the Local Government Commission.

21 Such certificate of approval shall become effective immediately following the
22 expiration of such 30-day period or the expiration of any appeal period after a final
23 determination by any court of any action timely filed pursuant to this section. Such
24 certificate shall expire one year after its date unless extended by the Secretary who shall
25 not extend such certificate unless he shall again approve the proposed project as
26 provided in this section. Any certificate of approval with respect to a project which has
27 become effective pursuant to G.S. 159C-7 shall be deemed to satisfy the requirements
28 of this section to the extent that the findings made by the Secretary pursuant to G.S.
29 159C-7 are consistent with the findings required to be made by the Secretary pursuant
30 hereto."

31 Sec. 180. G.S. 159G-3 reads as rewritten:

32 **"§ 159G-3. Definitions.**

33 As used in this Chapter, the following words shall have the meanings indicated,
34 unless the context clearly requires otherwise:

- 35 (1) 'Administrative Account' means the Administrative Account in
36 the Clean Water Revolving Loan and Grant Fund established in
37 the Office of State Budget and Management under the provisions
38 of this Chapter to cover administrative costs of the program.
- 39 (2) 'Applicant' means a local government unit that applies for a
40 revolving loan or grant under the provisions of this Chapter.
- 41 (3) 'Clean Water Revolving Loan and Grant Fund' means the fund
42 established in the Office of State Budget and Management to
43 carry out the provisions of this Chapter, with various accounts
44 therein as herein provided.

- 1 (4) 'Construction costs' means the actual costs of planning, designing
2 and constructing any project for which a revolving loan or grant is
3 made under this Chapter including planning; environmental
4 assessment; wastewater system analysis, evaluation and
5 rehabilitation; engineering; legal, fiscal, administrative and
6 contingency costs for water supply systems, wastewater collection
7 systems, wastewater treatment works and any extensions,
8 improvements, remodeling, additions, or alterations to existing
9 systems. Construction costs may include excess or reserve
10 capacity costs, attributable to no more than 20-year projected
11 domestic growth, plus ten percent (10%) unspecified industrial
12 growth. In addition, construction costs shall include any fees
13 payable to the Environmental Management Commission or the
14 ~~Division of Health Services~~ Division of Environmental Health for
15 review of applications and grant of permits, and fees for
16 inspections under G.S. ~~159G-314~~ ~~[159G-14]~~. 159G-14.
17 Construction costs may also include the costs for purchase or
18 acquisition of real property.
- 19 (5) 'Grant' means a sum of money given by the State to a local
20 government unit to subsidize the construction costs of a project
21 authorized by this Chapter, without any obligation on the part of
22 such unit to repay such sum.
- 23 (6) 'Commission for Health Services' means the Commission for
24 Health Services of the Department of ~~Human Resources~~.
25 Environment, Health, and Natural Resources.
- 26 (6a) 'Debt instrument' means an instrument in the nature of a
27 promissory note executed by a local government unit under the
28 provisions of this Chapter, to evidence a debt to the State and
29 obligation to repay the principal, plus interest, under stated terms.
- 30 (7) ~~'Division of Health Services' means the Division of Health~~
31 ~~Services of the Department of Human Resources.~~ 'Division of
32 Environmental Health' means the Division of Environmental
33 Health of the Department of Environment, Health, and Natural
34 Resources.
- 35 (8) 'Environmental Management Commission' means the
36 Environmental Management Commission of the ~~Department of~~
37 ~~Natural Resources and Community Development~~ ~~created by~~
38 ~~Article 7, Part 4 of Chapter 143B of the General Statutes.~~
39 Department of Environment, Health, and Natural Resources.
- 40 (9) 'Local Government Commission' means the Local Government
41 Commission of the Department of the State Treasurer, established
42 by Article 2 of Chapter 159 of the General Statutes.
- 43 (10) 'Local government unit' means a county, city, town, incorporated
44 village, sanitary district, metropolitan sewerage district,

- 1 metropolitan water district, county water and sewer district, water
2 and sewer authority or joint agency created pursuant to Part 1 of
3 Article 20 of Chapter 160A of the General Statutes.
- 4 (11) 'Office of State Budget and Management' means the Office of
5 State Budget and Management established by law.
- 6 (12) 'Receiving agency' means the ~~Division of Health Services~~
7 Division of Environmental Health with respect to receipt of
8 applications for revolving loans and grants for water supply
9 systems, and the Environmental Management Commission and
10 the Division of Environmental Management with respect to
11 receipt of applications for revolving loans and grants for
12 wastewater systems.
- 13 (13) 'Revolving construction loan' means a sum of money loaned by
14 the State to a local government unit to subsidize the construction
15 costs of a project authorized by this Chapter, with an obligation
16 on the part of such unit to repay such sum, the proceeds of such
17 repayment to be deposited in the Water Pollution Control
18 Revolving Fund.
- 19 (14) 'Revolving emergency loan' means a sum of money loaned by the
20 State to a local government unit upon a certification, as provided
21 in this Chapter, of a serious public health hazard, with an
22 obligation on the part of such unit to repay such sum.
- 23 (15) 'Revolving loan' includes a revolving construction loan and an
24 emergency loan.
- 25 (15a) 'State' means the State of North Carolina.
- 26 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant
27 to Article III, Section 7 of the Constitution or his designated
28 representative.
- 29 (16) 'Wastewater Accounts' means the various accounts in the Clean
30 Water Revolving Loan and Grant Fund established in the Office
31 of State Budget and Management under this Chapter for revolving
32 loans and grants for wastewater treatment work and wastewater
33 collection system projects.
- 34 (17) 'Wastewater collection system' means a unified system of pipes,
35 conduits, pumping stations, force mains, and appurtenances other
36 than interceptor sewers, for collecting and transmitting water-
37 carried human wastes and other wastewater from residences,
38 industrial establishments or any other buildings, and owned by a
39 local government unit.
- 40 (18) 'Wastewater treatment works' means the various facilities and
41 devices used in the treatment of sewage, industrial waste or other
42 wastes of a liquid nature, including the necessary interceptor
43 sewers, outfall sewers, phosphorous removal equipment,
44 pumping, power and other equipment and their appurtenances.

