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HOUSE BILL 480*

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Environment & Natural Resources Senate Committee Substitute Adopted 6/26/89

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 AND TRANSFER THE DIVISIONS, AGENCIES, POWERS, DUTIES, AND FUNCTIONS OF THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, TO PROVIDE FOR FURTHER STUDY OF ENVIRONMENTAL AGENCY CONSOLIDATION AND REORGANIZATION, TO AMEND VARIOUS RELATED LAWS, AND TO MAKE TECHNICAL AND CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

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

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 G.S. 143B-275 through G.S. 143B-281 are repealed.

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

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

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) State Center for Health Statistics, Department of Human Resources.

26 (6) Commission for Health Services, Department of Human Resources.

27 (7) Water Treatment Facility Operators Board of Certification,
28 Department of Human Resources.

29 (8) Council on Sickle Cell Syndrome, Department of Human Resources.

30 (9) Perinatal Health Care Programs Advisory Council, Department of
31 Human 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 with all
12 other functions, powers, duties, and obligations as are conferred by the Constitution and
13 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-138 reads as rewritten:

17 **"§ 143B-138. Department of Human Resources — functions.— functions and**
18 **organization.**

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

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

- 30 (1) ~~The State Board of Health,~~
- 31 (2) ~~The Salt Marsh Mosquito Advisory Commission,~~
- 32 (3) ~~The Office of Chief Medical Examiner,~~
- 33 (4) ~~The State Department of Social Services,~~
- 34 (5) ~~The State Board of Social Services,~~
- 35 (6) ~~The Advisory Committee for Medical Assistance,~~
- 36 (7) ~~The State Department of Mental Health,~~
- 37 (8) ~~The State Board of Mental Health,~~
- 38 (9) ~~The Medical Advisory Council to the State Board of Mental Health,~~
- 39 (10) ~~The Mental Health Council,~~
- 40 (11) ~~The Advisory Council on Alcoholism to the North Carolina Board of~~
41 ~~Mental Health,~~
- 42 (12) ~~The State Advisory Council to the North Carolina Medical Care~~
43 ~~Commission,~~
- 44 (13) ~~The North Carolina State Commission for the Blind,~~

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

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

- 24 (1) Division of Aging.
- 25 (2) Respite Care Program.
- 26 (3) Governor's Advisory Council on Aging.
- 27 (4) Division of Services for the Blind.
- 28 (5) Commission for the Blind.
- 29 (6) Professional Advisory Committee.
- 30 (7) Consumer and Advocacy Advisory Committee for the Blind.
- 31 (8) Division of Medical Assistance.
- 32 (9) Division of Mental Health, Mental Retardation, and Substance Abuse
33 Services.
- 34 (10) Commission for Mental Health, Mental Retardation, and Substance
35 Abuse Services.
- 36 (11) Division of Social Services.
- 37 (12) Social Services Commission.
- 38 (13) Division of Facility Services.
- 39 (14) Medical Care Commission.
- 40 (15) Child Day-Care Commission.
- 41 (16) Emergency Medical Services Advisory Council.
- 42 (17) Division of Vocational Rehabilitation.
- 43 (18) Division of Youth Services.
- 44 (19) Division of Schools for the Deaf and the Blind.

- 1 (20) Board of Directors of the Governor Morehead School.
2 (21) Board of Directors for the North Carolina Schools for the Deaf.
3 (22) North Carolina Council for the Hearing Impaired.
4 (23) Council on Developmental Disabilities.
5 (24) North Carolina Council on the Holocaust.

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

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

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

14 **"§ 143B-430. Secretary of Commerce – powers and duties.**

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

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

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

29 **"§ 143B-432. Transfers to Department of Commerce.**

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

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

- 41 (1) Community Assistance Division.
42 (2) Community Development Council.
43 (3) Employment and Training Division.
44 (4) Job Training Coordinating Council."

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

2 **"§ 143B-433. Department of Commerce – organization.**

3 The Department of Commerce shall be organized to include:

- 4 (a) (1) The North Carolina Alcoholic Beverage Control
5 Commission,
6 (2) The North Carolina Utilities Commission,
7 (3) The Employment Security Commission,
8 (4) The North Carolina Industrial Commission,
9 (5) State Banking Commission,
10 (6) Savings and Loan Association Division,
11 (7) The State Savings Institutions Commission,
12 (8) Credit Union Commission,
13 (9) The North Carolina Milk Commission,
14 (10) The North Carolina Mutual Burial Association Commission,
15 (11) North Carolina Cemetery Commission,
16 (12) The North Carolina Rural Electrification Authority,
17 (13) Repealed by Session Laws 1985, c. 757, s. 179(d), effective July 15,
18 1985.
19 (14) North Carolina Science and Technology Research Center,
20 (15) The North Carolina State Ports Authority,
21 (16) North Carolina National Park, Parkway and Forests Development
22 Council,
23 (17) Economic Development Board,
24 (18) Labor Force Development Council,
25 (19) Energy Policy Council,
26 (20) Energy Division,
27 (21) Navigation and Pilotage Commissions established by Chapter 76 of
28 the General Statutes,
29 (22) ~~The North Carolina Technological Development Authority, Authority;~~

30 (b) Those agencies which are transferred to the Department of Commerce,
31 including the:

- 32 (1) Community Assistance Division,
33 (2) Community Development Council,
34 (3) Employment and Training Division, and
35 (4) Job Training Coordinating Council; and such

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

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

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

1 ~~Air Resources [Department of Natural Resources and Community Development]~~
2 Environment, Health, and Natural Resources."

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

4 "(a) Before an approval certificate may be issued for a motor vehicle, the vehicle
5 must be inspected by a safety equipment inspection station, and if required by Chapter
6 20 of the General Statutes of North Carolina, must be found to possess in safe operating
7 condition the following articles and equipment:

- 8 (1) Brakes,
- 9 (2) Lights,
- 10 (3) Horn,
- 11 (4) Steering mechanism,
- 12 (5) Windshield wiper,
- 13 (6) Directional signals,
- 14 (7) Tires,
- 15 (8) Rearview mirror or mirrors.

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

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

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

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

32 "**§ 74-51. Permits – Application, granting, conditions.**

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

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

41 The application shall be accompanied by a signed agreement, in a form specified by
42 the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the
43 Department and its representatives and its contractors shall have the right to make

1 whatever entries on the land and to take whatever actions may be necessary in order to
2 carry out reclamation which the operator has failed to complete.

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

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

19 The Department may deny such permit upon finding:

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

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

43 Any permit issued shall be expressly conditioned upon compliance with all
44 requirements of the approved reclamation plan for the operation and with such further

1 reasonable and appropriate requirements and safeguards as may be deemed necessary
2 by the Department to assure that the operation will comply fully with the requirements
3 and objectives of this Article. Such conditions may, among others, include a
4 requirement of visual screening, vegetative or otherwise, so as to screen the view of the
5 operation from public highways, public parks, or residential areas, where the
6 Department finds such screening to be feasible and desirable. Violation of any such
7 conditions shall be treated as a violation of this Article and shall constitute a basis for
8 suspension or revocation of the permit.

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

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

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

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

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

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

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

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

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

5 Sec. 13. G.S. 87-88(j) reads as rewritten:

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

10 Sec. 14. G.S. 87-91(b) reads as rewritten:

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

26 Sec. 15. G.S. 87-95 reads as rewritten:

27 **"§ 87-95. Injunctive relief.**

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

40 Sec. 16. G.S. 87-96 reads as rewritten:

41 **"§ 87-96. Conflict with other laws.**

42 ~~The provisions of any law, or regulation of the State or any municipality establishing~~
43 ~~standards affording greater protection to the public welfare, safety, health and~~
44 ~~groundwater resources shall prevail within the jurisdiction of such agency or~~

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

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

14 Sec. 17. G.S. 90A-25(c) reads as rewritten:

15 "(c) Certificates in an appropriate grade will be issued to operators who, on July 1,
16 1969, hold certificates of competency issued under the voluntary certification program
17 now being administered through the ~~Division of Sanitary Engineering of the~~
18 ~~Department of Human Resources~~ Department of Environment, Health, and Natural
19 Resources with the cooperation of the North Carolina Water Works Operators
20 Association, the North Carolina Section of the American Water Works Association, and
21 the North Carolina League of Municipalities."

22 Sec. 18. Section 2 of Chapter 372 of the 1989 Session Laws is rewritten to
23 read:

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

25 **‘§ 90A-37. Classification of wastewater treatment facilities. facilities and sanitary**
26 **sewage systems.**

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

43 Sec. 19. Section 3 of Chapter 372 of the 1989 Session Laws is rewritten to
44 read:

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

2 **‘§ 90A-38. Grades of certificates.**

3 (a) The Wastewater Treatment Plant Operators Certification Commission, with
4 the advice and assistance of the Secretary of ~~Natural Resources and Community~~
5 ~~Development, Environment, Health, and Natural Resources,~~ shall establish grades of
6 certification for wastewater treatment plant operators and persons who install or operate
7 sanitary sewage systems corresponding to the classification of wastewater treatment
8 ~~facilities.~~ facilities and sanitary sewage systems. The grades of certification shall be
9 ranked so that a person holding a certification in the highest grade is thereby affirmed
10 competent to operate wastewater treatment facilities or sanitary sewage systems in the
11 highest classification and any treatment facility or system in a lower classification; a
12 person holding a certification in the next highest grade is affirmed as competent to
13 operate wastewater treatment facilities or systems in the next-to-the-highest
14 classification and any lower classification; and in a like manner through the range of
15 grades of certification and classification of wastewater treatment ~~facilities.~~ facilities and
16 sanitary sewage systems.

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

21 Sec. 20. Section 4 of Chapter 372 of the 1989 Session Laws is rewritten to
22 read:

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

24 **‘§ 90A-39. ~~Operator qualifications~~ Qualifications and examination.**

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

35 Sec. 21. Section 8 of Chapter 372 of the 1989 Session Laws is rewritten to
36 read:

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

38 **‘§ 90A-43. Promotion of training and other powers.**

39 The Wastewater Treatment Plant Operators Certification Commission and the
40 Secretary of ~~Natural Resources and Community Development~~ Environment, Health, and
41 Natural Resources are authorized to take all necessary and appropriate steps in order to
42 effectively and fairly achieve the purposes of this Article, including, but not limited to,
43 the providing of training for operators of wastewater treatment facilities or persons who
44 install or operate sanitary sewage systems, and cooperating with educational institutions

1 and private and public ~~asssociations~~, associations, persons, or corporations in the
2 promotion of training for wastewater treatment and sanitary sewage personnel."

3 Sec. 22. G.S. 90A-55(a) reads as rewritten:

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

14 Sec. 23. G.S. 95-149 reads as rewritten:

15 "**§ 95-149. Authority to enter into contracts with other State agencies and**
16 **subdivisions of government.**

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

22 Sec. 24. G.S. 100-13 reads as rewritten:

23 "**§ 100-13. Fees for use of improvements; fees for other privileges; leases; rules and**
24 **regulations.**

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

33 Sec. 25. G.S. 100-14 reads as rewritten:

34 "**§ 100-14. Use of fees and other collections.**

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

41 Sec. 26. G.S. 100-15 reads as rewritten:

42 "**§ 100-15. Annual reports.**

43 The Department of ~~Natural Resources and Community Development~~ shall make an
44 annual report to the Governor of all money received and expended by it in the

1 administration of ~~Mount Mitchell State Park, the North Carolina State Parks System,~~
2 and of such other items as may be called for by him or by the General Assembly."

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

4 "(8a) In the case of hemophiliacs meeting the criteria herein contained, such
5 persons shall be entitled to an additional exemption of one thousand one hundred dollars
6 (\$1,100) in addition to all other exemptions provided by law. Eligible hemophiliacs
7 shall be those who submit to the ~~Division of Health Services of the Department of~~
8 ~~Human Resources~~ Department of Environment, Health, and Natural Resources a
9 certificate from a physician or local health department, certifying that their condition is
10 medically characterized as moderate or severe in the case of deficiencies of Factor VII
11 or Factor IX, or in the case of deficiencies in Factors I – VIII or Factors X – XIII
12 certifying that their condition causes physical or financial conditions similar to those
13 resulting from Factor VIII or Factor IX deficiencies; and who attach a supporting
14 statement to their North Carolina income tax return, including verification that said
15 certificate has been obtained and submitted to the ~~Division of Health Services of the~~
16 ~~Department of Human Resources~~ Department of Environment, Health, and Natural
17 Resources.

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

24 Sec. 28. G.S. 105-149(a)(8c) reads as rewritten:

25 "(8c) In the case of persons suffering from chronic irreversible renal disease, whose
26 condition requires that they utilize dialysis in connection with the amelioration of that
27 condition, such persons shall be entitled to an additional exemption of one thousand one
28 hundred dollars (\$1,100) in addition to all other exemptions provided by law. Persons
29 eligible for this exemption shall be those who submit to the ~~Division of Health Services~~
30 ~~of the Department of Human Resources~~ Department of Environment, Health, and
31 Natural Resources a certificate from a physician or local health department certifying
32 that their condition is such that dialysis is required, as above provided, and who attach a
33 supporting statement to their North Carolina income tax return, including verification
34 that said certificate has been obtained and submitted to the ~~Division of Health Services~~
35 ~~of the Department of Human Resources~~ Department of Environment, Health, and
36 Natural Resources.

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

44 Sec. 29. G.S. 105-149(a)(8e) reads as rewritten:

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

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

11 Sec. 30. G.S. 105-149(a)(8f) reads as rewritten:

12 "(8f) In the case of an individual who has an open neural tube defect or whose
13 dependent has an open neural tube defect, an additional exemption of one thousand one
14 hundred dollars (\$1,100) for that individual or dependent. This exemption is in addition
15 to all other exemptions allowed by this subsection. To claim this exemption, a taxpayer
16 must submit to the ~~Division of Health Services of the Department of Human Resources~~
17 Department of Environment, Health, and Natural Resources a certificate from a
18 physician or local health department certifying that the individual or dependent for
19 whom the exemption is claimed has an open neural tube defect. Upon receipt of a valid
20 certificate, the Division will send the taxpayer a verification form which the taxpayer
21 must attach to the tax return on which the exemption is claimed. The Division shall
22 develop the certificate and verification form and shall inform physicians and local
23 health departments of the availability of the certificate."

24 Sec. 31. G.S. 105-275(6) reads as rewritten:

25 "(6) Special nuclear materials held for or in the process of manufacture,
26 processing, or delivery by the manufacturer or processor thereof, regardless whether the
27 manufacturer or processor owns the special nuclear materials. The terms 'manufacture'
28 and 'processing' do not include the use of special nuclear materials as fuel. The term
29 'special nuclear materials' includes (i) uranium 233, uranium enriched in the isotope 233
30 or in the isotope 235; and (ii) any material artificially enriched by any of the foregoing,
31 but not including source material. 'Source material' means any material except special
32 nuclear material which contains by weight one twentieth of one percent (0.05%) or
33 more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Provided however,
34 that to qualify for this exemption no such nuclear materials shall be discharged into any
35 river, creek or stream in North Carolina. The classification and exclusion provided for
36 herein shall be denied to any manufacturer, fabricator or processor who permits burial
37 of such material in North Carolina or who permits the discharge of such nuclear
38 materials into the air or into any river, creek or stream in North Carolina if such
39 discharge would contravene in any way the applicable health and safety standards
40 established and enforced by the Department of ~~Human Resources, the North Carolina~~
41 ~~Department of Natural Resources and Community Development, Environment, Health,~~
42 and Natural Resources or the ~~Federal Atomic Energy~~ Nuclear Regulatory Commission.
43 The most stringent of these standards shall govern."

1 Sec. 32. G.S. 105-275(8) as amended by Section 4 of Chapter 148 of the
2 1989 Session Laws reads as rewritten:

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

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

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

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

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

15 Sec. 33. G.S. 105A-2(1)m. reads as rewritten:

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

19 Sec. 34. G.S. 110-92 reads as rewritten:

20 **"§ 110-92. Duties of State and local agencies.**

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

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

39 Sec. 35. G.S. 113, Article 1 is amended, in its title, by deleting "**Natural**
 40 **Resources and Community Development**" and substituting "**Environment, Health,**
 41 **and Natural Resources**".

42 Sec. 36. G.S. 113-8 reads as rewritten:

43 **"§ 113-8. Powers and duties of the ~~Department of Natural Resources and~~**
 44 **Community Development ~~Department.~~**

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

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

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

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

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

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

26 Sec. 37. G.S. 113-14.1(b) reads as rewritten:

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

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

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

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

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

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

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

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

3 Sec. 38. G.S. 113-14.3 reads as rewritten:

4 **"§ 113-14.3. Publications.**

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

10 Sec. 39. G.S. 113-16 reads as rewritten:

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

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

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

22 Sec. 40. G.S. 113-17 reads as rewritten:

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

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

32 Sec. 41. G.S. 113-18 reads as rewritten:

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

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

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

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

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

11 Sec. 43. G.S. 113-20 reads as rewritten:

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

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

20 Sec. 44. G.S. 113-21 reads as rewritten:

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

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

28 Sec. 45. G.S. 113-22 reads as rewritten:

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

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

33 Sec. 46. G.S. 113-23 reads as rewritten:

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

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

40 Sec. 47. G.S. 113-26.1 reads as rewritten:

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

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

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

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

11 Sec. 48. G.S. 113-28 reads as rewritten:

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

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

40 Sec. 49. G.S. 113-28.1 reads as rewritten:

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

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

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

8 Sec. 50. G.S. 113-28.2 reads as rewritten:

9 **"§ 113-28.2. Powers of arrest.**

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

20 Sec. 51. G.S. 113-28.3 is repealed.

21 Sec. 52. G.S. 113-28.23 reads as rewritten:

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

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

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

30 Sec. 53. G.S. 113-29 reads as rewritten:

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

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

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

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

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

19 Sec. 54. G.S. 113-29.1 reads as rewritten:

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

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

37 Sec. 55. G.S. 113-30 reads as rewritten:

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

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

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

3 Sec. 56. G.S. 113-31 reads as rewritten:

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

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

18 Sec. 57. G.S. 113-32 reads as rewritten:

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

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

27 Sec. 58. G.S. 113-34 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

10 Sec. 59. G.S. 113-35 reads as rewritten:

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

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

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

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

42 (2) Hunting privileges on State forests and fishing privileges in State
43 forests, State parks and State lakes, provided that such privileges shall
44 be extended only to holders of bona fide North Carolina hunting and

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

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

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

16 Sec. 60. G.S. 113-35.1 reads as rewritten:

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

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

24 Sec. 61. G.S. 113-36 reads as rewritten:

25 **"§ 113-36. Applications of proceeds from sale of products.**

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

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

44 Sec. 62. G.S. 113-40 reads as rewritten:

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

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

8 Sec. 63. G.S. 113-44.5(b) reads as rewritten:

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

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

25 Sec. 64. G.S. 113-51 reads as rewritten:

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

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

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

- 35 (1) 'Department' means the Department of Environment, Health, and
36 Natural Resources.
- 37 (2) 'Secretary' means the Secretary of Environment, Health, and Natural
38 Resources."

