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Short Title: Environmental Agency Consolidation.

(Public)

Sponsors:

Referred to:

March 7, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES AND TO PROVIDE FOR ITS ORGANIZATION, TO CONSOLIDATE ENVIRONMENTAL PROGRAMS, TO ABOLISH THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT 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 G.S. 143B-275 through G.S. 143B-281 are repealed.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:

1 "§ 143B-279.1. Department of Environment, Health, and Natural Resources–  
2 creation.

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

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

8 "§ 143B-279.2. Department of Environment, Health, and Natural Resources–  
9 duties.

10 It shall be the duty of the Department:

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

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

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

15 "§ 143B-279.3. Department of Environment, Health, and Natural Resources–  
16 structure.

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

21 (1) Governor's Waste Management Board, Department of Human  
22 Resources.

23 (2) Radiation Protection Section, Division of Facility Services,  
24 Department of Human Resources.

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

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

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

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

29 (7) Water Treatment Facility Operators Board of Certification,  
30 Department of Human Resources.

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

32 (9) Perinatal Health Care Programs Advisory Council, Department of  
33 Human Resources.

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

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

37 (12) Coastal Management Division, Department of Natural Resources and  
38 Community Development.

39 (13) Coastal Resources Commission, Department of Natural Resources and  
40 Community Development.

41 (14) Environmental Management Division, Department of Natural  
42 Resources and Community Development.

43 (15) Environmental Management Commission, Department of Natural  
44 Resources and Community Development.

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

1           Human Resources are transferred in their entirety to the Radiation  
2           Protection Division of the Department of Environment, Health, and  
3           Natural Resources.

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

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

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

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

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

20           "**§ 143B-279.5. Biennial State of the Environment Report.**

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

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

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

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

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

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

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

39           (7) Suggested legislation, if necessary; and

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

42           Other State agencies involved in protecting the State's natural resources and  
43           environment shall cooperate with the Department of Environment, Health, and Natural  
44           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. 76-40(e) reads as rewritten:

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

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

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

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

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

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

34 **"§ 87-95. Injunctive relief.**

35 Upon violation of any of the provisions of or any order issued pursuant to this  
36 Article, or duly adopted ~~regulation~~ rule of the Commission implementing the provisions  
37 of this Article, the Secretary of the Department of ~~Natural Resources and Community~~  
38 ~~Development~~ Environment, Health, and Natural Resources may, either before or after  
39 the institution of proceedings for the collection of the penalty imposed by this Article  
40 for such violations, request the Attorney General to institute a civil action in the  
41 superior court in the name of the State upon the relation of the Department of ~~Natural~~  
42 ~~Resources and Community Development~~ Environment, Health, and Natural Resources  
43 for injunctive relief to restrain the violation or require corrective action, and for such  
44 other or further relief in the premises as said court shall deem proper. Neither the

1 institution of the action nor any of the proceedings thereon shall relieve any party to  
2 such proceedings from the penalty prescribed by this Article for any violation of same."

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

4 **"§ 87-96. Conflict with other laws.**

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

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

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

22 "(c) Certificates in an appropriate grade will be issued to operators who, on July 1,  
23 1969, hold certificates of competency issued under the voluntary certification program  
24 now being administered through the ~~Division of Sanitary Engineering of the~~  
25 Department of Human Resources-Department of Environment, Health, and Natural  
26 Resources with the cooperation of the North Carolina Water Works Operators  
27 Association, the North Carolina Section of the American Water Works Association, and  
28 the North Carolina League of Municipalities."

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

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

32 **‘§ 90A-37. Classification of wastewater treatment ~~facilities.~~ facilities and sanitary**  
33 **sewage systems.**

34 The Wastewater Treatment Plant Operators Certification Commission, with the  
35 advice and assistance of the Secretary of Environment, Health, and Natural Resources,  
36 shall classify all wastewater treatment facilities under the jurisdiction of the ~~North~~  
37 ~~Carolina~~ Environmental Management Commission, as provided in G.S. 143-215.1,  
38 sanitary sewage systems under the jurisdiction of the Commission for Health Services,  
39 and those operated by institutions and agencies of the State of North Carolina. In  
40 making the classification, the Wastewater Treatment Plant Operators Certification  
41 Commission shall give due regard, among other factors, to the size of the ~~facility,~~  
42 facility or system, the nature of the wastes to be treated or removed from the  
43 wastewater, the treatment process to be employed, and the degrees of skill, knowledge  
44 and experience that the operator of the wastewater treatment facility or person who

1 installs or operates sanitary sewage systems must have to install or supervise the  
2 operation of the facility or system so as to adequately protect the public health and  
3 maintain the water quality standards in the receiving waters as assigned by the North  
4 ~~Carolina~~-Environmental Management Commission."

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

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

8 **‘§ 90A-38. Grades of certificates.**

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

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

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

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

29 **‘§ 90A-39. Operator ~~qualifications~~ Qualifications and examination.**

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

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

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

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

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

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

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

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

21 "**§ 95-149. Authority to enter into contracts with other State agencies and**  
22 **subdivisions of government.**

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

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

29 "**§ 100-13. Fees for use of improvements; fees for other privileges; leases; ~~rules and~~**  
30 **~~regulations. rules.~~**

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

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

40 "**§ 100-14. Use of fees and other collections.**

41 All fees and other money collected and received by the Department of ~~Natural~~  
42 ~~Resources and Community Development Environment, Health, and Natural Resources~~  
43 in connection with its proper administration of ~~Mount Mitchell State Park the North~~  
44 Carolina State Parks System shall be used by said Department of ~~Natural Resources and~~

1 ~~Community Development~~ for the administration, protection, improvement, and  
2 maintenance of ~~said park~~ the State Parks System."

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

4 "**§ 100-15. Annual reports.**

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

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

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

29 Sec. 29. G.S. 105-275(8) as amended by Section 4 of Chapter 148 of the  
30 1989 Session Laws reads as rewritten:

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

1 which the property is situated or to be situated stating that the  
2 Environmental Management Commission or local air pollution  
3 control program has found that the described property:

- 4 1. Has been or will be constructed or installed;
- 5 2. Complies with or that plans therefor which  
6 have been submitted to the Environmental  
7 Management Commission or local air pollution control  
8 program indicate that it will comply with the  
9 requirements of the Environmental Management  
10 Commission or local air pollution control program;
- 11 3. Is being effectively operated or will, when  
12 completed, be required to operate in accordance with  
13 the terms and conditions of the permit, certificate of  
14 approval, or other document of approval issued by the  
15 Environmental Management Commission or local air  
16 pollution control program; and
- 17 4. Has or, when completed, will have as its primary rather  
18 than incidental purpose the reduction of water pollution  
19 resulting from the discharge of sewage and waste or the  
20 reduction of air pollution resulting from the emission of  
21 air contaminants.

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

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

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

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

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

5 **"§ 110-92. Duties of State and local agencies.**

6 When requested by an operator of a day-care facility or by the Secretary of Human  
7 Resources, it shall be the duty of local and district health departments to visit and  
8 inspect a day-care facility to determine whether the facility complies with the health and  
9 sanitation standards required by this Article and with the minimum health and sanitation  
10 standards adopted as rules the Commission for Health Services as authorized by G.S.  
11 110-91(1), and to submit written reports on such visits or inspections to the ~~Department~~  
12 ~~on forms approved and provided by the Department~~Department of Human Resources on  
13 forms approved and provided by the Department of Environment, Health, and Natural  
14 Resources.

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

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

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

28 **"§ 113-8. Powers and duties of the ~~Department of Natural Resources and~~**  
29 **~~Community Development~~ Department.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34       "**§ 113-14.3. Publications.**

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

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

41       "**§ 113-16. Cooperation with agencies of the federal government.**

42       The Department of ~~Natural Resources and Community Development~~ is authorized to  
43 arrange for and accept such aid and cooperation from the several United States

1 government bureaus and other sources as may assist in completing topographic surveys  
2 and in carrying out the other objects of the Department.

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

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

11 **"§ 113-17. Agreements, negotiations and conferences with federal government.**

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

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

21 **"§ 113-18. Department authorized to receive funds from Federal Power**  
22 **Commission.**

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

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

31 **"§ 113-19. Cooperation with other State departments.**

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

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

43 **"§ 113-20. Cooperation with counties and municipal corporations.**

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

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

9       **"§ 113-21. Cooperation of counties with State in making water resource survey.**

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

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

17       **"§ 113-22. Control of State forests.**

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

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

22       **"§ 113-23. Control of Mount Mitchell Park and other State parks. parks in the**  
23       **North Carolina State Parks System.**

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

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

29       **"§ 113-26.1. Bureau of Mines; mineral museum.**

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

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

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

1 **"§ 113-28. Reimbursement of government for expense of emergency conservation**  
2 **work.**

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

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

30 **"§ 113-28.1. Designated employees commissioned special peace officers by**  
31 **Governor.**

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

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

42 **"§ 113-28.2. Powers of arrest.**

43 Any employee of the Department of ~~Natural Resources and Community~~  
44 ~~Development~~ Environment, Health, and Natural Resources commissioned as a special

1 peace officer shall have the right to arrest with warrant any person violating any law, ~~or~~  
2 ~~rule or regulation~~ on or relating to the State parks, lakes, reservations and other lands or  
3 waters under the control or supervision of the Department of ~~Natural Resources and~~  
4 ~~Community Development~~ Environment, Health, and Natural Resources, and shall have  
5 the power to pursue and arrest without warrant any person violating in his presence any  
6 law, ~~or rule or regulation~~ on or relating to said parks, lakes, reservations and other lands  
7 or waters under the control or supervision of the Department of ~~Natural Resources and~~  
8 ~~Community Development~~ Environment, Health, and Natural Resources."

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

10 **"§ 113-28.23. Designation of administering agency powers and responsibilities.**

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

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

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

19 **"§ 113-29. Policy and plan to be inaugurated by Department of ~~Natural Resources~~**  
20 **~~and Community Development~~ Environment, Health, and Natural**  
21 **Resources.**

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

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

- 30 (1) The extension of the forest fire prevention organization to all counties  
31 in the State needing such protection.
- 32 (2) To cooperate with federal and other public agencies in the restoration  
33 of forest growth on land unwisely cleared and subsequently neglected.
- 34 (3) To furnish trained and experienced experts in forest management, to  
35 inspect private forestlands and to advise with forest landowners with a  
36 view to the general observance of recognized and practical rules of  
37 growing, cutting and marketing timber. The services of such trained  
38 experts of the Department must naturally be restricted to those  
39 landowners who agree to carry out so far as possible the  
40 recommendations of said Department.
- 41 (4) To prepare and distribute printed and other material for the use of  
42 teachers and club leaders and to provide instruction to schools and  
43 clubs and other groups of citizens in order to train the younger  
44 generation in the principles of wise use of our forest resources.

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

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

7 **"§ 113-29.1. Growing of timber on unused State lands authorized.**

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

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

25 **"§ 113-30. Use of lands acquired by counties through tax foreclosures as**  
26 **demonstration forests.**

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

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

34 **"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.**

35 In the carrying out of the provisions of G.S. 113-30, the several boards of county  
36 commissioners shall furnish forthwith on written request of the Department of ~~Natural~~  
37 ~~Resources and Community Development~~ a complete list of all properties acquired by  
38 the county under tax sale and which have remained unredeemed for a period of two  
39 years or more. On receipt of this list the Secretary of ~~the Department of Natural~~  
40 ~~Resources and Community Development~~ shall have the lands examined and if any one  
41 or more of these properties is in his judgment suitable for the purposes set forth in G.S.  
42 113-30, request shall be made to the county commissioners for the acquisition of such  
43 land by the Department at a price not to exceed the actual amount of taxes due without  
44 penalties. On receipt of this request the county commissioners shall make permanent

1 transfer of such tract or tracts of land to the Department through fee-simple deed or  
2 other legal transfer, said deed to be approved by the Attorney General of North  
3 Carolina, and shall then receive payment from the Department as above outlined."

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

5 **"§ 113-32. Purchase of lands for use as demonstration forests.**

6 Where no suitable tax-delinquent lands are available and in the judgment of the  
7 Department of Natural Resources and Community Development the establishment of a  
8 demonstration forest is advisable, the Department may purchase sufficient land for the  
9 establishment of such a demonstration forest at a fair and agreed-upon price, the deed  
10 for such land to be subject to approval of the Attorney General, but nothing in G.S. 113-  
11 29 to 113-33 shall allow the Department of Natural Resources and Community  
12 Development to acquire land under the right of eminent domain."

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

14 **"§ 113-34. Power to acquire lands as State forests, parks, etc.; donations or leases  
15 by United States; leases for recreational purposes; rules governing public  
16 use.**

17 (a) The Governor of the State is authorized upon recommendation of the  
18 Department of Natural Resources and Community Development to accept gifts of land  
19 to the State, the same to be held, protected, and administered by said Department of  
20 Natural Resources and Community Development as State forests, and to be used so as  
21 to demonstrate the practical utility of timber culture and water conservation, and as  
22 refuges for game. Such gifts must be absolute except in such cases as where the mineral  
23 interest on the land has previously been sold. The State Department of Natural  
24 Resources and Community Development shall have the power to purchase lands in the  
25 name of the State, suitable chiefly for the production of timber, as State forests, for  
26 experimental, demonstration, educational, park, and protection purposes, using for such  
27 purposes any special appropriations or funds available. The State Department of  
28 Natural Resources and Community Development shall also have the power to acquire  
29 by condemnation under the provisions of Chapter 40, such areas of land in different  
30 sections of the State as may in the opinion of the Department of Natural Resources and  
31 Community Development be necessary for the purpose of establishing and/or  
32 developing State forests, State parks and other areas and developments essential to the  
33 effective operation of the State forestry and State park activities with which the  
34 Department of Natural Resources and Community Development has been or may be  
35 entrusted. Such condemnation proceedings shall be instituted and prosecuted in the  
36 name of the State of North Carolina, and any property so acquired shall be administered,  
37 developed and used for experiment and demonstration in forest management, for public  
38 recreation and for such other purposes authorized or required by law: Provided, that  
39 before any action or proceeding under this section can be exercised, the approval of the  
40 Governor and Council of State shall be obtained and filed with the clerk of the superior  
41 court in the county or counties where such property may be situate, and until such  
42 approval is obtained, the rights and powers conferred by this section shall not be  
43 exercised. The Attorney General of the State is directed to see that all deeds to the State

1 for land mentioned in this section are properly executed before the gift is accepted or  
2 payment of the purchase money is made.

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

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

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

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

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

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

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

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

42 "**§ 113-35. State timber may be sold by Department of Natural Resources and**  
43 **~~Community Development~~Environment, Health, and Natural Resources;**

1           **forest nurseries; control over parks, etc.; operation of public service**  
2           **facilities; concessions to private concerns.**

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

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

- 27           (1) The erection, maintenance and use of docks, piers and such other  
28 structures as may be permitted in or on State lakes under its own  
29 ~~regulations; rules;~~  
30           (2) Hunting privileges on State forests and fishing privileges in State  
31 forests, State parks and State lakes, provided that such privileges shall  
32 be extended only to holders of bona fide North Carolina hunting and  
33 fishing licenses, and provided further that all State game and fish laws  
34 are complied with.

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

39           (d) The Department may also grant to private individuals or companies  
40 concessions for operation of public service facilities for such periods and upon such  
41 conditions as the Department ~~of Natural Resources and Community Development~~ shall  
42 deem to be in the public interest. The department may make reasonable rules for the  
43 ~~regulations [regulation]—regulation~~ of the use by the public of the public service  
44 facilities and conveniences herein authorized, which rules shall have the force and effect

1 of law, and any violation of such rules shall constitute a misdemeanor and shall be  
2 punishable by a fine of not more than fifty dollars (\$50.00) or by imprisonment for not  
3 exceeding 30 days."

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

5 **"§ 113-35.1. Uniforms for seasonal park employees.**

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

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

13 **"§ 113-36. Applications of proceeds from sale of products.**

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

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

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

33 **"§ 113-40. Donations of property for forestry or park purposes; agreements with**  
34 **federal government or agencies for acquisition.**

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

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

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

- 1 (1) Designed to assure the continuous growing and harvesting of forest  
 2 tree species and to protect the soil, air, and water resources, including  
 3 but not limited to streams, lakes, and estuaries;  
 4 (2) Designed to coordinate activities among State agencies that are  
 5 concerned with the forest environment;  
 6 (3) Designed to develop programs to deal with emerging forestry  
 7 problems, including but not limited to forest taxation, forest incentives,  
 8 and forest practices;  
 9 (4) Designed to keep the General Assembly fully informed concerning  
 10 forestry and its related problems and needs; and  
 11 (5) Designed to develop needed legislation to further the purposes of this  
 12 Article."

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

14 **"§ 113-51. Powers of Department of Natural Resources and Community**  
 15 **Development Environment, Health, and Natural Resources.**

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

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

- 23 (1) 'Department' means the Department of Environment, Health, and  
 24 Natural Resources.  
 25 (2) 'Secretary' means the Secretary of Environment, Health, and Natural  
 26 Resources."

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

28 **"§ 113-52. Forest rangers.**

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

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

34 **"§ 113-54. Duties of forest rangers; payment of expenses by State and counties.**

35 Forest rangers shall have charge of measures for controlling forest fires, protection  
 36 of forests from pests and diseases, and the development and improvement of the forests  
 37 for maximum production of forest products; shall post along highways and in other  
 38 conspicuous places copies of the forest fire laws and warnings against fires, which shall  
 39 be supplied by the ~~Secretary of Natural Resources and Community Development~~; shall  
 40 patrol and man lookout towers and other points during dry and dangerous seasons under  
 41 the direction of the ~~Secretary of Natural Resources and Community Development~~, and  
 42 shall perform such other acts and duties as shall be considered necessary by the  
 43 ~~Secretary of Natural Resources and Community Development~~ in the protection,  
 44 development and improvement of the forested area of each of the counties within the

1 State. No county may be held liable for any part of the expenses thus incurred unless  
2 specifically authorized by the board of county commissioners under prior written  
3 agreement with the Secretary of Natural Resources and Community Development;  
4 appropriations for meeting the county's share of such expenses so authorized by the  
5 board of county commissioners shall be provided annually in the county budget. For  
6 each county in which financial participation by the county is authorized, the Secretary  
7 of Natural Resources and Community Development shall keep or cause to be kept an  
8 itemized account of all expenses thus incurred and shall send such accounts periodically  
9 to the board of county commissioners of said county; upon approval by the board of the  
10 correctness of such accounts, the county commissioners shall issue or cause to be issued  
11 a warrant on the county treasury for the payment of the county's share of such  
12 expenditures, said payment to be made within one month after receipt of such statement  
13 from the Secretary of Natural Resources and Community Development. Appropriations  
14 made by a county for the purposes set out in Articles 4, 4A, 4C and 6A of this Chapter  
15 in the cooperative forest protection, development and improvement work are not to  
16 replace State and federal funds which may be available to the Secretary of Natural  
17 Resources and Community Development for the work in said county, but are to serve as  
18 a supplement thereto. The funds appropriated to the Department of Natural Resources  
19 and Community Development in the biennial budget appropriation act for the purposes  
20 set out in Articles 4, 4A, 4C and 6A of this Chapter shall not be expended in a county  
21 unless that county shall contribute at least twenty-five percent (25%) of the total cost of  
22 the forestry program."

