

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 734
PROPOSED COMMITTEE SUBSTITUTE S734-PCS35532-SBxf-38

Short Title: Regulatory Reform Act of 2014.

(Public)

Sponsors:

Referred to:

May 15, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
3 NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE
4 REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED
5 STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING
6 CUMBERSOME OR OUTDATED REGULATIONS, BY MAKING VARIOUS OTHER
7 STATUTORY CHANGES, AND BY UPDATING AND AMENDING CERTAIN
8 ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. ADMINISTRATIVE REFORMS**

12
13 **HARDISON AMENDMENT CLARIFICATION**

14 **SECTION 1.1.(a)** G.S. 150B-19.3 reads as rewritten:

15 **"§ 150B-19.3. Limitation on certain environmental rules.**

16 (a) An agency authorized to implement and enforce State and federal environmental
17 laws may not adopt a rule for the protection of the environment or natural resources that
18 imposes a more restrictive standard, limitation, or requirement than those imposed by federal
19 law or rule, if a federal law or rule pertaining to the same subject matter has been adopted,
20 unless adoption of the rule is required by one of the ~~following subdivisions of this subsection.~~
21 A rule required by one of the subdivisions of this subsection shall be subject to the provisions
22 of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under
23 G.S. 150B-21.3(b2).

- 24 (1) A serious and unforeseen threat to the public health, safety, or welfare.
25 (2) An act of the General Assembly or United States Congress that expressly
26 requires the agency to adopt rules.
27 (3) A change in federal or State budgetary policy.
28 (4) A federal regulation required by an act of the United States Congress to be
29 adopted or administered by the State.
30 (5) A court order.

31 (b) For purposes of this section, "an agency authorized to implement and enforce State
32 and federal environmental laws" means any of the following:

- 33 (1) The Department of Environment and Natural Resources created pursuant to
34 G.S. 143B-279.1.
35 (2) The Environmental Management Commission created pursuant to
36 G.S. 143B-282.



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- 1 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
2 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
3 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
4 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
5 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
6 (8) The North Carolina Mining and Energy Commission created pursuant to
7 G.S. 143B-293.1.
8 (9) The Pesticide Board created pursuant to G.S. 143-436."

9 **SECTION 1.1.(b)** G.S. 150B-21.3A(a) reads as rewritten:

10 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

11 (a) Definitions. – For purposes of this section, the following definitions apply:

12 ...
13 (3) Necessary with substantive public interest. – Means any rule for which the
14 agency has received public comments within the past two years. A rule is
15 also "necessary with substantive public interest" if either or both of the
16 following applies:

- 17 a. ~~the~~ The rule affects the property interest of the regulated public and
18 the agency knows or suspects that any person may object to the rule.
19 b. The rule imposes a more restrictive standard, limitation, or
20 requirement than those imposed by federal law or rule, if a federal
21 law or rule pertaining to the same subject matter has been adopted."

22 **SECTION 1.1.(c)** Section 1.1(a) of this section becomes effective July 1, 2014,
23 and applies to rules adopted or readopted on or after that date. Section 1.1(b) of this section
24 becomes effective August 23, 2013, and applies to rules reviewed on or after that date.
25

26 **SCOPE OF LOCAL AUTHORITY FOR ORDINANCES**

27 **SECTION 1.2.(a)** Section 10.2 of S.L. 2013-413 is repealed.

28 **SECTION 1.2.(b)** No later than November 1, 2014, and November 1, 2015, the
29 Department of Agriculture and Consumer Services shall report to the Environmental Review
30 Commission on any local government ordinances that impinge on or interfere with any area
31 subject to regulation by the Department.

32 **SECTION 1.2.(c)** No later than November 1, 2014, and November 1, 2015, the
33 Department of Environment and Natural Resources shall report to the Environmental Review
34 Commission on any local government ordinances that impinge on or interfere with any area
35 subject to regulation by the Department.

36 **SECTION 1.2.(d)** Article 56 of Chapter 106 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 106-678. Authority of local governments to regulate fertilizers.**

39 No county or city shall adopt or continue in effect any ordinance, rule, regulation, or
40 resolution regulating the use, sale, distribution, storage, transportation, disposal, formulation,
41 labeling, registration, manufacture, or application of fertilizer. Nothing in this section shall
42 prohibit a county, city, or other political subdivision of the State from exercising its planning
43 and zoning authority under Article 19 of Chapter 160A of the General Statutes or Article 18 of
44 Chapter 153A of the General Statutes or from exercising its fire prevention or inspection
45 authority. Nothing in this section shall limit the authority of the Department of Environment
46 and Natural Resources to enforce water quality standards."
47

48 **LOTTERY OVERSIGHT COMMITTEE ELIMINATED**

49 **SECTION 1.4.(a)** G.S. 18C-172 is repealed.

50 **SECTION 1.4.(b)** G.S. 18C-115 reads as rewritten:

51 **"§ 18C-115. Reports.**

1 The Commission shall send quarterly and annual reports on the operations of the
2 Commission to the Governor, State Treasurer, ~~the Lottery Oversight Committee,~~ and to the
3 General Assembly. The reports shall include complete statements of lottery revenues, prize
4 disbursements, expenses, net revenues, and all other financial transactions involving lottery
5 funds, including the occurrence of any audit."

6 7 **REPRESENTATION OF SMALL BUSINESS ENTITIES IN ADMINISTRATIVE** 8 **APPEALS**

9 **SECTION 1.5.(a)** G.S. 150B-23(a) reads as rewritten:

10 "(a) A contested case shall be commenced by paying a fee in an amount established in
11 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except
12 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who
13 files the petition shall serve a copy of the petition on all other parties and, if the dispute
14 concerns a license, the person who holds the license. A party who files a petition shall file a
15 certificate of service together with the petition. A petition shall be signed by a party, an
16 attorney representing a party, or other representative of the party as may specifically be
17 authorized by law, and, if filed by a party other than an agency, shall state facts tending to
18 establish that the agency named as the respondent has deprived the petitioner of property, has
19 ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced
20 the petitioner's rights and that the agency:

- 21 (1) Exceeded its authority or jurisdiction;
- 22 (2) Acted erroneously;
- 23 (3) Failed to use proper procedure;
- 24 (4) Acted arbitrarily or capriciously; or
- 25 (5) Failed to act as required by law or rule.

26 The parties in a contested case shall be given an opportunity for a hearing without undue
27 delay. Any person aggrieved may commence a contested case hereunder.

28 A local government employee, applicant for employment, or former employee to whom
29 Chapter 126 of the General Statutes applies may commence a contested case under this Article
30 in the same manner as any other petitioner. The case shall be conducted in the same manner as
31 other contested cases under this Article.

32 If the party is a small business entity, it may be represented by one or more of its owners
33 with the written consent of all the owners, and the Office of Administrative Hearings may not
34 require that the entity retain or be represented by an attorney. A small business entity is a
35 limited liability company or a corporation that is owned, directly or indirectly, by no more than
36 two individuals. An individual is an indirect owner if the individual is a member or shareholder
37 of a limited liability company or a corporation that is an owner of the small business entity."

38 **SECTION 1.5.(b)** G.S. 105-290 is amended by adding a new subsection to read:

39 "(d2) Small Business Entity Representation. – If a property owner is a small business
40 entity, that entity may be represented by one or more of its owners with the written consent of
41 all the owners, and the Commission may not require that the entity retain or be represented by
42 an attorney. A small business entity is a limited liability company or a corporation that is
43 owned, directly or indirectly, by no more than two individuals. An individual is an indirect
44 owner if the individual is a member or shareholder of a limited liability company or a
45 corporation that is an owner of the small business entity."

46 **SECTION 1.5.(c)** This section is effective when it becomes law and applies to
47 contested cases and appeals commenced on or after that date.

48 49 **EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED** 50 **PROPERTY**

51 **SECTION 1.6.(a)** G.S. 93A-2(c)(1) reads as rewritten:

1 "(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

2 (1) Any partnership, corporation, limited liability company, association, or other
3 business entity that, as owner or lessor, shall perform any of the acts
4 aforesaid with reference to property owned or leased by them, where the acts
5 are performed in the regular course of or as incident to the management of
6 that property and the investment therein. The exemption from licensure
7 under this subsection shall extend to the following persons when those
8 persons are engaged in acts or services for which the corporation,
9 partnership, limited liability company, or other business entity would be
10 exempt hereunder:

11 a. The officers and employees of an exempt corporation, the
12 corporation.

13 b. The general partners and employees of an exempt partnership, and
14 the partnership.

15 c. The managers and employees of an exempt limited liability company
16 when said persons are engaged in acts or services for which the
17 corporation, partnership, or limited liability company would be
18 exempt hereunder.

19 d. The owners of an exempt closely held business entity. For purposes
20 of this subdivision, a closely held business entity is a limited liability
21 company or a corporation with no more than two legal owners.

22 e. The officers, managers, and employees of a closely held business
23 entity owned by a person exempt under sub-subdivision d. of this
24 subdivision."

25 **REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY**

26 **SECTION 1.7** Subsection 6A.14(a) of Session Law 2011-145 reads as rewritten:

27 **"SECTION 6A.14.(a)** Every executive branch agency within State government shall
28 develop a policy to limit the issuance and use of mobile electronic devices to the minimum
29 required to carry out the agency's mission. By September 1, 2011, each agency shall provide a
30 copy of its policy to the Chairs of the Appropriations Committee and the Appropriations
31 Subcommittee on General Government of the House of Representatives, the Chairs of the
32 Appropriations/Base Budget Committee and the Appropriations Committee on General
33 Government and Information Technology of the Senate, the Chairs of the Joint Legislative
34 Oversight Committee on Information Technology, the Fiscal Research Division, and the Office
35 of State Budget and Management.