39 Sec. 65. G.S. 113-52 reads as rewritten:

40 **"§ 113-52. Forest rangers.**

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

1 Sec. 66. G.S. 113-54 reads as rewritten:

2 **"§ 113-54. Duties of forest rangers; payment of expenses by State and counties.**

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

35 Sec. 67. G.S. 113-55(a) reads as rewritten:

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

1 is physically able who refuses or neglects to assist or to allow the use of equipment and
2 such other property required shall be guilty of a misdemeanor and upon conviction shall
3 be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred
4 dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy
5 forest ranger, or person summoned by him for crossing lands, backfiring, burning out or
6 performing his duties as a forest ranger or deputy forest ranger."

7 Sec. 68. G.S. 113-55.1 reads as rewritten:

8 **"§ 113-55.1. Powers of forest law-enforcement officers.**

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

23 Sec. 69. G.S. 113-56 reads as rewritten:

24 **"§ 113-56. Compensation of forest rangers.**

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

41 Sec. 70. G.S. 113-56.1 reads as rewritten:

42 **"§ 113-56.1. Overtime compensation for forest fire fighting.**

43 The ~~Department of Natural Resources and Community Development~~ shall, within
44 funds appropriated to the Department, provide overtime compensation to the

1 professional employees of the Forest Resources Division involved in fighting forest
2 fires."

3 Sec. 71. G.S. 113-58 reads as rewritten:

4 **"§ 113-58. Misdemeanor to destroy posted forestry notice.**

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

12 Sec. 72. G.S. 113-59 reads as rewritten:

13 **"§ 113-59. Cooperation between counties and State in forest protection and**
14 **development.**

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

20 Sec. 73. G.S. 113-60 reads as rewritten:

21 **"§ 113-60. Instructions on forest preservation and development.**

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

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

40 Sec. 74. G.S. 113-60.1 reads as rewritten:

41 **"§ 113-60.1. Authority of Governor to close forests and woodlands to hunting,**
42 **fishing and trapping.**

43 During periods of protracted drought or when other hazardous fire conditions
44 threaten forest and water resources and appear to require extraordinary precautions, the

1 Governor of the State, upon the joint recommendation of the Secretary of ~~Natural~~
2 ~~Resources and Community Development~~ and the Executive Director of the North
3 Carolina Wildlife Resources Commission, may by official proclamation:

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

15 Sec. 75. G.S. 113-60.2 reads as rewritten:

16 **"§ 113-60.2. Publication of proclamation; annulment thereof.**

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

24 Sec. 76. G.S. 113-60.4 reads as rewritten:

25 **"§ 113-60.4. Purpose and intent.**

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

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

35 Sec. 77. G.S. 113-60.5 reads as rewritten:

36 **"§ 113-60.5. Authority of the ~~Department of Natural Resources and Community~~**
37 **Development. Department.**

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

1 Sec. 78. G.S. 113-60.6(4) reads as rewritten:

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

5 Sec. 79. G.S. 113-60.6(5) reads as rewritten:

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

9 Sec. 80. G.S. 113-60.7 reads as rewritten:

10 **"§ 113-60.7. Action against insects and diseases.**

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

23 Sec. 81. G.S. 113-60.8 reads as rewritten:

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

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

40 Sec. 82. G.S. 113-60.9 reads as rewritten:

41 **"§ 113-60.9. Cooperative agreements.**

42 In order to more effectively carry out the purposes of this Article, the Department of
43 ~~Natural Resources and Community Development~~ is hereby authorized to enter into

1 cooperative agreement with the federal government and other public and private
2 agencies, and with the owners of forestland."

3 Sec. 83. G.S. 113-60.10 reads as rewritten:

4 **"§ 113-60.10. Annulment of control zone.**

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

11 Sec. 84. G.S. 113-61 reads as rewritten:

12 **"§ 113-61. Private limited dividend corporations may be formed.**

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

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

24 Sec. 85. G.S. 113-62 reads as rewritten:

25 **"§ 113-62. Manner of organizing.**

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

37 Sec. 86. G.S. 113-63 reads as rewritten:

38 **"§ 113-63. Directors.**

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

42 Sec. 87. G.S. 113-64 reads as rewritten:

43 **"§ 113-64. Duties of supervision by Secretary of ~~Natural Resources and~~**
44 **~~Community Development~~ Environment, Health, and Natural Resources.**

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

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

29 Sec. 88. G.S. 113-65 reads as rewritten:

30 **"§ 113-65. Powers of Secretary.**

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

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

1 county in which the respondent corporation has its principal place of
2 business. The final judgment in any such proceeding shall either
3 dismiss the proceeding or direct that a writ of mandamus or an
4 injunction, or both, issue as prayed for in the petition or in such
5 modified or other form as the court may determine will afford
6 appropriate relief."

7 Sec. 89. G.S. 113-66 reads as rewritten:

8 **"§ 113-66. Provision for appeal by corporations to Governor.**

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

20 Sec. 90. G.S. 113-68 reads as rewritten:

21 **"§ 113-68. Issuance of securities restricted.**

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

28 Sec. 91. G.S. 113-70 reads as rewritten:

29 **"§ 113-70. Earnings above dividend requirements payable to State.**

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

39 Sec. 92. G.S. 113-71 reads as rewritten:

40 **"§ 113-71. Dissolution of corporation.**

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

1 certificate of the Secretary of ~~Natural Resources and Community Development~~
2 consenting to such dissolution."

3 Sec. 93. G.S. 113-72 reads as rewritten:

4 **"§ 113-72. Cutting and sale of timber.**

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

13 Sec. 94. G.S. 113-73 reads as rewritten:

14 **"§ 113-73. Corporation may not sell or convey without consent of Secretary, or pay**
15 **higher interest rate than 6%.**

16 No such corporation shall:

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

32 Sec. 95. G.S. 113-74 reads as rewritten:

33 **"§ 113-74. Power to borrow money limited.**

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

44 Sec. 96. G.S. 113-75 reads as rewritten:

1 **"§ 113-75. Secretary to approve development of forests.**

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

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

34 Sec. 97. G.S. 113-76 reads as rewritten:

35 **"§ 113-76. Application of corporate income.**

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

44 Sec. 98. G.S. 113-77 reads as rewritten:

1 **"§ 113-77. Reorganization of corporations.**

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

6 Sec. 99. G.S. 113-81.1 reads as rewritten:

7 **"§ 113-81.1. Authority to render scientific forestry services.**

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

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

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

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

32 Sec. 100. G.S. 113-81.2 reads as rewritten:

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

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

1 may assist in finding a suitable market for the products so designated, and he may offer
2 general forestry advice concerning the management of the forest.

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

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

16 Sec. 101. G.S. 113-81.3 reads as rewritten:

17 **"§ 113-81.3. Deposit of receipts with State treasury.**

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

22 Sec. 102. G.S. 113-151.1 reads as rewritten:

23 **"§ 113-151.1. License agents.**

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

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

34 Sec. 103. G.S. 113-202(a)(6) reads as rewritten:

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

38 Sec. 104. G.S. 113-203(d) reads as rewritten:

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

43 (1) A petition shall be filed with the Secretary by the board of county
44 commissioners of the county in which such area is located requesting

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

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

21 Sec. 105. 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. 106. 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. 107. 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. 108. 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. 109. 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. 110. 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. 111. 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. 112. 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. 113. 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. 114. 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. 115. 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~~ 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. or his~~
8 designee."

9 Sec. 116. G.S. 113-268(e) reads as rewritten:

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

19 Sec. 117. G.S. 113-291.4(i) reads as rewritten:

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

25 Sec. 118. G.S. 113-291.6(f) reads as rewritten:

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

30 Sec. 119. G.S. 113-315.9 reads as rewritten:

31 "**§ 113-315.9. Bond of financial officer; audit.**

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

40 (b) The chairman or executive head of such agency shall cause an annual
41 certified audit to be made of the financial records of the agency. Such audit shall
42 include, among other things, total annual compensation of each employee of the agency
43 and detailed expenses incurred and reimbursed for each employee of the agency. The
44 chairman or executive head of such agency shall cause a copy of the certified audit to be

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

7 Sec. 120. G.S. 113-315.18 reads as rewritten:

8 **"§ 113-315.18. Fishermen's Economic Development Program.**

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

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

25 Sec. 121. G.S. 113-316 reads as rewritten:

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

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

41 Sec. 122. G.S. 113-378 reads as rewritten:

42 **"§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

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

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

10 Sec. 123. G.S. 113-379 reads as rewritten:

11 **"§ 113-379. Filing log of drilling and development of each well.**

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

17 Sec. 124. G.S. 113-391 reads as rewritten:

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

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

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

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

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

42 (2) To require directional surveys upon application of any owner who has
43 reason to believe that a well or wells of others has or have been drilled
44 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. 125. 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. 126. 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. 127. 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. 128. 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. 129. 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. 130. 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' means the Department of Environment, Health, and
17 Natural Resources.

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

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

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

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

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

- 1 (8) 'Local government' means the governing body of any county or city
 2 which contains within its boundaries any lands or waters subject to this
 3 Article.
 4 (9) 'Person' means any individual, citizen, partnership, corporation,
 5 association, organization, business trust, estate, trust, public or
 6 municipal corporation, or agency of the State or local government unit,
 7 or any other legal entity however designated.
 8 (10) Repealed by Session Laws 1987, c. 827, s. 133.
 9 (11) 'Secretary' means the Secretary of Environment, Health, and Natural
 10 Resources, except where otherwise specified in this Article."

11 Sec. 131. G.S. 113A-105 reads as rewritten:

12 **"§ 113A-105. Coastal Resources Advisory Council.**

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

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

- 17 (1) Two individuals designated by the Secretary ~~of Natural Resources and~~
 18 ~~Community Development~~ from among the employees of his
 19 Department;
 20 (1a) The Secretary of the Department of Commerce or his designee;
 21 (2) The Secretary of the Department of Administration or his designee;
 22 (3) The Secretary of the Department of Transportation and Highway
 23 Safety or his designee, and one additional member selected by him
 24 from his Department;
 25 (4) ~~The Secretary of the Department of Human Resources or his designee;~~
 26 State Health Director;
 27 (5) The Commissioner of Agriculture or his designee;
 28 (6) The Secretary of the Department of Cultural Resources or his
 29 designee;
 30 (7) One member from each of the four multi-county planning districts of
 31 the coastal area to be appointed by the lead regional agency of each
 32 district;
 33 (8) One representative from each of the counties in the coastal area to be
 34 designated by the respective boards of county commissioners;
 35 (9) No more than eight additional members representative of cities in the
 36 coastal area and to be designated by the Commission;
 37 (10) Three members selected by the Commission who are marine scientists
 38 or technologists;
 39 (11) One member who is a local health director selected by the Commission
 40 upon the recommendation of the ~~Secretary of Human Resources~~
 41 Secretary.

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

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

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

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

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

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

15 Sec. 132. G.S. 113A-113(b) as amended by Section 1 of Chapter 217 of the
16 1989 Session Laws reads as rewritten:

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

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

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

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

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

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

43 c. Prime forestry land (sites capable of producing 85 cubic feet per
44 acre-year, or more, of marketable timber), as identified by the

~~Department of Natural Resources and Community
Development. Department.~~

- (4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems, which may include:
- a. Existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas; existing sites that have been acquired for any of the same, as identified by the ~~Secretary of Natural Resources and Community Development, Secretary~~; and proposed sites for any of the same, as identified by the ~~Secretary of Natural Resources and Community Development, Secretary~~, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction;
 - b. Present sections of the natural and scenic rivers system;
 - c. Stream segments that have been classified for scientific or research uses by the Environmental Management Commission, or that are proposed to be so classified in a proceeding that is pending before said Environmental Management Commission pursuant to G.S. 143-214.1 at the time of the designation of the area of environmental concern;
 - d. Existing wildlife refuges, preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition (as hereinafter defined) or for inclusion in a cooperative agreement by the governmental agency having jurisdiction;
 - e. Complex natural areas surrounded by modified landscapes that do not drastically alter the landscape, such as virgin forest stands within a commercially managed forest, or bogs in an urban complex;
 - f. Areas that sustain remnant species or aberrations in the landscape produced by natural forces, such as rare and endangered botanical or animal species;
 - g. Areas containing unique geological formations, as identified by the State Geologist; and
 - h. Historic places that are listed, or have been approved for listing by the North Carolina Historical Commission, in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or

- 1 areas that are or may be designated by the Secretary of the
2 Interior as registered natural landmarks or as national historic
3 landmarks;
- 4 (5) Areas such as waterways and lands under or flowed by tidal waters or
5 navigable waters, to which the public may have rights of access or
6 public trust rights, and areas which the State of North Carolina may be
7 authorized to preserve, conserve, or protect under Article XIV, Sec. 5
8 of the North Carolina Constitution;
- 9 (6) Natural-hazard areas where uncontrolled or incompatible development
10 could unreasonably endanger life or property, and other areas
11 especially vulnerable to erosion, flooding, or other adverse effects of
12 sand, wind and water, which may include:
- 13 a. Sand dunes along the Outer Banks;
- 14 b. Ocean and estuarine beaches and the shoreline of estuarine and
15 public trust waters;
- 16 c. Floodways and floodplains;
- 17 d. Areas where geologic and soil conditions are such that there is a
18 substantial possibility of excessive erosion or seismic activity,
19 as identified by the State Geologist;
- 20 e. Areas with a significant potential for air inversions, as
21 identified by the Environmental Management Commission.
- 22 (7) Areas which are or may be impacted by key facilities.
- 23 (8) Outstanding Resource Waters as designated by the Environmental
24 Management Commission and such contiguous land as the Coastal
25 Resources Commission reasonably deems necessary for the purpose of
26 maintaining the exceptional water quality and outstanding resource
27 values identified in the designation.
- 28 (9) Primary Nursery Areas as designated by the Marine Fisheries
29 Commission and such contiguous land as the Coastal Resources
30 Commission reasonably deems necessary to protect the resource
31 values identified in the designation including, but not limited to, those
32 values contributing to the continued productivity of estuarine and
33 marine fisheries and thereby promoting the public health, safety and
34 welfare."

35 Sec. 133. G.S. 113A-116 reads as rewritten:

36 "**§ 113A-116. Local government letter of intent.**

37 Within two years after July 1, 1974, each county and city within the coastal area
38 shall submit to the Commission a written statement of its intent to act, or not to act, as a
39 permit-letting agency under G.S. 113A-121. If any city or county states its intent not to
40 act as a permit-letting agency or fails to submit a statement of intent within the required
41 period, the Secretary of ~~Natural Resources and Community Development~~ shall issue
42 permits therein under G.S. 113A-121; provided that a county may submit a letter of
43 intent to issue permits in any city within said county that disclaims its intent to issue
44 permits or fails to submit a letter of intent. Provided, however, should any city or

1 county fail to become a permit-letting agency for any reason, but shall later express its
2 desire to do so, it shall be permitted by the Coastal Resources Commission to qualify as
3 such an agency by following the procedure herein set forth for qualification in the first
4 instance."

5 Sec. 134. G.S. 113A-117(a) reads as rewritten:

6 "(a) ~~The Secretary of Natural Resources and Community Development~~ shall
7 develop and present to the Commission for consideration and to all cities and counties
8 and lead regional organizations within the coastal area for comment a set of criteria for
9 local implementation and enforcement programs. In the preparation of such criteria, the
10 Secretary shall emphasize the necessity for the expeditious processing of permit
11 applications. Said criteria may contain recommendations and guidelines as to the
12 procedures to be followed in developing local implementation and enforcement
13 programs, the scope and coverage of said programs, minimum standards to be
14 prescribed in said programs, staffing of permit-letting agencies, permit-letting
15 procedures, and priorities of regional or statewide concern. Within 20 months after July
16 1, 1974, the Commission shall adopt and transmit said criteria (with any revisions) to
17 each coastal-area county and city that has filed an applicable letter of intent, for its
18 guidance."

19 Sec. 135. G.S. 113A-118 reads as rewritten:

20 **"§ 113A-118. Permit required.**

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

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

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

31 (d) Within the meaning of this Part:

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

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

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

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

23 Sec. 136. G.S. 113A-119(a) reads as rewritten:

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

34 Sec. 137. G.S. 113A-121(b) reads as rewritten:

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

44 Sec. 138. G.S. 113A-123(b) reads as rewritten:

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

26 Sec. 139. G.S. 113A-124 reads as rewritten:

27 **"§ 113A-124. Additional powers and duties.**

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

- 30 (1) To conduct or cause to be conducted, investigations of proposed
31 developments in areas of environmental concern in order to obtain
32 sufficient evidence to enable a balanced judgment to be rendered
33 concerning the issuance of permits to build such developments.
- 34 (2) To cooperate with the Secretary of the Department of Administration
35 in drafting State guidelines for the coastal area.
- 36 (3) To keep a list of interested persons who wish to be notified of
37 proposed developments and proposed rules designating areas of
38 environmental concern and to so notify these persons of such proposed
39 developments by regular mail. A reasonable registration fee to defray
40 the cost of handling and mailing notices may be charged to any person
41 who so registers with the Commission.
- 42 (4) To propose rules to implement this Article for consideration by the
43 Commission.