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

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

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

40 "**§ 113-55.1. Powers of forest law-enforcement officers.**

41 The Secretary of the Department of Natural Resources and Community  
42 Development is authorized to appoint as many forest law-enforcement officers as he  
43 deems necessary to carry out the forest law-enforcement responsibilities of the  
44 Department of Natural Resources and Community Development. Forest law-

1 enforcement officers shall have all the powers and the duties of a forest ranger  
2 enumerated in G.S. 113-54 and 113-55. Forest law-enforcement officers shall, in  
3 addition to their other duties, have the powers of peace officers to enforce the forest  
4 laws. Any forest law-enforcement officer may arrest, without warrant, any person or  
5 persons committing any crime in his presence or whom such officer has probable cause  
6 for believing has committed a crime in his presence and bring such person or persons  
7 forthwith before a district court or other officer having jurisdiction. Forest law-  
8 enforcement officers shall also have authority to obtain and serve warrants including  
9 warrants for violation of any duly promulgated ~~regulation~~ rule of the Department of  
10 ~~Natural Resources and Community Development.~~"

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

12 **"§ 113-56. Compensation of forest rangers.**

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

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

30 **"§ 113-56.1. Overtime compensation for forest fire fighting.**

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

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

36 **"§ 113-58. Misdemeanor to destroy posted forestry notice.**

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

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

1 **"§ 113-59. Cooperation between counties and State in forest protection and**  
2 **development.**

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

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

9 **"§ 113-60. Instructions on forest preservation and development.**

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

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

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

29 **"§ 113-60.1. Authority of Governor to close forests and woodlands to hunting,**  
30 **fishing and trapping.**

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

- 36 (1) Close any or all of the woodlands and inland waters of the State to  
37 hunting, fishing and trapping for the period of the emergency.
- 38 (2) Forbid for the period of the emergency the building of campfires and  
39 the burning of brush, grass or other debris within 500 feet of any  
40 woodland in any county, counties, or parts thereof.
- 41 (3) Close for the period of the emergency any or all of the woodlands of  
42 the State to such other persons and activities as he deems proper under  
43 the circumstances, except to the owners or tenants of such property  
44 and their agents and employees, or persons holding written permission

1 from any owner or his recognized agent to enter thereon for any lawful  
2 purpose other than hunting, fishing or trapping."

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

4 **"§ 113-60.2. Publication of proclamation; annulment thereof.**

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

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

13 **"§ 113-60.4. Purpose and intent.**

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

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

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

24 **"§ 113-60.5. Authority of the ~~Department of Natural Resources and Community~~**  
25 **~~Development.~~ Department.**

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

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

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

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

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

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

42 **"§ 113-60.7. Action against insects and diseases.**

43 Whenever the Secretary of ~~Natural Resources and Community Development~~, or his  
44 agent, determines that there exists an infestation of forest insect pests or an infection of

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

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

12 **"§ 113-60.8. Authority of Secretary of ~~Natural Resources and Community~~**  
13 **~~Development~~ and his agents to go upon private land within control zones.**

14 The Secretary of ~~Natural Resources and Community Development~~ or his agents  
15 shall have the power to go upon the land within any zone of infestation or infection and  
16 take measures to control, suppress or eradicate the insect, infestation or disease  
17 infection. If any person refuses to allow the Secretary of ~~Natural Resources and~~  
18 ~~Community Development~~ or his agents to go upon his land, or if any person refuses to  
19 adopt adequate means to control or eradicate the insect, infestation or disease infection,  
20 the Secretary of ~~Natural Resources and Community Development~~ may apply to the  
21 superior court of the county in which the land is located for an injunction or other  
22 appropriate remedy to restrain the landowner from interfering with the Secretary of  
23 ~~Natural Resources and Community Development~~ or his agents in entering the control  
24 zone and adopting measures to control, suppress or eradicate the insect infestation or  
25 disease infection, provided the cost of court or control thereof shall not be a liability  
26 against the forest landowner nor constitute a lien upon the real property of such infested  
27 area."

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

29 **"§ 113-60.9. Cooperative agreements.**

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

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

35 **"§ 113-60.10. Annulment of control zone.**

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

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

43 **"§ 113-61. Private limited dividend corporations may be formed.**

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

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

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

13 **"§ 113-62. Manner of organizing.**

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

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

26 **"§ 113-63. Directors.**

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

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

31 **"§ 113-64. Duties of supervision by Secretary of Natural Resources and  
32 Community Development Environment, Health, and Natural Resources.**

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

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

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

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

18      **"§ 113-65. Powers of Secretary.**

19          The Secretary of Natural Resources and Community Development may:

- 20          (1) Examine at any time all books, contracts, records, documents and  
21          papers of any such corporation.
- 22          (2) In his discretion prescribe uniform methods and forms of keeping  
23          accounts, records and books to be observed by such corporation, and  
24          prescribe by order accounts in which particular outlays and receipts are  
25          to be entered, charged or credited. The Secretary of Natural Resources  
26          and Community Development shall not, however, have authority to  
27          require any revaluation of the real property or other fixed assets of  
28          such corporations, but he shall allow proper charges for the depletion  
29          of timber due to cutting or destruction.
- 30          (3) Enforce the provisions of this Article, a rule implementing this Article,  
31          or an order issued under this Article by filing a petition for a writ of  
32          mandamus or application for an injunction in the superior court of the  
33          county in which the respondent corporation has its principal place of  
34          business. The final judgment in any such proceeding shall either  
35          dismiss the proceeding or direct that a writ of mandamus or an  
36          injunction, or both, issue as prayed for in the petition or in such  
37          modified or other form as the court may determine will afford  
38          appropriate relief."

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

40      **"§ 113-66. Provision for appeal by corporations to Governor.**

41          If any corporation organized under this Article is dissatisfied with or aggrieved at  
42          any ~~regulation~~, rule or order imposed upon it by the Secretary of Natural Resources and  
43          Community Development, or any valuation or appraisal of any of its property made by  
44          the Secretary of Natural Resources and Community Development, or any failure of or

1 refusal by the Secretary of Natural Resources and Community Development to approve  
2 of or consent to any action which it can take only with such approval or consent, it may  
3 appeal to the Governor by filing with him a claim of appeal upon which the decision of  
4 the Governor shall be final. Such determination, if other than a dismissal of the appeal,  
5 shall be set forth by the Governor in a written mandate to the Secretary of Natural  
6 Resources and Community Development, who shall abide thereby and take such actions  
7 as the same may direct."

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

9 **"§ 113-68. Issuance of securities restricted.**

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

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

17 **"§ 113-70. Earnings above dividend requirements payable to State.**

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

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

28 **"§ 113-71. Dissolution of corporation.**

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

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

36 **"§ 113-72. Cutting and sale of timber.**

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

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

2   **"§ 113-73. Corporation may not sell or convey without consent of Secretary, or pay**  
3   **higher interest rate than 6%.**

4   No such corporation shall:

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

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

21   **"§ 113-74. Power to borrow money limited.**

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

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

33   **"§ 113-75. Secretary to approve development of forests.**

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

- 37           (1)   The Secretary of ~~Natural Resources and Community Development~~  
38                shall have received a statement duly executed and acknowledged on  
39                behalf of the corporation proposing such project, in such adequate  
40                detail as the Secretary of ~~Natural Resources and Community~~  
41                ~~Development~~ shall require of the activities to be included in the  
42                project, such statement to set forth the proposals as to  
43                a.    Fire prevention and protection,  
44                b.    Protection against insects and tree diseases,

- 1 c. Protection against damage by livestock and game,  
 2 d. Means, methods and rate of, and restrictions upon, cutting and  
 3 other utilization of the forests, and  
 4 e. Planting and spacing of trees.

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

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

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

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

23 **"§ 113-76. Application of corporate income.**

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

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

33 **"§ 113-77. Reorganization of corporations.**

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

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

39 **"§ 113-81.1. Authority to render scientific forestry services.**

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

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

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

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

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

21 "**§ 113-81.2. Services under direction of Secretary ~~of Natural Resources and~~**  
22 **~~Community Development; compensation; when services without charge.~~**

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

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

42       (c) In those cases where the Secretary ~~of Natural Resources and Community~~  
43 ~~Development~~ deems it desirable to so designate and measure or estimate trees without  
44 charge, such services shall be given for the purpose of encouraging the use of approved

1 scientific forestry principles on the private or other forestlands within the State, and to  
2 establish practical demonstrations of said principles."

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

4 **"§ 113-81.3. Deposit of receipts with State treasury.**

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

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

10 **"§ 113-151.1. License agents.**

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

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

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

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

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

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

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

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

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

10 **"§ 113-204. Propagation of shellfish.**

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

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

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

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

1 **"§ 113-207. Clamming on posted oyster rocks forbidden; penalty.**

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

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

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

15 **"§ 113-223. Reciprocal agreements by Department of Natural Resources and**  
16 **Community Development generally.**

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

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

26 **"§ 113-224. Cooperative agreements by Department of Natural Resources and**  
27 **Community Development.**

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

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

37 **"§ 113-226. Administrative authority of Department of Natural Resources and**  
38 **Community Development; administration of funds; delegation of powers.**

39 (a) In the overall best interests of the conservation of marine and estuarine  
40 resources, the Department ~~of Natural Resources and Community Development~~ may  
41 lease or purchase lands, equipment, and other property; accept gifts and grants on behalf  
42 of the State; establish boating and fishing access areas; establish fisheries, fishery  
43 processing or storage plants, planted seafood beds, fish farms, and other enterprises  
44 related to the conservation of marine and estuarine resources as research or

1 demonstration projects either alone or in cooperation with some individual or agency;  
2 sell the catch or processed fish or other marine and estuarine resources resulting from  
3 research fishing operations or demonstration projects; provide matching funds for  
4 entering into projects with some other governmental agency or with some scientific,  
5 educational, or charitable foundation or institution; condemn lands in accordance with  
6 the provisions of Chapter 40A of the General Statutes and other governing provisions of  
7 law; and sell, lease, or give away property acquired by it. Provided, that any private  
8 person selected to receive gifts or benefits by the Department be selected:

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

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

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

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

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

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

36 **"§ 113-229. Permits to dredge or fill in or about estuarine waters or state-owned**  
37 **lakes.**

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

1 coordinate projects pertaining to navigation with the United States Army Corps of  
2 Engineers.

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

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

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

- 17 (1) The size of the development;
- 18 (2) The impact of the development on areas of environmental concern;
- 19 (3) How often the class of development is carried out;
- 20 (4) The need for on-site oversight of the development; and
- 21 (5) The need for public review and comment on individual development  
22 projects.

23 General permits may be issued by the Commission as rules under the provisions of G.S.  
24 113A-107. Individual development carried out under the provisions of general permits  
25 shall not be subject to the mandatory notice provisions of this section. The Commission  
26 may impose reasonable notice provisions and other appropriate conditions and  
27 safeguards on any general permit it issues. The variance, appeals, and enforcement  
28 provisions of this Article shall apply to any individual development projects undertaken  
29 under a general permit.

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

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

32 (e1) The Secretary of the Department of Natural Resources and Community  
33 Development is empowered to issue special emergency dredge or fill permits upon  
34 application. Emergency permits may be issued only when life or structural property is  
35 in imminent danger as a result of rapid recent erosion or sudden failure of a man-made  
36 structure. The Coastal Resources Commission may elaborate by rule upon what  
37 conditions the Secretary may issue a special emergency dredge or fill permit. The  
38 Secretary may condition the emergency permit upon any reasonable conditions,  
39 consistent with the emergency situation, he feels are necessary to reasonably protect the  
40 public interest. Where an application for a special emergency permit includes work  
41 beyond which the Secretary, in his discretion, feels necessary to reduce imminent  
42 dangers to life or property he shall issue the emergency permit only for that part of the  
43 proposed work necessary to reasonably reduce the imminent danger. All further work  
44 must be applied for by application for an ordinary dredge or fill permit. The Secretary

1 shall deny an application for a special dredge or fill permit upon a finding that the  
2 detriment to the public which would occur on issuance of the permit measured by the  
3 five factors in G.S. 113-229(e) clearly outweighs the detriment to the applicant if such  
4 permit application should be denied.

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

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

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

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

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

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

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

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

1 ~~130-209~~ G.S. 130A-349. Provided, further, this section shall not impair the riparian  
2 right of ingress and egress to navigable waters.

3 (n) Within the meaning of this section:

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

5 (2) 'Estuarine waters' means all the waters of the Atlantic Ocean within  
6 the boundary of North Carolina and all the waters of the bays, sounds,  
7 rivers, and tributaries thereto seaward of the dividing line between  
8 coastal fishing waters and inland fishing waters agreed upon by the  
9 Department of Natural Resources and Community Development and  
10 the Wildlife Resources Commission, within the meaning of G.S. 113-  
11 129.

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

24 Sec. 108. G.S. 113-230 reads as rewritten: ♦ \*♦

25 **"§ 113-230. Orders to control activities in coastal wetlands.**

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

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

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

1 copy of such order and plan to each owner or claimed owner of such lands affected  
2 thereby.

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

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

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

23 (g) After a finding has been entered that such order shall not apply to certain land  
24 as provided in the preceding subsection, the Department of Administration, upon the  
25 request of the Coastal Resources Commission, shall take the fee or any lesser interest in  
26 such land in the name of the State by eminent domain under the provisions of Chapter  
27 146 of the General Statutes and hold the same for the purposes set forth in this section.

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

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

32 "**§ 113-251. Definition of terms.**

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

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

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

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

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

2   "**§ 113-254. North Carolina members of Commission.**

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

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

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

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

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

41       "(e) The Department may, either before or after the institution of any other action  
42 or proceeding authorized by this section, institute a civil action for injunctive relief to  
43 restrain a violation or threatened violation of subsections (a), (b), or (c) of this section  
44 pursuant to G.S. 113-131. The action shall be brought in the superior court of the

1 county in which the violation or threatened violation is occurring or about to occur and  
2 shall be in the name of the State upon the relation of the Secretary of ~~Natural Resources~~  
3 ~~and Community Development~~. The court, in issuing any final order in any action  
4 brought pursuant to this subsection may, in its discretion, award costs of litigation  
5 including reasonable attorney and expert-witness fees to any party."

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

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

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

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

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

18 **"§ 113-315.9. Bond of financial officer; audit.**

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

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

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

39 **"§ 113-315.18. Fishermen's Economic Development Program.**

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

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

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

13 **"§ 113-316. General statement of purpose and effect of revisions of Subchapter IV**  
14 **made in 1965 and 1979.**

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

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

29 **"§ 113-378. Persons drilling for oil or gas to register and furnish bond.**

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

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

42 **"§ 113-379. Filing log of drilling and development of each well.**

43 Upon the completion or shutting down of any abandoned well, the drilling operator  
44 shall file with the Department of ~~Natural Resources and Community Development~~ or

1 other State agency, or with any division thereof hereinafter created for the regulation of  
2 drilling for oil or natural gas, a complete log of the drilling and development of each  
3 well."

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

5 "**§ 113-391. Jurisdiction and authority of Department of Natural Resources and**  
6 **Community Development; rules and orders.**

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

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

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

- 21 (1) To require the drilling, operation, casing and plugging of wells to be  
22 done in such manner as to prevent the escape of oil or gas out of one  
23 stratum to another; to prevent the intrusion of water into an oil or gas  
24 stratum from a separate stratum; to prevent the pollution of freshwater  
25 supplies by oil, gas or salt water, or to protect the quality of the water,  
26 air, soil or any other environmental resource against injury or damage  
27 or impairment; and to require reasonable bond condition for the  
28 performance of the duty to plug each dry or abandoned well.
- 29 (2) To require directional surveys upon application of any owner who has  
30 reason to believe that a well or wells of others has or have been drilled  
31 into the lands owned by him or held by him under lease. In the event  
32 such surveys are required, the costs thereof shall be borne by the  
33 owners making the request.
- 34 (3) To require the making of reports showing the location of oil and gas  
35 wells, and the filing of logs and drilling records.
- 36 (4) To prevent the drowning by water of any stratum or part thereof  
37 capable of producing oil or gas in paying quantities, and to prevent the  
38 premature and irregular encroachment of water which reduces, or  
39 tends to reduce, the total ultimate recovery of oil or gas from any pool.
- 40 (5) To require the operation of wells with efficient gas-oil ratios, and to fix  
41 such ratios.
- 42 (6) To prevent 'blow-outs,' 'caving' and 'seepage' in the sense that  
43 conditions indicated by such terms are generally understood in the oil  
44 and gas business.

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

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

24 **"§ 113-415. Conflicting laws.**

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

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

33 **"§ 113A-33. Definitions.**

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

- 35 (1) 'Department' means the Department of ~~Natural Resources and~~  
36 ~~Community Development~~Environment, Health, and Natural  
37 Resources.
- 38 (2) 'Free-flowing,' as applied to any river or section of a river, means  
39 existing or flowing in natural condition without substantial  
40 impoundment, diversion, straightening, rip-rapping, or other  
41 modification of the waterway. The existence of low dams, diversion  
42 works, and other minor structures at the time any river is proposed for  
43 inclusion in the North Carolina natural and scenic rivers system shall  
44 not automatically bar its consideration for such inclusion: Provided,

1 that this shall not be construed to authorize, intend, or encourage future  
2 construction of such structures within components of the system.