36 State-issued mobile electronic devices shall be used only for State business. Agencies shall
37 limit the issuance of cell phones, smart phones, and any other mobile electronic devices to
38 employees for whom access to a mobile electronic device is a critical requirement for job
39 performance. The device issued and the plan selected shall be the minimum required to support
40 the employees' work requirements. This shall include considering the use of pagers in lieu of a
41 more sophisticated device. The requirement for each mobile electronic device issued shall be
42 documented in a written justification that shall be maintained by the agency and reviewed
43 annually. All State agency heads, in consultation with the Office of Information Technology
44 Services and the Office of State Budget and Management, shall document and review all
45 authorized cell phone, smart phone, and other mobile electronic communications device
46 procurement, and related phone, data, Internet, and other usage plans for and by their
47 employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State
48 employees and contractors are complying with agency policies and State requirements for their
49 use.
50

1 Beginning October 1, 2011, each agency shall report ~~quarterly~~ annually to the Chairs of the
2 House of Representatives Committee on Appropriations and the House of Representatives
3 Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations
4 and the Senate Appropriations Committee on General Government and Information
5 Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal
6 Research Division, and the Office of State Budget and Management on the following:

- 7 (1) Any changes to agency policies on the use of mobile devices.
- 8 (2) The number and types of new devices issued since the last report.
- 9 (3) The total number of mobile devices issued by the agency.
- 10 (4) The total cost of mobile devices issued by the agency.
- 11 (5) The number of each type of mobile device issued, with the total cost for each
12 type."

13
14 **ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR**
15 **AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE**
16 **EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE**
17 **NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S**
18 **MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH**
19 **CAROLINA CENTER FOR NURSING, THE BOARD OF CORRECTIONS; AND TO**
20 **ENCOURAGE THE CHIEF JUSTICE TO ABOLISH THE ACTUAL INNOCENCE**
21 **COMMISSION**

22 **SECTION 1.8.(a)** Part 20 of Article 10 of Chapter 143B of the General Statutes is
23 repealed.

24 **SECTION 1.8.(b)** Section 7.32(e) of S.L. 2007-323, as rewritten by Section
25 7.14(a) of S.L. 2008-107 and Section 7.19(e) of S.L. 2010-31, reads as rewritten:

26 "**SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative
27 Commission on Dropout Prevention and High School Graduation created in subsection (f) of
28 this section by December 1, 2007, on the grants awarded under subsection (d) of this section.
29 The Committee shall terminate July 1, 2014."

30 **SECTION 1.8.(c)** G.S. 116C-1 reads as rewritten:

31 "**§ 116C-1. Education Cabinet created.**

32 (a) The Education Cabinet is created. The Education Cabinet shall be located
33 administratively within, and shall exercise its powers within existing resources of, the Office of
34 the Governor. However, the Education Cabinet shall exercise its statutory powers
35 independently of the Office of the Governor.

36 (b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the
37 President of The University of North Carolina, the State Superintendent of Public Instruction,
38 the Chairman of the State Board of Education, the President of the North Carolina Community
39 Colleges System, the Secretary of Health and Human Services, and the President of the North
40 Carolina Independent Colleges and Universities. The Education Cabinet may invite other
41 representatives of education to participate in its deliberations as adjunct members.

42 (c) The Education Cabinet shall be a nonvoting body that:

- 43 (1) Works to resolve issues between existing providers of education.
- 44 ~~(2) Sets the agenda for the State Education Commission.~~
- 45 (3) Develops a strategic design for a continuum of education programs, in
46 accordance with G.S. 116C-3.
- 47 (4) Studies other issues referred to it by the Governor or the General Assembly.

48 (d) The Office of the Governor, in coordination with the staffs of The University of
49 North Carolina, the North Carolina Community College System, and the Department of Public
50 Instruction, shall provide staff to the Education Cabinet."

51 **SECTION 1.8.(d)** G.S. 116C-2 is repealed.

1 **SECTION 1.8.(e)** Article 26 of Chapter 143 of the General Statutes is repealed.

2 **SECTION 1.8.(f)** Section 18.10 of S.L. 2001-491 reads as rewritten:

3 **"SECTION 18.10.** Notwithstanding G.S. 158-8.1, the Western North Carolina Regional
4 Economic Development Commission shall develop a regional heritage tourism plan and shall
5 present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May
6 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4
7 of this act shall terminate July 1, 2014."

8 **SECTION 1.8.(g)** Part 24 of Article 9 of Chapter 143B is repealed.

9 **SECTION 1.8.(h)** G.S. 90-171.71 is repealed.

10 **SECTION 1.8.(i)** G.S. 143B-711 reads as rewritten:

11 **"§ 143B-711. Division of Adult Correction of the Department of Public Safety –**
12 **organization.**

13 The Division of Adult Correction of the Department of Public Safety shall be organized
14 initially to include the Post-Release Supervision and Parole Commission, ~~the Board of~~
15 ~~Correction,~~the Section of Prisons of the Division of Adult Correction, the Section of
16 Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment
17 Programs, and such other divisions as may be established under the provisions of the Executive
18 Organization Act of 1973."

19 **SECTION 1.8.(j)** G.S. 143B-715 is repealed.

20 **SECTION 1.8.(k)** The North Carolina Actual Innocence Commission was
21 established by the Chief Justice of the North Carolina Supreme Court. Its primary purpose was
22 to make recommendations which would reduce or eliminate the possibility of the wrongful
23 conviction of an innocent person. In 2006, the General Assembly enacted S.L. 2006-184, which
24 established the North Carolina Innocence Inquiry Commission, as recommended by the North
25 Carolina Actual Innocence Commission. Inasmuch as it appears that the work of the Actual
26 Innocence Commission is complete, the Chief Justice of the North Carolina Supreme Court is
27 encouraged to take appropriate action to formally abolish the Commission.

29 **CLARIFY PROCESS FOR READOPTION OF EXISTING RULES**

30 **SECTION 1.9.** G.S. 150B-21.3A(d) reads as rewritten:

31 "(d) Timetable. – The Commission shall establish a schedule for the review and
32 readoption of existing rules in accordance with this section on a decennial basis as follows:

33 (1) With regard to the review process, the Commission shall assign by assigning
34 each Title of the Administrative Code a date by which the review required
35 by this section must be completed. In establishing the schedule, the
36 Commission shall consider the scope and complexity of rules subject to this
37 section and the resources required to conduct the review required by this
38 section. The Commission shall have broad authority to modify the schedule
39 and extend the time for review in appropriate circumstances. Except as
40 provided in ~~subsection~~ ~~subsections~~ (d1) and (e) of this section, if the agency
41 fails to conduct the review by the date set by the Commission, the rules
42 contained in that Title which have not been reviewed will expire. The
43 Commission shall report to the Committee any agency that fails to conduct
44 the review. The Commission may exempt rules that have been adopted or
45 amended within the previous 10 years from the review required by this
46 section. However, any rule exempted on this basis must be reviewed in
47 accordance with this section no more than 10 years following the last time
48 the rule was amended.

49 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
50 of this section, once the final determination report becomes effective, the
51 Commission shall establish a date by which the agency must readopt the

1 rules. The Commission shall consult with the agency and shall consider the
2 agency's rule-making priorities in establishing the readoption date. The
3 agency may amend a rule as part of the readoption process. If a rule is
4 readopted without change, the agency is not required to prepare a fiscal note
5 as provided by G.S. 150B-21.4."
6

7 **AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL** 8 **CORPORATIONS**

9 **SECTION 1.10.** G.S. 55B-12 reads as rewritten:

10 **"§ 55B-12. Application of regulations of licensing boards.**

11 (a) A professional corporation shall be subject to the applicable rules and regulations
12 adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in
13 this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee
14 as herein defined. No professional corporation may do any act which its shareholders as
15 licensees are prohibited from doing.

16 (b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes,
17 any licensing board subject to this Chapter may adopt rules to implement the provisions of this
18 Chapter, including any rules needed to establish fees within the limits set by this Chapter."
19

20 **OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS**

21 **SECTION 1.11.** G.S. 93B-2 reads as rewritten:

22 **"§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to** 23 **report.**

24 (a) No later than October 31 of each year, each occupational licensing board shall file
25 electronically with the Secretary of State, the Attorney General, and the Joint ~~Regulatory~~
26 ~~Reform~~ Legislative Administrative Procedure Oversight Committee an annual report containing
27 all of the following information:

28 (1) The address of the board, and the names of its members and officers.

29 (1a) The total number of licensees supervised by the board.

30 (2) The number of persons who applied to the board for examination.

31 (3) The number who were refused examination.

32 (4) The number who took the examination.

33 (5) The number to whom initial licenses were issued.

34 (5a) The number who failed the examination.

35 (6) The number who applied for license by reciprocity or comity.

36 (7) The number who were granted licenses by reciprocity or comity.

37 (7a) The number of official complaints received involving licensed and
38 unlicensed activities.

39 (7b) The number of disciplinary actions taken against licensees, or other actions
40 taken against nonlicensees, including injunctive relief.

41 (8) The number of licenses suspended or revoked.

42 (9) The number of licenses terminated for any reason other than failure to pay
43 the required renewal fee.