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

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

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

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

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

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

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

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

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

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

42 Sec. 140. G.S. 113A-134.2 reads as rewritten:

43 "**§ 113A-134.2. Creation of program; administration; purpose.**

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

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

9 Sec. 141. G.S. 113A-134.3 reads as rewritten:

10 **"§ 113A-134.3. Standards for beach access program.**

11 The Coastal Resources Commission, with the support of the ~~Department of Natural~~
12 ~~Resources and Community Development, Department,~~ shall establish and carry out a
13 program to assure the acquisition, improvement and maintenance of a system of public
14 access to ocean and estuarine water beaches. This beach access program shall include
15 standards to be adopted by the Commission for the acquisition of property and the use
16 and maintenance of said property. The standards shall be written to assure that land
17 acquisition funds shall only be used to purchase interests in property that will be of
18 benefit to the general public. Priority shall be given to acquisition of lands which, due to
19 adverse effects of coastal and estuarine water natural hazards, such as past and potential
20 erosion, flooding and storm damage, are unsuitable for the placement of permanent
21 structures, including lands for which a permit for improvements has been denied under
22 rules adopted pursuant to State law. The program shall be designed to provide and
23 maintain reasonable public access and necessary parking, within the limitations of the
24 resources available, to all areas of the North Carolina coast and estuarine waters where
25 access is compatible with the natural resources involved and where reasonable access is
26 not already available as of June 30, 1981. To the maximum extent possible, this
27 program shall be coordinated with State and local coastal and estuarine water
28 management and recreational programs and carried out in cooperation with local
29 governments. Prior to the purchase of any interests in property, the ~~Secretary of Natural~~
30 ~~Resources and Community Development~~ or his designee shall make a written finding of
31 the public purpose to be served by the acquisition. Once property is purchased, the
32 ~~Department of Natural Resources and Community Development~~ may allow property,
33 without charge, to be controlled and operated by the county or municipality in which the
34 property is located, subject to an agreement requiring that the local government use and
35 maintain the property for its intended public purpose. These funds may be used to meet
36 matching requirements for federal or other funds. The ~~Department of Natural Resources~~
37 ~~and Community Development~~ shall make every effort to obtain funds from sources
38 other than the general fund for these purposes. Funds may be used to acquire or develop
39 land for pedestrian access including parking or to make grants to local governments to
40 accomplish the purposes of this Article. All acquisitions or dispositions of property
41 made pursuant to this Article shall be in accordance with the provisions of Chapter 146
42 of the General Statutes. All grants to local governments pursuant to this Article for land
43 acquisitions shall be made on the condition that the local government agrees to transfer

1 title to any real property acquired with the grant funds to the State if the local
2 government uses the property for a purpose other than beach access."

3 Sec. 142. G.S. 113A-168 reads as rewritten:

4 **"§ 113A-168. Removal, etc., of unlawful advertising.**

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

21 Sec. 143. G.S. 120-70.42 reads as rewritten:

22 **"§ 120-70.42. Membership; cochairmen; vacancies; quorum.**

23 The Environmental Review Commission shall consist of five Senators appointed by
24 the President of the ~~Senate and Senate,~~ the Chairman of the Senate Committee on
25 Environment and Natural Resources, five Representatives appointed by the Speaker of
26 the House of ~~Representatives—Representatives,~~ and the Chair of the House of
27 Representatives Committee on Basic Resources who shall serve at the pleasure of their
28 appointing officer. The President of the Senate shall designate one Senator to serve as
29 cochairman and the Speaker of the House of Representatives shall designate one
30 Representative to serve as cochairman. Any vacancy which occurs on the
31 Environmental Review Commission shall be filled in the same manner as the original
32 appointment. A quorum of the Environmental Review Commission shall consist of ~~six~~
33 seven members."

34 Sec. 144. G.S. 120-123(23) reads as rewritten:

35 "(23) The Governor's Waste Management Board, as established by ~~G.S. 143B-~~
36 ~~216.12.~~ G.S. 143B-285.12."

37 Sec. 145. G.S. 130A-2 reads as rewritten:

38 **"§ 130A-2. Definitions.**

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

- 41 (1) 'Commission' means the Commission for Health Services.
42 (2) 'Department' means the Department ~~for Human Resources~~ of
43 Environment, Health, and Natural Resources.

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

20 Sec. 146. G.S. 130A-231 reads as rewritten:

21 "**§ 130A-231. Agreements between ~~Department of Human Resources and~~
 22 ~~Department of Natural Resources and Community Development~~the State
 23 Health Director and the Division of Marine Fisheries.**

24 Nothing in this Part is intended to limit the authority of the Division of Marine
 25 Fisheries of the Department of ~~Natural Resources and Community Development~~ to
 26 regulate aspects of the harvesting, processing and handling of scallops, shellfish and
 27 crustacea relating to conservation of the fisheries resources of the State. The
 28 ~~Department of Human Resources~~State Health Director and the ~~Department of Natural~~
 29 ~~Resources and Community Development~~Division of Marine Fisheries are authorized to
 30 enter into agreements respecting the duties and responsibilities of each agency as to the
 31 harvesting, processing and handling of scallops, shellfish and crustacea."

32 Sec. 147. G.S. 130A-235 reads as rewritten:

33 "**§ 130A-235. Regulation of sanitation in institutions.**

34 For protection of the public health, the Commission shall adopt rules to establish
 35 sanitation requirements for all institutions and facilities at which individuals are
 36 provided room or board and for which a license to operate is required to be obtained or
 37 a certificate for payment is obtained from the ~~Department~~Department of Human
 38 Resources. The rules shall also apply to facilities that provide room and board to
 39 individuals but are exempt from licensure under G.S. 131D-10.4(1). No other State
 40 agency may adopt rules to establish sanitation requirements for these institutions and
 41 facilities. The Department of Human Resources shall issue a license to operate or a
 42 certificate for payment to such an institution or facility only upon compliance with all
 43 applicable sanitation rules of the Commission, and the Department of Human Resources
 44 may suspend or revoke a license or a certificate for payment for violation of these rules.

1 In adopting rules pursuant to this section, the Commission shall define categories of
2 standards to which such institutions and facilities shall be subject and shall establish
3 criteria for the placement of any such institution or facility into one of the categories.
4 This section shall not apply to State institutions and facilities subject to inspection under
5 G.S. 130A-5(10)."

6 Sec. 148. G.S. 130A-291 reads as rewritten:

7 "**§ 130A-291. Solid Waste Unit in Department of Human Resources.**

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

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

36 Sec. 149. G.S. 130A-310.3 reads as rewritten:

37 "**§ 130A-310.3. Remedial action programs for inactive hazardous substance or**
38 **waste disposal sites.**

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

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

- 1 (2) Developing a plan for public notice and for community and local
2 government participation in any inactive hazardous substance or waste
3 disposal site remedial action program to be undertaken;
4 (3) Approving an inactive hazardous substance or waste disposal site
5 remedial action program for the site;
6 (4) Coordinating the inactive hazardous substance or waste disposal site
7 remedial action program for the site; and
8 (5) Ensuring that the hazardous substance or waste disposal site remedial
9 action program is completed.

10 (b) Where possible, the Secretary shall work cooperatively with any owner,
11 operator, responsible party, or any appropriate agency of the State or federal
12 government to develop and implement the inactive hazardous substance or waste
13 disposal site remedial action program. The Secretary shall not take action under this
14 section to the extent that ~~the Secretary of Natural Resources and Community~~
15 ~~Development, or the Environmental Management Commission, or the Commissioner of~~
16 Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or
17 21A of Chapter 143 of the General Statutes.

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

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

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

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

39 Sec. 150. G.S. 130A-325 reads as rewritten:

40 "**§ 130A-325. Prohibited acts.**

41 The following acts are prohibited:

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

- 1 (2) Failure by a supplier of water to comply with the requirements of G.S.
2 130A-324 or the dissemination by a supplier of any false or misleading
3 information with respect to remedial actions being undertaken to
4 achieve compliance with the drinking water rules;
- 5 (3) Refusal by a supplier of water to allow the Department or local health
6 department to inspect a public water system as provided for in G.S.
7 130A-17;
- 8 (4) The willful defiling by any person of any water supply of a public
9 water system or the willful damaging of any pipe or other part of a
10 public water system;
- 11 (5) The discharge by any person of sewage or other waste above the intake
12 of a public water system, unless the sewage or waste has been passed
13 through a system of purification approved by the Department ~~and the~~
14 ~~Department of Natural Resources and Community Development~~; and
- 15 (6) The failure by a person to maintain a system approved by the
16 Department for collecting and disposing of all accumulations of human
17 excrement located on the watershed of a public water system."

18 Sec. 151. G.S. 130A-335(b) reads as rewritten:

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

25 Sec. 152. G.S. 130A-423(d) reads as rewritten:

26 "(d) (For effective date see note) If any action is brought against a vaccine
27 manufacturer as permitted by subtitle 2 of Title XXI of the Public Health Service Act
28 and subsection (c) of this section, the plaintiff in the action may recover damages only
29 to the extent permitted by subdivisions (1) through (3) of subsection (a) of G.S. 130A-
30 427. The aggregate amount awarded in any such action may not exceed the limitation
31 established by subsection (b) of G.S. 130A-427. Regardless of whether such an action
32 is brought against a vaccine manufacturer, a claimant who has filed an election pursuant
33 to Section 2121 of the Public Health Service Act, as enacted into federal law by Public
34 Law 99-660, permitting such a claimant to file a civil action for damages for a vaccine-
35 related injury or death, or who is otherwise permitted by federal law to file an action
36 against a vaccine manufacturer, may file a petition pursuant to G.S. 130A-425 to obtain
37 services from the Department and the Department of Human Resources pursuant to
38 subdivision (5) of subsection (a) of G.S. 130A-427 and, if no action has been brought
39 against a vaccine manufacturer, to obtain other relief available pursuant to G.S. 130A-
40 427."

41 Sec. 153. G.S. 130A-423(e) reads as rewritten:

42 "(e) (For effective date see note) In order to prevent recovery of duplicate
43 damages, or the imposition of duplicate liability, in the event that an individual seeks an
44 award pursuant to G.S. 130A-427 and also files suit against the manufacturer as

1 permitted by subtitle 2 of Title XXI of the Public Health Service Act and subsection (c)
2 of this section, the following provisions shall apply:

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

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

25 (3) If:

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

41 Sec. 154. G.S. 130A-425 reads as rewritten:

42 "**§ 130A-425. Filing of claims.**

43 (a) Notwithstanding any other provision of State law, no action for compensation
44 for a vaccine-related injury may be filed against any person unless that person was

1 named as a respondent in a claim filed pursuant to this section and unless the claim was
2 filed within the applicable time period set forth in G.S. 130A-429.

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

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

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

33 (d) The Commission shall adopt rules necessary to govern the proceedings
34 required by this Article. The Rules of Civil Procedure as contained in G.S. 1A-1 **et seq.**
35 and the General Rules of Practice for the Superior and District Courts as authorized by
36 G.S. 7A-34 apply to claims filed with the Industrial Commission under this Article.
37 The Commission shall keep a record of all proceedings conducted under this Article,
38 and has the right to subpoena any persons and records it considers necessary in making
39 its determinations. The Commission may require all persons called as witnesses to
40 testify under oath or affirmation, and any member of the Commission may administer
41 oaths. If any persons refuse to comply with any subpoena issued pursuant to this Article
42 or to testify with respect to any matter relevant to proceedings conducted under this
43 Article, the Superior Court of Wake County, on application of the Commission, may

1 issue an order requiring the person to comply with the subpoena and to testify. Any
2 failure to obey any such order may be punished by the court as for contempt."

3 Sec. 155. G.S. 130A-427 reads as rewritten:

4 **"§ 130A-427. Commission awards for vaccine-related injuries; duties of Secretary**
5 **of Human Resources.**

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

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

42 (b) The money compensation component of the award may not be made pursuant
43 to this section in excess of an aggregate amount of the present day value amount of
44 three hundred thousand dollars (\$300,000) with respect to all injuries claimed to have

1 resulted from the administration of a covered vaccine to a single individual. The value
2 of all services to be provided by the Department and the Department of Human
3 Resources, as part of this award is in addition to the total amount of money
4 compensation, and is not included in the limitation prescribed by this subsection on the
5 amount of money compensation that may be awarded. No damages may be awarded
6 pursuant to subdivision (a)(3) on behalf of any person to whom the covered vaccine was
7 not administered."

8 Sec. 156. G.S. 130A-430 reads as rewritten:

9 **"§ 130A-430. Right of State to bring action against health care provider and of**
10 **manufacturer.**

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

19 (b) Manufacturer. If the Industrial Commission makes an award for a claimant
20 who it determines has sustained a vaccine-related injury, the State may, within two
21 years of the date the Commission renders its decision, bring an action against the
22 manufacturer who made the vaccine on the ground that the vaccine was a defective
23 product. Damages in an action brought under this section are limited to the amount of
24 the award made by the Commission plus the estimated present value of all the services
25 to be provided to the claimant by the Department and the Department of Human
26 Resources under G.S. 130A-427, the reasonable costs of prosecuting the action,
27 including, but not limited to, attorneys fees, fees charged by witnesses, and costs of
28 exhibits. For purposes of this subsection, a defective product is a covered vaccine that
29 was manufactured, transported, or stored in a negligent manner, or was distributed after
30 its expiration date, or that otherwise violated the applicable requirements of any license,
31 approval, or permit, or any applicable standards or requirements issued under Section
32 351 of the Public Health Service Act, as amended, or the federal Food, Drug, and
33 Cosmetic Act, as these standards or requirements were interpreted or applied by the
34 federal agency charged with their enforcement. The negligence or other action in
35 violation of applicable federal standards or requirements shall be demonstrated by the
36 State, by a preponderance of the evidence, to be the proximate cause of the injury for
37 which an award was rendered pursuant to G.S. 130A-427, in order to allow recovery by
38 the State against the manufacturer pursuant to this subsection."

39 Sec. 157. G.S. 130A-433 reads as rewritten:

40 **"§ 130A-433. Contracts for purchase of vaccines; distribution; fee; rules.**

41 Notwithstanding any law to the contrary, the Secretary ~~of Human Resources~~ may
42 enter into contracts with the manufacturers and suppliers of covered vaccines and with
43 other public entities either within or without the State for the purchase of covered
44 vaccines and may provide for the distribution or sale of the covered vaccines to health

1 care providers. Local health departments shall distribute the covered vaccines at the
2 request of the Department of Human Resources. The Secretary may charge a fee for
3 providing a covered vaccine to a health care provider. The fee shall be set at an amount
4 that covers the cost of the vaccine to the Department, plus the cost to the Department of
5 storing and distributing the vaccine. The Secretary shall adopt rules to implement this
6 Article.

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

11 Sec. 158. G.S. 130A-434 reads as rewritten:

12 **"§ 130A-434. Child Vaccine Injury Compensation Fund established; payments**
13 **from Fund; transfer of appropriations and receipts.**

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

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

27 Sec. 159. G.S. 130A-440(c) reads as rewritten:

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

33 Sec. 160. G.S. 130A-441 reads as rewritten:

34 **"§ 130A-441. Reporting.**

35 (a) Health assessment results shall be submitted to the school principal by the
36 medical provider on forms developed by the Department of Human Resources and the
37 Department of Public Instruction.

38 (a) (b) Each school having a kindergarten shall maintain on file the health
39 assessment results. The files shall be open to inspection by the Department of Human
40 Resources, the Department of Public Instruction Department, the Department of Public
41 Instruction, or their authorized representatives and persons inspecting the files shall
42 maintain the confidentiality of the files. Upon transfer of a child to another
43 kindergarten, a copy of the health assessment results shall be provided upon request and
44 without charge to the new kindergarten.

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

6 Sec. 161. G.S. 143-138(b) reads as rewritten:

7 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted
8 by the Building Code Council, may include reasonable and suitable classifications of
9 buildings and structures, both as to use and occupancy; general building restrictions as
10 to location, height, and floor areas; rules for the lighting and ventilation of buildings and
11 structures; requirements concerning means of egress from buildings and structures;
12 requirements concerning means of ingress in buildings and structures; regulations
13 governing construction and precautions to be taken during construction; regulations as
14 to permissible materials, loads, and stresses; regulations of chimneys, heating
15 appliances, elevators, and other facilities connected with the buildings and structures;
16 regulations governing plumbing, heating, air conditioning for the purpose of comfort
17 cooling by the lowering of temperature, and electrical systems; and such other
18 reasonable rules and regulations pertaining to the construction of buildings and
19 structures and the installation of particular facilities therein as may be found reasonably
20 necessary for the protection of the occupants of the building or structure, its neighbors,
21 and members of the public at large.

22 The Code may contain provisions regulating every type of building or structure,
23 wherever it might be situated in the State.

24 Provided further, that nothing in this Article shall be construed to make any building
25 regulations applicable to farm buildings located outside the building-regulation
26 jurisdiction of any municipality.

27 Provided further, that no building permit shall be required under the Code or any
28 local variance thereof approved under subsection (e) for any construction, installation,
29 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any
30 single family residence or farm building unless the work involves: the addition, repair,
31 or replacement of load bearing structures; the addition (excluding replacement of same
32 size and capacity) or change in the design of plumbing; the addition, replacement or
33 change in the design of heating, air conditioning, or electrical wiring, devices,
34 appliances, or equipment, the use of materials not permitted by the North Carolina
35 Uniform Residential Building Code; or the addition (excluding replacement of like
36 grade of fire resistance) of roofing.

37 Provided further, that no building permit shall be required under such Code from any
38 State agency for the construction of any building or structure, the total cost of which is
39 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

40 For the information of users thereof, the Code shall include as appendices

- 41 (1) Any boiler regulations adopted by the Board of Boiler Rules,
- 42 (2) Any elevator regulations relating to safe operation adopted by the
43 Commissioner of Labor, and

- 1 (3) Any ~~regulations~~ rules relating to sanitation adopted by the ~~Department~~
2 of ~~Human Resources~~ Commission for Health Services or the
3 Department of Environment, Health, and Natural Resources which the
4 Building Code Council believes pertinent.

5 In addition, the Code may include references to such other regulations of special
6 types, such as those of the Medical Care Commission and the Department of Public
7 Instruction as may be useful to persons using the Code. No regulations issued by other
8 agencies than the Building Code Council shall be construed as a part of the Code, nor
9 supersede that Code, it being intended that they be presented with the Code for
10 information only.