1 (19) 'Water Supply Accounts' means the various accounts in the Clean
2 Water Revolving Loan and Grant Fund established in the Office
3 of State Budget and Management under this Chapter for revolving
4 loans and grants for water supply system projects.

5 (20) 'Water supply system' means a public water supply system
6 consisting of facilities and works for supplying, treating and
7 distributing potable water including, but not limited to,
8 impoundments, reservoirs, wells, intakes, water filtration plants
9 and other treatment facilities, tanks and other storage facilities,
10 transmission mains, distribution piping, pipes connecting the
11 system to other public water supply systems, pumping equipment
12 and all other necessary appurtenances, equipment and structures."

13 Sec. 181. G.S. 159G-6 reads as rewritten:

14 **"§ 159G-6. Distribution of funds.**

15 (a) Revolving loans and grants.

16 (1) All funds appropriated or accruing to the Clean Water Revolving Loan
17 and Grant Fund, other than funds set aside for administrative expenses,
18 shall be used for revolving loans and grants to local government units
19 for construction costs of wastewater treatment works, wastewater
20 collection systems and water supply systems and other assistance as
21 provided in this Chapter.

22 (2) The maximum principal amount of a revolving loan or a grant may be
23 one hundred percent (100%) of the nonfederal share of the
24 construction costs of any eligible project. The maximum principal
25 amount of revolving loans made to any one local government unit
26 during any fiscal year shall be three million dollars (\$3,000,000). The
27 maximum principal amount of grants made to any one local
28 government unit during any fiscal year shall be five hundred thousand
29 dollars (\$500,000).

30 (3) The State Treasurer shall be responsible for investing and distributing
31 all funds appropriated or accruing to the Clean Water Revolving Loan
32 and Grant Fund for revolving loans and grants under this Chapter. In
33 fulfilling his responsibilities under this section, the State Treasurer
34 shall make a written request to the Office of State Budget and
35 Management to arrange for the appropriated funds to be (i) transferred
36 from the appropriate accounts to a local government unit to provide
37 funds for one or more revolving loans or grants or (ii) invested as
38 authorized by this Chapter with the interest on and the principal of
39 such investments to be transferred to the local government unit to
40 provide funds for one or more revolving loans or grants.

41 (b) Wastewater Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-4~~
42 159G-4] and accruing to the various Wastewater Accounts in each fiscal year shall be
43 used to make revolving loans and grants to local government units as provided below.
44 The Office of the State Budget and Management shall disburse no funds from the

1 Wastewater Accounts except upon receipt of written approval of the disbursement from
2 the Environmental Management Commission.

3 (1) General Wastewater Revolving Loan and Grant Account. – The funds
4 in the General Wastewater Revolving Loan and Grant Account shall
5 be used exclusively for the purpose of providing for revolving
6 construction loans or grants in connection with approved wastewater
7 treatment work or wastewater collection system projects.

8 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit
9 Cost Wastewater Account shall be available for grants to applicants for
10 high-unit cost wastewater projects. Eligibility of an applicant for such
11 a grant shall be determined by comparing estimated average household
12 user fees for water and sewer service, for debt service and operation
13 and maintenance costs, to one and one-half percent (1.5%) of the
14 median household income in the county in which the project is located.
15 The projects which would require estimated average household water
16 and sewer user fees greater than one and one-half percent (1.5%) of the
17 median household income are defined as high-unit cost wastewater
18 projects and will be eligible for a grant equal to the excess cost, subject
19 to the limitations in subsection (a)(2) of this section.

20 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
21 Emergency Wastewater Revolving Loan Account shall be available for
22 revolving emergency loans to applicants in the event the
23 Environmental Management Commission certifies that a serious public
24 health hazard, related to the inadequacy of existing wastewater
25 facilities, is present or imminent in a community.

26 (c) Water Supply Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-~~
27 ~~4~~159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall
28 be used to provide revolving loans and grants to local government units as provided
29 below. The Office of State Budget and Management shall disburse no funds from the
30 Water Supply Accounts except upon receipt of written approval of the disbursement
31 from the ~~Division of Health Services~~ Division of Environmental Health.

32 (1) General Water Supply Revolving Loan and Grant Account. – The
33 funds in the General Water Supply Revolving Loan and Grant Account
34 shall be used exclusively for the purpose of providing for revolving
35 construction loans and grants in connection with water supply systems
36 generally and not upon a county allotment basis.

37 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
38 Cost Water Supply Account shall be available for grants to applicants
39 for high-unit cost water supply systems, on the same basis as provided
40 in G.S. ~~159G-306(b)(2)~~ [G.S. ~~159G-6(b)(2)~~] 159G-6(b)(2) for high-
41 unit cost wastewater projects.

42 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
43 Emergency Water Supply Revolving Loan Account shall be available
44 for revolving emergency loans to applicants in the event the ~~Division~~

1 ~~of Health Services~~ Division of Environmental Health certifies that a
2 serious public health hazard, related to the water supply system, is
3 present or imminent in a community.

4 (d) Administrative Account. – The Office of State Budget and Management,
5 from time to time, may allocate funds from the Administrative Account to meet the
6 expenses of the Office of State Budget and Management, Local Government
7 Commission, ~~Division of Health Services~~ Division of Environmental Health and
8 Environmental Management Commission incurred in the administration of this Chapter
9 in excess of normal operating expenses.

10 Each agency entitled to receive administrative expense funds from the
11 Administrative Account shall prepare an itemized estimate of administrative funds
12 required for the succeeding fiscal year, and the ~~Division of Health Services~~, Division of
13 Environmental Health, the Local Government Commission and the Environmental
14 Management Commission shall deliver their estimates to the Office of State Budget and
15 Management at least 45 days prior to the beginning of the fiscal year for which the
16 funds are required. The Office of State Budget and Management shall determine the
17 administrative expense funds available and, along with its recommendations, shall
18 deliver the estimates of the ~~Division of Health Services~~, Division of Environmental
19 Health, the Local Government Commission and of the Environmental Management
20 Commission and its own estimate, if any, to the Advisory Budget Commission at least
21 30 days prior to the beginning of the fiscal year for which the funds are required. Any
22 administrative expense funds shall be disbursed by the Office of State Budget and
23 Management to the appropriate agency. If the administrative expense funds disbursed
24 to any agency shall prove insufficient, it may apply at any time during the fiscal year for
25 additional funds in the manner above provided.