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

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

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

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

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

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

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

23 **"§ 113A-42. Violations.**

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

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

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

35 **"§ 113A-77. Expenditures authorized.**

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

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

40 **"§ 113A-103. Definitions.**

41 As used in this Article:

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

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

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

- 34           a. On the Chowan River, its confluence with the Meherrin River;
- 35           b. On the Roanoke River, its confluence with the northeast branch  
36           of the Cashie River;
- 37           c. On the Tar River, its confluence with Tranters Creek;
- 38           d. On the Neuse River, its confluence with Swift Creek;
- 39           e. On the Trent River, its confluence with Ready Branch.

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

- 1 (4) 'Commission' means the Coastal Resources Commission created by  
2 G.S. 113A-104.
- 3 (4a) 'Department' means the Department of Environment, Health, and  
4 Natural Resources.
- 5 (5) a. 'Development' means any activity in a duly designated area of  
6 environmental concern (except as provided in paragraph b of this  
7 subdivision) involving, requiring, or consisting of the construction or  
8 enlargement of a structure; excavation; dredging; filling; dumping;  
9 removal of clay, silt, sand, gravel or minerals; bulkheading, driving of  
10 pilings; clearing or alteration of land as an adjunct of construction;  
11 alteration or removal of sand dunes; alteration of the shore, bank, or  
12 bottom of the Atlantic Ocean or any sound, bay, river, creek, stream,  
13 lake, or canal.
- 14 b. The following activities including the normal and incidental  
15 operations associated therewith shall not be deemed to be  
16 development under this section:
- 17 1. Work by a highway or road agency for the maintenance  
18 of an existing road, if the work is carried out on land  
19 within the boundaries of the existing right-of-way;
  - 20 2. Work by any railroad company or by any utility and  
21 other persons engaged in the distribution and  
22 transmission of petroleum products, water, telephone or  
23 telegraph messages, or electricity for the purpose of  
24 inspecting, repairing, maintaining, or upgrading any  
25 existing substations, sewers, mains, pipes, cables, utility  
26 tunnels, lines, towers, poles, tracks, and the like on any  
27 of its existing railroad or utility property or rights-of-  
28 way, or the extension of any of the above distribution-  
29 related facilities to serve development approved pursuant  
30 to G.S. 113A-121 or 113A-122;
  - 31 3. Work by any utility and other persons for the purpose of  
32 construction of facilities for the development,  
33 generation, and transmission of energy to the extent that  
34 such activities are regulated by other law or by present or  
35 future rules of the State Utilities Commission regulating  
36 the siting of such facilities (including environmental  
37 aspects of such siting), and work on facilities used  
38 directly in connection with the above facilities;
  - 39 4. The use of any land for the purposes of planting,  
40 growing, or harvesting plants, crops, trees, or other  
41 agricultural or forestry products, including normal  
42 private road construction, raising livestock or poultry, or  
43 for other agricultural purposes except where excavation

- 1 or filling affecting estuarine waters (as defined in G.S.  
2 113-229) or navigable waters is involved;
- 3 5. Maintenance or repairs (excluding replacement)  
4 necessary to repair damage to structures caused by the  
5 elements or to prevent damage to imminently threatened  
6 structures by the creation of protective sand dunes.
- 7 6. The construction of any accessory building customarily  
8 incident to an existing structure if the work does not  
9 involve filling, excavation, or the alteration of any sand  
10 dune or beach;
- 11 7. Completion of any development, not otherwise in  
12 violation of law, for which a valid building or zoning  
13 permit was issued prior to ratification of this Article and  
14 which development was initiated prior to the ratification  
15 of this Article;
- 16 8. Completion of installation of any utilities or roads or  
17 related facilities not otherwise in violation of law, within  
18 a subdivision that was duly approved and recorded prior  
19 to the ratification of this Article and which installation  
20 was initiated prior to the ratification of this Article;
- 21 9. Construction or installation of any development, not  
22 otherwise in violation of law, for which an application  
23 for a building or zoning permit was pending prior to the  
24 ratification of this Article and for which a loan  
25 commitment (evidenced by a notarized document signed  
26 by both parties) had been made prior to the ratification of  
27 this Article; provided, said building or zoning  
28 application is granted by July 1, 1974;
- 29 10. It is the intention of the General Assembly that if the  
30 provisions of any of the foregoing subparagraphs 1 to 10  
31 of this paragraph are held invalid as a grant of an  
32 exclusive or separate emolument or privilege or as a  
33 denial of the equal protection of the laws, within the  
34 meaning of Article I, Secs. 19 and 32 of the North  
35 Carolina Constitution, the remainder of this Article shall  
36 be given effect without the invalid provision or  
37 provisions.
- 38 c. The Commission shall define by rule (and may revise from time  
39 to time) certain classes of minor maintenance and  
40 improvements which shall be exempted from the permit  
41 requirements of this Article, in addition to the exclusions set  
42 forth in paragraph b of this subdivision. In developing such  
43 rules the Commission shall consider, with regard to the class or  
44 classes of units to be exempted:

- 1                                   1.     The size of the improved or scope of the maintenance  
2                                   work;  
3                                   2.     The location of the improvement or work in proximity to  
4                                   dunes, waters, marshlands, areas of high seismic activity,  
5                                   areas of unstable soils or geologic formations, and areas  
6                                   enumerated in G.S. 113A-113(b)(3); and  
7                                   3.     Whether or nor dredging or filling is involved in the  
8                                   maintenance or improvement.
- 9                   (6)   'Key facilities' include the site location and the location of major  
10                   improvement and major access features of key facilities, and mean:  
11                   a.    Public facilities, as determined by the Commission, on  
12                   nonfederal lands which tend to induce development and  
13                   urbanization of more than local impact, including but not  
14                   limited to:  
15                   1.    Any major airport designed to serve as a terminal for  
16                   regularly scheduled air passenger service or one of State  
17                   concern;  
18                   2.    Major interchanges between the interstate highway  
19                   system and frontage-access streets or highways; major  
20                   interchanges between other limited-access highways and  
21                   frontage-access streets or highways;  
22                   3.    Major frontage-access streets and highways, both of  
23                   State concern; and  
24                   4.    Major recreational lands and facilities;  
25                   b.    Major facilities on nonfederal lands for the development,  
26                   generation, and transmission of energy.
- 27                   (7)   'Lead regional organizations' means the regional planning agencies  
28                   created by and representative of the local governments of a multi-  
29                   county region, and designated as lead regional organizations by the  
30                   Governor.
- 31                   (8)   'Local government' means the governing body of any county or city  
32                   which contains within its boundaries any lands or waters subject to this  
33                   Article.
- 34                   (9)   'Person' means any individual, citizen, partnership, corporation,  
35                   association, organization, business trust, estate, trust, public or  
36                   municipal corporation, or agency of the State or local government unit,  
37                   or any other legal entity however designated.
- 38                   (10)  Repealed by Session Laws 1987, c. 827, s. 133.
- 39                   (11)  'Secretary' means the Secretary of Environment, Health, and Natural  
40                   Resources, except where otherwise specified in this Article."

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

42   "**§ 113A-105. Coastal Resources Advisory Council.**

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

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

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

6 (1a) The Secretary of the Department of Commerce or his designee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           Sec. 128. G.S. 113A-113(b) as amended by Section 1 of Chapter 217 of the  
2 1989 Session Laws reads as rewritten:

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

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

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

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

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

23           b. Capacity use areas that have been declared by the  
24 Environmental Management Commission pursuant to G.S. 143-  
25 215.13(c) and areas wherein said Environmental Management  
26 Commission (pursuant to G.S. 143-215.3(d) or G.S. 143-  
27 215.3(a)(8)) has determined that a generalized condition of  
28 water depletion or water or air pollution exists;

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

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

38           a. Existing national or State parks or forests, wilderness areas, the  
39 State Nature and Historic Preserve, or public recreation areas;  
40 existing sites that have been acquired for any of the same, as  
41 identified by the ~~Secretary of Natural Resources and~~  
42 Community Development; Secretary; and proposed sites for any  
43 of the same, as identified by the ~~Secretary of Natural Resources~~  
44 and Community Development, Secretary, provided that the

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

- 1           b.     Ocean and estuarine beaches and the shoreline of estuarine and  
2           public trust waters;  
3           c.     Floodways and floodplains;  
4           d.     Areas where geologic and soil conditions are such that there is a  
5           substantial possibility of excessive erosion or seismic activity,  
6           as identified by the State Geologist;  
7           e.     Areas with a significant potential for air inversions, as  
8           identified by the Environmental Management Commission.

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

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

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

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

23    "**§ 113A-116. Local government letter of intent.**

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

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

37        "(a)    The Secretary of ~~Natural Resources and Community Development~~ shall  
38        develop and present to the Commission for consideration and to all cities and counties  
39        and lead regional organizations within the coastal area for comment a set of criteria for  
40        local implementation and enforcement programs. In the preparation of such criteria, the  
41        Secretary shall emphasize the necessity for the expeditious processing of permit  
42        applications. Said criteria may contain recommendations and guidelines as to the  
43        procedures to be followed in developing local implementation and enforcement  
44        programs, the scope and coverage of said programs, minimum standards to be

1 prescribed in said programs, staffing of permit-letting agencies, permit-letting  
2 procedures, and priorities of regional or statewide concern. Within 20 months after July  
3 1, 1974, the Commission shall adopt and transmit said criteria (with any revisions) to  
4 each coastal-area county and city that has filed an applicable letter of intent, for its  
5 guidance."

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

7 **"§ 113A-118. Permit required.**

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

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

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

18 (d) Within the meaning of this Part:

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

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

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

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

1 necessary to reduce imminent dangers to life or property, the emergency permit shall be  
2 limited to that development reasonably necessary to reduce the imminent danger; all  
3 further development shall be considered under ordinary permit procedures. This  
4 emergency permit authority of the Secretary shall extend to all development in areas of  
5 environmental concern, whether major or minor development, and the mandatory notice  
6 provisions of G.S. 113A-119(b) shall not apply to these emergency permits. To the  
7 extent feasible, these emergency permits shall be coordinated with any emergency  
8 permits required under G.S. 113-229(e1)."

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

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

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

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

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

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

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

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

13 **"§ 113A-124. Additional powers and duties.**

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

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

41 (b) In order to carry out the provisions of this Article the secretaries of  
42 Administration and of ~~Natural Resources and Community Development~~ Environment,  
43 Health, and Natural Resources may employ such clerical, technical and professional  
44 personnel, and consultants with such qualifications as the Commission may prescribe, in

1 accordance with the State personnel rules and budgetary laws, and are hereby  
2 authorized to pay such personnel from any funds made available to them through grants,  
3 appropriations, or any other sources. In addition, the said secretaries may contract with  
4 any local governmental unit or lead regional organization to carry out the planning  
5 provisions of this Article.

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

- 8 (1) To recommend to the Secretary of ~~Natural Resources and Community~~  
9 ~~Development~~ the acceptance of donations, gifts, grants, contributions  
10 and appropriations from any public or private source to use in carrying  
11 out the provisions of this Article.
- 12 (2) To recommend to the Secretary of Administration the acquisition by  
13 purchase, gift, condemnation, or otherwise, lands or any interest in any  
14 lands within the coastal area.
- 15 (3) To hold such public hearings as the Commission deems appropriate.
- 16 (4) To delegate the power to conduct a hearing, on behalf of the  
17 Commission, to any member of the Commission or to any qualified  
18 employee of the Department of ~~Natural Resources and Community~~  
19 ~~Development~~. Any person to whom a delegation of power is made to  
20 conduct a hearing shall report his recommendations with the evidence  
21 and the record of the hearing to the Commission for decision or action.
- 22 (5) Repealed by Session Laws 1987, c. 827, s. 141.

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

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

28 "**§ 113A-134.2. Creation of program; administration; purpose.**

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

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

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

38 "**§ 113A-134.3. Standards for beach access program.**

39 The Coastal Resources Commission, with the support of the ~~Department of Natural~~  
40 ~~Resources and Community Development, Department,~~ shall establish and carry out a  
41 program to assure the acquisition, improvement and maintenance of a system of public  
42 access to ocean and estuarine water beaches. This beach access program shall include  
43 standards to be adopted by the Commission for the acquisition of property and the use  
44 and maintenance of said property. The standards shall be written to assure that land

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

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

31 "**§ 113A-168. Removal, etc., of unlawful advertising.**

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

1 employees may enter upon private property for the purpose of removing outdoor  
 2 advertising prohibited by this Article or its implementing rules without civil or criminal  
 3 liability."

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

5 **"§ 120-70.42. Membership; cochairmen; vacancies; quorum.**

6 The Environmental Review Commission shall consist of five Senators appointed by  
 7 the President of the ~~Senate and Senate~~, the Chairman of the Senate Committee on  
 8 Environment and Natural Resources, five Representatives appointed by the Speaker of  
 9 the House of ~~Representatives~~ Representatives, and the Chair of the House of  
 10 Representatives Committee on Basic Resources who shall serve at the pleasure of their  
 11 appointing officer. The President of the Senate shall designate one Senator to serve as  
 12 cochairman and the Speaker of the House of Representatives shall designate one  
 13 Representative to serve as cochairman. Any vacancy which occurs on the  
 14 Environmental Review Commission shall be filled in the same manner as the original  
 15 appointment. A quorum of the Environmental Review Commission shall consist of ~~six~~  
 16 seven members."

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

18 "(23) The Governor's Waste Management Board, as established by ~~G.S. 143B-~~  
 19 ~~216.12.~~ G.S. 143B-285.12."

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

21 **"§ 130A-2. Definitions.**

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

- 24 (1) 'Commission' means the Commission for Health Services.
- 25 (2) 'Department' means the Department ~~for Human Resources~~  
 26 Environment, Health, and Natural Resources.
- 27 (3) 'Imminent hazard' means a situation which is likely to cause an  
 28 immediate threat to life or a serious risk of irreparable damage to the  
 29 environment if no immediate action is taken.
- 30 (4) 'Local board of health' means a district board of health or a county  
 31 board of health.
- 32 (5) 'Local health department' means a district health department or a  
 33 county health department.
- 34 (6) 'Local health director' means the administrative head of a local health  
 35 department appointed pursuant to this Chapter.
- 36 (7) 'Person' means an individual, corporation, company, association,  
 37 partnership, unit of local government or other legal entity.
- 38 (8) 'Secretary' means the Secretary of the Department of ~~Human~~  
 39 ~~Resources~~ Environment, Health, and Natural Resources.
- 40 (9) 'Unit of local government' means a county, city, consolidated city-  
 41 county, sanitary district or other local political subdivision, authority  
 42 or agency of local government.

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

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

5 "**§ 130A-231. Agreements between ~~Department of Human Resources and~~  
6 ~~Department of Natural Resources and Community Development~~the State  
7 Health Director and the Division of Marine Fisheries.**

8 Nothing in this Part is intended to limit the authority of the Division of Marine  
9 Fisheries of the Department of Natural Resources and Community Development to  
10 regulate aspects of the harvesting, processing and handling of scallops, shellfish and  
11 crustacea relating to conservation of the fisheries resources of the State. The  
12 ~~Department of Human Resources~~ State Health Director and the ~~Department of Natural~~  
13 ~~Resources and Community Development~~ Division of Marine Fisheries are authorized to  
14 enter into agreements respecting the duties and responsibilities of each agency as to the  
15 harvesting, processing and handling of scallops, shellfish and crustacea."

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

17 "**§ 130A-235. Regulation of sanitation in institutions.**

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

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

35 "**§ 130A-291. Solid Waste Unit in ~~Department of Human Resources.~~**

36 (a) For the purpose of promoting and preserving an environment that is  
37 conducive to public health and welfare, and preventing the creation of nuisances and the  
38 depletion of our natural resources, the ~~Department of Human Resources~~ shall maintain  
39 an appropriate administrative unit to promote sanitary processing, treatment, disposal,  
40 and statewide management of solid waste and the greatest possible recycling and  
41 recovery of resources, and the Department shall employ and retain such qualified  
42 personnel as may be necessary to effect such purposes. It is the purpose and intent of  
43 the State to be and remain cognizant not only of its responsibility to authorize and  
44 establish the statewide solid waste management program, but also of its responsibility to

1 monitor and supervise, through the Department of ~~Human Resources~~, the activities and  
2 operations of units of local government implementing a permitted solid waste  
3 management facility serving a specified geographic area in accordance with a solid  
4 waste management plan.

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

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

21 "**§ 130A-310.3. Remedial action programs for inactive hazardous substance or**  
22 **waste disposal sites.**

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

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

37 (b) Where possible, the Secretary shall work cooperatively with any owner,  
38 operator, responsible party, or any appropriate agency of the State or federal  
39 government to develop and implement the inactive hazardous substance or waste  
40 disposal site remedial action program. The Secretary shall not take action under this  
41 section to the extent that ~~the Secretary of Natural Resources and Community~~  
42 ~~Development, or the Environmental Management Commission, or the Commissioner of~~  
43 ~~Agriculture, or the Pesticide Board has assumed jurisdiction pursuant to Articles 21 or~~  
44 ~~21A of Chapter 143 of the General Statutes.~~

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

- 4 (1) To develop an inactive hazardous substance or waste disposal site  
5 remedial action program for the site subject to approval by the  
6 Department, and
- 7 (2) To implement the program within reasonable time limits specified in  
8 the order.

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

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

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

23 **"§ 130A-325. Prohibited acts.**

24 The following acts are prohibited:

- 25 (1) Failure by a supplier of water to comply with this Article, an order  
26 issued under this Article, or the drinking water rules;
- 27 (2) Failure by a supplier of water to comply with the requirements of G.S.  
28 130A-324 or the dissemination by a supplier of any false or misleading  
29 information with respect to remedial actions being undertaken to  
30 achieve compliance with the drinking water rules;
- 31 (3) Refusal by a supplier of water to allow the Department or local health  
32 department to inspect a public water system as provided for in G.S.  
33 130A-17;
- 34 (4) The willful defiling by any person of any water supply of a public  
35 water system or the willful damaging of any pipe or other part of a  
36 public water system;
- 37 (5) The discharge by any person of sewage or other waste above the intake  
38 of a public water system, unless the sewage or waste has been passed  
39 through a system of purification approved by the Department ~~and the~~  
40 ~~Department of Natural Resources and Community Development~~; and
- 41 (6) The failure by a person to maintain a system approved by the  
42 Department for collecting and disposing of all accumulations of human  
43 excrement located on the watershed of a public water system."