44 (10) The substance of any anticipated request by the occupational licensing board
45 to the General Assembly to amend statutes related to the occupational
46 licensing board.

47 (11) The substance of any anticipated change in rules adopted by the
48 occupational licensing board or the substance of any anticipated adoption of
49 new rules by the occupational licensing board.

50 (b) No later than October 31 of each year, each occupational licensing board shall file
51 electronically with the Secretary of State, the Attorney General, the Office of State Budget and

1 Management, and the Joint ~~Regulatory Reform~~ Legislative Administrative Procedure Oversight
2 Committee a financial report that includes the source and amount of all funds credited to the
3 occupational licensing board and the purpose and amount of all funds disbursed by the
4 occupational licensing board during the previous fiscal year.

5 (c) The reports required by this section shall be open to public inspection.

6 (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify
7 any board that fails to file the reports required by this section. Failure of a board to comply with
8 the reporting requirements of this section by October 31 of each year shall result in a
9 suspension of the board's authority to expend any funds until such time as the board files the
10 required reports. Suspension of a board's authority to expend funds under this subsection shall
11 not affect the board's duty to issue and renew licenses or the validity of any application or
12 license for which fees have been tendered in accordance with law. Each board shall adopt rules
13 establishing a procedure for implementing this subsection and shall maintain an escrow account
14 into which any fees tendered during a board's period of suspension under this subsection shall
15 be deposited."

16 17 OAH ELECTRONIC FILING

18 SECTION 1.12.(a) Article 3 of Chapter 150B of the General Statutes is amended
19 by adding a new section to read:

20 "§ 150B-23.3. Electronic filing.

21 (a) In addition to any other method specified in G.S. 150B-23, documents filed and
22 served in a contested case may be filed and served electronically by means of an Electronic
23 Filing Service Provider. For purposes of this section, the following definitions apply:

- 24 (1) Electronic filing means the electronic transmission of the petition, notice of
25 hearing, pleadings, or any other documents filed in a contested case with the
26 Office of Administrative Hearings, as further defined by rules adopted by the
27 Office of Administrative Hearings.
- 28 (2) Electronic Filing Service Provider (EFSP) means the service provided by the
29 Office of Administrative Hearings for e-filing and e-service of documents
30 via the Internet.
- 31 (3) Electronic service means the electronic transmission of the petition, notice of
32 hearing, pleadings, or any other documents in a contested case, as further
33 defined by rules adopted by the Office of Administrative Hearings."

34 SECTION 1.12.(b) This section is effective when it becomes law and applies to
35 contested cases filed on or after that date.

36 37 STATE BOARD OF EDUCATION RULEMAKING CLARIFICATION

38 SECTION 1.13.(a) G.S. 115C-12 reads as rewritten:

39 "§ 115C-12. Powers and duties of the Board generally.

40 The general supervision and administration of the free public school system shall be vested
41 in the State Board of Education. The State Board of Education shall establish policy for the
42 system of free public schools, subject to laws enacted by the General Assembly. The State
43 Board of Education is subject to Article 2A of Chapter 150B of the General Statutes. The State
44 Board of Education may not implement or enforce against any person a policy that meets the
45 definition of a rule contained in G.S. 150B-2(8a) if the policy has not been adopted as a rule in
46 accordance with Article 2A of Chapter 150B of the General Statutes. The powers and duties of
47 the State Board of Education are defined as follows:

48"

49 SECTION 1.13.(b) G.S. 150B-23 is amended by adding a new subsection to read:

50 "(a4) If an agency fails to take any required action within the time period specified by
51 law, any person whose rights are substantially prejudiced by the agency's failure to act may

1 commence a contested case in accordance with this section seeking an order that the agency act
2 as required by law. If the administrative law judge finds that the agency has failed to act as
3 required by law, the administrative law judge may order that the agency take the required
4 action within a specified time period."

5 **SECTION 1.13.(c)** G.S. 150B-44 reads as rewritten:

6 "**§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.**

7 ~~Unreasonable delay on the part of any agency or administrative law judge in taking any~~
8 ~~required action shall be justification for any person whose rights, duties, or privileges are~~
9 ~~adversely affected by such delay to seek a court order compelling action by the agency or~~
10 ~~administrative law judge. Failure of an administrative law judge subject to Article 3 of this~~
11 ~~Chapter or failure of an agency subject to Article 3A of this Chapter to make a final decision~~
12 ~~within 120 days of the close of the contested case hearing is justification for a person whose~~
13 ~~rights, duties, or privileges are adversely affected by the delay to seek a court order compelling~~
14 ~~action by the agency or by the administrative law judge. The Board of Trustees of the North~~
15 ~~Carolina State Health Plan for Teachers and State Employees is a "board" for purposes of this~~
16 ~~section."~~

18 **STREAMLINE RULE-MAKING PROCESS**

19 **SECTION 1.14.(a)** G.S. 150B-19.1(h) is repealed.

20 **SECTION 1.14.(b)** G.S. 150B-21.4(b1) reads as rewritten:

21 "(b1) Substantial Economic Impact. – Before an agency adopts a permanent rule change
22 that would have a substantial economic impact and that is not identical to a federal regulation
23 that the agency is required to adopt, the agency shall prepare a fiscal note for the proposed rule
24 change and have the note approved by the Office of State Budget and Management. The agency
25 must also obtain from the Office a certification that the agency adhered to the regulatory
26 principles set forth in G.S. 150B-19.1(a)(2), (5), and (6). The agency may request the Office of
27 State Budget and Management to prepare the fiscal note only after, working with the Office, it
28 has exhausted all resources, internal and external, to otherwise prepare the required fiscal note.
29 If an agency requests the Office of State Budget and Management to prepare a fiscal note for a
30 proposed rule change, that Office must prepare the note within 90 days after receiving a written
31 request for the note. If the Office of State Budget and Management fails to prepare a fiscal note
32 within this time period, the agency proposing the rule change shall prepare a fiscal note. A
33 fiscal note prepared in this circumstance does not require approval of the Office of State
34 Budget and Management.

35 If an agency prepares the required fiscal note, the agency must submit the note to the Office
36 of State Budget and Management for review. The Office of State Budget and Management
37 shall review the fiscal note within 14 days after it is submitted and either approve the note or
38 inform the agency in writing of the reasons why it does not approve the fiscal note. After
39 addressing these reasons, the agency may submit the revised fiscal note to that Office for its
40 review. If an agency is not sure whether a proposed rule change would have a substantial
41 economic impact, the agency shall ask the Office of State Budget and Management to
42 determine whether the proposed rule change has a substantial economic impact. Failure to
43 prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for
44 objection to the rule under G.S. 150B-21.9(a)(4).

45 As used in this subsection, the term "substantial economic impact" means an aggregate
46 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a
47 12-month period. In analyzing substantial economic impact, an agency shall do the following:

- 48 (1) Determine and identify the appropriate time frame of the analysis.
- 49 (2) Assess the baseline conditions against which the proposed rule is to be
50 measured.

- 1 (3) Describe the persons who would be subject to the proposed rule and the type
2 of expenditures these persons would be required to make.
- 3 (4) Estimate any additional costs that would be created by implementation of the
4 proposed rule by measuring the incremental difference between the baseline
5 and the future condition expected after implementation of the rule. The
6 analysis should include direct costs as well as opportunity costs. Cost
7 estimates must be monetized to the greatest extent possible. Where costs are
8 not monetized, they must be listed and described.
- 9 (5) For costs that occur in the future, the agency shall determine the net present
10 value of the costs by using a discount factor of seven percent (7%)."

11 **SECTION 1.14.(c)** This section is effective when it becomes law and applies to
12 proposed rules published on or after that date.

13 **BURDEN OF PROOF IN CERTAIN CONTESTED CASES**

14 **SECTION 1.15.(a)** Article 3 of Chapter 150B of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 150B-25.1. Burden of proof.**

17 (a) Except as provided by this section, the petitioner in a contested case has the burden
18 of proving the facts alleged in the petition by a preponderance of the evidence.

19 (b) In a contested case involving the imposition of civil fines or penalties by a State
20 agency for violation of the law, the burden of showing that the person who was fined actually
21 committed the act for which the fine or penalty was imposed rests with the State agency.

22 (c) The burden of showing that a career State employee subject to Chapter 126 of the
23 General Statutes was discharged, suspended, or demoted for just cause rests with the agency
24 employer."

25 **SECTION 1.15.(b)** The Joint Legislative Administrative Procedure Oversight
26 Committee shall study whether there are other categories of contested cases in which the
27 burden of proof should be placed with the agency.

28 **SECTION 1.15.(c)** This section is effective when it becomes law and applies to
29 contested cases commenced on or after that date.

30 **LEGISLATIVE APPOINTMENTS**

31 **SECTION 1.16.(a)** G.S. 120-121 is amended by adding two new subsections to
32 read:

33 (e) The following applies in any case where the Speaker of the House of
34 Representatives or the President Pro Tempore of the Senate is directed by law to make a
35 recommendation for an appointment by the General Assembly, and the legislator is also
36 directed to make the recommendation in consultation with or upon the recommendation of a
37 third party:

38 (1) The recommendation or consultation is discretionary and is not binding upon
39 the legislator.

40 (2) The third party must submit the recommendation or consultation at least 60
41 days prior to the expiration of the term or within 10 business days from the
42 occurrence of a vacancy.