11 Nothing in this Article shall extend to or be construed as being applicable to the
12 regulation of the design, construction, location, installation, or operation of (1)
13 equipment for storing, handling, transporting, and utilizing liquefied
14 petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, or
15 (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S.
16 62-3, or an electric or telephone membership corporation, including without limitation
17 poles, towers, and other structures supporting electric or communication lines.

18 In addition, the Code may contain regulations concerning minimum efficiency
19 requirements for replacement water heaters, which shall consider reasonable availability
20 from manufacturers to meet installation space requirements."

21 Sec. 162. G.S. 143-138(g) is amended by deleting the phrase "Department of
22 Human Resources [Commission for Health Services]" as it appears in the table and
23 substituting the phrase "Department of Environment, Health, and Natural Resources
24 [Commission for Health Services]".

25 Sec. 163. G.S. 143-215.1(a) reads as rewritten:

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

- 30 (1) Make any outlets into the waters of the State;
31 (2) Construct or operate any sewer system, treatment works, or disposal
32 system within the State;
33 (3) Alter, extend, or change the construction or method of operation of any
34 sewer system, treatment works, or disposal system within the State;
35 (4) Increase the quantity of waste discharged through any outlet or
36 processed in any treatment works or disposal system to any extent
37 which would result in any violation of the effluent standards or
38 limitations established for any point source or which would adversely
39 affect the condition of the receiving waters to the extent of violating
40 any of the standards applicable to such water;
41 (5) Change the nature of the waste discharged through any disposal
42 system in any way which would exceed the effluent standards or
43 limitations established for any point source or which would adversely

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

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

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

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

42 Sec. 164. G.S. 143-215.7 reads as rewritten:

43 "**§ 143-215.7. Effect on laws applicable to public water supplies and the sanitary**
44 **disposal of sewage.**

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

12 Sec. 165. G.S. 143-215.26 reads as rewritten:

13 **"§ 143-215.26. Construction of dams.**

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

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

36 Sec. 166. G.S. 143-215.84(c) reads as rewritten:

37 "(c) The Secretary of the Department of Transportation is authorized and
38 empowered, after consultation with the Secretary ~~[of Natural Resources and Community~~
39 ~~Development]~~ to purchase and equip a sufficient number of trucks designed to carry out
40 the provisions of subsection (b). These trucks shall be maintained by the Department of
41 Transportation and shall be strategically located at various locations throughout the
42 State so as to furnish a ready response when word of an oil or other hazardous
43 substances discharge has been received. The Secretary ~~[of the Department of Natural~~

1 ~~Resources and Community Development~~] or his designee will, after consultation, decide
2 where the trucks are to be located."

3 Sec. 167. G.S. 143-215.84(d) reads as rewritten:

4 "(d) The Secretary of the Department of Transportation and the Secretary ~~[of the~~
5 ~~Department of Natural Resources and Community Development]~~ or their designees
6 shall adopt rules for the placement of these trucks and shall determine the manner and
7 way in which they are to be used. The Secretary ~~[of the Department of Natural~~
8 ~~Resources and Community Development]~~ shall reimburse the Department of
9 Transportation for expenses incurred by the Department of Transportation during
10 cleanups as provided in G.S. 143-215.88."

11 Sec. 168. G.S. 143-252 reads as rewritten:

12 **"§ 143-252. Article subject to Chapter 113.**

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

18 Sec. 169. G.S. 143-253 reads as rewritten:

19 **"§ 143-253. Jurisdictional questions.**

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

27 Sec. 170. G.S. 143-320 reads as rewritten:

28 **"§ 143-320. Definitions.**

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

30 ~~'Council' means the Community Development Council.~~

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

34 (2) ~~'Secretary' means the Secretary of Natural Resources and Community~~
35 ~~Development.~~ Environment, Health, and Natural Resources.

36 (3) ~~'Recreation' means those interests that are diversionary in character~~
37 ~~and that aid in promoting entertainment, pleasure, relaxation,~~
38 ~~instruction, and other physical, mental, and cultural developments and~~
39 ~~experiences of a leisure nature, and includes all governmental, private~~
40 ~~nonprofit and commercial recreation forms of the recreation field and~~
41 ~~includes parks, conservation, recreation travel, the use of natural~~
42 ~~resources, wilderness and high density recreation types and the variety~~
43 ~~of recreation interests in areas and programs which are incorporated in~~
44 ~~this range."~~

1 Sec. 171. G.S. 143-345.6(a) reads as rewritten:

2 "**§ 143-345.6. Land records management program.**

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

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

17 (1) Uniform indexing of land records;

18 (2) Uniform recording and indexing procedures for maps, plats and
19 condominiums; and

20 (3) Security and reproduction of land records.

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

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

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

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

40 (1) Centralized recording systems;

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

42 (3) Computerized land records systems; and

43 (4) Storage and retrieval of land records.

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

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

6 (2) The North Carolina Section of the American Society of
7 Photogrammetry;

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

9 (4) The North Carolina Section of the American Society of Civil
10 Engineers;

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

12 (6) The North Carolina Association of Registers of Deeds;

13 (7) The North Carolina Bar Association;

14 (8) The North Carolina Society of Land Surveyors; and

15 (9) The North Carolina Association of County Commissioners.

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

31 Sec. 172. G.S. 143-436(b) reads as rewritten:

32 "(b) The Pesticide Board shall consist of seven members, to be appointed by the
33 Governor, as follows:

34 (1) One member each representing the North Carolina Department of
35 ~~Agriculture, the North Carolina Department of Human Resources, and~~
36 ~~a State conservation agency.~~ Agriculture and two members
37 representing the North Carolina Department of Environment, Health,
38 and Natural Resources, one of whom shall be the State Health Director
39 or his designee and one of whom shall represent an environmental
40 protection agency. The persons so selected may be either members of
41 a policy board or departmental officials or employees.

42 (2) A representative of the agricultural chemical industry.

43 (3) A person directly engaged in agricultural production.

1 (4) Two at-large members, from fields of endeavor other than those
 2 enumerated in subdivisions (2) and (3) of this subsection, one of whom
 3 shall be a nongovernmental conservationist."

4 ♦ Sec. 173. G.S. 143-439(b) reads as rewritten:

5 "(b) The Pesticide Advisory Committee shall consist of ~~19 members to be~~
 6 ~~appointed by the Board as follows:~~ of: three practicing farmers; one conservationist (at
 7 large); one ecologist (at large); one representative of the pesticide industry; one
 8 representative of agribusiness (at large); one local health director; three members of the
 9 North Carolina State University School of Agriculture and Life Sciences, at least one of
 10 which shall be from the area of wildlife or biology; one member ~~each~~ representing the
 11 North Carolina Department of ~~Agriculture, Agriculture; the North Carolina Department~~
 12 ~~of Human Resources, and the North Carolina Department of Natural Resources and~~
 13 ~~Community Development;~~ one member representing the Department of Environment,
 14 Health, and Natural Resources; the State Health Director; one representative of a public
 15 utility or railroad company which uses ~~pesticides, pesticides; one representative or~~ of
 16 the Board of Transportation; one member of the North Carolina Agricultural Aviation
 17 Association; one member of the general public (at large); one member actively engaged
 18 in forest pest management; and one member representing the Solid ~~and Hazardous~~
 19 ~~Waste Management Branch, Environmental Health Section, Division of Health~~
 20 ~~Services, Department of Human Resources.~~ of the Department of Environment, Health,
 21 and Natural Resources. Each State agency represented on the Committee shall be
 22 appointed by the head of the agency. Other members of the Committee shall be
 23 appointed by the Board."

24 Sec. 174. G.S. 143B-137 reads as rewritten:

25 "**§ 143B-137. Department of Human Resources – duties.**

26 It shall be the duty of the Department to provide the necessary management,
 27 development of policy, and establishment and enforcement of standards for the
 28 provision of services in the fields of ~~general and~~ mental health and rehabilitation with
 29 the basic goal being to assist all citizens – as individuals, families, and communities – to
 30 achieve and maintain an adequate level of health, social and economic well-being, and
 31 dignity. Whenever possible the department shall emphasize preventive measures to
 32 avoid or to reduce the need for costly emergency treatments that often result from lack
 33 of forethought. Therefore, it shall be the policy of this department to establish priorities
 34 to eliminate those excessive expenses incurred by the State for lack of adequate funding
 35 or careful planning of preventive measures."

36 Sec. 175. G.S. 143B-139.2 reads as rewritten:

37 "**§ 143B-139.2. Department of Human Resources – head – requests for grants-in-**
 38 **aid from non-State agencies.**

39 It is the intent of this General Assembly that non-State ~~health and welfare human~~
 40 resources agencies submit their appropriation requests for grants-in-aid through the
 41 Secretary of the Department of Human Resources for recommendations to the Governor
 42 and the Advisory Budget Commission and the General Assembly, and that agencies
 43 receiving these grants, at the request of the Secretary of the Department of Human

1 Resources, provide a postaudit of their operations that has been done by a certified
2 public accountant."

3 Sec. 176. G.S. 143B-140 is repealed.

4 Sec. 177. Part 3 of Article 3 of Chapter 143B of the General Statutes (G.S.
5 143B-142 through G.S. 143B-146) is recodified as Article 1A of Chapter 130A of the
6 General Statutes (G.S. 130A-29 through G.S. 130A-33).

7 Sec. 178. G.S. 130A-29 reads as rewritten:

8 "**§ ~~143B-142~~ 130A-29. Commission for Health Services – creation, powers and
9 duties.**

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

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

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

- 18 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
19 (2) Establishing standards for approving sewage-treatment devices and
20 holding tanks for marine toilets as provided in G.S. 75A-6(o);
21 (3) Establishing specifications for sanitary privies for schools where
22 water-carried sewage facilities are unavailable as provided in G.S.
23 115C-522;
24 (4) Establishing requirements for the sanitation of local confinement
25 facilities as provided in G.S. 153-53.4; and
26 (5) Governing environmental impact statements and information required
27 in applications to determine eligibility for water supply systems under
28 the provisions of the Clean Water Bond Act.

29 (d) The Commission is authorized to create:

- 30 (1) Metropolitan water districts as provided in G.S. 162A-33;
31 (2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of
32 the General Statutes; and
33 (3) Mosquito control districts as provided in Part 2 of Article 12 of
34 Chapter 130A of the General Statutes.

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

37 Sec. 179. G.S. 130-30 reads as rewritten:

38 "**§ ~~143B-143~~ 130A-30. Commission for Health Services – members; selection;
39 quorum; compensation.**

40 (a) The Commission for Health Services of the Department of ~~Human Resources~~
41 Environment, Health, and Natural Resources shall consist of 12 members, four of whom
42 shall be elected by the North Carolina Medical Society and eight of whom shall be
43 appointed by the Governor.

1 (b) One of the members appointed by the Governor shall be a licensed
2 pharmacist, one a registered engineer experienced in sanitary engineering or a soil
3 scientist, one a licensed veterinarian, one a licensed optometrist, one a licensed dentist,
4 and one a registered nurse. The initial members of the Commission shall be the
5 members of the State Board of Health who shall serve for a period equal to the
6 remainder of their current terms on the State Board of Health, three of whose
7 appointments expire May 1, 1973, and two of whose appointments expire May 1, 1975.
8 At the end of the respective terms of office of initial members of the Commission, their
9 successors shall be appointed for terms of four years and until their successors are
10 appointed and qualify. Any appointment to fill a vacancy on the Commission created
11 by the resignation, dismissal, death, or disability of a member shall be for the balance of
12 the unexpired term.

13 (c) The North Carolina Medical Society shall have the right to remove any
14 member elected by it for misfeasance, malfeasance, or nonfeasance, and the Governor
15 shall have the right to remove any member appointed by him for misfeasance,
16 malfeasance, or nonfeasance in accordance with the provisions of G.S. ~~143B-13~~ of the
17 ~~Executive Organization Act of 1973.~~ 143B-13. Vacancies on said Commission among
18 the membership elected by the North Carolina Medical Society shall be filled by the
19 executive committee of the Medical Society until the next meeting of the Medical
20 Society, when the Medical Society shall fill the vacancy for the unexpired term.
21 Vacancies on said Commission among the membership appointed by the Governor shall
22 be filled by the Governor for the unexpired term.

23 (d) A majority of the members of the Commission shall constitute a quorum for
24 the transaction of business.

25 (e) The members of the Commission shall receive per diem and necessary
26 traveling and subsistence expenses in accordance with the provisions of G.S. 138-5."

27 Sec. 180. G.S. 130A-33 reads as rewritten:

28 "**§ 143B and special meetings.**

29 Each year there shall be four regular meetings of the Commission for Health
30 Services, one of which shall be held during the annual meeting and conjointly with a
31 general session of the North Carolina Medical Society at which time and place the
32 annual report shall be submitted by the Secretary of ~~Human Resources-Environment,~~
33 Health, and Natural Resources or his designee. The other three meetings shall be at
34 such times and places as the chairman of the Commission shall designate. Special
35 meetings of the Commission may be called by the chairman, or by a majority of the
36 members of the Commission."

37 Sec. 181. Part 18 of Article 3 of Chapter 143B of the General Statutes (G.S.
38 143B-188 through G.S. 143B-190) is recodified as Part 3A of Article 5 of Chapter 130A
39 of the General Statutes (G.S. 130A-131 through G.S. 130A-131.2).

40 Sec. 182. G.S. 130A-131.2 reads as rewritten:

41 "**§ ~~143B-190~~ 130A-131.2. Council role.**

42 The Council shall advise the Department of Environment, Health, and Natural
43 Resources and the Commission for Health Services on the needs of persons with sickle
44 cell syndrome, and shall make recommendations to meet these needs. Such

1 recommendations shall include but not be limited to recommendations for legislative
2 action and for rules regarding the services of the Sickle Cell Program. The Council
3 shall develop procedures to facilitate its operation. All clerical and other services
4 required by the Council shall be furnished by the Department of ~~Human Resources~~
5 Environment, Health, and Natural Resources within budget limitations."

6 Sec. 183. G.S. 143B-202 and G.S. 143B-203 are repealed.

7 Sec. 184. (a) Part 20 of Article 3 of Chapter 143B of the General Statutes
8 (G.S. 143B-204 through G.S. 143B-206) is recodified as Part 1 of Article 1B of Chapter
9 130A of the General Statutes (G.S. 130A-33.30 through G.S. 130A-33.32).

10 (b) A new Article 1B is added to Chapter 130A of the General Statutes to
11 consist of G.S. 130A-33.30 through G.S. 130A-33.32 as Part 1 and G.S. 130A-33.40
12 through 130A-33.41 as Part 2. The heading for Article 1B of Chapter 130A shall read:

13 **"ARTICLE 1B.**

14 **COMMISSIONS AND COUNCILS."**

15 Sec. 185. G.S. 130A-33.30 reads as rewritten:

16 **"§ 143Büand duties.**

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

25 Sec. 186. G.S. 130A-33.31 reads as rewritten:

26 **"§ 143Büselection; term; chairman; quorum; meetings.**

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

39 (b) Any appointment to fill a vacancy on the Commission created by the
40 resignation, dismissal, death, or disability of a member shall be for the balance of the
41 unexpired term.

42 (c) The Secretary shall have the power to remove any member of the
43 Commission from office for misfeasance, malfeasance or nonfeasance.

44 (d) The Commission shall elect a chairman annually from its own membership.

1 (e) A majority of the Commission shall constitute a quorum for the transaction of
2 business.

3 (f) The Commission shall meet at any time and place within the State at the call
4 of the chairman or upon the written request of three members.

5 (g) All clerical and other services required by the Commission shall be supplied
6 by the Secretary of ~~Human Resources~~ Environment, Health, and Natural Resources."

7 Sec. 187. G.S. 130A-33.32 reads as rewritten:

8 **"§ 143Büformer Board of Anatomy in testamentary disposition.**

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

11 Sec. 188. Part 26 of Article 3 of Chapter 143B of the General Statutes (G.S.
12 143B-216.8 through G.S. 143B-216.9) is recodified as Part 2 of Article 1B of Chapter
13 130A of the General Statutes (G.S. 130A-33.40 through G.S. 130A-33.41).

14 Sec. 189. G.S. 130A-33.40 reads as rewritten:

15 **"§ 143Büand Health – creation; powers; duties.**

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

19 (1) To promote interest in the area of physical fitness; to consider the need
20 for new State programs in the field of physical fitness; to enlist the
21 active support of individual citizens, professional and civic groups,
22 amateur and professional athletes, voluntary organizations, State and
23 local government agencies, private industry and business, and
24 community recreation programs in efforts to improve the physical
25 fitness and thereby the health of the citizens of North Carolina;

26 (2) To examine current programs of physical fitness available to the
27 people of North Carolina, and to make recommendations to the
28 Governor for coordination of programs to prevent duplication of such
29 services; to support programs of physical fitness in the public school
30 systems; to develop cooperative programs with medical, dental, and
31 other groups; to maintain a liaison with government, private and other
32 agencies concerning physical fitness programs; to stimulate research in
33 the area of physical fitness; to sponsor physical fitness workshops,
34 clinics, conferences, and other related activities pertaining to physical
35 fitness throughout the State;

36 (3) To serve as an agency for recognizing outstanding developments,
37 contributions, and achievements in physical fitness in North Carolina;
38 and

39 (4) The Council shall make an annual report to the Governor and to the
40 Secretary of ~~Human Resources~~ Environment, Health, and Natural
41 Resources, including therein suggestions and recommendations for the
42 furtherance of the physical fitness of the people of North Carolina."

43 Sec. 190. G.S. 130A-33.41 reads as rewritten:

44 **"§ 143BüFitness and Health – members; selection; quorum; compensation.**

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

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

31 Sec. 191. Part 27 of Article 3 of Chapter 143B of the General Statutes (G.S.
32 143B-216.10 through G.S. 143B-216.15) is recodified as Part 4A of Article 7 of
33 Chapter 143B of the General Statutes (G.S. 143B-285.10 through G.S. 143B-285.15).