26 (e) Notwithstanding any other provision of this Chapter, funds in the Water
27 Pollution Control Revolving Fund shall not be available as grants except to the extent
28 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
29 thereunder."

30 Sec. 182. G.S. 159G-8 reads as rewritten:

31 "**§ 159G-8. Application; environmental assessment; notice; hearing.**

32 (a) Application. – All applications for revolving loans and grants for water
33 supply systems shall be filed with the ~~Division of Health Services~~ Division of
34 Environmental Health and all applications for revolving loans and grants for wastewater
35 treatment works or wastewater collection systems shall be filed with the Environmental
36 Management Commission. Every applicant shall also file with the Office of State
37 Budget and Management such information concerning the application as the Office of
38 State Budget and Management may require by rules or regulations adopted pursuant to
39 this Chapter. Any application may be filed in as many categories as it is eligible for
40 consideration under this Chapter. Applications for revolving construction loans or
41 grants for wastewater treatment works and wastewater collection systems, except
42 applications for emergency wastewater loans, shall first be submitted for a loan or grant
43 from the Water Pollution Control Revolving Fund established by G.S. ~~159G-305(e)~~
44 [~~G.S. 159G-5(e)~~]. 159G-5(c). If the application is denied, the application shall then be

1 considered for a revolving loan or a grant from the General Wastewater Revolving Loan
2 and Grant account established under ~~159G-306(b)(1)~~ [G.S. ~~159G-6(b)(1)~~]-159-6(b)(1).

3 The Office of State Budget and Management, the ~~Division of Health Services~~
4 Division of Environmental Health and the Environmental Management Commission
5 may develop jointly and adopt a standard form of application under this Chapter. Any
6 application for construction grants under the Federal Water Pollution Control Act may
7 be considered as an application for revolving construction loans or grants under G.S.
8 ~~159G-305(e)~~ [G.S. ~~159G-5(e)~~]-159G-5(c) and G.S. ~~159G-306(b)(1)~~ [G.S. ~~159G-~~
9 ~~6(b)(1)~~]-159G-6(b)(1). The information required to be set forth in the application shall
10 be sufficient to permit the respective agencies to determine the eligibility of the
11 applicant and to establish the priority of the application, as set forth in this Chapter.

12 Any applicant shall furnish information in addition or supplemental to the
13 information contained in its application upon request by the receiving agency.

14 (b) Environmental Assessment. – Every applicant shall file with its application
15 an assessment setting forth the impact that the project for which funds are sought will
16 have upon the environment of the area within which the project is proposed to be
17 located. The assessment shall set forth the impact of the project upon water resources,
18 other natural resources, land use pattern, and such other factors as the Commission for
19 Health Services or the Environmental Management Commission shall require by duly
20 adopted rules and regulations. Any environmental assessment required as part of an
21 application for grants under the Federal Water Pollution Control Act shall satisfy the
22 requirement of this provision. If, after reviewing the environmental assessment, the
23 ~~Division of Health Services~~-Division of Environmental Health or the Environmental
24 Management Commission concludes that an environmental impact statement is
25 required, then the application shall receive no further consideration until a final
26 environmental impact statement has been completed and approved as provided in
27 Article 1 of Chapter 113A of the General Statutes.

28 (c) Hearing. – A public hearing may be held by the receiving agency at any time
29 on any application filed pursuant to G.S. ~~159G-305(e)~~ [G.S. ~~159G-5(e)~~]-159G-306(b)
30 [G.S. ~~159G-6(b)~~] or ~~159G-306(e)~~ [G.S. ~~159G-6(e)~~]-159G-5(c), 159G-6(b), or 159G-6(c)
31 in accordance with the provisions of this subsection. A public hearing may be held by
32 the receiving agency upon written request from any citizen or taxpayer who is a resident
33 of the county or counties in which the project is proposed to be located if it appears that
34 the public interest will be served by this hearing. The written request shall set forth
35 each objection to the proposed project or other reason for requesting a hearing on the
36 application and shall contain the name and address of the person(s) submitting it. The
37 receiving agency may consider all written objections to the proposed project and other
38 statements along with the application, including any significant adverse effects that the
39 proposed project may have on the environment, and shall determine if the public interest
40 will be served by a hearing. The determination by the receiving agency shall be
41 conclusive; but all written requests for a hearing shall be retained as a permanent part of
42 the records pertaining to the application, whether or not the request is granted."

43 Sec. 183. G.S. 159G-14 reads as rewritten:

44 "**§ 159G-14. Inspection.**

1 Inspection of a project for which a revolving loan or grant has been made under this
2 Chapter may be performed by qualified personnel of the ~~Division of Health Services~~
3 Division of Environmental Health or the Environmental Management Commission or
4 may be performed by qualified professional engineers, registered in this State, who have
5 been approved by the ~~Division of Health Services~~ Division of Environmental Health or
6 the Environmental Management Commission; but no person shall be approved to
7 perform inspections who is an officer or employee of the unit of government to which
8 the revolving loan or grant was made or who is an owner, officer, employee or agent of
9 a contractor or subcontractor engaged in the construction of the project for which the
10 revolving loan or grant was made. For the purpose of payment of inspection fees,
11 inspection services shall be included in the term 'construction cost' as used in this
12 Chapter."

13 Sec. 184. G.S. 159G-17 reads as rewritten:

14 "**§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**
15 **Operations.**

16 (a) The Office of State Budget and Management, the ~~Division of Health Services~~
17 Division of Environmental Health and the Environmental Management Commission
18 shall prepare and file on or before July 31 of each year with the Joint Legislative
19 Commission on Governmental Operations a consolidated report for the preceding fiscal
20 year concerning the allocation of revolving loans and grants authorized by this Chapter.