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

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

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

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

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

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

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

34           (2) If, at any time after an award is made to a claimant pursuant to G.S.  
35 130A-427, an individual recovers damages for the same vaccine-  
36 related injury from a manufacturer pursuant to a judgment or  
37 settlement, the individual who recovers the damages shall reimburse  
38 the State for all amounts previously recovered from the State in the  
39 prior proceeding. Before a defendant in any action for a vaccine-  
40 related injury pays any amount to a plaintiff to discharge a judgment or  
41 settlement, he shall request from the Secretary and the Secretary of  
42 Human Resources a statement itemizing any reimbursement owed by  
43 the plaintiff pursuant to this subdivision, and, if ~~the any~~ reimbursement  
44 is owed by the ~~plaintiff, plaintiff to either department,~~ the defendant

1 shall pay the reimbursable amounts, as determined by ~~the each~~  
2 Secretary, directly to ~~the Department of Human Resources. the~~  
3 department to which such reimbursement is owed. This payment shall  
4 discharge the plaintiff's obligations to the State under this subdivision  
5 and any obligation the defendant may have to the plaintiff with respect  
6 to these amounts.

7 (3) If:

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

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

24 **"§ 130A-425. Filing of claims.**

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

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

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

1 if the injured person was under two years of age at the time of injury,  
2 all prenatal, obstetrical, and pediatric records of care preceding the  
3 injury, and an identification of any unavailable records known to the  
4 claimant or the person in whose behalf the claim is made.

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

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

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

29 **"§ 130A-427. Commission awards for vaccine-related injuries; duties of Secretary**  
30 **of Human Resources.**

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

- 34 (1) Actual and projected reasonable expenses of medical care,  
35 developmental evaluation, special education, vocational training,  
36 physical, emotional or behavioral therapy, and residential and  
37 custodial care and service expenses, that cannot be provided by the  
38 Department and the Department of Human Resources pursuant to  
39 subdivision (5) of this subsection;
- 40 (2) Loss of earnings and projected earnings, determined in accordance  
41 with generally accepted actuarial principles;
- 42 (3) Noneconomic, general damages arising from pain, suffering, and  
43 emotional distress;
- 44 (4) Reasonable attorneys fees;

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

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

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

34 "**§ 130A-430. Right of State to bring action against health care provider and of**  
35 **manufacturer.**

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

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

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

22 **"§ 130A-433. Contracts for purchase of vaccines; distribution; fee; rules.**

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

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

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

38 **"§ 130A-434. Child Vaccine Injury Compensation Fund established; payments  
39 from Fund; transfer of appropriations and receipts.**

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

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

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

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

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

16 "**§ 130A-441. Reporting.**

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

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

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

32 Sec. 157. G.S. 143-138(b) as amended by Section 2 of Chapter 681 of the  
33 1989 Session Laws reads as rewritten:

34 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted  
35 by the Building Code Council, may include reasonable and suitable classifications of  
36 buildings and structures, both as to use and occupancy; general building restrictions as  
37 to location, height, and floor areas; rules for the lighting and ventilation of buildings and  
38 structures; requirements concerning means of egress from buildings and structures;  
39 requirements concerning means of ingress in buildings and structures; ~~regulations rules~~  
40 governing construction and precautions to be taken during construction; ~~regulations~~  
41 rules as to permissible materials, loads, and stresses; ~~regulations of rules governing~~  
42 chimneys, heating appliances, elevators, and other facilities connected with the  
43 buildings and structures; ~~regulations rules~~ governing plumbing, heating, air conditioning  
44 for the purpose of comfort cooling by the lowering of temperature, and electrical

1 systems; and such other reasonable rules ~~and regulations~~ pertaining to the construction  
2 of buildings and structures and the installation of particular facilities therein as may be  
3 found reasonably necessary for the protection of the occupants of the building or  
4 structure, its neighbors, and members of the public at large.

5 In addition, the Code may regulate activities and conditions in buildings, structures,  
6 and premises that pose dangers of fire, explosion, or related hazards. Such fire  
7 prevention code provisions shall be considered the minimum standards necessary to  
8 preserve and protect public health and safety, subject to approval by the Council of  
9 more stringent provisions proposed by a municipality or county as provided in G.S.  
10 143-138(e).

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

13 Provided further, that nothing in this Article shall be construed to make any building  
14 ~~regulations~~ rules applicable to farm buildings located outside the ~~building regulation~~  
15 building-rules jurisdiction of any municipality.

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

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

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

- 30 (1) Any ~~boiler regulations~~ rules governing boilers adopted by the Board of  
31 Boiler ~~Rules~~, and Pressure Vessels Rules,
- 32 (2) Any ~~elevator regulations~~ rules relating to the safe operation of  
33 elevators adopted by the Commissioner of Labor, and
- 34 (3) Any ~~regulations~~ rules relating to sanitation adopted by the ~~Department~~  
35 of Human Resources Commission for Health Services or the  
36 Department of Environment, Health, and Natural Resources which the  
37 Building Code Council believes pertinent.

38 In addition, the Code may include references to such other ~~regulations~~ rules of  
39 special types, such as those of the Medical Care Commission and the Department of  
40 Public Instruction as may be useful to persons using the Code. No ~~regulations~~ rule  
41 issued by ~~other agencies~~ any agency other than the Building Code Council shall be  
42 construed as a part of the Code, nor supersede that Code, it being intended that they be  
43 presented with the Code for information only.

1 Nothing in this Article shall extend to or be construed as being applicable to the  
2 regulation of the design, construction, location, installation, or operation of (1)  
3 equipment for storing, handling, transporting, and utilizing liquefied  
4 petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, or  
5 (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S.  
6 62-3, or an electric or telephone membership corporation, including without limitation  
7 poles, towers, and other structures supporting electric or communication lines.

8 In addition, the Code may contain ~~regulations~~rules concerning minimum efficiency  
9 requirements for replacement water heaters, which shall consider reasonable availability  
10 from manufacturers to meet installation space requirements."

11 Sec. 158. G.S. 143-138(g) as amended by Section 18 of Chapter 681 of the  
12 1989 Session Laws is amended by inserting, after the line beginning "Commissioner of  
13 Insurance", a new line to read "Department of Environment, Health, and Natural  
14 Resources 1".

15 Sec. 159. G.S. 143-214.6(b) as enacted by Section 2 of Chapter 426 of the  
16 1989 Session Laws reads as rewritten:

17 "(b) Membership. – The Council shall consist of not more than 20 members  
18 appointed or designated as follows:

- 19 (1) The Secretary or his designee;
- 20 (2) The Secretary of Transportation or his designee;
- 21 ~~(3) The Secretary of Human Resources or his designee;~~
- 22 (4) The Commissioner of Agriculture or his designee;
- 23 (5) One member each from two different lead regional organizations to be  
24 appointed by the Commission from nominations submitted by lead  
25 regional organizations;
- 26 (6) Three representatives of county government, one to be appointed by  
27 the General Assembly upon recommendation of the President Pro  
28 Tempore of the Senate, one to be appointed by the General Assembly  
29 upon recommendation of the Speaker of the House of Representatives,  
30 and one to be appointed by the Commission, from three lists of three  
31 nominees each submitted by the North Carolina Association of County  
32 Commissioners;
- 33 (7) Three representatives of municipal government, one to be appointed  
34 by the General Assembly upon recommendation of the President Pro  
35 Tempore of the Senate, one to be appointed by the General Assembly  
36 upon recommendation of the Speaker of the House of Representatives,  
37 and one to be appointed by the Commission, from three lists of three  
38 nominees each submitted by the North Carolina League of  
39 Municipalities;
- 40 (8) One member appointed by the Commission who has technical or  
41 professional expertise in the area of land use planning;
- 42 (9) One member who is a local health director appointed by the  
43 Commission upon recommendation of the ~~Secretary of Human~~  
44 ~~Resources;~~Secretary;

- 1 (10) Two members appointed by the Commission who shall be actively  
2 involved with or have had extensive experience in the field of land  
3 development upon the recommendation of the North Carolina Home  
4 Builders Association;
- 5 (11) One member appointed by the Commission who has technical or  
6 professional expertise in the area of water resources;
- 7 (12) One soil and water conservation district supervisor appointed by the  
8 Secretary;
- 9 (13) Two members appointed by the Commission who represent the  
10 interests of the environmental and conservation community."

11 Sec. 160. G.S. 143-215.1(a) reads as rewritten:

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

- 16 (1) Make any outlets into the waters of the State;
- 17 (2) Construct or operate any sewer system, treatment works, or disposal  
18 system within the State;
- 19 (3) Alter, extend, or change the construction or method of operation of any  
20 sewer system, treatment works, or disposal system within the State;
- 21 (4) Increase the quantity of waste discharged through any outlet or  
22 processed in any treatment works or disposal system to any extent  
23 which would result in any violation of the effluent standards or  
24 limitations established for any point source or which would adversely  
25 affect the condition of the receiving waters to the extent of violating  
26 any of the standards applicable to such water;
- 27 (5) Change the nature of the waste discharged through any disposal  
28 system in any way which would exceed the effluent standards or  
29 limitations established for any point source or which would adversely  
30 affect the condition of the receiving waters in relation to any of the  
31 standards applicable to such waters;
- 32 (6) Cause or permit any waste, directly or indirectly, to be discharged to or  
33 in any manner intermixed with the waters of the State in violation of  
34 the water quality standards applicable to the assigned classifications or  
35 in violation of any effluent standards or limitations established for any  
36 point source, unless allowed as a condition of any permit, special order  
37 or other appropriate instrument issued or entered into by the  
38 Commission under the provisions of this Article;
- 39 (7) Cause or permit any wastes for which pretreatment is required by  
40 pretreatment standards to be discharged, directly or indirectly, from a  
41 pretreatment facility to any disposal system or to alter, extend or  
42 change the construction or method of operation or increase the  
43 quantity or change the nature of the waste discharged from or  
44 processed in such facility;

- 1 (8) Enter into a contract for the construction and installation of any outlet,  
2 sewer system, treatment works, pretreatment facility or disposal  
3 system or for the alteration or extension of any such facilities;
- 4 (9) Dispose of sludge resulting from the operation of a treatment works,  
5 including the removal of in-place sewage sludge from one location and  
6 its deposit at another location, consistent with the requirement of the  
7 Resource Conservation and Recovery Act and regulations promulgated  
8 pursuant thereto;
- 9 (10) Cause or permit any pollutant to enter into a defined managed area of  
10 the State's waters for the maintenance or production of harvestable  
11 freshwater, estuarine, or marine plants or animals.

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

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

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

27 Sec. 161. G.S. 143-215.1(b1) as enacted by Section 2 of Chapter 453 of the  
28 1989 Session Laws reads as rewritten:

29 "(b1) The Commission shall adopt rules which exempt the filter backwash facilities  
30 of swimming pools and spas from the:

- 31 (1) Application and notice requirements of this section;  
32 (2) Reporting requirements of G.S. 143-215.65;  
33 (3) Monitoring requirements of G.S. 143-215.66; and  
34 (4) Requirements of subsection (a) of this section that the Department of  
35 ~~Human Resources~~ review and approval of each individual facility."

36 Sec. 162. G.S. 143-215.7 reads as rewritten:

37 "**§ 143-215.7. Effect on laws applicable to public water supplies and the sanitary**  
38 **disposal of sewage.**

39 This Article shall not be construed as amending, repealing, or in any manner  
40 abridging or interfering with ~~those sections of the General Statutes of North Carolina~~  
41 ~~relative to the control of public water supplies, as now administered by the Department~~  
42 ~~of Human Resources~~ the provisions of Article 10 of Chapter 130A of the General  
43 Statutes relating to the control of public water supplies; nor shall the provisions of this  
44 Article be construed as being applicable to or in anywise affecting the authority of the

1 Department of ~~Human Resources~~ to control the sanitary disposal of sewage as provided  
2 in Article 11 of Chapter 130A of the General Statutes, or as affecting the powers, duties  
3 and authority of city, county, county-city and district health departments usually  
4 referred to as local health departments or as affecting the charter powers, or other lawful  
5 authority of municipal corporations, to pass ordinances in regard to sewage disposal."

6 Sec. 163. G.S. 143-215.26 reads as rewritten:

7 "**§ 143-215.26. Construction of dams.**

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

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

30 Sec. 164. G.S. 143-215.86(c) as amended by Section 3 of Chapter 656 of the  
31 1989 Session Laws reads as rewritten:

32 "(c) Trucks. – The Secretary of the ~~Department of Transportation~~ may, after  
33 consultation with the Secretary of ~~Natural Resources and Community Development~~,  
34 Environment, Health, and Natural Resources, purchase and equip a sufficient number of  
35 trucks designed to carry out the provisions of subsection (b) of this section. These  
36 trucks shall be maintained by the Department of Transportation and shall be  
37 strategically located at various locations throughout the State so as to furnish a ready  
38 response when word of an oil or other hazardous substances discharge has been  
39 received. The Secretary of the ~~Department of Natural Resources and Community~~  
40 Development-Health, Environment, and Natural Resources or his designee will, after  
41 consultation, decide where the trucks are to be located."

42 Sec. 165. G.S. 143-215.86(d) reads as rewritten:

43 "(d) Rules. – The Secretary of the ~~Department of Transportation~~ and the Secretary  
44 of the ~~Department of Natural Resources and Community Development~~ Environment,

1 Health, and Natural Resources or their designees shall adopt rules for the placement of  
2 these trucks and shall determine the manner and way in which they are to be used. The  
3 Secretary of the ~~Department of Natural Resources and Community Development~~  
4 Environment, Health, and Natural Resources shall reimburse the Department of  
5 Transportation for expenses incurred by the Department of Transportation during  
6 cleanups as provided in G.S. 143-215.88."

7 Sec. 166. G.S. 143-252 reads as rewritten:

8 **"§ 143-252. Article subject to Chapter 113.**

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

14 Sec. 167. G.S. 143-253 reads as rewritten:

15 **"§ 143-253. Jurisdictional questions.**

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

23 Sec. 168. G.S. 143-320 reads as rewritten:

24 **"§ 143-320. Definitions.**

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

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

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

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

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

41 Sec. 169. Section 8 of Chapter 523 of the 1989 Session Laws is rewritten to  
42 read:

43 "Sec. 8. G.S. 143-345.6 is amended by adding a new subsection to read:

1       “(d1) The Department of Environment, Health, and Natural Resources shall make  
 2 comparative salary studies periodically of all registers of deeds offices and at the  
 3 conclusion of each study the Secretary of the Department of Natural Resources and  
 4 Community Development shall present his written findings and shall make  
 5 recommendations to the board of county commissioners and register of deeds of each  
 6 county.”

7           Sec. 170. G.S. 143-436(b) reads as rewritten:

8       “(b) The Pesticide Board shall consist of seven members, to be appointed by the  
 9 Governor, as follows:

- 10       (1) One member each representing the North Carolina Department of  
 11 Agriculture, the North Carolina Department of Human Resources, and  
 12 a State conservation agency. ~~Agriculture and two members~~  
 13 representing the North Carolina Department of Environment, Health,  
 14 and Natural Resources, one of whom shall be the State Health Director  
 15 or his designee and one of whom shall represent an environmental  
 16 protection agency. The persons so selected may be either members of  
 17 a policy board or departmental officials or employees.
- 18       (2) A representative of the agricultural chemical industry.
- 19       (3) A person directly engaged in agricultural production.
- 20       (4) Two at-large members, from fields of endeavor other than those  
 21 enumerated in subdivisions (2) and (3) of this subsection, one of whom  
 22 shall be a nongovernmental conservationist.”

23       ♦       Sec. 171. G.S. 143-439(b) reads as rewritten:

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

43           Sec. 172. G.S. 143B-137 reads as rewritten:

44       “§ 143B-137. Department of Human Resources – duties.

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

11 Sec. 173. G.S. 143B-139.2 reads as rewritten:

12 **"§ 143B-139.2. Department of Human Resources – head – requests for grants-in-**  
13 **aid from non-State agencies.**

14 It is the intent of this General Assembly that non-State ~~health and welfare~~ human  
15 resources agencies submit their appropriation requests for grants-in-aid through the  
16 Secretary of the Department of Human Resources for recommendations to the Governor  
17 and the Advisory Budget Commission and the General Assembly, and that agencies  
18 receiving these grants, at the request of the Secretary of the Department of Human  
19 Resources, provide a postaudit of their operations that has been done by a certified  
20 public accountant."

21 Sec. 174. G.S. 143B-140 is repealed.

22 Sec. 175. Part 3 of Article 3 of Chapter 143B of the General Statutes (G.S.  
23 143B-142 through G.S. 143B-146) is recodified as Article 1A of Chapter 130A of the  
24 General Statutes (G.S. 130A-29 through G.S. 130A-33).

25 Sec. 176. G.S. 130A-29 reads as rewritten:

26 **"§ ~~143B-142~~ 130A-29. Commission for Health Services – creation, powers and**  
27 **duties.**

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

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

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

- 36 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
- 37 (2) Establishing standards for approving sewage-treatment devices and  
38 holding tanks for marine toilets as provided in G.S. 75A-6(o);
- 39 (3) Establishing specifications for sanitary privies for schools where  
40 water-carried sewage facilities are unavailable as provided in G.S.  
41 115C-522;
- 42 (4) Establishing requirements for the sanitation of local confinement  
43 facilities as provided in G.S. 153-53.4; and

1 (5) Governing environmental impact statements and information required  
2 in applications to determine eligibility for water supply systems under  
3 the provisions of the Clean Water Bond Act.

4 (d) The Commission is authorized to create:

5 (1) Metropolitan water districts as provided in G.S. 162A-33;

6 (2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of  
7 the General Statutes; and

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

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

12 Sec. 177. G.S. 130A-30 reads as rewritten:

13 "**§ ~~143B-143-130A-30. Commission for Health Services – members; selection;~~**  
14 **quorum; compensation.**

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

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

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

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

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

1           Sec. 178. G.S. 130A-33 reads as rewritten:

2   "**§ 143B** ~~and~~ **special meetings.**

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

11           Sec. 179. Part 18 of Article 3 of Chapter 143B of the General Statutes (G.S.  
12 143B-188 through G.S. 143B-190) is recodified as Part 3A of Article 5 of Chapter 130A  
13 of the General Statutes (G.S. 130A-131 through G.S. 130A-131.2).

14           Sec. 180. G.S. 130A-131.2 reads as rewritten:

15   "**§ 143B-190** ~~130A-131.2.~~ **Council role.**

16       The Council shall advise the Department of Environment, Health, and Natural  
17 Resources and the Commission for Health Services on the needs of persons with sickle  
18 cell syndrome, and shall make recommendations to meet these needs. Such  
19 recommendations shall include but not be limited to recommendations for legislative  
20 action and for rules regarding the services of the Sickle Cell Program. The Council  
21 shall develop procedures to facilitate its operation. All clerical and other services  
22 required by the Council shall be furnished by the Department of ~~Human Resources~~  
23 Environment, Health, and Natural Resources within budget limitations."