34 Sec. 192. G.S. 143B-285.10 reads as rewritten:

35 "**§ 143B-~~216.10~~-285.10. Declaration of findings.**

36 (a) The General Assembly of North Carolina hereby finds and declares that the
37 safe management of hazardous wastes and low-level radioactive wastes, and particularly
38 the timely establishment of adequate facilities for the disposal and management of
39 hazardous wastes and low-level radioactive wastes is one of the most urgent problems
40 facing North Carolina. The safe management and disposal of these wastes are essential
41 to continued economic growth and to protection of the public health and safety. When
42 improperly handled, these wastes pose a threat to the water, land, and air resources of
43 the State, as well as to the health and safety of its citizens. Consequently, cooperation
44 and coordination among the private sector, the general public and State and local

1 agencies to assure the prevention of unnecessary waste and the establishment of
2 adequate treatment and disposal facilities are essential. The General Assembly further
3 finds that cooperation and coordination among the private sector, the general public and
4 State regulatory agencies will be advanced by the creation of a Governor's Waste
5 Management Board.

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

- 14 (1) Prohibit the transportation, treatment, storage, or disposal of hazardous
15 or low-level radioactive waste within any county, city, or other
16 political subdivision;
- 17 (2) Prohibit the siting of a hazardous waste facility or a low-level
18 radioactive waste facility within any county, city, or other political
19 subdivision;
- 20 (3) Place any restriction or condition not placed by this ~~Part or by General~~
21 ~~Statutes Chapter 130, Article 13B or Chapter 104E~~ Part, Article 9 of
22 Chapter 130A of the General Statutes, or Chapters 130B, 104E, or
23 104G of the General Statutes upon the transportation, treatment,
24 storage or disposal of hazardous or low-level radioactive waste, or
25 upon the siting of a hazardous waste facility or low-level radioactive
26 waste facility within any county, city, or other political subdivision; or
- 27 (4) In any manner are in conflict or inconsistent with the provisions of this
28 ~~Part or General Statutes Chapter 130, Article 13B or Chapter 104E.~~
29 Part, Article 9 of Chapter 130A of the General Statutes, or Chapters
30 130B, 104E, or 104G of the General Statutes. No special, local or
31 private acts or resolutions enacted or taking effect hereafter may be
32 construed to modify, amend or repeal any portion of the Waste
33 Management Act of 1981 unless it expressly provides for such by
34 specific references to the appropriate section of this Part. Further to
35 this end, all provisions of local ordinances, including those regulating
36 land use, adopted by counties, municipalities, or other local authorities
37 are invalidated which (i) prohibit or have the effect of prohibiting the
38 establishment or operation of a hazardous waste facility ~~or a hazardous~~
39 ~~waste landfill facility approved by the Governor pursuant to G.S. 130-~~
40 ~~166.17B; 130A-293; or (ii) prohibit or have the effect of prohibiting~~
41 the establishment or operation of a low-level radioactive waste facility
42 ~~or a low level radioactive waste landfill facility approved by the~~
43 ~~Governor approved pursuant to G.S. 104E-6.2.~~

1 (c) The General Assembly of North Carolina hereby finds and declares that
2 prevention, recycling, detoxification, and reduction of hazardous wastes should be
3 encouraged and promoted. These are alternatives which ultimately remove such wastes'
4 hazards to human health and the environment. When these alternatives are not
5 technologically feasible, retrievable above-ground storage is sometimes preferable to
6 other means of disposal of some types of waste until appropriate methods for recycling
7 or detoxification of the stored wastes are found. ~~Landfilling~~ Land disposal shall be used
8 only when it is clearly appropriate. Hazardous waste ~~landfill~~ disposal facilities and
9 polychlorinated biphenyl ~~landfill~~ disposal facilities shall be detoxified as soon as
10 technology which is economically feasible is available and sufficient money is available
11 without additional appropriation."

12 Sec. 193. G.S. 143-285.12(a) reads as rewritten:

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

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

33 Sec. 194. G.S. 143B-285.14 reads as rewritten:

34 "**§ 143B-~~216.14~~ 285.14. Functions and powers of Department of ~~Human~~**
35 **Resources Environment, Health, and Natural Resources.**

36 (a) The Department of ~~Human Resources~~ Environment, Health, and Natural
37 Resources is authorized:

- 38 (1) To enter upon any lands and structures upon lands to make surveys,
39 borings, soundings and examinations as may be necessary to determine
40 the suitability of a site for a hazardous waste facility, hazardous waste
41 landfill facility, low-level radioactive waste facility or low-level
42 radioactive landfill facility. The Department shall give 30 days' notice
43 of the intended entry authorized by this section in the manner
44 prescribed for service of process by G.S. 1A-1, Rule 4. Entry under

1 this section shall not be deemed a trespass or taking; provided however
 2 that the Department shall make reimbursement for any damage to such
 3 land or structures caused by such activities;

4 (2) To provide necessary clerical, technical, and administrative assistance
 5 to the Board, and to employ the necessary personnel for the
 6 accomplishment of the purposes of this Part.

7 (3) To enforce any rules adopted by the Board pursuant to this Part in the
 8 manner provided for by G.S. 130A-22(a) and 104E-24.

9 (b) The provisions of subdivision (1) of subsection (a) of this section shall also
 10 apply to the North Carolina Hazardous Waste Management Commission and the North
 11 Carolina Low-Level Radioactive Waste Management Authority."

12 Sec. 195. G.S. 143B-290 reads as rewritten:

13 **"§ 143B-290. North Carolina Mining Commission – creation; powers and duties.**

14 There is hereby created the North Carolina Mining Commission of the Department
 15 of ~~Natural Resources and Community Development~~ Environment, Health, and Natural
 16 Resources with the power and duty to promulgate rules and regulations for the
 17 enhancement of the mining resources of the State.

18 (1) The North Carolina Mining Commission shall have the following
 19 powers and duties:

20 a. To act as the advisory body to the Interstate Mining Compact
 21 pursuant to G.S. 74-38(a);

22 b. To adopt and modify rules and regulations to implement
 23 Chapter 74, Article 6, pursuant to G.S. 74-44(b);

24 c. To hear permit appeals, conduct a full and complete hearing on
 25 such controversies and affirm, modify, or overrule permit
 26 decisions made by the Department pursuant to G.S. 74-61; and

27 d. To promulgate rules and regulations necessary to administer the
 28 Mining Act of 1971, pursuant to G.S. 74-63;

29 e. To promulgate rules and regulations necessary to administer the
 30 Control of Exploration for Uranium in North Carolina Act of
 31 1983, pursuant to G.S. 74-86.

32 (2) The Commission is authorized and empowered to make such rules and
 33 regulations, not inconsistent with the laws of this State, as may be
 34 required by the federal government for grants-in-aid for mining
 35 resource purposes which may be made available to the State by the
 36 federal government. This section is to be liberally construed in order
 37 that the State and its citizens may benefit from such grants-in-aid.

38 (3) The Commission shall make such rules ~~and regulations~~, consistent
 39 with the provisions of this Chapter. All rules ~~and regulations~~ adopted
 40 by the Commission shall be enforced by the Department of ~~Natural~~
 41 ~~Resources and Community Development~~ Environment, Health, and
 42 Natural Resources."

43 Sec. 196. G.S. 143B-294 reads as rewritten:

1 **"§ 143B-294. Soil and Water Conservation Commission – creation; powers and**
2 **duties.**

3 There is hereby created the Soil and Water Conservation Commission of the
4 Department of ~~Natural Resources and Community Development~~ Environment, Health,
5 and Natural Resources with the power and duty to adopt rules ~~and regulations~~ to be
6 followed in the development and implementation of a soil and water conservation
7 program.

8 (1) The Soil and Water Conservation Commission has the following
9 powers and duties:

- 10 a. To approve petitions for soil conservation districts;
11 b. To approve application for watershed plans; and
12 c. Such other duties as specified in Chapter 139.

13 (2) The Commission shall adopt rules and regulations consistent with the
14 provisions of this Chapter. All rules and regulations not inconsistent
15 with the provisions of this Chapter heretofore adopted by the Soil and
16 Water Conservation Committee shall remain in full force and effect
17 unless and until repealed or superseded by action of the Soil and Water
18 Conservation Commission. All rules and regulations adopted by the
19 Commission shall be enforced by the Department of ~~Natural Resources~~
20 ~~and Community Development~~ Environment, Health, and Natural
21 Resources."

22 Sec. 197. G.S. 143B-300 reads as rewritten:

23 **"§ 143B-300. Wastewater Treatment Plant Operators Certification Commission –**
24 **creation; powers and duties.**

25 (a) There is hereby created the Wastewater Treatment Plant Operators
26 Certification Commission ~~of to be located in the~~ Department of ~~Natural Resources and~~
27 ~~Community Development~~ Environment, Health, and Natural Resources ~~with the power~~
28 ~~and duty to~~ The Commission shall adopt rules and regulations with respect to the
29 certification of wastewater treatment plant operators as provided by Article 3 of Chapter
30 90A of the General Statutes of North Carolina.

31 (b) The Commission ~~is authorized and empowered to~~ shall adopt such rules and
32 regulations, not inconsistent with the laws of this State, as may be required by the
33 federal government for grants-in-aid for programs concerned with the certification of
34 wastewater treatment plant operators which may be made available to the State by the
35 federal government. This section is to be liberally construed in order that the State and
36 its citizens may benefit from such grants-in-aid."

37 Sec. 198. G.S. 143B-301 reads as rewritten:

38 **"§ 143B-301. Wastewater Treatment Plant Operators Certification Commission –**
39 **members; selection; removal; compensation; quorum; services.**

40 (a) The Wastewater Treatment Plant Operators Certification Commission ~~of the~~
41 ~~Department of Natural Resources and Community Development~~ shall consist of seven
42 members appointed by the Secretary of ~~Natural Resources and Community~~
43 ~~Development~~ Environment, Health, and Natural Resources with the approval of the
44 Environmental Management Commission with the following qualifications:

- 1 (1) Two members shall be currently employed as wastewater treatment
2 plant operators, wastewater plant superintendents, water and sewer
3 superintendents, or equivalent positions with a North Carolina
4 municipality;
- 5 (2) One member shall be manager of a North Carolina municipality
6 having a population of more than 10,000 as of the most recent federal
7 census;
- 8 (3) One member shall be manager of a North Carolina municipality
9 having a population of less than 10,000 as of the most recent federal
10 census;
- 11 (4) One member shall be employed by a private industry and shall be
12 responsible for supervising the treatment or pretreatment of industrial
13 wastewater;
- 14 (5) One member who is a faculty member of a four-year college or
15 university and whose major field is related to wastewater treatment;
16 and
- 17 (6) One member who is employed by the Department of ~~Natural~~
18 ~~Resources and Community Development~~ Environment, Health, and
19 Natural Resources and works in the field of water pollution control,
20 who shall serve as ~~chairman of the Certification~~ Chairman of the
21 Commission.
- 22 (b) The initial members of the Commission shall be the members of the
23 Wastewater Treatment Plant Operators Board of Certification who shall serve for a
24 period equal to the remainder of their current terms on the Wastewater Treatment Plant
25 Operators Board of Certification. At the end of the respective terms of office of the
26 initial members of the Commission, their successors shall be appointed for staggered
27 terms of three years and until their successors are appointed and qualify.
- 28 (c) The chairman of the Wastewater Treatment Plant Operators Certification
29 Commission shall serve at the pleasure of the Secretary of ~~Natural Resources and~~
30 ~~Community Development~~ Environment, Health, and Natural Resources.
- 31 (d) Any appointment to fill a vacancy on the Commission created by the
32 resignation, dismissal, death or disability of a member shall be for the balance of the
33 unexpired term.
- 34 (e) The Governor shall have the power to remove any member of the
35 Commission from office for misfeasance, malfeasance, and nonfeasance according to
36 the provisions of G.S. ~~143B-13 of the Executive Organization Act of 1973~~ 143B-13.
- 37 (f) The members of the Commission shall receive per diem and necessary travel
38 and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.
39 ~~143B-15 of the Executive Organization Act of 1973~~ 143B-15.
- 40 (g) A majority of the Commission shall constitute a quorum for the transaction of
41 business.
- 42 (h) All clerical and other services required by the Commission shall be supplied
43 by the Secretary of the ~~Department~~ Department of Environment, Health, and Natural
44 Resources."

1 Sec. 199. Section 10 of Chapter 372 of the 1989 Session Laws is rewritten to
2 read:

3 "Sec. 10. G.S. 143B-301 reads as rewritten:

4 **‘§ 143B-301. Wastewater Treatment Plant Operators Certification Commission –**
5 **members; selection; removal; compensation; quorum; services.**

6 (a) The Wastewater Treatment Plant Operators Certification Commission of the
7 ~~Department of Natural Resources and Community Development~~ shall consist of seven
8 nine members appointed by the Secretary of ~~Natural Resources and Community~~
9 ~~Development~~ Environment, Health, and Natural Resources with the approval of the
10 Environmental Management Commission with the following qualifications:

- 11 (1) Two members shall be currently employed as wastewater treatment
12 plant operators, wastewater plant superintendents, water and sewer
13 superintendents, or equivalent positions with a North Carolina
14 municipality;
- 15 (2) One member shall be manager of a North Carolina municipality
16 having a population of more than 10,000 as of the most recent federal
17 census;
- 18 (3) One member shall be manager of a North Carolina municipality
19 having a population of less than 10,000 as of the most recent federal
20 census;
- 21 (4) One member shall be employed by a private industry and shall be
22 responsible for supervising the treatment or pretreatment of industrial
23 wastewater;
- 24 (5) One member who is a faculty member of a four-year college or
25 university and whose major field is related to wastewater treatment;
26 ~~and~~
- 27 (6) One member who is employed by the Department of ~~Natural~~
28 ~~Resources and Community Development~~ Environment, Health, and
29 Natural Resources and works in the field of water pollution control,
30 who shall serve as ~~chairman of the Certification~~ Chairman of the
31 ~~Commission~~ Commission; and
- 32 (7) Two members shall be currently employed as sanitary sewage system
33 operators, wastewater collection system superintendents, water and
34 sewer department directors, or equivalent positions with a North
35 Carolina municipality.

36 (b) The initial members of the Commission shall be the members of the
37 Wastewater Treatment Plant Operators Board of Certification who shall serve for a
38 period equal to the remainder of their current terms on the Wastewater Treatment Plant
39 Operators Board of Certification. At the end of the respective terms of office of the
40 initial members of the Commission, their successors shall be appointed for staggered
41 terms of three years and until their successors are appointed and qualify.

42 (c) The chairman of the Wastewater Treatment Plant Operators Certification
43 Commission shall serve at the pleasure of the Secretary of ~~Natural Resources and~~
44 ~~Community Development~~ Environment, Health, and Natural Resources.

1 (d) Any appointment to fill a vacancy on the Commission created by the
2 resignation, dismissal, death or disability of a member shall be for the balance of the
3 unexpired term.

4 (e) The Governor shall have the power to remove any member of the
5 Commission from office for misfeasance, malfeasance, and nonfeasance according to
6 the provisions of G.S. ~~143B-13 of the Executive Organization Act of 1973.~~ 143B-13.

7 (f) The members of the Commission shall receive per diem and necessary travel
8 and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.
9 ~~143B-15 of the Executive Organization Act of 1973.~~ 143B-15.

10 (g) A majority of the Commission shall constitute a quorum for the transaction of
11 business.

12 (h) All clerical and other services required by the Commission shall be supplied
13 by the Secretary of the ~~Department.~~ Department of Environment, Health, and Natural
14 Resources."

15 Sec. 200. G.S. 143B-390(a) reads as rewritten:

16 "(a) The Council shall consist of 28 members appointed as follows:

- 17 (1) Eighteen members shall be appointed by the Governor from the public
18 and private academic and scientific institutions in the State and from
19 the various industries and professions in the State concerned with the
20 exploration and use of the ocean and marine resources. These members
21 shall serve four-year terms. The terms shall be staggered so that nine
22 terms begin July 1 of each odd-numbered year.
- 23 (2) Three at-large members shall be appointed by the Governor. These
24 members shall serve four-year terms. The terms shall be staggered so
25 that one term begins July 1, 1987, and two terms begin July 1, 1989.
- 26 (3) Three members shall be the chairpersons of the North Carolina Marine
27 Resources Centers' local advisory committees. These members shall
28 serve during their tenures as chairmen.
- 29 (4) One member representing the Department of Commerce in the area of
30 ports and waterways shall be appointed by and serve at the pleasure of
31 the Secretary of the Department of Commerce.
- 32 (5) Two members representing the Department of ~~Natural Resources and~~
33 ~~Community Development~~ Environment, Health, and Natural
34 Resources in the area of coastal resources and environmental
35 protection shall be appointed by and serve at the pleasure of the
36 Secretary of ~~the Department of Natural Resources and Community~~
37 ~~Development.~~ Environment, Health, and Natural Resources.
- 38 (6) ~~One member representing the Department of Human Resources in the~~
39 ~~area of health services shall be appointed by and serve at the pleasure~~
40 ~~of the Secretary of the Department of Human Resources.~~ The State
41 Health Director or his designee."

42 Sec. 201. Part 11 of Article 7 of Chapter 143B of the General Statutes (G.S.
43 143B-305 through G.S. 143B-307) is recodified as Part 2A of Article 10 of Chapter
44 143B of the General Statutes (G.S. 143B-437.1 through G.S. 143B-437.3).

1 Sec. 202. G.S. 143B-437.1 reads as rewritten:

2 "**§ 143B-305. ~~437.1.~~ Community Development Council – creation; powers and**
3 **duties.**

4 There is hereby created the Community Development Council ~~of the Department of~~
5 ~~Natural Resources and Community Development.~~ to be located in the Department of
6 Commerce. The Community Development Council shall have the following functions
7 and duties:

- 8 (1) To advise the Secretary of ~~Natural Resources and Community~~
9 ~~Development~~ Commerce with respect to promoting and assisting in the
10 orderly development of North Carolina counties and communities.
11 (2) To advise the Secretary of ~~Natural Resources and Community~~
12 ~~Development~~ Commerce with respect to the type and effectiveness of
13 planning and management services provided to local government.
14 (3), (4) Repealed by Session Laws 1977, c. 198, s. 13.
15 (5) The Council shall consider and advise the Secretary of ~~Natural~~
16 ~~Resources and Community Development~~ Commerce upon any matter
17 the Secretary may refer to it."