43 (3) Failure by the third party to submit the recommendation or consultation to
44 the legislator within the time periods required under this subsection shall be
45 deemed a waiver by the third party of the opportunity.

46 (f) The following applies in any case where the Speaker of the House of
47 Representatives or the President Pro Tempore of the Senate is directed by law to make a
48 recommendation for an appointment by the General Assembly and the legislator is also directed
49 to make the recommendation from nominees provided by a third party:
50
51

1 (1) The third party must submit the nominees at least 60 days prior to the
2 expiration of the term or within 10 business days from the occurrence of a
3 vacancy.

4 (2) Failure by the third party to submit the nomination to the legislator within
5 the time periods required under this subsection shall be deemed a waiver by
6 the third party of the opportunity."

7 **SECTION 1.16.(b)** Article 16 of Chapter 120 of the General Statutes is amended
8 by adding a new section to read:

9 **"§ 120-124. Appointments made by legislators.**

10 (a) In any case where a legislator is called upon by law to appoint a member to a board
11 or commission upon the recommendation of or in consultation with a third party, the
12 recommendation or consultation is discretionary and is not binding upon the legislator. The
13 third party must submit the recommendation or consultation at least 60 days prior to the
14 expiration of the term or within 10 business days from the occurrence of a vacancy.

15 (b) In any case where a legislator is called upon by law to appoint a member to a board
16 or commission from nominees provided by a third party, the third party must submit the
17 nominees at least 60 days prior to the expiration of the term or within 10 business days from the
18 occurrence of a vacancy. This subsection does not apply to nominations made under
19 G.S. 120-99(a) or G.S. 120-100(b).

20 (c) Failure to submit the recommendation, consultation, or nomination within the time
21 periods required under this section shall be deemed a waiver by the third party of the
22 opportunity."

23 **SECTION 1.16.(c)** This section is effective when it becomes law and applies to
24 recommendations, consultations, and nominations made on or after that date.

25 26 **PART II. PERMITTING REFORMS**

27 28 **CAPSTONE PERMITTING**

29 **SECTION 2.1.** G.S. 150B-23 is amended by adding a new subsection to read:

30 **"§ 150B-23. Commencement; assignment of administrative law judge; hearing required;**
31 **notice; intervention.**

32 ...
33 (g) Where multiple licenses are required from an agency for a single activity, the
34 Secretary or chief administrative officer of the agency may issue a written determination that
35 the administrative decision reviewable under Article 3 of this Chapter occurs on the date the
36 last license for the activity is issued, denied, or otherwise disposed of. The written
37 determination of the administrative decision is not reviewable under this Article. Any licenses
38 issued for the activity prior to the date of the last license identified in the written determination
39 are not reviewable under this Article until the last license for the activity is issued, denied, or
40 otherwise disposed of. A contested case challenging the last license decision for the activity
41 may include challenges to agency decisions on any of the previous licenses required for the
42 activity."

43 44 **CONTESTED CASES FOR AIR QUALITY PERMITS**

45 **SECTION 2.2.** G.S. 143-215.108 reads as rewritten:

46 **"§ 143-215.108. Control of sources of air pollution; permits required.**

47 ...
48 (e) A permit applicant, permittee, or third party applicant or permittee who is
49 dissatisfied with a decision of the Commission on a permit application may commence a
50 contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission
51 notifies the applicant or permittee of its decision. If the permit applicant, permittee, or third

1 party applicant or permittee does not file a petition within the required time, the Commission's
2 decision on the application is final and is not subject to review. The filing of a petition under
3 this subsection will stay the Commission's decision until resolution of the contested case.

4 (e1) A person other than a permit applicant or permittee who is a person aggrieved by
5 the Commission's decision on a permit application may commence a contested case by filing a
6 petition under G.S. 150B-23 within 30 days after the Commission provides notice of its
7 decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on
8 a publically available Web site. "Substantial prejudice" to the petitioner in a contested case
9 filed under this subsection means the exceedance of a national ambient air quality standard.
10 The filing of a petition under this subsection does not stay the Commission's decision except as
11 ordered by the administrative law judge under G.S. 150B-33(b).

12
13

14 CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS

15 SECTION 2.3. Part 1A of Article 21 of Chapter 143 of the General Statutes is
16 amended by adding a new section to read:

17 "§ 143-215.10J Closure of certain animal waste containment basins.

18 (a) The Department shall consider any waste containment basin to be a fresh water
19 storage facility meeting all requirements for closure under 15A NCAC 02T. 1306 if the owner
20 of the basin demonstrates to the satisfaction of the Department that the basin meets all of the
21 following requirements:

22 (1) The basin has been used only for the containment of dairy cattle waste.

23 (2) The basin was constructed prior to 1967.

24 (3) The basin has not been used for the containment of dairy cattle waste after
25 September 1, 2006, and the only liquid currently held in the basin is from
26 rainwater or rainwater runoff.

27 (4) Nitrogen levels in the basin water do not exceed 40 parts per million.

28 (b) The Department shall provide written notification to the owner of a basin meeting
29 the requirements of subsection (a) of this section that the basin is no longer considered an
30 animal waste management system."

31 CONTESTED CASES FOR CAMA PERMITS

32 SECTION 2.4. G.S. 113A-121.1 reads as rewritten:

33 "§ 113A-121.1. Administrative review of permit decisions.

34 (a) An applicant for a minor or major development permit who is dissatisfied with the
35 decision on his application may file a petition for a contested case hearing under G.S. 150B-23
36 within 20 days after the decision is made. When a local official makes a decision to grant or
37 deny a minor development permit and the Secretary is dissatisfied with the decision, the
38 Secretary may file a petition for a contested case within 20 days after the decision is made.

39 (b) A person other than a permit applicant or the Secretary who is dissatisfied with a
40 decision to deny or grant a minor or major development permit may file a petition for a
41 contested case hearing only if the Commission determines that a hearing is appropriate. A
42 request for a determination of the appropriateness of a contested case hearing shall be made in
43 writing and received by the Commission within 20 days after the disputed permit decision is
44 made. A determination of the appropriateness of a contested case shall be made within 15 days
45 after a request for a determination is received and shall be based on whether the person seeking
46 to commence a contested case:

47 (1) Has alleged that the decision is contrary to a statute or rule;

48 (2) Is directly affected by the decision; and

49 (3) Has alleged facts or made legal arguments that demonstrate that the request
50 for the hearing is not frivolous.
51

1 If the Commission determines a contested case is appropriate, the petition for a contested
2 case shall be filed within 20 days after the Commission makes its determination. A
3 determination that a person may not commence a contested case is a final agency decision and
4 is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on
5 judicial review, the court determines that the Commission erred in determining that a contested
6 case would not be appropriate, the court shall remand the matter for a contested case hearing
7 under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in
8 such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in
9 effect at the time of the commencement of the contested case.

10 (c) ~~A~~ When the applicant seeks administrative review of a decision concerning a permit
11 under subsection (a) of this section, the permit is suspended from the time a person seeks
12 administrative review of the decision concerning the permit until the Commission determines
13 ~~that the person seeking the review cannot commence a contested case or the Commission~~
14 ~~makes a final decision in a~~ the contested case, as appropriate, case, and no action may be taken
15 during that time that would be unlawful in the absence of a permit.

16 (d) A permit challenged under subsection (b) of this section remains in effect unless a
17 stay is issued by the administrative law judge as set forth in G.S. 150B-33 or by a reviewing
18 court as set forth in G.S. 150B-48."

20 GUBERNATORIAL ENVIRONMENTAL PERMIT WAIVER AUTHORITY

21 SECTION 2.5.(a) G.S. 166A-19.30(a) reads as rewritten:

22 "§ 166A-19.30. Additional powers of the Governor during state of emergency.

23 (a) In addition to any other powers conferred upon the Governor by law, during a
24 gubernatorially or legislatively declared state of emergency, the Governor shall have the
25 following powers:

- 26 (1) To utilize all available State resources as reasonably necessary to cope with
27 an emergency, including the transfer and direction of personnel or functions
28 of State agencies or units thereof for the purpose of performing or
29 facilitating emergency services.
- 30 (2) To take such action and give such directions to State and local law
31 enforcement officers and agencies as may be reasonable and necessary for
32 the purpose of securing compliance with the provisions of this Article and
33 with the orders, rules, and regulations made pursuant thereto.
- 34 (3) To take steps to assure that measures, including the installation of public
35 utilities, are taken when necessary to qualify for temporary housing
36 assistance from the federal government when that assistance is required to
37 protect the public health, welfare, and safety.
- 38 (4) Subject to the provisions of the State Constitution to relieve any public
39 official having administrative responsibilities under this Article of such
40 responsibilities for willful failure to obey an order, rule, or regulation
41 adopted pursuant to this Article.
- 42 (5) Through issuance of an executive order, to waive requirements for an
43 environmental document or permit issued under Articles 1, 4, and 7 of
44 Chapter 113A of the General Statutes for the repair, protection, safety
45 enhancement, or replacement of a component of the State highway system
46 that provides the sole road access to an incorporated municipality or an
47 unincorporated inhabited area bordering the Atlantic Ocean or any coastal
48 sound, where bridge or road conditions as a result of the events leading to
49 the declaration of the state of emergency pose a substantial risk to public
50 health, safety, or welfare. The executive order shall list the duration of the
51 waiver and the activities to which the waiver applies. For purposes of this

subdivision, "coastal sound" shall have the definition set forth in G.S. 113A-103, and "replacement" shall not be interpreted to exclude a replacement that increases size or capacity or that is located in a different location than the component that is replaced."