21 (b) Office of State Budget and Management. – The portion of the report prepared
22 by the Office of State Budget and Management shall set forth for the preceding fiscal
23 year itemized and total allocations from the Administrative Account for administrative
24 expenses; itemized and total allocations from the Wastewater Accounts of revolving
25 loans and grants authorized by the Environmental Management Commission; and
26 itemized and total allocations from the Water Supply Accounts of revolving loans and
27 grants authorized by the ~~Division of Health Services~~ Division of Environmental Health.
28 The Office of State Budget and Management shall also prepare a summary report of all
29 allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal
30 year; the total funds received and allocations made; and unallocated funds on hand in
31 each account as of the end of the preceding fiscal year.

32 (c) Environmental Management Commission and ~~Division of Health~~
33 ~~Services~~ Division of Environmental Health. – The portions of the report prepared by the
34 Environmental Management Commission and the ~~Division of Health Services~~ Division
35 of Environmental Health shall include:

- 36 (1) Identification of each revolving loan and grant made by the receiving
37 agency during the preceding fiscal year; the total amount of the
38 revolving loan and grant commitments; the sums actually paid during
39 the preceding fiscal year to each revolving loan and grant made and to
40 each revolving loan and grant previously committed but unpaid; and
41 the total revolving loan and grant funds paid during the preceding
42 fiscal year.

- 1 (2) Itemization of expenditures of any administrative expense funds
2 allocated from the Administrative Account during the preceding fiscal
3 year.
- 4 (3) Summarization for all preceding years of the total number of revolving
5 loans and grants made; the total funds committed to such revolving
6 loans and grants; the total sum actually paid to such revolving loans
7 and grants and the total expenditure of administrative expense funds
8 allocated from the Administrative Account.
- 9 (4) Assessment and evaluation of the effects that approved projects have
10 had upon water pollution control and water supplies within the
11 purposes of this Chapter and with relation to the total water pollution
12 control and water supply problem.

13 (d) The report shall be signed by each of the chief executive officers of the State
14 agencies preparing the report."

15 Sec. 185. G.S. 162A-23(b) reads as rewritten:

16 "(b) Responsibility for carrying out the role of State government in regional water
17 supply planning shall be assigned to the Department of ~~Human Resources and the~~
18 ~~Department of Water and Air Resources [Department of Natural Resources and~~
19 ~~Community Development]. Environment, Health, and Natural Resources. ~~Promotion~~
20 ~~and coordination of regional water supply systems shall be a shared function of the~~
21 ~~Department of Water and Air Resources [Department of Natural Resources and~~
22 ~~Community Development] and the Department of Human Resources, with primary~~
23 ~~responsibility with regard to sources of raw water supply and transbasin or~~
24 ~~transwatershed diversions of water being allocated to the Department of Water and Air~~
25 ~~Resources [Department of Natural Resources and Community Development], and with~~
26 ~~primary responsibility with regard to other aspects of regional water supply systems~~
27 ~~being allocated to the Department of Human Resources."~~~~

28 Sec. 186. G.S. 162A-24(a) reads as rewritten:

29 "(a) There is established under the control and direction of the Department of
30 Administration a Regional Water Supply Planning Revolving Fund, to consist of any
31 moneys that may be appropriated for use through the fund by the General Assembly or
32 that may be made available to it from any other source. The Department may make
33 advances from the fund to any county, municipality, sanitary district, or to counties and
34 municipalities acting collectively or jointly as a regional water authority, for the purpose
35 of meeting the cost of advance planning and engineering work necessary or desirable
36 for the development of a comprehensive plan for a regional water supply system as
37 defined in this Article. Such advances shall be subject to repayment by the recipient to
38 the Department from the proceeds of bonds or other obligations for the regional water
39 supply system, or from other funds available to the recipient including grants, except
40 when, in the judgment of the Department of ~~Human Resources and of the Department of~~
41 ~~Water and Air Resources [Department of Natural Resources and Community~~
42 ~~Development]~~Environment, Health, and Natural Resources, a proposed plan for
43 development and construction of a countywide or other regional water system is not
44 feasible because of design and construction factors or because available sources of raw

1 water supply are inadequate or because construction of a proposed system is not
2 economically feasible, (but not if the applicant decides not to proceed with construction
3 that has been planned and which the Department of ~~Human Resources and the~~
4 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~
5 ~~Community Development~~] Environment, Health, and Natural Resources have declared
6 to be feasible)."

7 Sec. 187. G.S. 162A-24(b) reads as rewritten:

8 "(b) The Department of Administration shall not make any advance pursuant to
9 this section without first referring the application and proposal to the Department of
10 ~~Human Resources, the State agency responsible for public water supplies, Environment,~~
11 Health, and Natural Resources for determination as to whether the following conditions
12 set forth below have been met. met. ~~In making such determinations, the Department of~~
13 ~~Human Resources shall obtain and be guided by the recommendations of the~~
14 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~
15 ~~Community Development~~] ~~on matters for which that Department has responsibility by~~
16 ~~law:~~

- 17 (1) The proposed area is suitable for development of a regional water
18 supply system from the standpoint of present and projected
19 populations, industrial growth potential, and present and future sources
20 of raw water.
- 21 (2) The applicant proposes to undertake long-range comprehensive
22 planning to meet present and projected needs for high quality water
23 service through the construction of a regional water supply system as
24 defined in this Article. The determination by the Department of
25 ~~Human Resources~~ Environment, Health, and Natural Resources that
26 the proposed system would be a 'regional system,' as defined by this
27 Article, shall be conclusive.
- 28 (3) The applicant proposes to coordinate planning of the regional water
29 supply with land-use planning in the area, in order that both planning
30 efforts will be compatible.
- 31 (4) The applicant proposes to employ an engineer licensed to practice in
32 the State of North Carolina to prepare a comprehensive regional water
33 supply plan, which plan will provide detailed information on source or
34 sources of water to meet projected domestic and industrial water
35 demands; proposed system, including raw water intake(s), treatment
36 plant, storage facilities, distribution system, and other waterworks
37 appurtenances; proposed interconnections with existing systems, and
38 provisions for interconnections with other county, municipal and
39 regional systems; phased development of systems to achieve ultimate
40 objectives if economic feasibility is in question; projected water
41 service areas; proposed equipment; estimates of cost and projected
42 revenues; and methods of financing."