24           Sec. 181. G.S. 143B-202 and G.S. 143B-203 are repealed.

25           Sec. 182. (a) Part 20 of Article 3 of Chapter 143B of the General Statutes  
26 (G.S. 143B-204 through G.S. 143B-206) is recodified as Part 1 of Article 1B of Chapter  
27 130A of the General Statutes (G.S. 130A-33.30 through G.S. 130A-33.32).

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

31                                   **"ARTICLE 1B.**

32   **COMMISSIONS AND COUNCILS."**

33           Sec. 183. G.S. 130A-33.30 reads as rewritten:

34   "**§ 143B** ~~and~~ **duties.**

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

43           Sec. 184. G.S. 130A-33.31 reads as rewritten:

44   "**§ 143B** ~~selection; term; chairman; quorum; meetings.~~

1 (a) The Commission of Anatomy shall consist of five members, one from the  
2 membership of the State Board of Mortuary Science, and one each from The University  
3 of North Carolina School of Medicine, East Carolina University School of Medicine,  
4 Duke University School of Medicine, and Bowman Gray School of Medicine. The dean  
5 of each school shall make recommendations and the Secretary of ~~Human Resources~~  
6 Environment, Health, and Natural Resources shall appoint from such recommendations  
7 a member to the Commission. The president of the State Board of Mortuary Science  
8 shall appoint one member from that Board to the Commission. The members shall  
9 serve terms of four years except two of the original members shall serve a term of one  
10 year, one shall serve a term of two years, one shall serve a term of three years, and one  
11 shall serve a term of four years. The Secretary shall determine the terms of the original  
12 members.

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

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

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

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

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

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

25 Sec. 185. G.S. 130A-33.32 reads as rewritten:

26 "**§ 143Büformer Board of Anatomy in testamentary disposition.**

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

29 Sec. 186. Part 26 of Article 3 of Chapter 143B of the General Statutes (G.S.  
30 143B-216.8 through G.S. 143B-216.9) is recodified as Part 2 of Article 1B of Chapter  
31 130A of the General Statutes (G.S. 130A-33.40 through G.S. 130A-33.41).

32 Sec. 187. G.S. 130A-33.40 reads as rewritten:

33 "**§ 143Büand Health – creation; powers; duties.**

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

- 37 (1) To promote interest in the area of physical fitness; to consider the need  
38 for new State programs in the field of physical fitness; to enlist the  
39 active support of individual citizens, professional and civic groups,  
40 amateur and professional athletes, voluntary organizations, State and  
41 local government agencies, private industry and business, and  
42 community recreation programs in efforts to improve the physical  
43 fitness and thereby the health of the citizens of North Carolina;

- 1 (2) To examine current programs of physical fitness available to the  
2 people of North Carolina, and to make recommendations to the  
3 Governor for coordination of programs to prevent duplication of such  
4 services; to support programs of physical fitness in the public school  
5 systems; to develop cooperative programs with medical, dental, and  
6 other groups; to maintain a liaison with government, private and other  
7 agencies concerning physical fitness programs; to stimulate research in  
8 the area of physical fitness; to sponsor physical fitness workshops,  
9 clinics, conferences, and other related activities pertaining to physical  
10 fitness throughout the State;
- 11 (3) To serve as an agency for recognizing outstanding developments,  
12 contributions, and achievements in physical fitness in North Carolina;  
13 and
- 14 (4) The Council shall make an annual report to the Governor and to the  
15 Secretary of ~~Human Resources~~Environment, Health, and Natural  
16 Resources, including therein suggestions and recommendations for the  
17 furtherance of the physical fitness of the people of North Carolina."

18 Sec. 188. G.S. 130A-33.41 reads as rewritten:

19 **"§ 143B Fitness and Health – members; selection; quorum; compensation.**

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

- 23 (1) The composition of the Council shall be as follows: one member of the  
24 Senate appointed by the President of the Senate, and one member of  
25 the House of Representatives appointed by the Speaker of the House of  
26 Representatives, and eight persons from the health care professions,  
27 the fields of business and industry, physical education, recreation,  
28 sports and the general public. The eight nonlegislative members of the  
29 Council shall be appointed by the Governor to serve at his pleasure.
- 30 (2) The eight initial nonlegislative members of the Council shall be  
31 appointed thusly: two for a term of one year, two for a term of two  
32 years, two for a term of three years, two for a term of four years. At  
33 the end of the respective terms of office of these initial members, all  
34 succeeding appointments of nonlegislative members shall be for terms  
35 of four years; nonlegislative members shall serve no more than two  
36 consecutive four-year terms; all unexpired terms due to resignation,  
37 death, disability, removal or refusal to serve shall be filled by a  
38 qualified person appointed by the Governor for the balance of the  
39 unexpired term.
- 40 (3) Legislative members of the Council shall serve two-year terms  
41 beginning and ending on July 1 of odd-numbered years, and shall  
42 serve no more than two consecutive terms.
- 43 (4) Members of the Governor's Council shall receive per diem and  
44 necessary travel and subsistence expenses in accordance with G.S.

1 138-5 or 138-6, or travel and subsistence expenses under G.S. 120-3.1,  
2 as appropriate.

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

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

6 Sec. 189. Part 27 of Article 3 of Chapter 143B of the General Statutes (G.S.  
7 143B-216.10 through G.S. 143B-216.15) is recodified as Part 4A of Article 7 of  
8 Chapter 143B of the General Statutes (G.S. 143B-285.10 through G.S. 143B-285.15).

9 Sec. 190. G.S. 143B-285.10 reads as rewritten:

10 **"§ 143B-216.10-285.10. Declaration of findings.**

11 (a) The General Assembly of North Carolina hereby finds and declares that the  
12 safe management of hazardous wastes and low-level radioactive wastes, and particularly  
13 the timely establishment of adequate facilities for the disposal and management of  
14 hazardous wastes and low-level radioactive wastes is one of the most urgent problems  
15 facing North Carolina. The safe management and disposal of these wastes are essential  
16 to continued economic growth and to protection of the public health and safety. When  
17 improperly handled, these wastes pose a threat to the water, land, and air resources of  
18 the State, as well as to the health and safety of its citizens. Consequently, cooperation  
19 and coordination among the private sector, the general public and State and local  
20 agencies to assure the prevention of unnecessary waste and the establishment of  
21 adequate treatment and disposal facilities are essential. The General Assembly further  
22 finds that cooperation and coordination among the private sector, the general public and  
23 State regulatory agencies will be advanced by the creation of a Governor's Waste  
24 Management Board.

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

33 (1) Prohibit the transportation, treatment, storage, or disposal of hazardous  
34 or low-level radioactive waste within any county, city, or other  
35 political subdivision;

36 (2) Prohibit the siting of a hazardous waste facility or a low-level  
37 radioactive waste facility within any county, city, or other political  
38 subdivision;

39 (3) Place any restriction or condition not placed by this ~~Part or by General~~  
40 ~~Statutes Chapter 130, Article 13B or Chapter 104E~~ Part, Article 9 of  
41 Chapter 130A of the General Statutes, or Chapters 130B, 104E, or  
42 104G of the General Statutes upon the transportation, treatment,  
43 storage or disposal of hazardous or low-level radioactive waste, or

1 upon the siting of a hazardous waste facility or low-level radioactive  
2 waste facility within any county, city, or other political subdivision; or  
3 (4) In any manner are in conflict or inconsistent with the provisions of this  
4 ~~Part or General Statutes Chapter 130, Article 13B or Chapter 104E.~~  
5 Part, Article 9 of Chapter 130A of the General Statutes, or Chapters  
6 130B, 104E, or 104G of the General Statutes. No special, local or  
7 private acts or resolutions enacted or taking effect hereafter may be  
8 construed to modify, amend or repeal any portion of the Waste  
9 Management Act of 1981 unless it expressly provides for such by  
10 specific references to the appropriate section of this Part. Further to  
11 this end, all provisions of local ordinances, including those regulating  
12 land use, adopted by counties, municipalities, or other local authorities  
13 are invalidated which (i) prohibit or have the effect of prohibiting the  
14 establishment or operation of a hazardous waste facility ~~or a hazardous~~  
15 ~~waste landfill facility approved by the Governor pursuant to G.S. 130-~~  
16 ~~166.17B; 130A-293; or (ii) prohibit or have the effect of prohibiting~~  
17 ~~the establishment or operation of a low-level radioactive waste facility~~  
18 ~~or a low level radioactive waste landfill facility approved by the~~  
19 ~~Governor approved pursuant to G.S. 104E-6.2.~~

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

31 Sec. 191. G.S. 143-285.12(a) reads as rewritten:

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

35 (1) ~~Five~~ Four members from State government: the Secretary or  
36 Commissioner of ~~Human Resources, Natural Resources and~~  
37 ~~Community Development~~ Environment, Health, and Natural  
38 Resources, Commerce, Agriculture, and Crime Control and Public  
39 Safety. At the request of such Secretary or Commissioner, the  
40 Governor may appoint another official from the same department to  
41 serve in his stead.

42 (2) Nine members appointed by the Governor from the following  
43 categories: one from county government, one from municipal  
44 government, two from private industry, two from the field of higher

1 education, research or technology, one who shall be a physician  
 2 licensed to practice medicine, and two from the public at large  
 3 interested in environmental matters.

- 4 (3) Two members appointed by the General Assembly, one upon the  
 5 recommendation of the Speaker of the House of Representatives, and  
 6 one upon the recommendation of the President of the Senate in  
 7 accordance with G.S. 120-121."

8 Sec. 192. G.S. 143B-285.14 reads as rewritten:

9 **"§ 143B-~~216.14~~–285.14. Functions and powers of Department of Human**  
 10 **Resources~~Environment, Health, and Natural Resources.~~**

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

- 13 (1) To enter upon any lands and structures upon lands to make surveys,  
 14 borings, soundings and examinations as may be necessary to determine  
 15 the suitability of a site for a hazardous waste facility, hazardous waste  
 16 ~~landfill-disposal~~ facility, low-level radioactive waste facility or low-  
 17 level radioactive ~~landfill-disposal~~ facility. The Department shall give  
 18 30 days' notice of the intended entry authorized by this section in the  
 19 manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry  
 20 under this section shall not be deemed a trespass or taking; provided  
 21 however that the Department shall make reimbursement for any  
 22 damage to such land or structures caused by such activities;
- 23 (2) To provide necessary clerical, technical, and administrative assistance  
 24 to the Board, and to employ the necessary personnel for the  
 25 accomplishment of the purposes of this Part.
- 26 (3) To enforce any rules adopted by the Board pursuant to this Part in the  
 27 manner provided for by G.S. 130A-22(a) and 104E-24.

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

31 Sec. 193. G.S. 143B-290 reads as rewritten:

32 **"§ 143B-290. North Carolina Mining Commission – creation; powers and duties.**

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

- 37 (1) The North Carolina Mining Commission shall have the following  
 38 powers and duties:
- 39 a. To act as the advisory body to the Interstate Mining Compact  
 40 pursuant to G.S. 74-38(a);
- 41 b. To adopt and modify rules ~~and regulations~~ to implement  
 42 Chapter 74, Article 6, pursuant to G.S. 74-44(b);

- 1 c. To hear permit appeals, conduct a full and complete hearing on  
2 such controversies and affirm, modify, or overrule permit  
3 decisions made by the Department pursuant to G.S. 74-61; and  
4 d. To promulgate rules ~~and regulations~~ necessary to administer the  
5 Mining Act of 1971, pursuant to G.S. 74-63;  
6 e. To promulgate rules ~~and regulations~~ necessary to administer the  
7 Control of Exploration for Uranium in North Carolina Act of  
8 1983, pursuant to G.S. 74-86.

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

15 (3) The Commission shall make such rules ~~and regulations~~, consistent  
16 with the provisions of this Chapter. All rules ~~and regulations~~ adopted  
17 by the Commission shall be enforced by the Department of ~~Natural~~  
18 ~~Resources and Community Development~~ Environment, Health, and  
19 Natural Resources."

20 Sec. 194. G.S. 143B-294 reads as rewritten:

21 **"§ 143B-294. Soil and Water Conservation Commission – creation; powers and**  
22 **duties.**

23 There is hereby created the Soil and Water Conservation Commission of the  
24 Department of ~~Natural Resources and Community Development~~ Environment, Health,  
25 and Natural Resources with the power and duty to adopt rules ~~and regulations~~ to be  
26 followed in the development and implementation of a soil and water conservation  
27 program.

28 (1) The Soil and Water Conservation Commission has the following  
29 powers and duties:

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

33 (2) The Commission shall adopt rules ~~and regulations~~ consistent with the  
34 provisions of this Chapter. All rules ~~and regulations~~ not inconsistent  
35 with the provisions of this Chapter heretofore adopted by the Soil and  
36 Water Conservation Committee shall remain in full force and effect  
37 unless and until repealed or superseded by action of the Soil and Water  
38 Conservation Commission. All rules ~~and regulations~~ adopted by the  
39 Commission shall be enforced by the Department of ~~Natural Resources~~  
40 ~~and Community Development~~ Environment, Health, and Natural  
41 Resources."

42 Sec. 195. G.S. 143B-300 reads as rewritten:

43 **"§ 143B-300. Wastewater Treatment Plant Operators Certification Commission –**  
44 **creation; powers and duties.**

1 (a) There is hereby created the Wastewater Treatment Plant Operators  
2 Certification Commission ~~of to be located in the Department of Natural Resources and~~  
3 ~~Community Development~~ Environment, Health, and Natural Resources. ~~with the power~~  
4 ~~and duty to~~ The Commission shall adopt rules and ~~regulations~~ with respect to the  
5 certification of wastewater treatment plant operators as provided by Article 3 of Chapter  
6 90A of the General Statutes of North Carolina.

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

13 Sec. 196. G.S. 143B-301 reads as rewritten:

14 "**§ 143B-301. Wastewater Treatment Plant Operators Certification Commission –**  
15 **members; selection; removal; compensation; quorum; services.**

16 (a) The Wastewater Treatment Plant Operators Certification Commission ~~of the~~  
17 ~~Department of Natural Resources and Community Development~~ shall consist of seven  
18 members appointed by the Secretary of ~~Natural Resources and Community~~  
19 ~~Development~~ Environment, Health, and Natural Resources with the approval of the  
20 Environmental Management Commission with the following qualifications:

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

42 (b) The initial members of the Commission shall be the members of the  
43 Wastewater Treatment Plant Operators Board of Certification who shall serve for a  
44 period equal to the remainder of their current terms on the Wastewater Treatment Plant

1 Operators Board of Certification. At the end of the respective terms of office of the  
2 initial members of the Commission, their successors shall be appointed for staggered  
3 terms of three years and until their successors are appointed and qualify.

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

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

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

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

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

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

21 Sec. 197. Section 10 of Chapter 372 of the 1989 Session Laws is rewritten to  
22 read:

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

24 **‘§ 143B-301. Wastewater Treatment Plant Operators Certification Commission –**  
25 **members; selection; removal; compensation; quorum; services.**

26 (a) The Wastewater Treatment Plant Operators Certification Commission shall  
27 consist of ~~seven~~ nine members appointed by the Secretary of Environment, Health, and  
28 Natural Resources with the approval of the Environmental Management Commission  
29 with the following qualifications:

- 30 (1) Two members shall be currently employed as wastewater treatment  
31 plant operators, wastewater plant superintendents, water and sewer  
32 superintendents, or equivalent positions with a North Carolina  
33 municipality;
- 34 (2) One member shall be manager of a North Carolina municipality  
35 having a population of more than 10,000 as of the most recent federal  
36 census;
- 37 (3) One member shall be manager of a North Carolina municipality  
38 having a population of less than 10,000 as of the most recent federal  
39 census;
- 40 (4) One member shall be employed by a private industry and shall be  
41 responsible for supervising the treatment or pretreatment of industrial  
42 wastewater;
- 43 (5) One member who is a faculty member of a four-year college or  
44 university and whose major field is related to wastewater treatment;

1 (6) One member who is employed by the Department of Environment,  
2 Health, and Natural Resources and works in the field of water  
3 pollution control, who shall serve as Chairman of the ~~Commission.~~  
4 Commission; and

5 (7) Two members shall be currently employed as sanitary sewage system  
6 operators, wastewater collection system superintendents, water and  
7 sewer department directors, or equivalent positions with a North  
8 Carolina municipality.

9 (b) The initial members of the Commission shall be the members of the  
10 Wastewater Treatment Plant Operators Board of Certification who shall serve for a  
11 period equal to the remainder of their current terms on the Wastewater Treatment Plant  
12 Operators Board of Certification. At the end of the respective terms of office of the  
13 initial members of the Commission, their successors shall be appointed for staggered  
14 terms of three years and until their successors are appointed and qualify.

15 (c) The chairman of the Wastewater Treatment Plant Operators Certification  
16 Commission shall serve at the pleasure of the Secretary of Environment, Health, and  
17 Natural Resources.

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

21 (e) The Governor shall have the power to remove any member of the  
22 Commission from office for misfeasance, malfeasance, and nonfeasance according to  
23 the provisions of G.S. 143B-13.

24 (f) The members of the Commission shall receive per diem and necessary travel  
25 and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.  
26 143B-15.

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

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

31 Sec. 198. G.S. 143B-390(a) reads as rewritten:

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

33 (1) Eighteen members shall be appointed by the Governor from the public  
34 and private academic and scientific institutions in the State and from  
35 the various industries and professions in the State concerned with the  
36 exploration and use of the ocean and marine resources. These members  
37 shall serve four-year terms. The terms shall be staggered so that nine  
38 terms begin July 1 of each odd-numbered year.

39 (2) Three at-large members shall be appointed by the Governor. These  
40 members shall serve four-year terms. The terms shall be staggered so  
41 that one term begins July 1, 1987, and two terms begin July 1, 1989.

42 (3) Three members shall be the chairpersons of the North Carolina Marine  
43 Resources Centers' local advisory committees. These members shall  
44 serve during their tenures as chairmen.