18 Sec. 203. G.S. 143B-437.2 reads as rewritten:

19 "**§ 143B-306. ~~437.2.~~ Community Development Council – members; chairman;**
20 **selection; removal; compensation; quorum; services.**

21 (a) The Community Development Council ~~of the Department of Natural~~
22 ~~Resources and Community Development~~ shall consist of 11 members appointed by the
23 Governor. The composition of the Council shall be as follows: one member who shall
24 be a local government official, one member who shall be the Executive Secretary of the
25 League of Municipalities, one member who shall be the Executive Secretary of the
26 County Commissioners Association, one member who shall represent industry, one
27 member who shall represent labor, and six members at large.

28 (b) The Governor shall designate one member of the Council to serve as
29 ~~chairman~~ Chairman at the pleasure of the Governor.

30 (c) The initial members of the Council other than those members serving in an ex
31 officio capacity shall be appointed to serve for terms of four years and until their
32 successors are appointed and qualify. Any appointment to fill a vacancy on the Council
33 created by the resignation, dismissal, death or disability of a member shall be for the
34 balance of the unexpired term.

35 (d) The Governor shall have the power to remove any member of the Council
36 from office in accordance with the provisions of G.S. 143B-16 of the Executive
37 Organization Act of 1973.

38 (e) Members of the Council shall receive per diem and necessary travel and
39 subsistence expenses in accordance with the provisions of G.S. 138-5.

40 (f) A majority of the Council shall constitute a quorum for the transaction of
41 business.

42 (g) All clerical and other services required by the Council shall be supplied by
43 the Secretary of ~~Natural Resources and Community Development~~ Commerce."

1 Sec. 204. Part 27 of Article 7 of Chapter 143B of the General Statutes (G.S.
2 143B-344.11 through G.S. 143B-344.15) is recodified as Part 3A of Article 10 of
3 Chapter 143B of the General Statutes (G.S. 143B-438.1 through G.S. 143B-438.5).

4 Sec. 205. G.S. 143B-438.4 reads as rewritten:

5 **"§ ~~143B-344.14.~~ 438.4. Coordinating Council.**

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

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

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

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

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

- 19 (1) Overseeing the meeting of the State's goals for employment and
20 training.
- 21 (2) Continuously reviewing the plans and programs of agencies operating
22 federally funded programs related to employment and training and of
23 other agencies providing employment and training-related services in
24 the State that may be funded with State funds.
- 25 (3) Conducting studies, preparing reports and analyses, including an
26 annual published report to the Governor and General Assembly, and
27 providing such advisory services as may be authorized or directed by
28 the Governor.
- 29 (4) Recommending the allocation of Job Training Partnership Act funds
30 not subject to the seventy-eight percent (78%) that flows directly to
31 service delivery areas.
- 32 (5) Recommending program goals to insure job training for unskilled
33 youth and adults is a matter of the highest priority and encouraging
34 Service Delivery Areas (SDA's) to reflect these goals in their SDA
35 plans.
- 36 (6) Developing a long term tracking system to measure the effectiveness
37 of the Job Training Partnership Act with respect to permanent job
38 placements. Such a tracking system shall not be less than one year and
39 shall be implemented by July 1, 1986.
- 40 (7) Insuring compliance with the provisions of Sections 122(b)(7)A and B
41 and 122(b)(8) of the Job Training Partnership Act no later than May 30
42 of every year, requiring the following:
 - 43 a. Identification of employment and training and vocational
44 education needs throughout the State;

- 1 b. Assessing the extent to which existing programs are meeting
2 these needs.
- 3 c. Repealed by Session Laws 1985, c. 791, s. 26.1(b), effective
4 July 1, 1985.
- 5 (8) Annually measuring the increase in employment and earnings and the
6 reductions in welfare dependency by SDA resulting from participating
7 in the Job Training Partnership Act program and reporting those
8 findings to the Governor and General Assembly.
- 9 (9) Annually reporting to the Governor and General Assembly on funds
10 expended by each SDA for job training services and the reason service
11 providers were chosen.
- 12 (10) Providing management guidance and review of all State administered
13 employment and training programs and encouraging compliance by
14 the SDA's with the goals and purposes outlined by the General
15 Assembly, the Governor, and the State Council.
- 16 (11) Insuring that service delivery area plans are submitted to the General
17 Assembly within 30 days after received by the Council as prescribed in
18 Section 105(a)(1)A and B of Public Law 97-300.
- 19 (12) Obtaining other information from recipients of Job Training
20 Partnership Act funds, as requested by the Governor and General
21 Assembly.
- 22 (f) The State Job Training Coordinating Council:
- 23 (1) Shall be appointed by the Governor in a manner consistent with
24 Section 122 of Public Law 97-300.
- 25 (2) Shall meet at the call of the chairman. A majority of the Council shall
26 constitute a quorum for the transaction of business. Members shall
27 receive per diem and necessary travel and subsistence expenses in
28 accordance with the provisions of G.S. 138-5, 138-6 or 120-3.1, as the
29 case may be.
- 30 (3) The Council shall have a standing Committee to be known as the Job
31 Training Interagency Committee. The members of the committee shall
32 be the ~~Secretaries of Natural Resources and Community Development~~
33 and ~~Secretary of~~ Secretary of Commerce, the President of the Department of
34 Community Colleges, the Commissioner of Labor, and the
35 Superintendent of Public Instruction or their designees. This
36 committee shall jointly develop and implement a plan to integrate the
37 Job Training Partnership Act program and participants into the
38 economic development efforts of the State. Such a plan shall make
39 maximum use of customized training and on-the-job training efforts of
40 existing, new, or expanding businesses. This plan shall be developed
41 and implemented no later than February 1, 1986. A copy of the plan
42 shall be submitted to the President of the North Carolina Senate and
43 the Speaker of the North Carolina House of Representatives no later
44 than December 15, 1985. In addition, the Joint Legislative

1 Commission on Governmental Operations shall review the plan prior
2 to implementation and offer suggested changes.

- 3 (4) The Council may create such committees as may be necessary to the
4 proper conduct of its business. The Governor may establish such
5 additional advisory bodies, in accordance with existing law, related to
6 employment and training as may be necessary and appropriate to the
7 conduct of federally-supported employment and training-related
8 programs."

9 Sec. 206. G.S. 153A-225(b) reads as rewritten:

10 "(b) If a prisoner in a local confinement facility dies, the medical examiner and the
11 coroner shall be notified immediately. Within five days after the day of the death, the
12 administrator of the facility shall make a written report to the local or district health
13 director and to the Secretary of ~~Human Resources~~Environment, Health, and Natural
14 Resources. The report shall be made on forms ~~provided by the [State Board of Health,~~
15 ~~and the Board of Health]~~ shall develop and distribute these forms developed and
16 distributed by the Department of Environment, Health, and Natural Resources."

17 Sec. 207. G.S. 153A-226(b) reads as rewritten:

18 "(b) The ~~[Commission for Health Services]~~Commission for Health Services shall
19 prepare a score sheet to be used by sanitarians of local or district health departments in
20 inspecting local confinement facilities. The sanitarians shall inspect local confinement
21 facilities as often as may be required by the Commission for Health Services. If an
22 inspector of the Department finds conditions that reflect hazards or deficiencies in the
23 sanitation or food service of a local confinement facility, he shall immediately notify the
24 local or district health department. The health department shall promptly cause a
25 sanitarian to inspect the facility. After making his inspection, the sanitarian shall
26 forward a copy of his report to the Department of Human Resources and to the unit
27 operating the facility, on forms prepared by the ~~[Department]~~Department of
28 Environment, Health, and Natural Resources. The report shall indicate whether the
29 facility and its kitchen or other place for preparing food is approved or disapproved for
30 public health purposes. If the facility is disapproved, the situation shall be rectified
31 according to the procedures of G.S. 153A-223."

32 Sec. 208. G.S. 159G-3 reads as rewritten:

33 "**§ 159G-3. Definitions.**

34 As used in this Chapter, the following words shall have the meanings indicated,
35 unless the context clearly requires otherwise:

- 36 (1) 'Administrative Account' means the Administrative Account in
37 the Clean Water Revolving Loan and Grant Fund established in
38 the Office of State Budget and Management under the provisions
39 of this Chapter to cover administrative costs of the program.
40 (2) 'Applicant' means a local government unit that applies for a
41 revolving loan or grant under the provisions of this Chapter.
42 (3) 'Clean Water Revolving Loan and Grant Fund' means the fund
43 established in the Office of State Budget and Management to

- 1 carry out the provisions of this Chapter, with various accounts
2 therein as herein provided.
- 3 (4) 'Construction costs' means the actual costs of planning, designing
4 and constructing any project for which a revolving loan or grant is
5 made under this Chapter including planning; environmental
6 assessment; wastewater system analysis, evaluation and
7 rehabilitation; engineering; legal, fiscal, administrative and
8 contingency costs for water supply systems, wastewater collection
9 systems, wastewater treatment works and any extensions,
10 improvements, remodeling, additions, or alterations to existing
11 systems. Construction costs may include excess or reserve
12 capacity costs, attributable to no more than 20-year projected
13 domestic growth, plus ten percent (10%) unspecified industrial
14 growth. In addition, construction costs shall include any fees
15 payable to the Environmental Management Commission or the
16 ~~Division of Health Services~~ Division of Environmental Health
17 for review of applications and grant of permits, and fees for
18 inspections under G.S. ~~159G-314~~ ~~[159G-14]~~. 159G-14.
19 Construction costs may also include the costs for purchase or
20 acquisition of real property.
- 21 (5) 'Grant' means a sum of money given by the State to a local
22 government unit to subsidize the construction costs of a project
23 authorized by this Chapter, without any obligation on the part of
24 such unit to repay such sum.
- 25 (6) 'Commission for Health Services' means the Commission for
26 Health Services of the Department of ~~Human Resources~~.
27 Environment, Health, and Natural Resources.
- 28 (6a) 'Debt instrument' means an instrument in the nature of a
29 promissory note executed by a local government unit under the
30 provisions of this Chapter, to evidence a debt to the State and
31 obligation to repay the principal, plus interest, under stated terms.
- 32 (7) ~~'Division of Health Services' means the Division of Health~~
33 ~~Services of the Department of Human Resources.~~ 'Division of
34 Environmental Health' means the Division of Environmental
35 Health of the Department of Environment, Health, and Natural
36 Resources.
- 37 (8) 'Environmental Management Commission' means the
38 Environmental Management Commission of the ~~Department of~~
39 ~~Natural Resources and Community Development created by~~
40 ~~Article 7, Part 4 of Chapter 143B of the General Statutes.~~
41 Department of Environment, Health, and Natural Resources.
- 42 (9) 'Local Government Commission' means the Local Government
43 Commission of the Department of the State Treasurer, established
44 by Article 2 of Chapter 159 of the General Statutes.

- 1 (10) 'Local government unit' means a county, city, town, incorporated
2 village, sanitary district, metropolitan sewerage district,
3 metropolitan water district, county water and sewer district, water
4 and sewer authority or joint agency created pursuant to Part 1 of
5 Article 20 of Chapter 160A of the General Statutes.
- 6 (11) 'Office of State Budget and Management' means the Office of
7 State Budget and Management established by law.
- 8 (12) 'Receiving agency' means the ~~Division of Health Services~~
9 Division of Environmental Health with respect to receipt of
10 applications for revolving loans and grants for water supply
11 systems, and the Environmental Management Commission and
12 the Division of Environmental Management with respect to
13 receipt of applications for revolving loans and grants for
14 wastewater systems.
- 15 (13) 'Revolving construction loan' means a sum of money loaned by
16 the State to a local government unit to subsidize the construction
17 costs of a project authorized by this Chapter, with an obligation
18 on the part of such unit to repay such sum, the proceeds of such
19 repayment to be deposited in the Water Pollution Control
20 Revolving Fund.
- 21 (14) 'Revolving emergency loan' means a sum of money loaned by the
22 State to a local government unit upon a certification, as provided
23 in this Chapter, of a serious public health hazard, with an
24 obligation on the part of such unit to repay such sum.
- 25 (15) 'Revolving loan' includes a revolving construction loan and an
26 emergency loan.
- 27 (15a) 'State' means the State of North Carolina.
- 28 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant
29 to Article III, Section 7 of the Constitution or his designated
30 representative.
- 31 (16) 'Wastewater Accounts' means the various accounts in the Clean
32 Water Revolving Loan and Grant Fund established in the Office
33 of State Budget and Management under this Chapter for revolving
34 loans and grants for wastewater treatment work and wastewater
35 collection system projects.
- 36 (17) 'Wastewater collection system' means a unified system of pipes,
37 conduits, pumping stations, force mains, and appurtenances other
38 than interceptor sewers, for collecting and transmitting water-
39 carried human wastes and other wastewater from residences,
40 industrial establishments or any other buildings, and owned by a
41 local government unit.
- 42 (18) 'Wastewater treatment works' means the various facilities and
43 devices used in the treatment of sewage, industrial waste or other
44 wastes of a liquid nature, including the necessary interceptor

sewers, outfall sewers, phosphorous removal equipment, pumping, power and other equipment and their appurtenances.

(19) 'Water Supply Accounts' means the various accounts in the Clean Water Revolving Loan and Grant Fund established in the Office of State Budget and Management under this Chapter for revolving loans and grants for water supply system projects.

(20) 'Water supply system' means a public water supply system consisting of facilities and works for supplying, treating and distributing potable water including, but not limited to, impoundments, reservoirs, wells, intakes, water filtration plants and other treatment facilities, tanks and other storage facilities, transmission mains, distribution piping, pipes connecting the system to other public water supply systems, pumping equipment and all other necessary appurtenances, equipment and structures."

Sec. 209. G.S. 159G-6 reads as rewritten:

"§ 159G-6. Distribution of funds.

(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal amount of revolving loans made to any one local government unit during any fiscal year shall be three million dollars (\$3,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be five hundred thousand dollars (\$500,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Office of State Budget and Management to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-4~~] 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be

1 used to make revolving loans and grants to local government units as provided below.
2 The Office of the State Budget and Management shall disburse no funds from the
3 Wastewater Accounts except upon receipt of written approval of the disbursement from
4 the Environmental Management Commission.

5 (1) General Wastewater Revolving Loan and Grant Account. – The funds
6 in the General Wastewater Revolving Loan and Grant Account shall
7 be used exclusively for the purpose of providing for revolving
8 construction loans or grants in connection with approved wastewater
9 treatment work or wastewater collection system projects.

10 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit
11 Cost Wastewater Account shall be available for grants to applicants for
12 high-unit cost wastewater projects. Eligibility of an applicant for such
13 a grant shall be determined by comparing estimated average household
14 user fees for water and sewer service, for debt service and operation
15 and maintenance costs, to one and one-half percent (1.5%) of the
16 median household income in the county in which the project is located.
17 The projects which would require estimated average household water
18 and sewer user fees greater than one and one-half percent (1.5%) of the
19 median household income are defined as high-unit cost wastewater
20 projects and will be eligible for a grant equal to the excess cost, subject
21 to the limitations in subsection (a)(2) of this section.

22 (3) Emergency Wastewater Revolving Loan Account. – The funds in the
23 Emergency Wastewater Revolving Loan Account shall be available for
24 revolving emergency loans to applicants in the event the
25 Environmental Management Commission certifies that a serious public
26 health hazard, related to the inadequacy of existing wastewater
27 facilities, is present or imminent in a community.

28 (c) Water Supply Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-~~
29 ~~4~~159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall
30 be used to provide revolving loans and grants to local government units as provided
31 below. The Office of State Budget and Management shall disburse no funds from the
32 Water Supply Accounts except upon receipt of written approval of the disbursement
33 from the ~~Division of Health Services~~ Division of Environmental Health.

34 (1) General Water Supply Revolving Loan and Grant Account. – The
35 funds in the General Water Supply Revolving Loan and Grant Account
36 shall be used exclusively for the purpose of providing for revolving
37 construction loans and grants in connection with water supply systems
38 generally and not upon a county allotment basis.

39 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit
40 Cost Water Supply Account shall be available for grants to applicants
41 for high-unit cost water supply systems, on the same basis as provided
42 in G.S. ~~159G-306(b)(2)~~ [G.S. ~~159G-6(b)(2)~~] 159G-6(b)(2) for high-
43 unit cost wastewater projects.

1 (3) Emergency Water Supply Revolving Loan Account. – The funds in the
2 Emergency Water Supply Revolving Loan Account shall be available
3 for revolving emergency loans to applicants in the event the ~~Division~~
4 of ~~Health Services~~ Division of Environmental Health certifies that a
5 serious public health hazard, related to the water supply system, is
6 present or imminent in a community.

7 (d) Administrative Account. – The Office of State Budget and Management,
8 from time to time, may allocate funds from the Administrative Account to meet the
9 expenses of the Office of State Budget and Management, Local Government
10 Commission, ~~Division of Health Services~~ Division of Environmental Health and
11 Environmental Management Commission incurred in the administration of this Chapter
12 in excess of normal operating expenses.

13 Each agency entitled to receive administrative expense funds from the
14 Administrative Account shall prepare an itemized estimate of administrative funds
15 required for the succeeding fiscal year, and the ~~Division of Health Services~~ Division of
16 Environmental Health, the Local Government Commission and the Environmental
17 Management Commission shall deliver their estimates to the Office of State Budget and
18 Management at least 45 days prior to the beginning of the fiscal year for which the
19 funds are required. The Office of State Budget and Management shall determine the
20 administrative expense funds available and, along with its recommendations, shall
21 deliver the estimates of the ~~Division of Health Services~~ Division of Environmental
22 Health, the Local Government Commission and of the Environmental Management
23 Commission and its own estimate, if any, to the Advisory Budget Commission at least
24 30 days prior to the beginning of the fiscal year for which the funds are required. Any
25 administrative expense funds shall be disbursed by the Office of State Budget and
26 Management to the appropriate agency. If the administrative expense funds disbursed
27 to any agency shall prove insufficient, it may apply at any time during the fiscal year for
28 additional funds in the manner above provided.

29 (e) Notwithstanding any other provision of this Chapter, funds in the Water
30 Pollution Control Revolving Fund shall not be available as grants except to the extent
31 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations
32 thereunder."