43 Sec. 188. G.S. 162A-25 reads as rewritten:

44 "**§ 162A-25. Construction of Article.**

1 This Article shall be construed as providing supplemental authority in addition to the
2 powers of the Department of ~~Human Resources~~ Environment, Health, and Natural
3 Resources under ~~General Statutes Chapter 130, Chapter 130A and Articles 21 and 38 of~~
4 Chapter 143 of the General Statutes, the powers of the North Carolina Utilities
5 Commission under ~~General Statutes Chapter 62, Chapter 62 of the General Statutes,~~
6 and the powers of the Department of ~~Water and Air Resources~~ [~~Department of Natural~~
7 ~~Resources and Community Development~~] under ~~Articles 21 and 38 of General Statutes~~
8 ~~Chapter 143~~, and any other provisions of law concerning local and regional water
9 supplies."

10 Sec. 189. G.S. 162A-29(a) reads as rewritten:

11 "(a) There is established under the control and direction of the Department of
12 Administration a Regional Sewage Disposal Planning Revolving Fund, to consist of any
13 moneys that may be appropriated for use through the fund by the General Assembly or
14 that may be made available to it from any other source. The Department may make
15 advances from the fund to any county, municipality, or sanitary district, or to counties
16 and municipalities acting collectively or jointly as a regional sewer authority, for the
17 purpose of meeting the cost of advance planning and engineering work necessary or
18 desirable for the development of a comprehensive plan for a regional sewage disposal
19 system as defined in this Article. Such advances shall be subject to repayment by the
20 recipient to the Department from the proceeds of bonds or other obligations for the
21 regional sewage disposal system, or from other funds available to the recipient
22 including grants, except when, in the judgment of the Department of ~~Water and Air~~
23 ~~Resources~~ [~~Department of Natural Resources and Community~~
24 ~~Development~~] Environment, Health, and Natural Resources, a proposed plan for
25 development and construction of a countywide or other regional sewage disposal system
26 is not feasible because of design and construction factors, or because of the effect that
27 the sewage disposal system discharge will have upon water quality standards, or
28 because construction of a proposed system is not economically feasible, (but not if the
29 applicant decides not to proceed with construction that has been planned and which the
30 Department of ~~Water and Air Resources~~ [~~Department of Natural Resources and~~
31 ~~Community Development~~] Environment, Health, and Natural Resources has declared to
32 be feasible)."

33 Sec. 190. G.S. 162A-29(b) reads as rewritten:

34 "(b) The Department of Administration shall not make any advance pursuant to
35 this section without first referring the application and proposal to the ~~State Department~~
36 ~~of Water and Air Resources~~ [~~Department of Natural Resources and Community~~
37 ~~Development~~], Department of Environment, Health, and Natural Resources ~~the State~~
38 ~~agency responsible for water pollution control~~, for determination as to whether the
39 following conditions set forth below have been met:

- 40 (1) The proposed area is suitable for development of a regional sewage
41 disposal system from the standpoint of present and projected
42 populations, industrial growth potential, and present and future sources
43 of sewage.

- 1 (2) The applicant proposes to undertake long-range comprehensive
 2 planning to meet present and projected needs for high quality sewage
 3 disposal through the construction of a regional sewage disposal system
 4 as defined in this Article. The determination by the Department of
 5 ~~Water and Air Resources~~ [~~Department of Natural Resources and~~
 6 ~~Community Development~~] Environment, Health, and Natural
 7 Resources, that the proposed system would be a 'regional system,' as
 8 defined by this Article, shall be conclusive.
- 9 (3) The applicant proposes to coordinate planning of the regional sewage
 10 disposal system with land-use planning in the area, in order that both
 11 planning efforts will be compatible.
- 12 (4) The applicant proposes to employ an engineer licensed to practice in
 13 the State of North Carolina to prepare a comprehensive regional
 14 sewage disposal plan, which plan will provide detailed information on
 15 the source or sources of sewage; the proposed system, including all
 16 facilities and appurtenances thereto for the collection, transmission,
 17 treatment, purification and disposal of sewage; any proposed
 18 interconnection with existing systems, and provisions for
 19 interconnections with other county, municipal and regional systems;
 20 the phased development of systems to achieve ultimate objectives if
 21 economic feasibility is in question; projected sewage disposal service
 22 areas; proposed equipment; estimates of cost and projected revenues;
 23 and methods of financing."

24 Sec. 191. The phrase "Natural Resources and Community Development" is
 25 deleted and replaced by the phrase "Environment, Health, and Natural
 26 Resources" wherever it occurs in each of the following sections of the General Statutes:

- 27 (1) G.S. 7A-343.1. Distribution of copies of the appellate division
 28 reports. ♦
- 29 (2) G.S. 14-131. Trespass on land under option by the federal
 30 government.
- 31 (3) G.S. 14-137. Willfully or negligently setting fire to woods and
 32 fields.
- 33 (4) G.S. 15A-1343. Conditions of probation.
- 34 (5) G.S. 20-81. Official license plates. ♦
- 35 (6) G.S. 47-30. Plats and subdivisions; mapping requirements. ♦
- 36 (7) G.S. 53A-2. Incorporation authorized; information to be set forth;
 37 purposes; powers generally.
- 38 (8) G.S. 58-27.30. State Fire Commission created; membership.
- 39 (9) G.S. 66-58. Sale of merchandise by governmental units.
- 40 (10) G.S. 68-43. Authority of Secretary of Natural Resources and
 41 Community Development to remove or confine ponies on
 42 Ocracoke Island and Shackelford Banks.
- 43 (11) G.S. 69-25.5. Methods of providing fire protection.