- 1 (4) One member representing the Department of Commerce in the area of  
2 ports and waterways shall be appointed by and serve at the pleasure of  
3 the Secretary of the Department of Commerce.
- 4 (5) Two members representing the Department of ~~Natural Resources and~~  
5 ~~Community Development~~ Environment, Health, and Natural  
6 Resources in the area of coastal resources and environmental  
7 protection shall be appointed by and serve at the pleasure of the  
8 Secretary of the ~~Department of Natural Resources and Community~~  
9 ~~Development~~ Environment, Health, and Natural Resources.
- 10 (6) ~~One member representing the Department of Human Resources in the~~  
11 ~~area of health services shall be appointed by and serve at the pleasure~~  
12 ~~of the Secretary of the Department of Human Resources. The State~~  
13 ~~Health Director or his designee."~~

14 Sec. 199. Part 11 of Article 7 of Chapter 143B of the General Statutes (G.S.  
15 143B-305 through G.S. 143B-307) is recodified as Part 2A of Article 10 of Chapter  
16 143B of the General Statutes (G.S. 143B-437.1 through G.S. 143B-437.3).

17 Sec. 200. G.S. 143B-437.1 reads as rewritten:

18 "**§ 143B-305. 437.1. Community Development Council – creation; powers and**  
19 **duties.**

20 There is hereby created the Community Development Council ~~of the Department of~~  
21 ~~Natural Resources and Community Development~~ to be located in the Department of  
22 Commerce. The Community Development Council shall have the following functions  
23 and duties:

- 24 (1) To advise the Secretary of ~~Natural Resources and Community~~  
25 ~~Development~~ Commerce with respect to promoting and assisting in the  
26 orderly development of North Carolina counties and communities.
- 27 (2) To advise the Secretary of ~~Natural Resources and Community~~  
28 ~~Development~~ Commerce with respect to the type and effectiveness of  
29 planning and management services provided to local government.
- 30 (3), (4) Repealed by Session Laws 1977, c. 198, s. 13.
- 31 (5) The Council shall consider and advise the Secretary of ~~Natural~~  
32 ~~Resources and Community Development~~ Commerce upon any matter  
33 the Secretary may refer to it."

34 Sec. 201. G.S. 143B-437.2 reads as rewritten:

35 "**§ 143B-306. 437.2. Community Development Council – members; chairman;**  
36 **selection; removal; compensation; quorum; services.**

37 (a) The Community Development Council ~~of the Department of Natural~~  
38 ~~Resources and Community Development~~ shall consist of 11 members appointed by the  
39 Governor. The composition of the Council shall be as follows: one member who shall  
40 be a local government official, one member who shall be the Executive Secretary of the  
41 League of Municipalities, one member who shall be the Executive Secretary of the  
42 County Commissioners Association, one member who shall represent industry, one  
43 member who shall represent labor, and six members at large.

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

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

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

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

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

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

17 Sec. 202. Part 27 of Article 7 of Chapter 143B of the General Statutes (G.S.  
18 143B-344.11 through G.S. 143B-344.15) is recodified as Part 3A of Article 10 of  
19 Chapter 143B of the General Statutes (G.S. 143B-438.1 through G.S. 143B-438.5).

20 Sec. 203. G.S. 143B-438.4 reads as rewritten:

21 "**§ 143B-~~344.14~~. 438.4. Coordinating Council.**

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

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

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

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

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

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

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

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

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

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

26 Sec. 204. G.S. 153A-225(b) reads as rewritten:

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

34 Sec. 205. G.S. 153A-226(b) reads as rewritten:

35 "(b) The ~~[Commission for Health Services]~~Commission for Health Services shall  
36 prepare a score sheet to be used by sanitarians of local or district health departments in  
37 inspecting local confinement facilities. The sanitarians shall inspect local confinement  
38 facilities as often as may be required by the Commission for Health Services. If an  
39 inspector of the Department finds conditions that reflect hazards or deficiencies in the  
40 sanitation or food service of a local confinement facility, he shall immediately notify the  
41 local or district health department. The health department shall promptly cause a  
42 sanitarian to inspect the facility. After making his inspection, the sanitarian shall  
43 forward a copy of his report to the Department of Human Resources and to the unit  
44 operating the facility, on forms prepared by the ~~[Department]~~Department of

1 Environment, Health, and Natural Resources. The report shall indicate whether the  
2 facility and its kitchen or other place for preparing food is approved or disapproved for  
3 public health purposes. If the facility is disapproved, the situation shall be rectified  
4 according to the procedures of G.S. 153A-223."

5 Sec. 206. G.S. 159G-3 reads as rewritten:

6 **"§ 159G-3. Definitions.**

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

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

- 1 (6a) 'Debt instrument' means an instrument in the nature of a  
2 promissory note executed by a local government unit under the  
3 provisions of this Chapter, to evidence a debt to the State and  
4 obligation to repay the principal, plus interest, under stated terms.
- 5 (7) ~~'Division of Health Services' means the Division of Health~~  
6 ~~Services of the Department of Human Resources.~~ 'Division of  
7 Environmental Health' means the Division of Environmental  
8 Health of the Department of Environment, Health, and Natural  
9 Resources.
- 10 (8) 'Environmental Management Commission' means the  
11 Environmental Management Commission of the ~~Department of~~  
12 ~~Natural Resources and Community Development created by~~  
13 ~~Article 7, Part 4 of Chapter 143B of the General Statutes.~~  
14 Department of Environment, Health, and Natural Resources.
- 15 (9) 'Local Government Commission' means the Local Government  
16 Commission of the Department of the State Treasurer, established  
17 by Article 2 of Chapter 159 of the General Statutes.
- 18 (10) 'Local government unit' means a county, city, town, incorporated  
19 village, sanitary district, metropolitan sewerage district,  
20 metropolitan water district, county water and sewer district, water  
21 and sewer authority or joint agency created pursuant to Part 1 of  
22 Article 20 of Chapter 160A of the General Statutes.
- 23 (11) 'Office of State Budget and Management' means the Office of  
24 State Budget and Management established by law.
- 25 (12) 'Receiving agency' means the ~~Division of Health Services~~  
26 Division of Environmental Health with respect to receipt of  
27 applications for revolving loans and grants for water supply  
28 systems, and the Environmental Management Commission and  
29 the Division of Environmental Management with respect to  
30 receipt of applications for revolving loans and grants for  
31 wastewater systems.
- 32 (13) 'Revolving construction loan' means a sum of money loaned by  
33 the State to a local government unit to subsidize the construction  
34 costs of a project authorized by this Chapter, with an obligation  
35 on the part of such unit to repay such sum, the proceeds of such  
36 repayment to be deposited in the Water Pollution Control  
37 Revolving Fund.
- 38 (14) 'Revolving emergency loan' means a sum of money loaned by the  
39 State to a local government unit upon a certification, as provided  
40 in this Chapter, of a serious public health hazard, with an  
41 obligation on the part of such unit to repay such sum.
- 42 (15) 'Revolving loan' includes a revolving construction loan and an  
43 emergency loan.
- 44 (15a) 'State' means the State of North Carolina.

- 1 (15b) 'State Treasurer' means the Treasurer of the State elected pursuant  
2 to Article III, Section 7 of the Constitution or his designated  
3 representative.
- 4 (16) 'Wastewater Accounts' means the various accounts in the Clean  
5 Water Revolving Loan and Grant Fund established in the Office  
6 of State Budget and Management under this Chapter for revolving  
7 loans and grants for wastewater treatment work and wastewater  
8 collection system projects.
- 9 (17) 'Wastewater collection system' means a unified system of pipes,  
10 conduits, pumping stations, force mains, and appurtenances other  
11 than interceptor sewers, for collecting and transmitting water-  
12 carried human wastes and other wastewater from residences,  
13 industrial establishments or any other buildings, and owned by a  
14 local government unit.
- 15 (18) 'Wastewater treatment works' means the various facilities and  
16 devices used in the treatment of sewage, industrial waste or other  
17 wastes of a liquid nature, including the necessary interceptor  
18 sewers, outfall sewers, phosphorous removal equipment,  
19 pumping, power and other equipment and their appurtenances.
- 20 (19) 'Water Supply Accounts' means the various accounts in the Clean  
21 Water Revolving Loan and Grant Fund established in the Office  
22 of State Budget and Management under this Chapter for revolving  
23 loans and grants for water supply system projects.
- 24 (20) 'Water supply system' means a public water supply system  
25 consisting of facilities and works for supplying, treating and  
26 distributing potable water including, but not limited to,  
27 impoundments, reservoirs, wells, intakes, water filtration plants  
28 and other treatment facilities, tanks and other storage facilities,  
29 transmission mains, distribution piping, pipes connecting the  
30 system to other public water supply systems, pumping equipment  
31 and all other necessary appurtenances, equipment and structures."

32 Sec. 207. G.S. 159G-6 reads as rewritten:

33 **"§ 159G-6. Distribution of funds.**

- 34 (a) Revolving loans and grants.
- 35 (1) All funds appropriated or accruing to the Clean Water Revolving Loan  
36 and Grant Fund, other than funds set aside for administrative expenses,  
37 shall be used for revolving loans and grants to local government units  
38 for construction costs of wastewater treatment works, wastewater  
39 collection systems and water supply systems and other assistance as  
40 provided in this Chapter.
- 41 (2) The maximum principal amount of a revolving loan or a grant may be  
42 one hundred percent (100%) of the nonfederal share of the  
43 construction costs of any eligible project. The maximum principal  
44 amount of revolving loans made to any one local government unit

1 during any fiscal year shall be three million dollars (\$3,000,000). The  
2 maximum principal amount of grants made to any one local  
3 government unit during any fiscal year shall be five hundred thousand  
4 dollars (\$500,000).

- 5 (3) The State Treasurer shall be responsible for investing and distributing  
6 all funds appropriated or accruing to the Clean Water Revolving Loan  
7 and Grant Fund for revolving loans and grants under this Chapter. In  
8 fulfilling his responsibilities under this section, the State Treasurer  
9 shall make a written request to the Office of State Budget and  
10 Management to arrange for the appropriated funds to be (i) transferred  
11 from the appropriate accounts to a local government unit to provide  
12 funds for one or more revolving loans or grants or (ii) invested as  
13 authorized by this Chapter with the interest on and the principal of  
14 such investments to be transferred to the local government unit to  
15 provide funds for one or more revolving loans or grants.

16 (b) Wastewater Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. 159G-4]  
17 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be  
18 used to make revolving loans and grants to local government units as provided below.  
19 The Office of the State Budget and Management shall disburse no funds from the  
20 Wastewater Accounts except upon receipt of written approval of the disbursement from  
21 the Environmental Management Commission.

- 22 (1) General Wastewater Revolving Loan and Grant Account. – The funds  
23 in the General Wastewater Revolving Loan and Grant Account shall  
24 be used exclusively for the purpose of providing for revolving  
25 construction loans or grants in connection with approved wastewater  
26 treatment work or wastewater collection system projects.

- 27 (2) High-Unit Cost Wastewater Account. – The funds in the High-Unit  
28 Cost Wastewater Account shall be available for grants to applicants for  
29 high-unit cost wastewater projects. Eligibility of an applicant for such  
30 a grant shall be determined by comparing estimated average household  
31 user fees for water and sewer service, for debt service and operation  
32 and maintenance costs, to one and one-half percent (1.5%) of the  
33 median household income in the county in which the project is located.  
34 The projects which would require estimated average household water  
35 and sewer user fees greater than one and one-half percent (1.5%) of the  
36 median household income are defined as high-unit cost wastewater  
37 projects and will be eligible for a grant equal to the excess cost, subject  
38 to the limitations in subsection (a)(2) of this section.

- 39 (3) Emergency Wastewater Revolving Loan Account. – The funds in the  
40 Emergency Wastewater Revolving Loan Account shall be available for  
41 revolving emergency loans to applicants in the event the  
42 Environmental Management Commission certifies that a serious public  
43 health hazard, related to the inadequacy of existing wastewater  
44 facilities, is present or imminent in a community.

1 (c) Water Supply Accounts. – The sums allocated in G.S. ~~159G-304~~ [G.S. ~~159G-~~  
2 ~~4~~ ~~159G-4~~ and accruing to the various Water Supply Accounts in each fiscal year shall  
3 be used to provide revolving loans and grants to local government units as provided  
4 below. The Office of State Budget and Management shall disburse no funds from the  
5 Water Supply Accounts except upon receipt of written approval of the disbursement  
6 from the ~~Division of Health Services~~ Division of Environmental Health.

7 (1) General Water Supply Revolving Loan and Grant Account. – The  
8 funds in the General Water Supply Revolving Loan and Grant Account  
9 shall be used exclusively for the purpose of providing for revolving  
10 construction loans and grants in connection with water supply systems  
11 generally and not upon a county allotment basis.

12 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit  
13 Cost Water Supply Account shall be available for grants to applicants  
14 for high-unit cost water supply systems, on the same basis as provided  
15 in G.S. ~~159G-306(b)(2)~~ [G.S. ~~159G-6(b)(2)~~] 159G-6(b)(2) for high-  
16 unit cost wastewater projects.

17 (3) Emergency Water Supply Revolving Loan Account. – The funds in the  
18 Emergency Water Supply Revolving Loan Account shall be available  
19 for revolving emergency loans to applicants in the event the ~~Division~~  
20 ~~of Health Services~~ Division of Environmental Health certifies that a  
21 serious public health hazard, related to the water supply system, is  
22 present or imminent in a community.

23 (d) Administrative Account. – The Office of State Budget and Management,  
24 from time to time, may allocate funds from the Administrative Account to meet the  
25 expenses of the Office of State Budget and Management, Local Government  
26 Commission, ~~Division of Health Services~~ Division of Environmental Health and  
27 Environmental Management Commission incurred in the administration of this Chapter  
28 in excess of normal operating expenses.

29 Each agency entitled to receive administrative expense funds from the  
30 Administrative Account shall prepare an itemized estimate of administrative funds  
31 required for the succeeding fiscal year, and the ~~Division of Health Services~~, Division of  
32 Environmental Health, the Local Government Commission and the Environmental  
33 Management Commission shall deliver their estimates to the Office of State Budget and  
34 Management at least 45 days prior to the beginning of the fiscal year for which the  
35 funds are required. The Office of State Budget and Management shall determine the  
36 administrative expense funds available and, along with its recommendations, shall  
37 deliver the estimates of the ~~Division of Health Services~~, Division of Environmental  
38 Health, the Local Government Commission and of the Environmental Management  
39 Commission and its own estimate, if any, to the Advisory Budget Commission at least  
40 30 days prior to the beginning of the fiscal year for which the funds are required. Any  
41 administrative expense funds shall be disbursed by the Office of State Budget and  
42 Management to the appropriate agency. If the administrative expense funds disbursed  
43 to any agency shall prove insufficient, it may apply at any time during the fiscal year for  
44 additional funds in the manner above provided.

1 (e) Notwithstanding any other provision of this Chapter, funds in the Water  
2 Pollution Control Revolving Fund shall not be available as grants except to the extent  
3 permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations  
4 thereunder."

5 Sec. 208. G.S. 159G-8 reads as rewritten:

6 "**§ 159G-8. Application; environmental assessment; notice; hearing.**

7 (a) Application. – All applications for revolving loans and grants for water  
8 supply systems shall be filed with the ~~Division of Health Services~~ Division of  
9 Environmental Health and all applications for revolving loans and grants for wastewater  
10 treatment works or wastewater collection systems shall be filed with the Environmental  
11 Management Commission. Every applicant shall also file with the Office of State  
12 Budget and Management such information concerning the application as the Office of  
13 State Budget and Management may require by rules ~~or regulations~~ adopted pursuant to  
14 this Chapter. Any application may be filed in as many categories as it is eligible for  
15 consideration under this Chapter. Applications for revolving construction loans or  
16 grants for wastewater treatment works and wastewater collection systems, except  
17 applications for emergency wastewater loans, shall first be submitted for a loan or grant  
18 from the Water Pollution Control Revolving Fund established by G.S. ~~159G-305(e)~~  
19 ~~[G.S. 159G-5(e)]~~ 159G-5(c). If the application is denied, the application shall then be  
20 considered for a revolving loan or a grant from the General Wastewater Revolving Loan  
21 and Grant account established under ~~159G-306(b)(1)~~ ~~[G.S. 159G-6(b)(1)]~~ G.S. 159-  
22 6(b)(1).

23 The Office of State Budget and Management, the ~~Division of Health Services~~  
24 Division of Environmental Health and the Environmental Management Commission  
25 may develop jointly and adopt a standard form of application under this Chapter. Any  
26 application for construction grants under the Federal Water Pollution Control Act may  
27 be considered as an application for revolving construction loans or grants under G.S.  
28 ~~159G-305(e)~~ ~~[G.S. 159G-5(e)]~~ 159G-5(c) and G.S. ~~159G-306(b)(1)~~ ~~[G.S. 159G-~~  
29 ~~6(b)(1)]~~ 159G-6(b)(1). The information required to be set forth in the application shall  
30 be sufficient to permit the respective agencies to determine the eligibility of the  
31 applicant and to establish the priority of the application, as set forth in this Chapter.

32 Any applicant shall furnish information in addition or supplemental to the  
33 information contained in its application upon request by the receiving agency.

34 (b) Environmental Assessment. – Every applicant shall file with its application  
35 an assessment setting forth the impact that the project for which funds are sought will  
36 have upon the environment of the area within which the project is proposed to be  
37 located. The assessment shall set forth the impact of the project upon water resources,  
38 other natural resources, land use pattern, and such other factors as the Commission for  
39 Health Services or the Environmental Management Commission shall require by duly  
40 adopted ~~rules and regulations~~ rules. Any environmental assessment required as part of  
41 an application for grants under the Federal Water Pollution Control Act shall satisfy the  
42 requirement of this provision. If, after reviewing the environmental assessment, the  
43 ~~Division of Health Services~~ Division of Environmental Health or the Environmental  
44 Management Commission concludes that an environmental impact statement is

1 required, then the application shall receive no further consideration until a final  
2 environmental impact statement has been completed and approved as provided in  
3 Article 1 of Chapter 113A of the General Statutes.

4 (c) Hearing. – A public hearing may be held by the receiving agency at any time  
5 on any application filed pursuant to G.S. ~~159G-305(e)~~ [G.S. ~~159G-5(e)~~], ~~159G-306(b)~~  
6 [~~G.S. 159G-6(b)~~] or ~~159G-306(e)~~ [G.S. ~~159G-6(e)~~] 159G-5(c), 159G-6(b), or 159G-6(c)  
7 in accordance with the provisions of this subsection. A public hearing may be held by  
8 the receiving agency upon written request from any citizen or taxpayer who is a resident  
9 of the county or counties in which the project is proposed to be located if it appears that  
10 the public interest will be served by this hearing. The written request shall set forth  
11 each objection to the proposed project or other reason for requesting a hearing on the  
12 application and shall contain the name and address of the person(s) submitting it. The  
13 receiving agency may consider all written objections to the proposed project and other  
14 statements along with the application, including any significant adverse effects that the  
15 proposed project may have on the environment, and shall determine if the public interest  
16 will be served by a hearing. The determination by the receiving agency shall be  
17 conclusive; but all written requests for a hearing shall be retained as a permanent part of  
18 the records pertaining to the application, whether or not the request is granted."