SECTION 2.5.(b) G.S. 113A-12 is amended by adding a new subdivision to read:

"(7) The issuance of an executive order under G.S. 166A-19.30(a)(5) waiving the requirement for an environmental document."

SECTION 2.5.(c) G.S. 113A-52.01 reads as rewritten:

"§ 113A-52.01. Applicability of this Article.

This Article shall not apply to the following land-disturbing activities:

...

(4) For the duration of an emergency, activities essential to protect human ~~life~~ life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5)."

SECTION 2.5.(d) G.S. 113A-103(5) reads as rewritten:

"§ 113A-103. Definitions.

As used in this Article:

...

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating structure in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

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

1. Work by a highway or road agency for the maintenance of an existing road, if the work is carried out on land within the boundaries of the existing ~~right-of-way;~~ right-of-way, or for emergency repairs and safety enhancements of an existing road as described in an executive order issued under G.S. 166A-19.30(a)(5).

...."

FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS

SECTION 2.6.(a) Subsections (l) and (m) of G.S. 113-210 are repealed.

SECTION 2.6.(b) This section becomes effective July 1, 2014.

LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES

SECTION 2.7. G.S. 160A-272 reads as rewritten:

"§ 160A-272. Lease or rental of property.

...

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~ 25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of~~

1 Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill,
2 Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,
3 Wendell, and Zebulon only."

5 CLOSING-OUT SALES

6 SECTION 2.8. G.S. 66-77 reads as rewritten:

7 "§ 66-77. License required; contents of applications; inventory required; fees; bond;
8 extension of licenses; records; false statements.

9 (a) No person shall advertise or offer for sale a stock of goods, wares or merchandise
10 under the description of closing-out sale, or a sale of goods, wares or merchandise damaged by
11 fire, smoke, water or otherwise, or a distress sale unless he shall have obtained a license to
12 conduct such sale from the ~~clerk of the~~ officer designated by the governing board of the city or
13 town in which he proposes to conduct such a sale or from the officer designated by the Board
14 of County Commissioners if the sale is conducted in an unincorporated area. The applicant for
15 such a license shall make to ~~such clerk~~ the designated officer an application therefor, in writing
16 and under oath at least seven days prior to the opening date of sale, showing all the facts
17 relating to the reasons and character of such sale, including the opening and terminating dates
18 of the proposed sale, the opening and terminating dates of any previous distress sale or
19 closing-out sale held by the applicant within that county during the preceding 12 months, a
20 complete inventory of the goods, wares or merchandise actually on hand in the place ~~whereat~~
21 ~~such~~ where the sale is to be conducted, and all details necessary to locate exactly and identify
22 fully the goods, wares or merchandise to be sold. Provided, the seller in a distress sale need not
23 file an inventory.

24 (b) If ~~such clerk~~ the designated officer shall be satisfied from said application that the
25 proposed sale is of the character which the applicant desires to advertise and conduct, the ~~clerk~~
26 ~~designated officer~~ shall issue a license, upon the payment of a fee of fifty dollars (\$50.00)
27 therefor, together with a bond, payable to the city or town or county in the penal sum of five
28 hundred dollars (\$500.00), conditioned upon compliance with this Article, to the applicant
29 authorizing him to advertise and conduct a sale of the particular kind mentioned in the
30 application. The license fee provided for herein shall be good for a period of 30 days from its
31 date, and if the applicant shall not complete said sale within said 30-day period then the
32 applicant shall make application to ~~such clerk~~ the designated officer for a license for a new
33 permit, which shall be good for an additional period of 30 days, and shall pay therefor the sum
34 of fifty dollars (\$50.00), and a second extension period of 30 days may be similarly applied for
35 and granted by the ~~clerk~~ designated officer upon payment of an additional fee of fifty dollars
36 (\$50.00) and upon the ~~clerk~~ designated officer being satisfied that the applicant is holding a
37 bona fide sale of the kind contemplated by this Article and is acting in a bona fide manner;
38 provided, however, that the ~~clerk~~ designated officer may not grant an extension period as
39 provided in this subsection if (i) the applicant conducted a distress sale immediately preceding
40 the current sale for which the extension is applied for and (ii) the period of the extension
41 applied for, when added to the period of the preceding sale and the period of the current sale,
42 will exceed 120 days. No additional bond shall be required in the event of one or more
43 extensions as herein provided for. Any merchant who shall have been conducting a business in
44 the same location where the sale is to be held for a period of not less than one year, prior to the
45 date of holding such sale, or any merchant who shall have been conducting a business in one
46 location for such period but who shall, by reason of the building being untenable or by
47 reason of the fact that said merchant shall have no existing lease or ownership of the building
48 and shall be forced to hold such sale at another location, shall be exempted from the payment
49 of the fees and the filing of the bond herein provided for.

50"

51

PART III. REGULATORY AND STATUTORY MODIFICATIONS**REGULATION OF IMPACT TO ISOLATED WETLANDS**

SECTION 3.1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in subsection (c) of this section.

SECTION 3.1.(b) Notwithstanding 15A NCAC 02H .1305 (Review of Applications), both of the following shall apply to the implementation of 15A NCAC 02H .1305:

- (1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to 1 acre of isolated wetlands for the entire project.
- (2) The mitigation ratio under 15A NCAC 02H .1305(g)(6) shall be 1:1.

SECTION 3.1.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02H .1305 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.1.(d) The Department of Environment and Natural Resources shall study the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

SECTION 3.1.(e) Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

COMMUNITY COLLEGE BREWING COURSE WAIVER

SECTION 3.2.(a) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1114.6. Brewing, Distillation, and Fermentation course authorization.

(a) Authorization. – The holder of a brewing, distillation, and fermentation course authorization may:

- (1) Manufacture malt beverages on the school's campus or the school's contracted or leased property for the purpose of providing instruction and education on the making of malt beverages.**
- (2) Possess malt beverages manufactured during the brewing, distillation, and fermentation program for the purpose of conducting malt beverage tasting seminars and classes for students who are 21 years of age or older.**
- (3) Sell malt beverages produced during the course to wholesalers or to retailers upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109, except that the permittee may not receive shipments of malt beverages from other producers.**
- (4) Sell malt beverages produced during the course, upon obtaining a permit under G.S. 18B-1001(2).**

1 **(b) Limitation.** – Authorization for a brewing, distillation, and fermentation course shall
 2 be granted by the Commission only for a community college or college that offers a brewing,
 3 distillation, and fermentation program as a part of its curriculum offerings for students of the
 4 school. For purposes of this section, the term "brewing, distillation, and fermentation program"
 5 includes a fermentation sciences program offered by a community college or college as part of
 6 its curriculum offerings for students of the school.

7 **(c) Malt Beverage Special Event Permit.** – The holder of a brewing, distillation, and
 8 fermentation course authorization who obtains a malt beverages wholesaler permit under
 9 G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt
 10 beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may
 11 participate in approved events and sell at retail at those events any malt beverages produced
 12 incident to the operation of the brewing, distillation, and fermentation program. The holder of a
 13 brewing, distillation, and fermentation course authorization may participate in not more than
 14 six malt beverage special events within a 12-month period and may sell up to 64 cases of malt
 15 beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes
 16 of this subsection, a "case of malt beverages" is a package containing not more than 24
 17 12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt
 18 beverages pursuant to this subsection shall be retained by the school and used for support of the
 19 brewing, distillation, and fermentation program.

20 **(d) Limited Application.** – The holder of a brewing, distillation, and fermentation
 21 course authorization shall not be considered a brewery for the purposes of this Chapter or
 22 Chapter 105 of the General Statutes."

23 **SECTION 3.2.(b)** G.S. 18B-1114.5(a) reads as rewritten:

24 "(a) Authorization. – The holder of a ~~brewery~~, ~~brewery permit~~, a ~~malt beverage~~
 25 ~~importer~~, ~~beverages importer permit~~, a brewing, distillation, and fermentation course
 26 authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special
 27 event permit allowing the permittee to give free tastings of its malt beverages and to sell its
 28 malt beverages by the glass or in closed containers at trade shows, conventions, shopping
 29 malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon
 30 races, local fund-raisers, and other similar events approved by the Commission. Except for a
 31 brewery operating under the provisions of G.S. 18B-1104(7), all malt beverages sampled or
 32 sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

33 **SECTION 3.2.(c)** G.S. 18B-1001(2) reads as rewritten:

34 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

35 When the issuance of the permit is lawful in the jurisdiction in which the premises are
 36 located, the Commission may issue the following kinds of permits:

37 ...

38 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
 39 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
 40 original container for consumption off the premises, (ii) the retail sale of
 41 malt beverages in a cleaned, sanitized, resealable container as defined in 4
 42 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off
 43 the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4
 44 NCAC 2T.0308(d)-(e), and the container identifies the permittee and the
 45 date the container was filled or refilled, and (iii) the holder of the permit to
 46 ship malt beverages in closed containers to individual purchasers inside and
 47 outside the State. The permit may be issued for any of the following:

- 48 a. ~~Restaurants~~; ~~Restaurants.~~
- 49 b. ~~Hotels~~; ~~Hotels.~~
- 50 c. ~~Eating establishments~~; ~~establishments.~~
- 51 d. ~~Food businesses~~; ~~businesses.~~

- 1 e. Retail businesses.
 2 f. The holder of a brewing, distillation, and fermentation course
 3 authorization under G.S. 18B-1114.6. A school obtaining a permit
 4 under this subdivision is authorized to sell malt beverages
 5 manufactured during its brewing, distillation, and fermentation
 6 program at one noncampus location in a county where the permittee
 7 holds and offers classes on a regular full-time basis in a facility
 8 owned by the permittee.