- 1 (12) G.S. 74-38. Commission to file copies of bylaws with Department
2 of Natural Resources and Community Development.
- 3 (13) G.S. 74-49. Definitions.
- 4 (14) G.S. 74-53. Reclamation plan.
- 5 (15) G.S. 74-76. Definitions.
- 6 (16) G.S. 75A-5.1. Commercial fishing boats; renewal of number.
- 7 (17) G.S. 75A-17. Enforcement of Chapter.
- 8 (18) G.S. 76-40. Navigable waters; certain practices regulated.
- 9 (19) G.S. 77-13. Obstructing streams a misdemeanor.
- 10 (20) G.S. 77-14. Obstructions in streams and drainage ditches.
- 11 (21) G.S. 87-85. Definitions.
- 12 (22) G.S. 87-94. Civil penalties.
- 13 (23) G.S. 90A-37. Classification of wastewater treatment facilities.
- 14 (24) G.S. 90A-38. Grades of certificates.
- 15 (25) G.S. 90A-39. Operator qualifications and examination.
- 16 (26) G.S. 90A-43. Promotion of training and other powers.
- 17 (27) G.S. 100-2. Approval of memorials before acceptance by State;
18 regulation of existing memorials, etc.; "work of art" defined;
19 highway markers.
- 20 (28) G.S. 100-11. Duties.
- 21 (29) G.S. 100-12. Roads, trails, and fences authorized; protection of
22 property.
- 23 (30) G.S. 100-13. Fees for use of improvements; fees for other
24 privileges; leases; rules and regulations.
- 25 (31) G.S. 100-14. Use of fees and other collections.
- 26 (32) G.S. 100-15. Annual reports.
- 27 (33) G.S. 102-1.1. Name and description in relation to 1983 North
28 American Datum.
- 29 (34) G.S. 102-8. Administrative agency.
- 30 (35) G.S. 102-10. Prior work.
- 31 (36) G.S. 102-15. Improvement of land records.
- 32 (37) G.S. 102-17. County projects eligible for assistance.
- 33 (38) G.S. 104G-22. Inter-Agency Committee.
- 34 (39) G.S. 105-122. Franchise or privilege tax on domestic and foreign
35 corporations.
- 36 (40) G.S. 105-130.10. Amortization of air-cleaning devices, waste
37 treatment facilities and recycling facilities.
- 38 (41) G.S. 105-130.34. Credit for certain real property donations.
- 39 (42) G.S. 105-147. Deductions.
- 40 (43) G.S. 105-151.12. Credit for certain real property donations.
- 41 (44) G.S. 105-277.7. Use-Value Advisory Board.
- 42 (46) G.S. 106-202.14. Creation of Board; membership; terms;
43 chairman; quorum; board actions; compensation.

- 1 (47) G.S. 106-202.17. Creation of committee; membership; terms;
2 chairman; meetings; committee action; quorum; compensation.
- 3 (48) G.S. 113-1. Meaning of terms.
- 4 (49) G.S. 113-28.4. Oaths required.
- 5 (50) G.S. 113-44.4. Definitions.
- 6 (51) G.S. 113-44.9. Definitions.
- 7 (52) G.S. 113-60.14. Compact Administrator; North Carolina
8 members of advisory committee.
- 9 (53) G.S. 113-60.15. Agreements with noncompact states.
- 10 (54) G.S. 113-60.22. Definition.
- 11 (55) G.S. 113-60.32. Definitions.
- 12 (56) G.S. 113-60.33. Standby duty.
- 13 (57) G.S. 113-77.6. (Expires June 30, 1989) Definitions.
- 14 (58) G.S. 113-128. Definitions relating to agencies and their powers.
- 15 (59) G.S. 113-389. Definitions.
- 16 (60) G.S. 113A-52. Definitions.
- 17 (61) G.S. 113A-74. Appalachian Trails System; connecting or side
18 trails; coordination with the National Trails System Act.
- 19 (62) G.S. 113A-75. Assistance under this Article with the National
20 Trails System Act (PL 90-543).
- 21 (63) G.S. 113A-85. Definitions.
- 22 (64) G.S. 113A-104. Coastal Resources Commission.
- 23 (65) G.S. 113A-107. State guidelines for the coastal area.
- 24 (66) G.S. 113A-112. Planning grants.
- 25 (67) G.S. 113A-134.2. Creation of program; administration; purpose.
- 26 (68) G.S. 113A-134.3. Standards for beach access program.
- 27 (69) G.S. 113A-153. North Carolina Land Policy Council.
- 28 (70) G.S. 113A-164.3. Definitions.
- 29 (71) G.S. 113A-166. Rules.
- 30 (72) G.S. 113A-167. Existing billboards.
- 31 (73) G.S. 113A-169. Condemnation procedure.
- 32 (74) G.S. 113A-170. Violation a misdemeanor; injunctive relief.
- 33 (75) G.S. 113A-177. Statement of purpose.
- 34 (76) G.S. 113A-178. Definitions.
- 35 (77) G.S. 113A-183. Forest Development Fund.
- 36 (78) G.S. 113A-193. Duties of Secretaries.
- 37 (79) G.S. 113A-194. Assessment rates.
- 38 (80) G.S. 113A-208. Regulation of mountain ridge construction by
39 counties and cities.
- 40 (81) G.S. 113A-212. Assistance to counties and cities under ridge law.
- 41 (82) G.S. 113B-3. Composition of Council; appointments; terms of
42 members; qualifications.
- 43 (83) G.S. 120-150. Creation; appointment of members.
- 44 (84) G.S. 120-161. Facilities and staff.