33 Sec. 210. G.S. 159G-8 reads as rewritten:

34 **"§ 159G-8. Application; environmental assessment; notice; hearing.**

35 (a) Application. – All applications for revolving loans and grants for water
36 supply systems shall be filed with the ~~Division of Health Services~~ Division of
37 Environmental Health and all applications for revolving loans and grants for wastewater
38 treatment works or wastewater collection systems shall be filed with the Environmental
39 Management Commission. Every applicant shall also file with the Office of State
40 Budget and Management such information concerning the application as the Office of
41 State Budget and Management may require by rules or regulations adopted pursuant to
42 this Chapter. Any application may be filed in as many categories as it is eligible for
43 consideration under this Chapter. Applications for revolving construction loans or
44 grants for wastewater treatment works and wastewater collection systems, except

1 applications for emergency wastewater loans, shall first be submitted for a loan or grant
2 from the Water Pollution Control Revolving Fund established by G.S. ~~159G-305(e)~~
3 ~~[G.S. 159G-5(e)]~~. 159G-5(c). If the application is denied, the application shall then be
4 considered for a revolving loan or a grant from the General Wastewater Revolving Loan
5 and Grant account established under ~~159G-306(b)(1)~~ ~~[G.S. 159G-6(b)(1)]~~. G.S. 159-
6 6(b)(1).

7 The Office of State Budget and Management, the ~~Division of Health Services~~
8 Division of Environmental Health and the Environmental Management Commission
9 may develop jointly and adopt a standard form of application under this Chapter. Any
10 application for construction grants under the Federal Water Pollution Control Act may
11 be considered as an application for revolving construction loans or grants under G.S.
12 ~~159G-305(e)~~ ~~[G.S. 159G-5(e)]~~ 159G-5(c) and G.S. ~~159G-306(b)(1)~~ ~~[G.S. 159G-~~
13 ~~6(b)(1)]~~ 159G-6(b)(1). The information required to be set forth in the application shall
14 be sufficient to permit the respective agencies to determine the eligibility of the
15 applicant and to establish the priority of the application, as set forth in this Chapter.

16 Any applicant shall furnish information in addition or supplemental to the
17 information contained in its application upon request by the receiving agency.

18 (b) Environmental Assessment. – Every applicant shall file with its application
19 an assessment setting forth the impact that the project for which funds are sought will
20 have upon the environment of the area within which the project is proposed to be
21 located. The assessment shall set forth the impact of the project upon water resources,
22 other natural resources, land use pattern, and such other factors as the Commission for
23 Health Services or the Environmental Management Commission shall require by duly
24 adopted rules and regulations. Any environmental assessment required as part of an
25 application for grants under the Federal Water Pollution Control Act shall satisfy the
26 requirement of this provision. If, after reviewing the environmental assessment, the
27 ~~Division of Health Services~~ Division of Environmental Health or the Environmental
28 Management Commission concludes that an environmental impact statement is
29 required, then the application shall receive no further consideration until a final
30 environmental impact statement has been completed and approved as provided in
31 Article 1 of Chapter 113A of the General Statutes.

32 (c) Hearing. – A public hearing may be held by the receiving agency at any time
33 on any application filed pursuant to G.S. ~~159G-305(e)~~ ~~[G.S. 159G-5(e)]~~, ~~159G-306(b)~~
34 ~~[G.S. 159G-6(b)]~~ or ~~159G-306(e)~~ ~~[G.S. 159G-6(e)]~~ 159G-5(c), 159G-6(b), or 159G-6(c)
35 in accordance with the provisions of this subsection. A public hearing may be held by
36 the receiving agency upon written request from any citizen or taxpayer who is a resident
37 of the county or counties in which the project is proposed to be located if it appears that
38 the public interest will be served by this hearing. The written request shall set forth
39 each objection to the proposed project or other reason for requesting a hearing on the
40 application and shall contain the name and address of the person(s) submitting it. The
41 receiving agency may consider all written objections to the proposed project and other
42 statements along with the application, including any significant adverse effects that the
43 proposed project may have on the environment, and shall determine if the public interest
44 will be served by a hearing. The determination by the receiving agency shall be

1 conclusive; but all written requests for a hearing shall be retained as a permanent part of
2 the records pertaining to the application, whether or not the request is granted."

3 Sec. 211. G.S. 159G-14 reads as rewritten:

4 **"§ 159G-14. Inspection.**

5 Inspection of a project for which a revolving loan or grant has been made under this
6 Chapter may be performed by qualified personnel of the ~~Division of Health Services~~
7 Division of Environmental Health or the Environmental Management Commission or
8 may be performed by qualified professional engineers, registered in this State, who have
9 been approved by the ~~Division of Health Services~~ Division of Environmental Health or
10 the Environmental Management Commission; but no person shall be approved to
11 perform inspections who is an officer or employee of the unit of government to which
12 the revolving loan or grant was made or who is an owner, officer, employee or agent of
13 a contractor or subcontractor engaged in the construction of the project for which the
14 revolving loan or grant was made. For the purpose of payment of inspection fees,
15 inspection services shall be included in the term 'construction cost' as used in this
16 Chapter."

17 Sec. 212. G.S. 159G-17 reads as rewritten:

18 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**
19 **Operations.**

20 (a) The Office of State Budget and Management, the ~~Division of Health Services~~
21 Division of Environmental Health and the Environmental Management Commission
22 shall prepare and file on or before July 31 of each year with the Joint Legislative
23 Commission on Governmental Operations a consolidated report for the preceding fiscal
24 year concerning the allocation of revolving loans and grants authorized by this Chapter.

25 (b) Office of State Budget and Management. – The portion of the report prepared
26 by the Office of State Budget and Management shall set forth for the preceding fiscal
27 year itemized and total allocations from the Administrative Account for administrative
28 expenses; itemized and total allocations from the Wastewater Accounts of revolving
29 loans and grants authorized by the Environmental Management Commission; and
30 itemized and total allocations from the Water Supply Accounts of revolving loans and
31 grants authorized by the ~~Division of Health Services~~ Division of Environmental Health.
32 The Office of State Budget and Management shall also prepare a summary report of all
33 allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal
34 year; the total funds received and allocations made; and unallocated funds on hand in
35 each account as of the end of the preceding fiscal year.

36 (c) Environmental Management Commission and ~~Division of Health~~
37 ~~Services~~ Division of Environmental Health. – The portions of the report prepared by the
38 Environmental Management Commission and the ~~Division of Health Services~~ Division
39 of Environmental Health shall include:

- 40 (1) Identification of each revolving loan and grant made by the receiving
41 agency during the preceding fiscal year; the total amount of the
42 revolving loan and grant commitments; the sums actually paid during
43 the preceding fiscal year to each revolving loan and grant made and to
44 each revolving loan and grant previously committed but unpaid; and

- 1 the total revolving loan and grant funds paid during the preceding
2 fiscal year.
- 3 (2) Itemization of expenditures of any administrative expense funds
4 allocated from the Administrative Account during the preceding fiscal
5 year.
- 6 (3) Summarization for all preceding years of the total number of revolving
7 loans and grants made; the total funds committed to such revolving
8 loans and grants; the total sum actually paid to such revolving loans
9 and grants and the total expenditure of administrative expense funds
10 allocated from the Administrative Account.
- 11 (4) Assessment and evaluation of the effects that approved projects have
12 had upon water pollution control and water supplies within the
13 purposes of this Chapter and with relation to the total water pollution
14 control and water supply problem.

15 (d) The report shall be signed by each of the chief executive officers of the State
16 agencies preparing the report."

17 Sec. 213. G.S. 162A-23(b) reads as rewritten:

18 "(b) Responsibility for carrying out the role of State government in regional water
19 supply planning shall be assigned to the Department of ~~Human Resources and the~~
20 ~~Department of Water and Air Resources [Department of Natural Resources and~~
21 ~~Community Development].~~ Environment, Health, and Natural Resources. ~~Promotion~~
22 ~~and coordination of regional water supply systems shall be a shared function of the~~
23 ~~Department of Water and Air Resources [Department of Natural Resources and~~
24 ~~Community Development] and the Department of Human Resources, with primary~~
25 ~~responsibility with regard to sources of raw water supply and transbasin or~~
26 ~~transwatershed diversions of water being allocated to the Department of Water and Air~~
27 ~~Resources [Department of Natural Resources and Community Development], and with~~
28 ~~primary responsibility with regard to other aspects of regional water supply systems~~
29 ~~being allocated to the Department of Human Resources."~~

30 Sec. 214. G.S. 162A-24(a) reads as rewritten:

31 "(a) There is established under the control and direction of the Department of
32 Administration a Regional Water Supply Planning Revolving Fund, to consist of any
33 moneys that may be appropriated for use through the fund by the General Assembly or
34 that may be made available to it from any other source. The Department may make
35 advances from the fund to any county, municipality, sanitary district, or to counties and
36 municipalities acting collectively or jointly as a regional water authority, for the purpose
37 of meeting the cost of advance planning and engineering work necessary or desirable
38 for the development of a comprehensive plan for a regional water supply system as
39 defined in this Article. Such advances shall be subject to repayment by the recipient to
40 the Department from the proceeds of bonds or other obligations for the regional water
41 supply system, or from other funds available to the recipient including grants, except
42 when, in the judgment of the Department of ~~Human Resources and of the Department of~~
43 ~~Water and Air Resources [Department of Natural Resources and Community~~
44 ~~Development]~~ Environment, Health, and Natural Resources, a proposed plan for

1 development and construction of a countywide or other regional water system is not
2 feasible because of design and construction factors or because available sources of raw
3 water supply are inadequate or because construction of a proposed system is not
4 economically feasible, (but not if the applicant decides not to proceed with construction
5 that has been planned and which the Department of ~~Human Resources and the~~
6 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~
7 ~~Community Development~~] Environment, Health, and Natural Resources have declared
8 to be feasible)."

9 Sec. 215. G.S. 162A-24(b) reads as rewritten:

10 "(b) The Department of Administration shall not make any advance pursuant to
11 this section without first referring the application and proposal to the Department of
12 ~~Human Resources, the State agency responsible for public water supplies,~~ Environment,
13 Health, and Natural Resources for determination as to whether the following conditions
14 ~~set forth below have been met. met.~~ In making such determinations, the Department of
15 ~~Human Resources shall obtain and be guided by the recommendations of the~~
16 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~
17 ~~Community Development~~] on matters for which that Department has responsibility by
18 law:

- 19 (1) The proposed area is suitable for development of a regional water
20 supply system from the standpoint of present and projected
21 populations, industrial growth potential, and present and future sources
22 of raw water.
- 23 (2) The applicant proposes to undertake long-range comprehensive
24 planning to meet present and projected needs for high quality water
25 service through the construction of a regional water supply system as
26 defined in this Article. The determination by the Department of
27 ~~Human Resources~~ Environment, Health, and Natural Resources that
28 the proposed system would be a 'regional system,' as defined by this
29 Article, shall be conclusive.
- 30 (3) The applicant proposes to coordinate planning of the regional water
31 supply with land-use planning in the area, in order that both planning
32 efforts will be compatible.
- 33 (4) The applicant proposes to employ an engineer licensed to practice in
34 the State of North Carolina to prepare a comprehensive regional water
35 supply plan, which plan will provide detailed information on source or
36 sources of water to meet projected domestic and industrial water
37 demands; proposed system, including raw water intake(s), treatment
38 plant, storage facilities, distribution system, and other waterworks
39 appurtenances; proposed interconnections with existing systems, and
40 provisions for interconnections with other county, municipal and
41 regional systems; phased development of systems to achieve ultimate
42 objectives if economic feasibility is in question; projected water
43 service areas; proposed equipment; estimates of cost and projected
44 revenues; and methods of financing."

1 Sec. 216. G.S. 162A-25 reads as rewritten:

2 "**§ 162A-25. Construction of Article.**

3 This Article shall be construed as providing supplemental authority in addition to the
4 powers of the Department of ~~Human Resources~~ Environment, Health, and Natural
5 Resources under ~~General Statutes Chapter 130, Chapter 130A and Articles 21 and 38 of~~
6 Chapter 143 of the General Statutes, the powers of the North Carolina Utilities
7 Commission under ~~General Statutes Chapter 62, Chapter 62 of the General Statutes,~~
8 ~~and the powers of the Department of Water and Air Resources [Department of Natural~~
9 ~~Resources and Community Development] under Articles 21 and 38 of General Statutes~~
10 Chapter 143, and any other provisions of law concerning local and regional water
11 supplies."

12 Sec. 217. G.S. 162A-29(a) reads as rewritten:

13 "(a) There is established under the control and direction of the Department of
14 Administration a Regional Sewage Disposal Planning Revolving Fund, to consist of any
15 moneys that may be appropriated for use through the fund by the General Assembly or
16 that may be made available to it from any other source. The Department may make
17 advances from the fund to any county, municipality, or sanitary district, or to counties
18 and municipalities acting collectively or jointly as a regional sewer authority, for the
19 purpose of meeting the cost of advance planning and engineering work necessary or
20 desirable for the development of a comprehensive plan for a regional sewage disposal
21 system as defined in this Article. Such advances shall be subject to repayment by the
22 recipient to the Department from the proceeds of bonds or other obligations for the
23 regional sewage disposal system, or from other funds available to the recipient
24 including grants, except when, in the judgment of the Department of ~~Water and Air~~
25 ~~Resources~~ ~~[Department of Natural Resources and Community~~
26 ~~Development]~~ Environment, Health, and Natural Resources, a proposed plan for
27 development and construction of a countywide or other regional sewage disposal system
28 is not feasible because of design and construction factors, or because of the effect that
29 the sewage disposal system discharge will have upon water quality standards, or
30 because construction of a proposed system is not economically feasible, (but not if the
31 applicant decides not to proceed with construction that has been planned and which the
32 Department of ~~Water and Air Resources~~ ~~[Department of Natural Resources and~~
33 ~~Community Development]~~ Environment, Health, and Natural Resources has declared to
34 be feasible)."

35 Sec. 218. G.S. 162A-29(b) reads as rewritten:

36 "(b) The Department of Administration shall not make any advance pursuant to
37 this section without first referring the application and proposal to the ~~State Department~~
38 ~~of Water and Air Resources~~ ~~[Department of Natural Resources and Community~~
39 ~~Development]~~, Department of Environment, Health, and Natural Resources ~~the State~~
40 ~~agency responsible for water pollution control~~, for determination as to whether the
41 following conditions set forth below have been met:

- 42 (1) The proposed area is suitable for development of a regional sewage
43 disposal system from the standpoint of present and projected

- 1 populations, industrial growth potential, and present and future sources
 2 of sewage.
- 3 (2) The applicant proposes to undertake long-range comprehensive
 4 planning to meet present and projected needs for high quality sewage
 5 disposal through the construction of a regional sewage disposal system
 6 as defined in this Article. The determination by the Department of
 7 ~~Water and Air Resources~~ [~~Department of Natural Resources and~~
 8 ~~Community Development~~]—Environment, Health, and Natural
 9 Resources, that the proposed system would be a 'regional system,' as
 10 defined by this Article, shall be conclusive.
- 11 (3) The applicant proposes to coordinate planning of the regional sewage
 12 disposal system with land-use planning in the area, in order that both
 13 planning efforts will be compatible.
- 14 (4) The applicant proposes to employ an engineer licensed to practice in
 15 the State of North Carolina to prepare a comprehensive regional
 16 sewage disposal plan, which plan will provide detailed information on
 17 the source or sources of sewage; the proposed system, including all
 18 facilities and appurtenances thereto for the collection, transmission,
 19 treatment, purification and disposal of sewage; any proposed
 20 interconnection with existing systems, and provisions for
 21 interconnections with other county, municipal and regional systems;
 22 the phased development of systems to achieve ultimate objectives if
 23 economic feasibility is in question; projected sewage disposal service
 24 areas; proposed equipment; estimates of cost and projected revenues;
 25 and methods of financing."

26 Sec. 219. The phrase "Natural Resources and Community Development" is
 27 deleted and replaced by the phrase "Environment, Health, and Natural
 28 Resources" wherever it occurs in each of the following sections of the General Statutes:

- 29 (1) G.S. 7A-343.1. Distribution of copies of the appellate division
 30 reports. ♦
- 31 (2) G.S. 14-131. Trespass on land under option by the federal
 32 government.
- 33 (3) G.S. 14-137. Willfully or negligently setting fire to woods and
 34 fields.
- 35 (4) G.S. 15A-1343. Conditions of probation.
- 36 (5) G.S. 20-81. Official license plates. ♦
- 37 (6) G.S. 47-30. Plats and subdivisions; mapping requirements. ♦
- 38 (7) G.S. 53A-2. Incorporation authorized; information to be set forth;
 39 purposes; powers generally.
- 40 (8) G.S. 58-27.30. State Fire Commission created; membership.
- 41 (9) G.S. 66-58. Sale of merchandise by governmental units.
- 42 (10) G.S. 68-43. Authority of Secretary of Natural Resources and
 43 Community Development to remove or confine ponies on
 44 Ocracoke Island and Shackelford Banks.