9"

10 **SECTION 3.2.(d)** G.S. 66-58(c)(1a) reads as rewritten:

11 **"§ 66-58. Sale of merchandise or services by governmental units.**

- 12 ...
 13 (c) The provisions of subsection (a) shall not prohibit:

14 ...
 15 (1a) The sale of products raised or produced incident to the operation of a
 16 community college or college viticulture/enology program as authorized by
 17 G.S. 18B-1114.4.G.S. 18B-1114.4 or the operation of a community college
 18 or college brewing, distillation, or fermentation program as authorized by
 19 G.S. 18B-1114.6.

20"

21 CARBON MONOXIDE ALARMS

22 **SECTION 3.3.(a)** Section 19(c) of Session Law 2013-413 is repealed.

23 **SECTION 3.3.(b)** Section 19(e) of Session Law 2013-413 reads as rewritten:

24 **"SECTION 19.(e)** This section is effective when it becomes law, except that ~~(i) subsection~~
 25 ~~(b) of this section becomes effective October 1, 2013, and expires October 1, 2014; and (ii)~~
 26 ~~subsection (c) of this section becomes effective October 1, 2014.~~ subsection (b) of this section
 27 becomes effective October 1, 2013."

28 **SECTION 3.3.(c)** G.S. 143-138(b2) reads as rewritten:

29 **"(b2) Carbon Monoxide ~~Detectors.~~ Alarms.** – The Code (i) may contain provisions
 30 requiring the installation of either battery-operated or electrical carbon monoxide
 31 ~~detectors~~alarms in every dwelling unit having a ~~fossil-fuel-burning~~combustion heater,
 32 appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain
 33 provisions requiring the installation of electrical carbon monoxide ~~detectors~~alarms at a lodging
 34 establishment. The Building Code Council may require carbon monoxide alarms in dwelling
 35 units with no combustion heater, appliance, or fireplace other than a wood-burning fireplace
 36 only upon (i) a finding by the Council that carbon monoxide emissions from wood-burning
 37 fireplaces constitute a substantial threat to public health and safety and (ii) a report by the
 38 Council to the Joint Legislative Commission on Government Operations that provides the basis
 39 for the Council's finding of a substantial threat to public health and safety. Violations of this
 40 subsection and rules adopted pursuant to this subsection shall be punishable in accordance with
 41 subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

- 42 (1) For dwelling units, carbon monoxide ~~detectors~~alarms shall be those listed by
 43 a nationally recognized testing laboratory that is OSHA-approved to test and
 44 certify to American National Standards Institute/Underwriters Laboratories
 45 Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in
 46 accordance with either the standard of the National Fire Protection
 47 Association or the minimum protection designated in the manufacturer's
 48 instructions, which the property owner shall retain or provide as proof of
 49 compliance. A carbon monoxide ~~detector~~alarm may be combined with
 50 smoke detectors if the combined ~~detector~~alarm does both of the following:
 51

1 (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide
2 alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a
3 manner that clearly differentiates between detecting the presence of carbon
4 monoxide and the presence of smoke.

5 (2) For lodging establishments, including tourist homes that provide
6 accommodations for seven or more continuous days (extended stay
7 establishments), and bed and breakfast inns and bed and breakfast homes as
8 defined in G.S. 130A-247, carbon monoxide ~~detectors~~alarms shall be
9 installed in every ~~enclosed space~~dwelling unit or sleeping unit having a
10 fossil fuel ~~burning~~combustion heater, appliance, or fireplace and in ~~any~~
11 enclosed space, including a sleeping room, every dwelling unit or sleeping
12 unit that shares a common wall, floor, or ceiling ~~with an enclosed space~~with
13 a room having a ~~combustion~~fossil fuel ~~burning~~ heater, appliance, or
14 fireplace. Carbon monoxide ~~detectors~~alarms shall be (i) listed by a nationally
15 recognized testing laboratory that is ~~OSHA approved~~approved to test and
16 certify to American National Standards Institute/Underwriters Laboratories
17 (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in
18 accordance with either the standard of the National Fire Protection
19 Association (NFPA) or the minimum protection designated in the
20 manufacturer's instructions, which the lodging establishment shall retain or
21 provide as proof of compliance, (iii) receive primary power from the
22 building's wiring, where such wiring is served from a commercial source,
23 and (iv) receive power from a battery when primary power is interrupted. A
24 carbon monoxide ~~detector~~alarms may be combined with smoke detectors if
25 the combined ~~detector~~alarm complies with the requirements of this
26 subdivision for carbon monoxide alarms and ANSI/UL217 for smoke
27 ~~detectors~~alarms. In lieu of the carbon monoxide alarms required by this
28 subsection, a carbon monoxide detection system, which includes carbon
29 monoxide detectors and audible notification appliances installed and
30 maintained in accordance with NFPA 720 shall be permitted. The carbon
31 monoxide detectors shall be listed as complying with ANSI/UL2075. For
32 purposes of this subsection, "lodging establishment" means any hotel, motel,
33 tourist home, or other establishment permitted under authority of
34 G.S. 130A-248 to provide lodging accommodations for pay to the
35 public-public, and "combustion heater, appliance, or fireplace" means any
36 heater, appliance, or fireplace that burns combustion fuels, including, but not
37 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
38 coal, for heating, cooking, drying, or decorative purposes, including, but not
39 limited to, space heaters, wall and ceiling heaters, ranges, ovens, stoves,
40 furnaces, fireplaces, water heaters, and clothes dryers. For purposes of this
41 subsection, candles and canned fuels are not considered to be combustion
42 appliances.

43 (3) The Building Code Council shall modify the NC State Building Code (Fire
44 Prevention) to regulate the provisions of this subsection in new and existing
45 lodging establishments, including hotels, motels, tourist homes that provide
46 accommodations for seven or more continuous days (extended stay
47 establishments), and bed and breakfast inns and bed and breakfast homes as
48 defined in G.S. 130A-247; provided, nothing in this subsection shall prevent
49 the Building Code Council from establishing more stringent rules regulating
50 carbon monoxide alarms or detectors for new lodging establishments,
51 including hotels, motels, tourist homes that provide accommodations for

1 seven or more continuous days (extended stay establishments), and bed and
2 breakfast inns and bed and breakfast homes as defined in G.S. 130A-247.
3 The Building Code Council shall modify the NC State Building Code (Fire
4 Prevention) minimum inspection schedule to include annual inspections of
5 new and existing lodging establishments, including hotels, motels, and
6 tourist homes that provide accommodations for seven or more continuous
7 days (extended stay establishments), and bed and breakfast inns and bed and
8 breakfast homes as defined in G.S. 130A-247 for the purpose of compliance
9 with this subsection.

10 (4) Upon discovery of a violation of this subsection that poses an imminent
11 hazard and that is not corrected during an inspection of a lodging
12 establishment subject to the provisions of G.S. 130A-248, the code official
13 responsible for enforcing the NC State Building Code (Fire Prevention) shall
14 immediately notify the local health director, or the director's designee, for
15 the county in which the violation was discovered by verbal contact and shall
16 also submit a written report documenting the violation of this subsection to
17 the local health director, or the director's designee, for the county in which
18 the violation was discovered on the next working day following the
19 discovery of the violation. Within one working day of receipt of the written
20 report documenting a violation of this subsection, the local health director,
21 or the director's designee, for the county in which the violation was
22 discovered shall investigate and take appropriate action regarding the permit
23 for the lodging establishment, as provided in G.S. 130A-248. Lodging
24 establishments having five or more rooms that are exempted from the
25 requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the
26 penalties set forth in the NC State Building Code (Fire Prevention).

27 (5) Upon discovery of a violation of this subsection that does not pose an
28 imminent hazard and that is not corrected during an inspection of a lodging
29 establishment subject to the provisions of G.S. 130A-248, the owner or
30 operator of the lodging establishment shall have a correction period of three
31 working days following the discovery of the violation to notify the code
32 official responsible for enforcing the NC State Building Code (Fire
33 Prevention) verbally or in writing that the violation has been corrected. If the
34 code official receives such notification, the code official may reinspect the
35 portions of the lodging establishment that contained violations, but any fees
36 for reinspection shall not exceed the fee charged for the initial inspection. If
37 the code official receives no such notification, or if the results of a
38 reinspection reveal that previous violations were not corrected, the code
39 official shall submit a written report documenting the violation of this
40 subsection to the local health director, or the director's designee, for the
41 county in which the violation was discovered within three working days
42 following the termination of the correction period or the reinspection,
43 whichever is later. The local health director shall investigate and may take
44 appropriate action regarding the permit for the lodging establishment, as
45 provided in G.S. 130A-248. Lodging establishments having five or more
46 rooms that are exempted from the requirements of G.S. 130A-248 by
47 G.S. 130A-250 shall be subject to the penalties set forth in the NC State
48 Building Code (Fire Prevention)."

49 SECTION 3.3.(d) G.S. 130A-248 reads as rewritten:

50 "§ 130A-248. Regulation of food and lodging establishments.

51 ...