- 1 (85) G.S. 122E-4. North Carolina Housing Partnership created;
2 compensation; organization.
- 3 (86) G.S. 126-5. Employees subject to Chapter; exemptions.
- 4 (87) G.S. 136-21. Drainage of highway; application to court;
5 summons; commissioners.
- 6 (88) G.S. 136-44.12. Construction and maintenance of roads in areas
7 administered by the Division of State Parks.
- 8 (89) G.S. 136-102.3. Filing record of results of test drilling or boring
9 with Secretary of Administration and Secretary of Natural
10 Resources and Community Development.
- 11 (90) G.S. 139-5. Creation of soil and water conservation districts.
- 12 (91) G.S. 139-7. District board of supervisors – appointive members;
13 organization of board; certain powers and duties.
- 14 (92) G.S. 139-8. Powers of districts and supervisors.
- 15 (93) G.S. 139-13. Discontinuance of districts.
- 16 (94) G.S. 139-46. Recreational and related aspects of watershed
17 improvement programs.
- 18 (95) G.S. 143-116.8. Motor vehicle laws applicable to State Parks and
19 forests road system.
- 20 (96) G.S. 143-166.2. Definitions.
- 21 (97) G.S. 143-166.7. Applicability of Article.
- 22 (98) G.S. 143-166.13. Persons entitled to benefits under Article.
- 23 (99) G.S. 143-169. Limitations on publications.
- 24 (100) G.S. 143-177.3. Sources of funds.
- 25 (101) G.S. 143-211. Declaration of public policy.
- 26 (102) G.S. 143-212. Definitions applicable to Article.
- 27 (103) G.S. 143-215.3A. Use of application and permit fees.
- 28 (104) G.S. 143-215.3B. Wastewater Treatment Works Emergency
29 Maintenance, Operation and Repair Fund.
- 30 (105) G.S. 143-215.16. Permits for water use within capacity use areas
31 – duration, transfer, reporting, measurement, present use, fees and
32 penalties.
- 33 (106) G.S. 143-215.18. Map or description of boundaries of capacity
34 use areas.
- 35 (107) G.S. 143-215.40. Resolutions and ordinances assuring local
36 cooperation.
- 37 (108) G.S. 143-215.70. Secretary of Natural Resources and Community
38 Development authorized to accept applications.
- 39 (109) G.S. 143-215.77. Definitions.
- 40 (110) G.S. 143-240. Creation of Wildlife Resources Commission;
41 districts; qualifications of members.
- 42 (111) G.S. 143-243. Organization of the Commission; election of
43 officers; Robert's Rules of Order.
- 44 (112) G.S. 143-286.1. Nutbush Conservation Area.

- 1 (113) G.S. 143-289. Contributions from certain counties and
2 municipalities authorized; other grants or donations.
- 3 (114) G.S. 143-323. Functions of Department of Natural Resources and
4 Community Development.
- 5 (115) G.S. 143-350. Definitions.
- 6 (116) G.S. 143-355. Transfer of certain powers, duties, functions and
7 responsibilities of the Department of Conservation and
8 Development and of the Director of said Department.
- 9 (117) G.S. 143-370. Commission created; membership.
- 10 (118) G.S. 143A-11. Principal departments.
- 11 (119) G.S. 143B-2. Interim applicability of the Executive Organization
12 Act of 1973.
- 13 (120) G.S. 143B-6. Principal departments.
- 14 (121) G.S. 143B-86. America's Four Hundredth Anniversary
15 Committee – members; selection; quorum; compensation.
- 16 (122) G.S. 143B-115. John Motley Morehead Memorial Commission –
17 members; selection; quorum; compensation.
- 18 (123) G.S. 143B-130. Roanoke Voyages and Elizabeth II Commission –
19 powers and duties.
- 20 (124) G.S. 143B-131. Roanoke Voyages and Elizabeth II Commission –
21 members; terms; vacancies; expenses; officers.
- 22 (125) G.S. 143B-181. Governor's Advisory Council on Aging –
23 members; selection; quorum; compensation.
- 24 (126) G.S. 143B-280. Board of Natural Resources and Community
25 Development – duties; members; selection; meetings; quorum;
26 compensation; services.
- 27 (127) G.S. 143B-281. Wildlife Resources Commission – transfer;
28 independence preserved; appointment of Executive Director and
29 employees.
- 30 (128) G.S. 143B-282. Environmental Management Commission –
31 creation; powers and duties.
- 32 (129) G.S. 143B-283. Environmental Management Commission –
33 members; selection; removal; compensation; quorum; services.
- 34 (130) G.S. 143B-289.2. Definitions.
- 35 (131) G.S. 143B-289.3. Marine Fisheries Commission – creation;
36 purpose and transfer of function.
- 37 (132) G.S. 143B-289.4. Marine Fisheries Commission – powers and
38 duties.
- 39 (133) G.S. 143B-289.5. Marine Fisheries Commission – members;
40 selection; removal; compensation; quorum; services.
- 41 (134) G.S. 143B-289.11. Jurisdictional questions.
- 42 (135) G.S. 143B-289.12. Rules of Department continued.
- 43 (136) G.S. 143B-295. Soil and Water Conservation Commission –
44 members; selection; removal; compensation; quorum; services.

- 1 (137) G.S. 143B-298. Sedimentation Control Commission – creation;
2 powers and duties.
- 3 (138) G.S. 143B-299. Sedimentation Control Commission – members;
4 selection; compensation; meetings.
- 5 (139) G.S. 143B-301. Wastewater Treatment Plant Operators
6 Certification Commission – members; selection; removal;
7 compensation; quorum; services.
- 8 (140) G.S. 143B-305. Community Development Council – creation;
9 powers and duties.
- 10 (141) G.S. 143B-306. Community Development Council – members;
11 chairman; selection; removal; compensation; quorum; services.
- 12 (142) G.S. 143B-308. Forestry Council – creation; powers and duties.
- 13 (143) G.S. 143B-309. Forestry Council – members; chairman; selection;
14 removal; compensation; quorum; services.
- 15 (144) G.S. 143B-311. Parks and Recreation Council – creation; powers
16 and duties.
- 17 (145) G.S. 143B-312. Parks and Recreation Council – members;
18 chairman; selection; removal; compensation; quorum; services.
- 19 (146) G.S. 143B-317. Air Quality Council – creation; powers and
20 duties.
- 21 (147) G.S. 143B-318. Air Quality Council – members; chairman;
22 selection; removal; compensation; quorum; services.
- 23 (148) G.S. 143B-333. North Carolina Trails Committee – creation;
24 powers and duties.
- 25 (149) G.S. 143B-334. North Carolina Trails Committee – members;
26 selection; removal; compensation.
- 27 (150) G.S. 143B-335. North Carolina Zoological Park Council –
28 creation; powers and duties.
- 29 (151) G.S. 143B-336. North Carolina Zoological Park Council –
30 members; selection; removal; chairman; compensation; quorum;
31 services.
- 32 (152) G.S. 143B-407. North Carolina State Commission of Indian
33 Affairs – membership; term of office; chairman; compensation.
- 34 (153) G.S. 143B-411.1. North Carolina Advisory Council on the
35 Eastern Band of the Cherokee – creation; membership; terms of
36 office.
- 37 (154) G.S. 143B-417. North Carolina Internship Council – creation;
38 powers and duties.
- 39 (155) G.S. 143B-426.22. Governor's Management Council.
- 40 (156) G.S. 143B-437. Investigation of impact of proposed new and
41 expanding industry.
- 42 (157) G.S. 146-8. Disposition of mineral deposits in State lands under
43 water.
- 44 (158) G.S. 146-30. Application of net proceeds.