19 Sec. 209. G.S. 159G-14 reads as rewritten:

20 **"§ 159G-14. Inspection.**

21 Inspection of a project for which a revolving loan or grant has been made under this  
22 Chapter may be performed by qualified personnel of the ~~Division of Health Services~~  
23 Division of Environmental Health or the Environmental Management Commission or  
24 may be performed by qualified professional engineers, registered in this State, who have  
25 been approved by the ~~Division of Health Services~~ Division of Environmental Health or  
26 the Environmental Management Commission; but no person shall be approved to  
27 perform inspections who is an officer or employee of the unit of government to which  
28 the revolving loan or grant was made or who is an owner, officer, employee or agent of  
29 a contractor or subcontractor engaged in the construction of the project for which the  
30 revolving loan or grant was made. For the purpose of payment of inspection fees,  
31 inspection services shall be included in the term 'construction cost' as used in this  
32 Chapter."

33 Sec. 210. G.S. 159G-17 reads as rewritten:

34 **"§ 159G-17. Annual reports to Joint Legislative Commission on Governmental**  
35 **Operations.**

36 (a) The Office of State Budget and Management, the ~~Division of Health Services~~  
37 Division of Environmental Health and the Environmental Management Commission  
38 shall prepare and file on or before July 31 of each year with the Joint Legislative  
39 Commission on Governmental Operations a consolidated report for the preceding fiscal  
40 year concerning the allocation of revolving loans and grants authorized by this Chapter.

41 (b) Office of State Budget and Management. – The portion of the report prepared  
42 by the Office of State Budget and Management shall set forth for the preceding fiscal  
43 year itemized and total allocations from the Administrative Account for administrative  
44 expenses; itemized and total allocations from the Wastewater Accounts of revolving

1 loans and grants authorized by the Environmental Management Commission; and  
2 itemized and total allocations from the Water Supply Accounts of revolving loans and  
3 grants authorized by the ~~Division of Health Services~~. Division of Environmental Health.  
4 The Office of State Budget and Management shall also prepare a summary report of all  
5 allocations made from the Clean Water Revolving Loan and Grant Fund for each fiscal  
6 year; the total funds received and allocations made; and unallocated funds on hand in  
7 each account as of the end of the preceding fiscal year.

8 (c) Environmental Management Commission and ~~Division of Health~~  
9 ~~Services~~. Division of Environmental Health. – The portions of the report prepared by the  
10 Environmental Management Commission and the ~~Division of Health Services~~ Division  
11 of Environmental Health shall include:

- 12 (1) Identification of each revolving loan and grant made by the receiving  
13 agency during the preceding fiscal year; the total amount of the  
14 revolving loan and grant commitments; the sums actually paid during  
15 the preceding fiscal year to each revolving loan and grant made and to  
16 each revolving loan and grant previously committed but unpaid; and  
17 the total revolving loan and grant funds paid during the preceding  
18 fiscal year.
- 19 (2) Itemization of expenditures of any administrative expense funds  
20 allocated from the Administrative Account during the preceding fiscal  
21 year.
- 22 (3) Summarization for all preceding years of the total number of revolving  
23 loans and grants made; the total funds committed to such revolving  
24 loans and grants; the total sum actually paid to such revolving loans  
25 and grants and the total expenditure of administrative expense funds  
26 allocated from the Administrative Account.
- 27 (4) Assessment and evaluation of the effects that approved projects have  
28 had upon water pollution control and water supplies within the  
29 purposes of this Chapter and with relation to the total water pollution  
30 control and water supply problem.

31 (d) The report shall be signed by each of the chief executive officers of the State  
32 agencies preparing the report."

33 Sec. 211. G.S. 161-14.3(a) as enacted by Section 1 of Chapter 633 of the  
34 1989 Session Laws reads as rewritten:

35 "(a) The board of county commissioners may by resolution establish one or more  
36 satellite offices of the register of deeds at locations in the county other than the seat of  
37 government. Before a satellite office is established, the register of deeds shall certify to  
38 the board of county commissioners that the recording and indexing procedures to be  
39 used in the satellite office comply in all respects with the law and have been approved  
40 by the ~~North Carolina Department of Natural Resources and Community Development,~~  
41 ~~Land Records Management Program, Land Resources Division.~~ Land Resources  
42 Division of the Department of Environment, Health, and Natural Resources. The  
43 register of deeds also will certify that all instruments presented for registration and other

1 documents presented for recording will be registered or recorded in the order in which  
2 they are presented, regardless of the location where they are presented."

3 Sec. 212. G.S. 162A-23(b) reads as rewritten:

4 "(b) Responsibility for carrying out the role of State government in regional water  
5 supply planning shall be assigned to the Department of ~~Human Resources and the~~  
6 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
7 ~~Community Development~~]. Environment, Health, and Natural Resources. ~~Promotion~~  
8 ~~and coordination of regional water supply systems shall be a shared function of the~~  
9 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
10 ~~Community Development~~] and the Department of Human Resources, with primary  
11 responsibility with regard to sources of raw water supply and transbasin or  
12 transwatershed diversions of water being allocated to the Department of Water and Air  
13 Resources [~~Department of Natural Resources and Community Development~~], and with  
14 primary responsibility with regard to other aspects of regional water supply systems  
15 being allocated to the Department of Human Resources."

16 Sec. 213. G.S. 162A-24(a) reads as rewritten:

17 "(a) There is established under the control and direction of the Department of  
18 Administration a Regional Water Supply Planning Revolving Fund, to consist of any  
19 moneys that may be appropriated for use through the fund by the General Assembly or  
20 that may be made available to it from any other source. The Department may make  
21 advances from the fund to any county, municipality, sanitary district, or to counties and  
22 municipalities acting collectively or jointly as a regional water authority, for the purpose  
23 of meeting the cost of advance planning and engineering work necessary or desirable  
24 for the development of a comprehensive plan for a regional water supply system as  
25 defined in this Article. Such advances shall be subject to repayment by the recipient to  
26 the Department from the proceeds of bonds or other obligations for the regional water  
27 supply system, or from other funds available to the recipient including grants, except  
28 when, in the judgment of the Department of ~~Human Resources and of the Department of~~  
29 ~~Water and Air Resources~~ [~~Department of Natural Resources and Community~~  
30 ~~Development~~]Environment, Health, and Natural Resources, a proposed plan for  
31 development and construction of a countywide or other regional water system is not  
32 feasible because of design and construction factors or because available sources of raw  
33 water supply are inadequate or because construction of a proposed system is not  
34 economically feasible, (but not if the applicant decides not to proceed with construction  
35 that has been planned and which the Department of ~~Human Resources and the~~  
36 ~~Department of Water and Air Resources~~ [~~Department of Natural Resources and~~  
37 ~~Community Development~~]-Environment, Health, and Natural Resources have declared  
38 to be feasible)."

39 Sec. 214. G.S. 162A-24(b) reads as rewritten:

40 "(b) The Department of Administration shall not make any advance pursuant to  
41 this section without first referring the application and proposal to the Department of  
42 ~~Human Resources, the State agency responsible for public water supplies,~~ Environment,  
43 Health, and Natural Resources for determination as to whether the following conditions  
44 ~~set forth below have been met. met. In making such determinations, the Department of~~

1 ~~Human Resources shall obtain and be guided by the recommendations of the~~  
2 ~~Department of Water and Air Resources [Department of Natural Resources and~~  
3 ~~Community Development] on matters for which that Department has responsibility by~~  
4 ~~law:~~

- 5 (1) The proposed area is suitable for development of a regional water  
6 supply system from the standpoint of present and projected  
7 populations, industrial growth potential, and present and future sources  
8 of raw water.
- 9 (2) The applicant proposes to undertake long-range comprehensive  
10 planning to meet present and projected needs for high quality water  
11 service through the construction of a regional water supply system as  
12 defined in this Article. The determination by the Department of  
13 ~~Human Resources~~ Environment, Health, and Natural Resources that  
14 the proposed system would be a 'regional system,' as defined by this  
15 Article, shall be conclusive.
- 16 (3) The applicant proposes to coordinate planning of the regional water  
17 supply with land-use planning in the area, in order that both planning  
18 efforts will be compatible.
- 19 (4) The applicant proposes to employ an engineer licensed to practice in  
20 the State of North Carolina to prepare a comprehensive regional water  
21 supply plan, which plan will provide detailed information on source or  
22 sources of water to meet projected domestic and industrial water  
23 demands; proposed system, including raw water intake(s), treatment  
24 plant, storage facilities, distribution system, and other waterworks  
25 appurtenances; proposed interconnections with existing systems, and  
26 provisions for interconnections with other county, municipal and  
27 regional systems; phased development of systems to achieve ultimate  
28 objectives if economic feasibility is in question; projected water  
29 service areas; proposed equipment; estimates of cost and projected  
30 revenues; and methods of financing."

31 Sec. 215. G.S. 162A-25 reads as rewritten:

32 "**§ 162A-25. Construction of Article.**

33 This Article shall be construed as providing supplemental authority in addition to the  
34 powers of the Department of ~~Human Resources~~ Environment, Health, and Natural  
35 Resources under ~~General Statutes Chapter 130, Chapter 130A and Articles 21 and 38 of~~  
36 Chapter 143 of the General Statutes, the powers of the North Carolina Utilities  
37 Commission under ~~General Statutes Chapter 62, Chapter 62 of the General Statutes,~~  
38 ~~and the powers of the Department of Water and Air Resources [Department of Natural~~  
39 ~~Resources and Community Development] under Articles 21 and 38 of General Statutes~~  
40 Chapter 143, and any other provisions of law concerning local and regional water  
41 supplies."

42 Sec. 216. G.S. 162A-29(a) reads as rewritten:

43 "(a) There is established under the control and direction of the Department of  
44 Administration a Regional Sewage Disposal Planning Revolving Fund, to consist of any

1 moneys that may be appropriated for use through the fund by the General Assembly or  
2 that may be made available to it from any other source. The Department may make  
3 advances from the fund to any county, municipality, or sanitary district, or to counties  
4 and municipalities acting collectively or jointly as a regional sewer authority, for the  
5 purpose of meeting the cost of advance planning and engineering work necessary or  
6 desirable for the development of a comprehensive plan for a regional sewage disposal  
7 system as defined in this Article. Such advances shall be subject to repayment by the  
8 recipient to the Department from the proceeds of bonds or other obligations for the  
9 regional sewage disposal system, or from other funds available to the recipient  
10 including grants, except when, in the judgment of the Department of ~~Water and Air~~  
11 ~~Resources~~ ~~[Department of Natural Resources and Community~~  
12 ~~Development]~~ Environment, Health, and Natural Resources, a proposed plan for  
13 development and construction of a countywide or other regional sewage disposal system  
14 is not feasible because of design and construction factors, or because of the effect that  
15 the sewage disposal system discharge will have upon water quality standards, or  
16 because construction of a proposed system is not economically feasible, (but not if the  
17 applicant decides not to proceed with construction that has been planned and which the  
18 Department of ~~Water and Air Resources~~ ~~[Department of Natural Resources and~~  
19 ~~Community Development]~~ Environment, Health, and Natural Resources has declared to  
20 be feasible)."

21 Sec. 217. G.S. 162A-29(b) reads as rewritten:

22 "(b) The Department of Administration shall not make any advance pursuant to  
23 this section without first referring the application and proposal to the ~~State Department~~  
24 ~~of Water and Air Resources~~ ~~[Department of Natural Resources and Community~~  
25 ~~Development]~~, Department of Environment, Health, and Natural Resources ~~the State~~  
26 ~~agency responsible for water pollution control,~~ for determination as to whether the  
27 following conditions set forth below have been met:

- 28 (1) The proposed area is suitable for development of a regional sewage  
29 disposal system from the standpoint of present and projected  
30 populations, industrial growth potential, and present and future sources  
31 of sewage.
- 32 (2) The applicant proposes to undertake long-range comprehensive  
33 planning to meet present and projected needs for high quality sewage  
34 disposal through the construction of a regional sewage disposal system  
35 as defined in this Article. The determination by the Department of  
36 ~~Water and Air Resources~~ ~~[Department of Natural Resources and~~  
37 ~~Community Development]~~ Environment, Health, and Natural  
38 Resources, that the proposed system would be a 'regional system,' as  
39 defined by this Article, shall be conclusive.
- 40 (3) The applicant proposes to coordinate planning of the regional sewage  
41 disposal system with land-use planning in the area, in order that both  
42 planning efforts will be compatible.
- 43 (4) The applicant proposes to employ an engineer licensed to practice in  
44 the State of North Carolina to prepare a comprehensive regional

1 sewage disposal plan, which plan will provide detailed information on  
2 the source or sources of sewage; the proposed system, including all  
3 facilities and appurtenances thereto for the collection, transmission,  
4 treatment, purification and disposal of sewage; any proposed  
5 interconnection with existing systems, and provisions for  
6 interconnections with other county, municipal and regional systems;  
7 the phased development of systems to achieve ultimate objectives if  
8 economic feasibility is in question; projected sewage disposal service  
9 areas; proposed equipment; estimates of cost and projected revenues;  
10 and methods of financing."

11 Sec. 218. The phrase "Natural Resources and Community Development" is  
12 deleted and replaced by the phrase "Environment, Health, and Natural  
13 Resources" wherever it occurs in each of the following sections of the General Statutes:

- 14 (1) G.S. 7A-343.1. Distribution of copies of the appellate division  
15 reports. ♦
- 16 (2) G.S. 14-131. Trespass on land under option by the federal  
17 government.
- 18 (3) G.S. 14-137. Willfully or negligently setting fire to woods and  
19 fields.
- 20 (4) G.S. 15A-1343. Conditions of probation.
- 21 (5) G.S. 20-81. Official license plates. ♦
- 22 (6) G.S. 47-30. Plats and subdivisions; mapping requirements. ♦
- 23 (7) G.S. 53A-2. Incorporation authorized; information to be set forth;  
24 purposes; powers generally.
- 25 (8) G.S. 58-27.30. State Fire Commission created; membership.
- 26 (9) G.S. 66-58. Sale of merchandise by governmental units.
- 27 (10) G.S. 68-43. Authority of Secretary of Natural Resources and  
28 Community Development to remove or confine ponies on  
29 Ocracoke Island and Shackelford Banks.
- 30 (11) G.S. 69-25.5. Methods of providing fire protection.
- 31 (12) G.S. 74-38. Commission to file copies of bylaws with Department  
32 of Natural Resources and Community Development.
- 33 (13) G.S. 74-49. Definitions.
- 34 (14) G.S. 74-53. Reclamation plan.
- 35 (15) G.S. 74-76. Definitions.
- 36 (16) G.S. 75A-5.1. Commercial fishing boats; renewal of number.
- 37 (17) G.S. 75A-17. Enforcement of Chapter.
- 38 (18) G.S. 76-40. Navigable waters; certain practices regulated.
- 39 (19) G.S. 77-13. Obstructing streams a misdemeanor.
- 40 (20) G.S. 77-14. Obstructions in streams and drainage ditches.
- 41 (21) G.S. 87-85. Definitions.
- 42 (22) G.S. 87-94. Civil penalties.
- 43 (23) G.S. 90A-37. Classification of wastewater treatment facilities.
- 44 (24) G.S. 90A-38. Grades of certificates.

- 1 (25) G.S. 90A-39. Operator qualifications and examination.  
2 (26) G.S. 90A-43. Promotion of training and other powers.  
3 (27) G.S. 100-2. Approval of memorials before acceptance by State;  
4 regulation of existing memorials, etc.; "work of art" defined;  
5 highway markers.  
6 (28) G.S. 100-11. Duties.  
7 (29) G.S. 100-12. Roads, trails, and fences authorized; protection of  
8 property.  
9 (33) G.S. 102-1.1. Name and description in relation to 1983 North  
10 American Datum.  
11 (34) G.S. 102-8. Administrative agency.  
12 (35) G.S. 102-10. Prior work.  
13 (36) G.S. 102-15. Improvement of land records.  
14 (37) G.S. 102-17. County projects eligible for assistance.  
15 (38) G.S. 104G-22. Inter-Agency Committee.  
16 (39) G.S. 105-122. Franchise or privilege tax on domestic and foreign  
17 corporations.  
18 (40) G.S. 105-130.10. Amortization of air-cleaning devices, waste  
19 treatment facilities and recycling facilities.  
20 (41) G.S. 105-130.34. Credit for certain real property donations.  
21 (42) G.S. 105-147. Deductions.  
22 (43) G.S. 105-151.12. Credit for certain real property donations.  
23 (44) G.S. 105-277.7. Use-Value Advisory Board.  
24 (45) G.S. 106-202.14. Creation of Board; membership; terms;  
25 chairman; quorum; board actions; compensation.  
26 (46) G.S. 106-202.17. Creation of committee; membership; terms;  
27 chairman; meetings; committee action; quorum; compensation.  
28 (47) G.S. 113-1. Meaning of terms.  
29 (48) G.S. 113-28.4. Oaths required.  
30 (49) G.S. 113-44.4. Definitions.  
31 (50) G.S. 113-44.9. Definitions.  
32 (51) G.S. 113-60.14. Compact Administrator; North Carolina  
33 members of advisory committee.  
34 (52) G.S. 113-60.15. Agreements with noncompact states.  
35 (53) G.S. 113-60.22. Definition.  
36 (54) G.S. 113-60.32. Definitions.  
37 (55) G.S. 113-60.33. Standby duty.  
38 (56) G.S. 113-77.6. (Expires June 30, 1989) Definitions.  
39 (57) G.S. 113-128. Definitions relating to agencies and their powers.  
40 (58) G.S. 113-129.2. Coastal Reserve Program.  
41 (59) G.S. 113-389. Definitions.  
42 (60) G.S. 113A-52. Definitions.  
43 (61) G.S. 113A-74. Appalachian Trails System; connecting or side  
44 trails; coordination with the National Trails System Act.