1 (b) No establishment shall commence or continue operation without a permit or
2 transitional permit issued by the Department. The permit or transitional permit shall be issued
3 to the owner or operator of the establishment and shall not be transferable. If the establishment
4 is leased, the permit or transitional permit shall be issued to the lessee and shall not be
5 transferable. If the location of an establishment changes, a new permit shall be obtained for the
6 establishment. A permit shall be issued only when the establishment satisfies all of the
7 requirements of the ~~rules and the requirements of subsection (g) of this section.~~ rules. The
8 Commission shall adopt rules establishing the requirements that must be met before a
9 transitional permit may be issued, and the period for which a transitional permit may be issued.
10 The Department may also impose conditions on the issuance of a permit or transitional permit
11 in accordance with rules adopted by the Commission. A permit or transitional permit shall be
12 immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to
13 maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or
14 revoked in accordance with G.S. 130A-23.

15 ...
16 (g) All hotels, motels, tourist homes, and other establishments that provide lodging for
17 pay shall ~~install either a battery operated or electrical carbon monoxide detector in every~~
18 ~~enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed~~
19 ~~space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed~~
20 ~~space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors~~
21 ~~shall be listed by a nationally recognized testing laboratory that is OSHA approved to test and~~
22 ~~certify to American National Standards Institute/Underwriters Laboratories Standards~~
23 ~~ANSI/UL2034 or ANSI/UL2075, and installed in accordance with either the standard of the~~
24 ~~National Fire Protection Association or the minimum protection designated in the~~
25 ~~manufacturer's instructions, which the establishment shall retain or provide as proof of~~
26 ~~compliance. A carbon monoxide detector may be combined with smoke detectors if the~~
27 ~~combined detector complies with the requirements of this subdivision for carbon monoxide~~
28 ~~alarms and ANSI/UL217 for smoke detectors.~~ comply with the requirements of
29 G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code
30 official responsible for enforcing the NC State Building Code (Fire Prevention) in accordance
31 with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued
32 pursuant to this section in accordance with G.S. 130A-23."

33 34 **WATER SUPPLY WATERSHED CLASSIFICATIONS**

35 **SECTION 3.4.(a)** G.S. 143-214.5 is amended by adding a new subsection to read:

36 "(c1) This subsection applies to water supply watersheds reclassified by the Commission
37 after January 1, 2012. When the Commission receives a rule-making petition under
38 G.S. 150B-20 that (i) is from a unit of local government with jurisdiction over an area to be
39 served by a proposed water intake that is impacted by a reclassification to which this subsection
40 applies and (ii) requests repeal of the reclassification, the Commission shall grant the
41 rule-making petition, and the reclassification as well as any local ordinance changes required
42 under subsection (d) of this section shall be stayed until the Commission has promulgated rules
43 in response to the rule-making petition that are retroactive to the effective date of the original
44 water supply watershed reclassification."

45 **SECTION 3.4.(b)** Notwithstanding any other provision of law, a unit of local
46 government shall repeal local ordinance changes required in order to implement a water supply
47 watershed reclassification upon filing a rule-making petition under G.S. 143-214.5(c1), as
48 enacted by subsection (a) of this section.

49 **SECTION 3.4.(c)** This section is effective when it becomes law and applies to any
50 petitions for rule making regarding water supply watershed reclassifications received by the
51 Environmental Management Commission on or after January 1, 2012, and prior to the effective

1 date of this section. Subsection (a) of this section expires when the Commission issues
2 permanent rules in response to a rule-making petition under G.S. 143-214.5(c1), as enacted by
3 subsection (a) of this section.
4

5 **ADA REQUIREMENTS FOR PRIVATE POOLS**

6 **SECTION 3.5.(a)** Notwithstanding Section 1109.14 of the 2012 NC State Building
7 Code (Building Code), swimming pools shall be required to be accessible only to the extent
8 required by the Americans with Disabilities Act, 42 U.S.C. § 12101 et. seq., and federal rules
9 and regulations adopted pursuant to that act.

10 **SECTION 3.5.(b)** The Building Code Council shall adopt a rule to amend Section
11 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 3.5(a) of
12 this act.

13 **SECTION 3.5.(c)** Section 3.5(a) of this section expires on the date that the rule
14 adopted pursuant to Section 3.5(b) of this section becomes effective.
15

16 **ENVIRONMENTAL SELF AUDIT PRIVILEGE AND LIMITED IMMUNITY**

17 **SECTION 3.6.(a)** Chapter 8 of the General Statutes is amended by adding a new
18 Part to read:

19 "Part 7D. Environmental Audit Privilege and Limited Immunity.

20 "§ 8-58.50. Purpose.

21 (a) In order to encourage owners and operators of facilities and persons conducting
22 activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or
23 conducting activities regulated under other environmental laws, to conduct voluntary internal
24 environmental audits of their compliance programs and management systems and to assess and
25 improve compliance with statutes, an environmental audit privilege is recognized to protect the
26 confidentiality of communications relating to voluntary internal environmental audits.

27 (b) Notwithstanding any other provisions of law, nothing in this Part shall be construed
28 to protect owners and operators of facilities and regulated persons from a criminal investigation
29 or prosecution carried out by any appropriate governmental entity.

30 (c) Notwithstanding any other provision of law, any privilege granted by this Part shall
31 apply only to those communications, oral or written, pertaining to and made in connection with
32 the environmental audit and shall not apply to the facts relating to the violation itself.

33 "§ 8-58.51. Definitions.

34 The following definitions apply in this Part:

35 (1) "Department" means the Department of Environment and Natural Resources.

36 (2) "Environmental audit" means a voluntary, internal evaluation or review of
37 one or more facilities or an activity at one or more facilities regulated under
38 federal, State, regional, or local environmental law, or of compliance
39 programs, or management systems related to the facility or activity if
40 designed to identify and prevent noncompliance and to improve compliance
41 with these laws. For the purposes of this Part, an environmental audit does
42 not include an environmental site assessment of a facility conducted solely
43 in anticipation of the purchase, sale, or transfer of the business or facility. An
44 environmental audit may be conducted by the owner or operator, the parent
45 corporation of the owner or operator or by their officers or employees, or by
46 independent contractors. An environmental audit must be a discrete activity
47 with a specified beginning date and scheduled ending date reflecting the
48 auditor's bona fide intended completion schedule.

49 (3) "Environmental audit report" means a document marked or identified as
50 such with a completion date existing either individually or as a compilation
51 prepared in connection with an environmental audit. An environmental audit

1 report may include field notes and records of observations, findings,
2 opinions, suggestions, recommendations, conclusions, drafts, memoranda,
3 drawings, photographs, computer-generated or electronically-recorded
4 information, maps, charts, graphs, and surveys, provided the supporting
5 information is collected or developed for the primary purpose and in the
6 course of an environmental audit. An environmental audit report, when
7 completed, may include all of the following components:

8 a. An audit report prepared by an auditor, which may include the scope
9 and date of the audit and the information gained in the audit, together
10 with exhibits and appendices and may include conclusions,
11 recommendations, exhibits, and appendices.

12 b. Memoranda and documents analyzing any portion of the audit report
13 or issues relating to the implementation of an audit report.

14 c. An implementation plan that addresses correcting past
15 noncompliance, improving current compliance, or preventing future
16 noncompliance.

17 (4) "Enforcement agencies" means the Department, any other agency of the
18 State, and units of local government responsible for enforcement of
19 environmental laws.

20 (5) "Environmental laws" means all provisions of federal, State, and local laws,
21 rules, and ordinances pertaining to environmental matters.

22 **"§ 8-58.52. Applicability.**

23 This Part applies to activities regulated under environmental laws, including all of the
24 following provisions of the General Statutes, and rules adopted thereunder:

25 (1) Article 7 of Chapter 74.

26 (2) Chapter 104E.

27 (3) Article 25 of Chapter 113.

28 (4) Articles 1,4, and 7 of Chapter 113A.

29 (5) Article 9 of Chapter 130A.

30 (6) Articles 21, 21A, and 21B of Chapter 143.

31 (7) Part 1 of Article 7 of Chapter 143B.

32 **"§ 8-58.53. Environmental audit report; privilege.**

33 (a) An environmental audit report or any part of an environmental audit report is
34 privileged and, therefore, immune from discovery and is not admissible as evidence in civil or
35 administrative proceedings instituted by an enforcement agency, except as provided in
36 G.S. 8-58.54 and G.S. 8-58.55. Provided, however, all of the following documents are exempt
37 from the privilege established by this Part:

38 (1) Information obtained by observation of an enforcement agency.

39 (2) Information obtained from a source independent of the environmental audit.

40 (3) Documents, communication, data, reports, or other information required to
41 be collected, maintained, otherwise made available, or reported to a
42 enforcement agency or any other entity by environmental laws, permit,
43 order, consent agreement, or as otherwise provided by law.

44 (4) Documents prepared either prior to the beginning of the environmental audit
45 or subsequent to the completion date of the audit report and, in all cases, any
46 documents prepared independent of the audit or audit report.

47 (5) Documents prepared as a result of multiple or continuous self-auditing
48 conducted in an effort to intentionally avoid liability for violations.

49 (6) Information which is knowingly misrepresented or misstated or which is
50 knowingly deleted or withheld from an environmental audit report, whether
51 or not included in a subsequent environmental audit report.

1 (7) Information in instances where the material shows evidence of
2 noncompliance with environmental laws, permits, orders, consent
3 agreements, and the owner or operator failed to either promptly take
4 corrective action or eliminate any violation of law identified during the
5 environmental audit within a reasonable period of time.