- 1 (159) G.S. 148-26. State policy on employment of prisoners.
2 (160) G.S. 156-59. Board of viewers appointed by clerk.
3 (161) G.S. 156-74. Adjudication upon final report.
4 (162) G.S. 156-76. Compensation of board of viewers.
5 (163) G.S. 156-83. Superintendent of construction.
6 (164) G.S. 161-22.2. Parcel identifier number indexes.
7 Sec. 192. The phrase "Human Resources" is deleted and replaced by the
8 phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the
9 following sections of the General Statutes:
- 10 (1) G.S. 20-4.01. Definitions.
11 (2) G.S. 20-139.1. Procedures governing chemical analyses;
12 admissibility; evidentiary provisions; controlled-drinking
13 programs.
14 (3) G.S. 48-29. Change of name; report to State Registrar; new birth
15 certificate to be made.
16 (4) G.S. 48-36. Adoption of persons who are 18 or more years of age;
17 change of name; clerk's certificate and record; notation on birth
18 certificate; new birth certificate.
19 (5) G.S. 51-11. Who may execute certificate; form.
20 (6) G.S. 75-6. Violation a misdemeanor; punishment.
21 (7) G.S. 90A-21. Water Treatment Facility Operators Board of
22 Certification.
23 (8) G.S. 90A-22. Classification of water treatment facilities;
24 notification of users.
25 (9) G.S. 90A-23. Grades of certificates.
26 (10) G.S. 90A-24. Operator qualifications and examination.
27 (11) G.S. 90A-28. Promotion of training and other powers.
28 (12) G.S. 90A-30. Penalties; remedies; contested cases.
29 (13) G.S. 95-126. Short title and legislative purpose.
30 (14) G.S. 95-131. Development and promulgation of standards;
31 adoption of federal standards and regulations.
32 (15) G.S. 97-61.1. First examination of and report on employee having
33 asbestosis or silicosis.
34 (16) G.S. 104E-5. Definitions.
35 (17) G.S. 104E-7. Radiation Protection Commission – Creation and
36 powers.
37 (18) G.S. 104E-8. Radiation Protection Commission – Members;
38 selections; removal; compensation; quorum; services.
39 (19) G.S. 104E-9. Powers and functions of Department of Human
40 Resources.
41 (20) G.S. 104E-10.1. Additional requirements for low-level
42 radioactive waste facilities.
43 (21) G.S. 104E-15. Transportation of radioactive materials.
44 (22) G.S. 104E-17. Payments to State and local agencies.

- 1 (23) G.S. 104E-24. Administrative penalties.
2 (24) G.S. 104F-4. Advisory Committee.
3 (25) G.S. 104G-11. Technology, license application, and
4 environmental impact statement.
5 (26) G.S. 104E-13. Administrative procedures and judicial review.
6 (27) G.S. 105-122. Franchise or privilege tax on domestic and foreign
7 corporations.
8 (27a) G.S. 105-130.10. Amortization of air-cleaning devices, waste
9 treatment facilities and recycling facilities.
10 (28) G.S. 105-147. Deductions.
11 (29) G.S. 105-275. Property classified and excluded from the tax base.
12 (30) G.S. 106-168.5. Duties of Commissioner upon receipt of
13 application; inspection committee.
14 (31) G.S. 106-266.6. Definitions.
15 (32) G.S. 115C-522. Provision of equipment for buildings.
16 (33) G.S. 130A-310.8. Recordation of inactive hazardous substance or
17 waste disposal sites.
18 (34) G.S. 143-300.8. Defense of local sanitarians.
19 (35) G.S. 148-10. Department of Human Resources to supervise
20 sanitary and health conditions of prisoners.
21 (36) G.S. 162A-33. Procedure for creation; resolutions and petitions
22 for creation; notice to and action by Commission for Health
23 Services; notice and public hearing; resolutions creating districts;
24 actions to set aside proceeding.
25 (37) G.S. 162A-35. Procedure for inclusion of additional political
26 subdivision or unincorporated area; notice and hearing; elections;
27 actions questioning validity of elections.
28 (38) G.S. 166A-6.1. Emergency planning; charge.
29 Sec. 193. All statutory authority, powers, duties, functions, records,
30 personnel, property, and unexpended balances of appropriations or other funds of any
31 agency which is transferred pursuant to this act shall be transferred in their entirety.
32 Any transfer affecting any agency to which this act applies which is not authorized by
33 this act, including any transfer under subdivision (10) of Section 5 of Article III of the
34 Constitution of North Carolina, is hereby specifically disapproved and is void.
35 Sec. 194. (a) The Environmental Review Commission may continue the
36 study of environmental agency consolidation and reorganization. The study of
37 environmental agency consolidation shall include, but is not limited to:
38 (1) Monitoring the implementation of this act;
39 (2) Evaluation of the organization, programs, and operation of the
40 Department of Environment, Health, and Natural Resources;
41 (3) Evaluation of the organization, functions, powers, and duties of the
42 components of the Department of Environment, Health, and Natural
43 Resources, including boards, commissions, councils, and regional
44 offices; and

1 (4) Recodification of the General Statutes relating to the environment and
2 environmental agencies.

3 (b) Notwithstanding any rule or resolution to the contrary, proposed
4 legislation to implement any recommendation made by the Environmental Review
5 Commission may be introduced and considered during any session of the General
6 Assembly.

7 Sec. 195. This act shall not be construed to obligate the General Assembly to
8 make any appropriation to implement the provisions of this act. Each department and
9 agency to which this act applies shall implement the provisions of this act from funds
10 otherwise appropriated to that department or agency.

11 Sec. 196. This act shall become effective 1 July 1989.