- 1 (11) G.S. 69-25.5. Methods of providing fire protection.
2 (12) G.S. 74-38. Commission to file copies of bylaws with Department
3 of Natural Resources and Community Development.
4 (13) G.S. 74-49. Definitions.
5 (14) G.S. 74-53. Reclamation plan.
6 (15) G.S. 74-76. Definitions.
7 (16) G.S. 75A-5.1. Commercial fishing boats; renewal of number.
8 (17) G.S. 75A-17. Enforcement of Chapter.
9 (18) G.S. 76-40. Navigable waters; certain practices regulated.
10 (19) G.S. 77-13. Obstructing streams a misdemeanor.
11 (20) G.S. 77-14. Obstructions in streams and drainage ditches.
12 (21) G.S. 87-85. Definitions.
13 (22) G.S. 87-94. Civil penalties.
14 (23) G.S. 90A-37. Classification of wastewater treatment facilities.
15 (24) G.S. 90A-38. Grades of certificates.
16 (25) G.S. 90A-39. Operator qualifications and examination.
17 (26) G.S. 90A-43. Promotion of training and other powers.
18 (27) G.S. 100-2. Approval of memorials before acceptance by State;
19 regulation of existing memorials, etc.; "work of art" defined;
20 highway markers.
21 (28) G.S. 100-11. Duties.
22 (29) G.S. 100-12. Roads, trails, and fences authorized; protection of
23 property.
24 (30) G.S. 100-13. Fees for use of improvements; fees for other
25 privileges; leases; rules and regulations.
26 (31) G.S. 100-14. Use of fees and other collections.
27 (32) G.S. 100-15. Annual reports.
28 (33) G.S. 102-1.1. Name and description in relation to 1983 North
29 American Datum.
30 (34) G.S. 102-8. Administrative agency.
31 (35) G.S. 102-10. Prior work.
32 (36) G.S. 102-15. Improvement of land records.
33 (37) G.S. 102-17. County projects eligible for assistance.
34 (38) G.S. 104G-22. Inter-Agency Committee.
35 (39) G.S. 105-122. Franchise or privilege tax on domestic and foreign
36 corporations.
37 (40) G.S. 105-130.10. Amortization of air-cleaning devices, waste
38 treatment facilities and recycling facilities.
39 (41) G.S. 105-130.34. Credit for certain real property donations.
40 (42) G.S. 105-147. Deductions.
41 (43) G.S. 105-151.12. Credit for certain real property donations.
42 (44) G.S. 105-277.7. Use-Value Advisory Board.
43 (45) G.S. 106-202.14. Creation of Board; membership; terms;
44 chairman; quorum; board actions; compensation.

- 1 (46) G.S. 106-202.17. Creation of committee; membership; terms;
2 chairman; meetings; committee action; quorum; compensation.
- 3 (47) G.S. 113-1. Meaning of terms.
- 4 (48) G.S. 113-28.4. Oaths required.
- 5 (49) G.S. 113-44.4. Definitions.
- 6 (50) G.S. 113-44.9. Definitions.
- 7 (51) G.S. 113-60.14. Compact Administrator; North Carolina
8 members of advisory committee.
- 9 (52) G.S. 113-60.15. Agreements with noncompact states.
- 10 (53) G.S. 113-60.22. Definition.
- 11 (54) G.S. 113-60.32. Definitions.
- 12 (55) G.S. 113-60.33. Standby duty.
- 13 (56) G.S. 113-77.6. (Expires June 30, 1989) Definitions.
- 14 (57) G.S. 113-128. Definitions relating to agencies and their powers.
- 15 (58) G.S. 113-129.2. Coastal Reserve Program.
- 16 (59) G.S. 113-389. Definitions.
- 17 (60) G.S. 113A-52. Definitions.
- 18 (61) G.S. 113A-74. Appalachian Trails System; connecting or side
19 trails; coordination with the National Trails System Act.
- 20 (62) G.S. 113A-75. Assistance under this Article with the National
21 Trails System Act (PL 90-543).
- 22 (63) G.S. 113A-85. Definitions.
- 23 (64) G.S. 113A-104. Coastal Resources Commission.
- 24 (65) G.S. 113A-107. State guidelines for the coastal area.
- 25 (66) G.S. 113A-112. Planning grants.
- 26 (67) G.S. 113A-153. North Carolina Land Policy Council.
- 27 (68) G.S. 113A-164.3. Definitions.
- 28 (69) G.S. 113A-166. Rules.
- 29 (70) G.S. 113A-167. Existing billboards.
- 30 (71) G.S. 113A-169. Condemnation procedure.
- 31 (72) G.S. 113A-170. Violation a misdemeanor; injunctive relief.
- 32 (73) G.S. 113A-177. Statement of purpose.
- 33 (74) G.S. 113A-178. Definitions.
- 34 (75) G.S. 113A-183. Forest Development Fund.
- 35 (76) G.S. 113A-193. Duties of Secretaries.
- 36 (77) G.S. 113A-194. Assessment rates.
- 37 (78) G.S. 113A-208. Regulation of mountain ridge construction by
38 counties and cities.
- 39 (79) G.S. 113A-212. Assistance to counties and cities under ridge law.
- 40 (80) G.S. 113B-3. Composition of Council; appointments; terms of
41 members; qualifications.
- 42 (81) G.S. 120-150. Creation; appointment of members.
- 43 (82) G.S. 120-161. Facilities and staff.

- 1 (83) G.S. 121-4. Powers and duties of the Department of Cultural
2 Resources.
- 3 (84) G.S. 122E-4. North Carolina Housing Partnership created;
4 compensation; organization.
- 5 (85) G.S. 126-5. Employees subject to Chapter; exemptions.
- 6 (86) G.S. 130A-294. Solid waste management program.
- 7 (87) G.S. 130B-22. Inter-Agency Committee on Hazardous Waste.
- 8 (88) G.S. 136-21. Drainage of highway; application to court;
9 summons; commissioners.
- 10 (89) G.S. 136-44.12. Construction and maintenance of roads in areas
11 administered by the Division of State Parks.
- 12 (90) G.S. 136-102.3. Filing record of results of test drilling or boring
13 with Secretary of Administration and Secretary of Natural
14 Resources and Community Development.
- 15 (91) G.S. 139-5. Creation of soil and water conservation districts.
- 16 (92) G.S. 139-7. District board of supervisors – appointive members;
17 organization of board; certain powers and duties.
- 18 (93) G.S. 139-8. Powers of districts and supervisors.
- 19 (94) G.S. 139-13. Discontinuance of districts.
- 20 (95) G.S. 139-46. Recreational and related aspects of watershed
21 improvement programs.
- 22 (96) G.S. 143-116.8. Motor vehicle laws applicable to State Parks and
23 forests road system.
- 24 (97) G.S. 143-166.2. Definitions.
- 25 (98) G.S. 143-166.7. Applicability of Article.
- 26 (99) G.S. 143-166.13. Persons entitled to benefits under Article.
- 27 (100) G.S. 143-169. Limitations on publications.
- 28 (101) G.S. 143-177.3. Sources of funds.
- 29 (102) G.S. 143-211. Declaration of public policy.
- 30 (103) G.S. 143-212. Definitions applicable to Article.
- 31 (104) G.S. 143-215.3A. Use of application and permit fees.
- 32 (105) G.S. 143-215.3B. Wastewater Treatment Works Emergency
33 Maintenance, Operation and Repair Fund.
- 34 (106) G.S. 143-215.16. Permits for water use within capacity use areas
35 – duration, transfer, reporting, measurement, present use, fees and
36 penalties.
- 37 (107) G.S. 143-215.18. Map or description of boundaries of capacity
38 use areas.
- 39 (108) G.S. 143-215.40. Resolutions and ordinances assuring local
40 cooperation.
- 41 (109) G.S. 143-215.70. Secretary of Natural Resources and Community
42 Development authorized to accept applications.
- 43 (110) G.S. 143-215.74F. Program authorized.
- 44 (111) G.S. 143-215.77. Definitions.

- 1 (112) G.S. 143-240. Creation of Wildlife Resources Commission;
2 districts; qualifications of members.
- 3 (113) G.S. 143-243. Organization of the Commission; election of
4 officers; Robert's Rules of Order.
- 5 (114) G.S. 143-286.1. Nutbush Conservation Area.
- 6 (115) G.S. 143-289. Contributions from certain counties and
7 municipalities authorized; other grants or donations.
- 8 (116) G.S. 143-323. Functions of Department of Natural Resources and
9 Community Development.
- 10 (117) G.S. 143-350. Definitions.
- 11 (118) G.S. 143-355. Transfer of certain powers, duties, functions and
12 responsibilities of the Department of Conservation and
13 Development and of the Director of said Department.
- 14 (119) G.S. 143-370. Commission created; membership.
- 15 (120) G.S. 143A-11. Principal departments.
- 16 (121) G.S. 143B-2. Interim applicability of the Executive Organization
17 Act of 1973.
- 18 (122) G.S. 143B-6. Principal departments.
- 19 (123) G.S. 143B-86. America's Four Hundredth Anniversary
20 Committee – members; selection; quorum; compensation.
- 21 (124) G.S. 143B-115. John Motley Morehead Memorial Commission –
22 members; selection; quorum; compensation.
- 23 (125) G.S. 143B-130. Roanoke Voyages and Elizabeth II Commission –
24 powers and duties.
- 25 (126) G.S. 143B-131. Roanoke Voyages and Elizabeth II Commission –
26 members; terms; vacancies; expenses; officers.
- 27 (127) G.S. 143B-181. Governor's Advisory Council on Aging –
28 members; selection; quorum; compensation.
- 29 (128) G.S. 143B-282. Environmental Management Commission –
30 creation; powers and duties.
- 31 (129) G.S. 143B-283. Environmental Management Commission –
32 members; selection; removal; compensation; quorum; services.
- 33 (130) G.S. 143B-289.2. Definitions.
- 34 (131) G.S. 143B-289.3. Marine Fisheries Commission – creation;
35 purpose and transfer of function.
- 36 (132) G.S. 143B-289.4. Marine Fisheries Commission – powers and
37 duties.
- 38 (133) G.S. 143B-289.5. Marine Fisheries Commission – members;
39 selection; removal; compensation; quorum; services.
- 40 (134) G.S. 143B-289.11. Jurisdictional questions.
- 41 (135) G.S. 143B-289.12. Rules of Department continued.
- 42 (136) G.S. 143B-295. Soil and Water Conservation Commission –
43 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-308. Forestry Council – creation; powers and duties.
- 6 (140) G.S. 143B-309. Forestry Council – members; chairman; selection;
7 removal; compensation; quorum; services.
- 8 (141) G.S. 143B-311. Parks and Recreation Council – creation; powers
9 and duties.
- 10 (142) G.S. 143B-312. Parks and Recreation Council – members;
11 chairman; selection; removal; compensation; quorum; services.
- 12 (143) G.S. 143B-317. Air Quality Council – creation; powers and
13 duties.
- 14 (144) G.S. 143B-318. Air Quality Council – members; chairman;
15 selection; removal; compensation; quorum; services.
- 16 (145) G.S. 143B-333. North Carolina Trails Committee – creation;
17 powers and duties.
- 18 (146) G.S. 143B-334. North Carolina Trails Committee – members;
19 selection; removal; compensation.
- 20 (147) G.S. 143B-335. North Carolina Zoological Park Council –
21 creation; powers and duties.
- 22 (148) G.S. 143B-336. North Carolina Zoological Park Council –
23 members; selection; removal; chairman; compensation; quorum;
24 services.
- 25 (149) G.S. 143B-407. North Carolina State Commission of Indian
26 Affairs – membership; term of office; chairman; compensation.
- 27 (150) G.S. 143B-411.1. North Carolina Advisory Council on the
28 Eastern Band of the Cherokee – creation; membership; terms of
29 office.
- 30 (151) G.S. 143B-417. North Carolina Internship Council – creation;
31 powers and duties.
- 32 (152) G.S. 143B-426.22. Governor's Management Council.
- 33 (153) G.S. 143B-437. Investigation of impact of proposed new and
34 expanding industry.
- 35 (154) G.S. 146-8. Disposition of mineral deposits in State lands under
36 water.
- 37 (155) G.S. 146-30. Application of net proceeds.
- 38 (156) G.S. 148-26. State policy on employment of prisoners.
- 39 (157) G.S. 156-59. Board of viewers appointed by clerk.
- 40 (158) G.S. 156-74. Adjudication upon final report.
- 41 (159) G.S. 156-76. Compensation of board of viewers.
- 42 (160) G.S. 156-83. Superintendent of construction.
- 43 (161) G.S. 159C-7. Approval of project.
- 44 (162) G.S. 159D-7. Approval of project.

- 1 (163) G.S. 161-22.2. Parcel identifier number indexes.
2 Sec. 220. The phrase "Human Resources" is deleted and replaced by the
3 phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the
4 following sections of the General Statutes:
- 5 (1) G.S. 20-4.01. Definitions.
 - 6 (2) G.S. 20-139.1. Procedures governing chemical analyses;
7 admissibility; evidentiary provisions; controlled-drinking
8 programs.
 - 9 (3) G.S. 48-29. Change of name; report to State Registrar; new birth
10 certificate to be made.
 - 11 (4) G.S. 48-36. Adoption of persons who are 18 or more years of age;
12 change of name; clerk's certificate and record; notation on birth
13 certificate; new birth certificate.
 - 14 (5) G.S. 51-11. Who may execute certificate; form.
 - 15 (6) G.S. 75-6. Violation a misdemeanor; punishment.
 - 16 (7) G.S. 90A-21. Water Treatment Facility Operators Board of
17 Certification.
 - 18 (8) G.S. 90A-22. Classification of water treatment facilities;
19 notification of users.
 - 20 (9) G.S. 90A-23. Grades of certificates.
 - 21 (10) G.S. 90A-24. Operator qualifications and examination.
 - 22 (11) G.S. 90A-28. Promotion of training and other powers.
 - 23 (12) G.S. 90A-30. Penalties; remedies; contested cases.
 - 24 (13) G.S. 95-126. Short title and legislative purpose.
 - 25 (14) G.S. 95-131. Development and promulgation of standards;
26 adoption of federal standards and regulations.
 - 27 (15) G.S. 97-61.1. First examination of and report on employee having
28 asbestosis or silicosis.
 - 29 (16) G.S. 104E-5. Definitions.
 - 30 (17) G.S. 104E-7. Radiation Protection Commission – Creation and
31 powers.
 - 32 (18) G.S. 104E-8. Radiation Protection Commission – Members;
33 selections; removal; compensation; quorum; services.
 - 34 (19) G.S. 104E-9. Powers and functions of Department of Human
35 Resources.
 - 36 (20) G.S. 104E-10.1. Additional requirements for low-level
37 radioactive waste facilities.
 - 38 (21) G.S. 104E-13. Administrative procedures and judicial review.
 - 39 (22) G.S. 104E-15. Transportation of radioactive materials.
 - 40 (23) G.S. 104E-17. Payments to State and local agencies.
 - 41 (24) G.S. 104E-24. Administrative penalties.
 - 42 (25) G.S. 104F-4. Advisory Committee.
 - 43 (26) G.S. 104G-11. Technology, license application, and
44 environmental impact statement.

- 1 (27) G.S. 105-122. Franchise or privilege tax on domestic and foreign
2 corporations.
- 3 (28) G.S. 105-130.10. Amortization of air-cleaning devices, waste
4 treatment facilities and recycling facilities.
- 5 (29) G.S. 105-147. Deductions.
- 6 (30) G.S. 106-65.23. Structural Pest Control Division of Department
7 of Agriculture recreated; Director; Structural Pest Control
8 Committee created; appointment; terms; quorum.
- 9 (31) G.S. 106-168.5. Duties of Commissioner upon receipt of
10 application; inspection committee.
- 11 (32) G.S. 106-266.6. Definitions.
- 12 (33) G.S. 115C-522. Provision of equipment for buildings.
- 13 (34) G.S. 130A-310.8. Recordation of inactive hazardous substance or
14 waste disposal sites.
- 15 (35) G.S. 130B-2. Definitions.
- 16 (36) G.S. 143-300.8. Defense of local sanitarians.
- 17 (37) G.S. 148-10. Department of Human Resources to supervise
18 sanitary and health conditions of prisoners.
- 19 (38) G.S. 159C-7. Approval of project.
- 20 (39) G.S. 159D-7. Approval of project.
- 21 (40) 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 (41) 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 (42) G.S. 166A-6.1. Emergency planning; charge.
- 29 Sec. 221. Chapter 91 of the 1989 Session Laws is amended by deleting the
30 phrase "Department of Human Resources" wherever it occurs and substituting the phrase
31 "Department of Environment, Health, and Natural Resources".
- 32 Sec. 222. (a) References in the Session Laws to any department, division, or
33 other agency which is transferred by this act shall be deemed to refer to the successor
34 department, division, or other agency. Every Session Law which refers to any
35 department, division, or other agency to which this act applies or which relates to any
36 power, duty, function, or obligation of any such department, division or agency and
37 which continues in effect after this act becomes effective shall be construed so as to be
38 consistent with this act.
- 39 (b) The Revisor of Statutes is authorized to correct any reference or citation
40 in the General Statutes to any portion of the General Statutes which is recodified,
41 transferred, subdivided, or amended by this act by deleting incorrect references and
42 substituting correct references.
- 43 (c) The Revisor of Statutes is authorized to delete any reference to the
44 Department of Natural Resources and Community Development, the Secretary of

1 Natural Resources and Community Development, the Department of Human Resources,
2 the Secretary of Human Resources, or their predecessors in any portion of the General
3 Statutes to which conforming amendments are not made by this act and to substitute, as
4 appropriate and consistent with this act, any of the following phrases: Department of
5 Environment, Health, and Natural Resources; Secretary of Environment, Health, and
6 Natural Resources; Department of Human Resources; Secretary of Human Resources;
7 Department of Commerce; or Secretary of Commerce.

8 Sec. 223. All statutory authority, powers, duties, functions, records,
9 personnel, property, and unexpended balances of appropriations or other funds of any
10 agency which is transferred pursuant to this act shall be transferred in their entirety.
11 Any transfer affecting any agency to which this act applies which is not authorized by
12 this act, including any transfer under subdivision (10) of Section 5 of Article III of the
13 Constitution of North Carolina, is hereby specifically disapproved and is void.

14 Sec. 224. (a) The Environmental Review Commission may continue the
15 study of environmental agency consolidation and reorganization. The study of
16 environmental agency consolidation shall include, but is not limited to:

- 17 (1) Monitoring the implementation of this act;
- 18 (2) Evaluation of the organization, programs, and operation of the
19 Department of Environment, Health, and Natural Resources;
- 20 (3) Evaluation of the organization, functions, powers, and duties of the
21 components of the Department of Environment, Health, and Natural
22 Resources, including boards, commissions, councils, and regional
23 offices; and
- 24 (4) Recodification of the General Statutes relating to the environment and
25 environmental agencies.

26 (b) Notwithstanding any rule or resolution to the contrary, proposed
27 legislation to implement any recommendation made by the Environmental Review
28 Commission may be introduced and considered during any session of the General
29 Assembly.

30 Sec. 225. This act shall not be construed to obligate the General Assembly to
31 make any appropriation to implement the provisions of this act. Each department and
32 agency to which this act applies shall implement the provisions of this act from funds
33 otherwise appropriated to that department or agency.

34 Sec. 226. This act shall become effective 1 July 1989.