- 1 (62) G.S. 113A-75. Assistance under this Article with the National  
2 Trails System Act (PL 90-543).
- 3 (63) G.S. 113A-85. Definitions.
- 4 (64) G.S. 113A-104. Coastal Resources Commission.
- 5 (65) G.S. 113A-107. State guidelines for the coastal area.
- 6 (66) G.S. 113A-112. Planning grants.
- 7 (67) G.S. 113A-153. North Carolina Land Policy Council.
- 8 (68) G.S. 113A-164.3. Definitions.
- 9 (69) G.S. 113A-166. Rules.
- 10 (70) G.S. 113A-167. Existing billboards.
- 11 (71) G.S. 113A-169. Condemnation procedure.
- 12 (72) G.S. 113A-170. Violation a misdemeanor; injunctive relief.
- 13 (73) G.S. 113A-177. Statement of purpose.
- 14 (74) G.S. 113A-178. Definitions.
- 15 (75) G.S. 113A-183. Forest Development Fund.
- 16 (76) G.S. 113A-193. Duties of Secretaries.
- 17 (77) G.S. 113A-194. Assessment rates.
- 18 (78) G.S. 113A-208. Regulation of mountain ridge construction by  
19 counties and cities.
- 20 (79) G.S. 113A-212. Assistance to counties and cities under ridge law.
- 21 (80) G.S. 113B-3. Composition of Council; appointments; terms of  
22 members; qualifications.
- 23 (81) G.S. 120-150. Creation; appointment of members.
- 24 (82) G.S. 120-161. Facilities and staff.
- 25 (83) G.S. 121-4. Powers and duties of the Department of Cultural  
26 Resources.
- 27 (84) G.S. 122E-4. North Carolina Housing Partnership created;  
28 compensation; organization.
- 29 (85) G.S. 126-5. Employees subject to Chapter; exemptions.
- 30 (86) G.S. 130A-294. Solid waste management program.
- 31 (87) G.S. 130B-22. Inter-Agency Committee on Hazardous Waste.
- 32 (88) G.S. 136-21. Drainage of highway; application to court;  
33 summons; commissioners.
- 34 (89) G.S. 136-44.12. Construction and maintenance of roads in areas  
35 administered by the Division of State Parks.
- 36 (90) G.S. 136-102.3. Filing record of results of test drilling or boring  
37 with Secretary of Administration and Secretary of Natural  
38 Resources and Community Development.
- 39 (91) G.S. 139-5. Creation of soil and water conservation districts.
- 40 (92) G.S. 139-7. District board of supervisors – appointive members;  
41 organization of board; certain powers and duties.
- 42 (93) G.S. 139-8. Powers of districts and supervisors.
- 43 (94) G.S. 139-13. Discontinuance of districts.

- 1 (95) G.S. 139-46. Recreational and related aspects of watershed  
2 improvement programs.
- 3 (96) G.S. 143-116.8. Motor vehicle laws applicable to State Parks and  
4 forests road system.
- 5 (97) G.S. 143-166.2. Definitions.
- 6 (98) G.S. 143-166.7. Applicability of Article.
- 7 (99) G.S. 143-166.13. Persons entitled to benefits under Article.
- 8 (100) G.S. 143-169. Limitations on publications.
- 9 (101) G.S. 143-177.3. Sources of funds.
- 10 (102) G.S. 143-211. Declaration of public policy.
- 11 (103) G.S. 143-212. Definitions applicable to Article.
- 12 (104) G.S. 143-215.3A. Use of application and permit fees.
- 13 (105) G.S. 143-215.3B. Wastewater Treatment Works Emergency  
14 Maintenance, Operation and Repair Fund.
- 15 (106) G.S. 143-215.16. Permits for water use within capacity use areas  
16 – duration, transfer, reporting, measurement, present use, fees and  
17 penalties.
- 18 (107) G.S. 143-215.18. Map or description of boundaries of capacity  
19 use areas.
- 20 (108) G.S. 143-215.40. Resolutions and ordinances assuring local  
21 cooperation.
- 22 (109) G.S. 143-215.70. Secretary of Natural Resources and Community  
23 Development authorized to accept applications.
- 24 (110) G.S. 143-215.74F. Program authorized.
- 25 (111) G.S. 143-215.77. Definitions.
- 26 (111a) G.S. 143-215.94U. Oil spill contingency plan. (as enacted by  
27 Section 5 of Chapter 656 of the 1989 Session Laws.)
- 28 (112) G.S. 143-240. Creation of Wildlife Resources Commission;  
29 districts; qualifications of members.
- 30 (113) G.S. 143-243. Organization of the Commission; election of  
31 officers; Robert's Rules of Order.
- 32 (114) G.S. 143-286.1. Nutbush Conservation Area.
- 33 (115) G.S. 143-289. Contributions from certain counties and  
34 municipalities authorized; other grants or donations.
- 35 (116) G.S. 143-323. Functions of Department of Natural Resources and  
36 Community Development.
- 37 (116a) G.S. 143-345.6. Land records management program.
- 38 (117) G.S. 143-350. Definitions.
- 39 (118) G.S. 143-355. Transfer of certain powers, duties, functions and  
40 responsibilities of the Department of Conservation and  
41 Development and of the Director of said Department.
- 42 (119) G.S. 143-370. Commission created; membership.
- 43 (120) G.S. 143A-11. Principal departments.

- 1 (121) G.S. 143B-2. Interim applicability of the Executive Organization  
2 Act of 1973.
- 3 (122) G.S. 143B-6. Principal departments.
- 4 (123) G.S. 143B-86. America's Four Hundredth Anniversary  
5 Committee – members; selection; quorum; compensation.
- 6 (124) G.S. 143B-115. John Motley Morehead Memorial Commission –  
7 members; selection; quorum; compensation.
- 8 (125) G.S. 143B-130. Roanoke Voyages and Elizabeth II Commission –  
9 powers and duties.
- 10 (126) G.S. 143B-131. Roanoke Voyages and Elizabeth II Commission –  
11 members; terms; vacancies; expenses; officers.
- 12 (127) G.S. 143B-181. Governor's Advisory Council on Aging –  
13 members; selection; quorum; compensation.
- 14 (128) G.S. 143B-282. Environmental Management Commission –  
15 creation; powers and duties.
- 16 (129) G.S. 143B-283. Environmental Management Commission –  
17 members; selection; removal; compensation; quorum; services.
- 18 (130) G.S. 143B-289.2. Definitions.
- 19 (131) G.S. 143B-289.3. Marine Fisheries Commission – creation;  
20 purpose and transfer of function.
- 21 (132) G.S. 143B-289.4. Marine Fisheries Commission – powers and  
22 duties.
- 23 (133) G.S. 143B-289.5. Marine Fisheries Commission – members;  
24 selection; removal; compensation; quorum; services.
- 25 (134) G.S. 143B-289.11. Jurisdictional questions.
- 26 (135) G.S. 143B-289.12. Rules of Department continued.
- 27 (136) G.S. 143B-295. Soil and Water Conservation Commission –  
28 members; selection; removal; compensation; quorum; services.
- 29 (137) G.S. 143B-298. Sedimentation Control Commission – creation;  
30 powers and duties.
- 31 (138) G.S. 143B-299. Sedimentation Control Commission – members;  
32 selection; compensation; meetings.
- 33 (139) G.S. 143B-308. Forestry Council – creation; powers and duties.
- 34 (140) G.S. 143B-309. Forestry Council – members; chairman; selection;  
35 removal; compensation; quorum; services.
- 36 (141) G.S. 143B-311. Parks and Recreation Council – creation; powers  
37 and duties.
- 38 (142) G.S. 143B-312. Parks and Recreation Council – members;  
39 chairman; selection; removal; compensation; quorum; services.
- 40 (143) G.S. 143B-317. Air Quality Council – creation; powers and  
41 duties.
- 42 (144) G.S. 143B-318. Air Quality Council – members; chairman;  
43 selection; removal; compensation; quorum; services.

- 1 (145) G.S. 143B-333. North Carolina Trails Committee – creation;  
2 powers and duties.
- 3 (146) G.S. 143B-334. North Carolina Trails Committee – members;  
4 selection; removal; compensation.
- 5 (147) G.S. 143B-335. North Carolina Zoological Park Council –  
6 creation; powers and duties.
- 7 (148) G.S. 143B-336. North Carolina Zoological Park Council –  
8 members; selection; removal; chairman; compensation; quorum;  
9 services.
- 10 (149) G.S. 143B-407. North Carolina State Commission of Indian  
11 Affairs – membership; term of office; chairman; compensation.
- 12 (150) G.S. 143B-411.1. North Carolina Advisory Council on the  
13 Eastern Band of the Cherokee – creation; membership; terms of  
14 office.
- 15 (151) G.S. 143B-417. North Carolina Internship Council – creation;  
16 powers and duties.
- 17 (152) G.S. 143B-426.22. Governor's Management Council.
- 18 (153) G.S. 143B-437. Investigation of impact of proposed new and  
19 expanding industry.
- 20 (154) G.S. 146-8. Disposition of mineral deposits in State lands under  
21 water.
- 22 (155) G.S. 146-30. Application of net proceeds.
- 23 (156) G.S. 148-26. State policy on employment of prisoners.
- 24 (157) G.S. 156-59. Board of viewers appointed by clerk.
- 25 (158) G.S. 156-74. Adjudication upon final report.
- 26 (159) G.S. 156-76. Compensation of board of viewers.
- 27 (160) G.S. 156-83. Superintendent of construction.
- 28 (161) G.S. 159C-7. Approval of project.
- 29 (162) G.S. 159D-7. Approval of project.
- 30 (163) G.S. 161-22.2. Parcel identifier number indexes.
- 31 Sec. 219. The phrase "Human Resources" is deleted and replaced by the  
32 phrase "Environment, Health, and Natural Resources" wherever it occurs in each of the  
33 following sections of the General Statutes:
- 34 (1) G.S. 20-4.01. Definitions.
- 35 (2) G.S. 20-139.1. Procedures governing chemical analyses;  
36 admissibility; evidentiary provisions; controlled-drinking  
37 programs.
- 38 (3) G.S. 48-29. Change of name; report to State Registrar; new birth  
39 certificate to be made.
- 40 (4) G.S. 48-36. Adoption of persons who are 18 or more years of age;  
41 change of name; clerk's certificate and record; notation on birth  
42 certificate; new birth certificate.
- 43 (5) G.S. 51-11. Who may execute certificate; form.
- 44 (6) G.S. 75-6. Violation a misdemeanor; punishment.

- 1 (6a) G.S. 90-233. Practice of dental hygiene.  
2 (7) G.S. 90A-21. Water Treatment Facility Operators Board of  
3 Certification.  
4 (8) G.S. 90A-22. Classification of water treatment facilities;  
5 notification of users.  
6 (9) G.S. 90A-23. Grades of certificates.  
7 (10) G.S. 90A-24. Operator qualifications and examination.  
8 (11) G.S. 90A-28. Promotion of training and other powers.  
9 (12) G.S. 90A-30. Penalties; remedies; contested cases.  
10 (13) G.S. 95-126. Short title and legislative purpose.  
11 (14) G.S. 95-131. Development and promulgation of standards;  
12 adoption of federal standards and regulations.  
13 (15) G.S. 97-61.1. First examination of and report on employee having  
14 asbestosis or silicosis.  
15 (16) G.S. 104E-5. Definitions.  
16 (17) G.S. 104E-7. Radiation Protection Commission – Creation and  
17 powers.  
18 (18) G.S. 104E-8. Radiation Protection Commission – Members;  
19 selections; removal; compensation; quorum; services.  
20 (19) G.S. 104E-9. Powers and functions of Department of Human  
21 Resources.  
22 (20) G.S. 104E-10.1. Additional requirements for low-level  
23 radioactive waste facilities.  
24 (21) G.S. 104E-13. Administrative procedures and judicial review.  
25 (22) G.S. 104E-15. Transportation of radioactive materials.  
26 (23) G.S. 104E-17. Payments to State and local agencies.  
27 (24) G.S. 104E-24. Administrative penalties.  
28 (25) G.S. 104F-4. Advisory Committee.  
29 (26) G.S. 104G-11. Technology, license application, and  
30 environmental impact statement.  
31 (27) G.S. 105-122. Franchise or privilege tax on domestic and foreign  
32 corporations.  
33 (28) G.S. 105-130.10. Amortization of air-cleaning devices, waste  
34 treatment facilities and recycling facilities.  
35 (29) G.S. 105-147. Deductions. (As amended by Section 3 of Chapter  
36 37 of the 1989 Session Laws and as amended by Section 3 of  
37 Chapter 148 of the 1989 Session Laws; provided that this section  
38 shall not apply to G.S. 105-147(25a) as enacted by Section 6 of  
39 Chapter 533 of the 1989 Session Laws.)  
40 (30) G.S. 106-65.23. Structural Pest Control Division of Department  
41 of Agriculture recreated; Director; Structural Pest Control  
42 Committee created; appointment; terms; quorum.  
43 (31) G.S. 106-168.5. Duties of Commissioner upon receipt of  
44 application; inspection committee.

- 1 (32) G.S. 106-266.6. Definitions.  
2 (33) G.S. 115C-522. Provision of equipment for buildings.  
3 (34) G.S. 130A-310.8. Recordation of inactive hazardous substance or  
4 waste disposal sites.  
5 (35) G.S. 130B-2. Definitions.  
6 (36) G.S. 143-300.8. Defense of local sanitarians.  
7 (37) G.S. 148-10. Department of Human Resources to supervise  
8 sanitary and health conditions of prisoners.  
9 (38) G.S. 159C-7. Approval of project.  
10 (39) G.S. 159D-7. Approval of project.  
11 (40) G.S. 162A-33. Procedure for creation; resolutions and petitions  
12 for creation; notice to and action by Commission for Health  
13 Services; notice and public hearing; resolutions creating districts;  
14 actions to set aside proceeding.  
15 (41) G.S. 162A-35. Procedure for inclusion of additional political  
16 subdivision or unincorporated area; notice and hearing; elections;  
17 actions questioning validity of elections.  
18 (42) G.S. 166A-6.1. Emergency planning; charge.  
19 Sec. 220. Chapter 91 of the 1989 Session Laws is amended by deleting the  
20 phrase "Department of Human Resources" wherever it occurs and substituting the phrase  
21 "Department of Environment, Health, and Natural Resources".  
22 Sec. 221. Chapter 574 of the 1989 Session Laws is amended by deleting the  
23 phrase "Department of Natural Resources and Community Development" wherever it  
24 occurs and substituting the phrase "Department of Environment, Health, and Natural  
25 Resources".  
26 Sec. 222. Section 3 of Chapter 603 of the 1989 Session Laws reads as  
27 rewritten:  
28 "~~Sec. 3. The Department of Human Resources and the Department of Natural~~  
29 ~~Resources and Community Development shall work cooperatively in the~~  
30 ~~implementation of this act. The Department of Natural Resources and Community~~  
31 ~~Development or its successor~~ The Department of Environment, Health, and Natural  
32 Resources shall report semi-annually beginning 1 October 1989 to the Joint Legislative  
33 Commission on Governmental Operations and the Environmental Review Commission  
34 as to progress in the implementation of this act."  
35 Sec. 223. (a) References in the Session Laws to any department, division, or  
36 other agency which is transferred by this act shall be deemed to refer to the successor  
37 department, division, or other agency. Every Session Law which refers to any  
38 department, division, or other agency to which this act applies or which relates to any  
39 power, duty, function, or obligation of any such department, division or agency and  
40 which continues in effect after this act becomes effective shall be construed so as to be  
41 consistent with this act.  
42 (b) The Revisor of Statutes is authorized to correct any reference or citation  
43 in the General Statutes to any portion of the General Statutes which is recodified,

1 transferred, subdivided, or amended by this act by deleting incorrect references and  
2 substituting correct references.

3 (c) The Revisor of Statutes is authorized to delete any reference to the  
4 Department of Natural Resources and Community Development, the Secretary of  
5 Natural Resources and Community Development, the Department of Human Resources,  
6 the Secretary of Human Resources, or their predecessors in any portion of the General  
7 Statutes to which conforming amendments are not made by this act and to substitute, as  
8 appropriate and consistent with this act, any of the following phrases: Department of  
9 Environment, Health, and Natural Resources; Secretary of Environment, Health, and  
10 Natural Resources; Department of Human Resources; Secretary of Human Resources;  
11 Department of Commerce; or Secretary of Commerce.

12 Sec. 224. All statutory authority, powers, duties, functions, records,  
13 personnel, property, and unexpended balances of appropriations or other funds of any  
14 agency which is transferred pursuant to this act shall be transferred in their entirety.  
15 Any transfer affecting any agency to which this act applies which is not authorized by  
16 this act, including any transfer under subdivision (10) of Section 5 of Article III of the  
17 Constitution of North Carolina, is hereby specifically disapproved and is void.

18 Sec. 225. (a) The Environmental Review Commission may continue the  
19 study of environmental agency consolidation and reorganization. The study of  
20 environmental agency consolidation shall include, but is not limited to:

- 21 (1) Monitoring the implementation of this act;
- 22 (2) Evaluation of the organization, programs, and operation of the  
23 Department of Environment, Health, and Natural Resources;
- 24 (3) Evaluation of the organization, functions, powers, and duties of the  
25 components of the Department of Environment, Health, and Natural  
26 Resources, including boards, commissions, councils, and regional  
27 offices; and
- 28 (4) Recodification of the General Statutes relating to the environment and  
29 environmental agencies.

30 (b) Notwithstanding any rule or resolution to the contrary, proposed  
31 legislation to implement any recommendation made by the Environmental Review  
32 Commission may be introduced and considered during any session of the General  
33 Assembly.

34 Sec. 226. The provisions of G.S. 150B-(c)(2), as amended by Section 2 of  
35 Chapter 538 of the 1989 Session Laws, shall apply to any agency which is a part of the  
36 Department of Human Resources on 30 June 1989, even though such agency is  
37 subsequently transferred to the Department of Environment, Health, and Natural  
38 Resources or to any other department.

39 Sec. 227. Every act of any department, agency, or officer to which this act  
40 applies which occurred prior to the date this act is ratified and which is otherwise valid  
41 continues to be valid and effective notwithstanding any change in name or transfer of  
42 such department, agency, or officer.

43 Sec. 228. This act shall not be construed to obligate the General Assembly to  
44 make any appropriation to implement the provisions of this act. Each department and

- 1 agency to which this act applies shall implement the provisions of this act from funds
- 2 otherwise appropriated to that department or agency.
- 3           Sec. 229. This act shall become effective 1 July 1989.