6 (b) If an environmental audit report or any part of an environmental audit report is
7 subject to the privilege provided for in subsection (a) of this section, no person who conducted
8 or participated in the audit or who significantly reviewed the audit report may be compelled to
9 testify regarding the audit report or a privileged part of the audit report except as provided for
10 in G.S. 8-58.53(d), 8-58.54, or 8-58.55.

11 (c) Nothing in this Part shall be construed to restrict a party in a proceeding before the
12 Industrial Commission from obtaining or discovering any evidence necessary or appropriate for
13 the proof of any issue pending in an action before the Commission, regardless of whether
14 evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to
15 prevent the admissibility of evidence which is otherwise relevant and admissible in a
16 proceeding before the Industrial Commission, regardless of whether the evidence is privileged
17 pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the
18 proceeding, may issue appropriate protective orders preventing disclosure of information
19 outside of the Commission's proceeding.

20 (d) Nothing in this Part shall be construed to circumvent the employee protection
21 provisions provided by federal or State law.

22 (e) The privilege created by this Part does not apply to criminal investigations or
23 proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the
24 privilege created by this Part shall continue to apply and is not waived in civil and
25 administrative proceedings and is not discoverable or admissible in civil or administrative
26 proceedings even if disclosed during a criminal proceeding.

27 **"§ 8-58.54. Waiver of privilege.**

28 (a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is
29 expressly waived in writing by the owner or operator of a facility at which an environmental
30 audit was conducted and who prepared or caused to be prepared the audit report as a result of
31 the audit.

32 (b) The audit report and information generated by the audit may be disclosed without
33 waiving the privilege established under G.S. 8-58.53 to all of the following persons:

34 (1) A person employed by the owner or operator or the parent corporation of the
35 audited facility.

36 (2) A legal representative of the owner or operator or parent corporation.

37 (3) An independent contractor retained by the owner or operator or parent
38 corporation to conduct an audit on or to address an issue or issues raised by
39 the audit.

40 (c) Disclosure of an audit report or information generated by the audit under all of the
41 following circumstances shall not constitute a waiver of the privilege established under
42 G.S. 8-58.53:

43 (1) Disclosure made under the terms of a confidentiality agreement between the
44 owner or operator of the facility audited and a potential purchaser of the
45 business or facility audited.

46 (2) Disclosure made under the terms of a confidentiality agreement between
47 governmental officials and the owner or operator of the facility audited.

48 (3) Disclosure made under the terms of a confidentiality agreement between a
49 customer, lending institution, or insurance company with an existing or
50 proposed relationship with the facility.

51 **"§ 8-58.55. Notification of audit.**

1 In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
2 facility conducting the environmental audit shall, upon inspection of the facility by an
3 enforcement agency, or no later than 10 working days after completion of an agency's
4 inspection, notify the enforcement agency of the existence of any audit relevant to the subject
5 of the agency's inspection, as well as the beginning date and completion date of that audit. Any
6 environmental audit report shall include a signed certification from the owner or operator of the
7 facility that documents the date the audit began and the completion date of the audit.

8 **"§ 8-58.55. Revocation of privilege in civil and administrative proceedings.**

9 In a civil or administrative proceeding, an enforcement agency may seek by motion a
10 declaratory ruling on the issue of whether an environmental audit report is privileged. The court
11 shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set
12 forth in this section apply. In a civil proceeding, the court, after an in camera review, shall
13 revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of
14 the environmental audit report was sought after the effective date of this Part and either of the
15 following apply:

16 (1) The privilege is asserted for purposes of deception or evasion.

17 (2) The material shows evidence of significant noncompliance with applicable
18 environmental laws; the owner or operator of the facility has not promptly
19 initiated and pursued with diligence appropriate action to achieve
20 compliance with these environmental laws or has not made reasonable
21 efforts to complete any necessary permit application; and, as a result, the
22 owner or operator of the facility did not or will not achieve compliance with
23 applicable environmental laws or did not or will not complete the necessary
24 permit application within a reasonable period of time.

25 **"§ 8-58.56. Privilege in criminal proceedings.**

26 The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

27 **"§ 8-58.57. Burden of proof.**

28 A party asserting the privilege established under G.S. 8-58.53 has the burden of proving
29 that (i) the materials claimed as privileged constitute an environmental audit report as defined
30 by this Part and (ii) compliance has been achieved or will be achieved with a reasonable period
31 of time. A party seeking disclosure under G.S.8-58.55 has the burden of proving the condition
32 for disclosure set forth in that section.

33 **"§ 8-58.58. Stipulations; declaratory rulings.**

34 The parties to a proceeding may at any time stipulate to entry of an order directing that
35 specific information contained in an environmental audit report is or is not subject to the
36 privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an
37 enforcement agency may seek a declaratory ruling from a court on the issue of whether the
38 materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be
39 revoked pursuant to G.S. 8-58.55.

40 **"§ 8-58.59. Construction of Part.**

41 Nothing in this Part limits, waives, or abrogates any of the following:

42 (1) The scope or nature of any statutory or common law privilege, including the
43 work-product privilege or the attorney-client privilege.

44 (2) Any existing ability or authority under State law to challenge privilege.

45 (3) An enforcement agency's ability to obtain or use documents or information
46 that the agency otherwise has the authority to obtain under State law adopted
47 pursuant to federally delegated programs.

48 **"§ 8-58.60. Voluntary disclosure; limited immunity from civil and administrative**
49 **penalties and fines.**

50 (a) An owner or operator of a facility is immune from imposition of civil and
51 administrative penalties and fines by enforcement agencies for a violation of environmental

1 laws voluntarily disclosed subject to the requirements and criteria set forth in this section.
2 Provided, however, that waiver of penalties and fines shall not be granted until the applicable
3 enforcement agency has certified that the violation was corrected within a reasonable period of
4 time. If compliance is not certified by the enforcement agency, the enforcement agency shall
5 retain discretion to assess penalties and fines for the violation.

6 (b) If a person or entity makes a voluntary disclosure of a violation of environmental
7 laws discovered through performance of an environmental audit, that person has the burden of
8 proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection
9 (c) of this section and (ii) that the person is therefore entitled to immunity from any
10 administrative or civil penalties associated with the issues disclosed. Nothing in this section
11 may be construed to provide immunity from criminal penalties.

12 (c) For purposes of this section, disclosure is voluntary if all of the following criteria
13 are met:

- 14 (1) The disclosure is made within 14 days following a reasonable investigation
15 of the violation's discovery through the environmental audit.
- 16 (2) The disclosure is made to an enforcement agency having regulatory
17 authority over the violation disclosed.
- 18 (3) The person or entity making the disclosure initiates an action to resolve the
19 violation identified in the disclosure in a diligent manner.
- 20 (4) The person or entity making the disclosure cooperates with the applicable
21 enforcement agency in connection with investigation of the issues identified
22 in the disclosure.
- 23 (5) The person or entity making the disclosure diligently pursues compliance
24 and promptly corrects the noncompliance within a reasonable period of time.

25 (d) A disclosure is not voluntary for purposes of this section if any of the following
26 factors apply:

- 27 (1) Specific permit conditions require monitoring or sampling records and
28 reports or assessment plans and management plans to be maintained or
29 submitted to the enforcement agency pursuant to an established schedule.
- 30 (2) Environmental laws or specific permit conditions require notification of
31 releases to the environment.
- 32 (3) The violation was committed intentionally, wilfully, or through criminal
33 negligence by the person or entity making the disclosure.
- 34 (4) The violation was not corrected in a diligent manner.
- 35 (5) The violation posed or poses a significant threat to public health, safety, and
36 welfare; the environment; and natural resources.
- 37 (6) The violation occurred within one year of a similar prior violation at the
38 same facility, and immunity from civil and administrative penalties was
39 granted by the applicable enforcement agency for the prior violation.
- 40 (7) The violation has resulted in a substantial economic benefit to the owner or
41 operator of the facility.
- 42 (8) The violation is a violation of the specific terms of a judicial or
43 administrative order.

44 (e) If a person meets the burden of proving that the disclosure is voluntary, the burden
45 shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the
46 factors set forth in this section. The person claiming immunity from civil or administrative
47 penalties or fines under this section retains the ultimate burden of proving the violations were
48 voluntarily disclosed.

49 (f) A voluntary disclosure made pursuant to this section is subject to disclosure
50 pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the
51 General Statutes.

"§ 8-58.61. Preemption of other State and local laws.

No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part.

SECTION 3.6.(b) This section becomes effective July 1, 2014, and applies to environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section, that are conducted on or after that date.

CLARIFY DEFINITION OF "CHILD CARE"

SECTION 3.7. G.S. 110-86(2)f. reads as rewritten:

"§ 110-86. Definitions.

Unless the context or subject matter otherwise requires, the terms or phrases used in this Article shall be defined as follows:

...

(2) Child care. – A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Child care does not include the following:

...

f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C of the General Statutes that are accredited by national or regional accrediting agencies with early childhood standards and that operate a child care facility as defined in subdivision (3) of this section for less than six and one-half hours per day either on or off the school ~~site~~site. For purposes of this sub-subdivision, the "six and one-half hours per day" requirement shall relate to instructional hours only and shall not include before or after school programs."

AMBIENT AIR MONITORING

SECTION 3.9.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 3.9.(b) No later than September 1, 2014, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 3.9.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 3.9.(d) The Department of Environment and Natural Resources, Division of Air Quality, shall report to the Environmental Review Commission no later than November 1, 2014, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

GOOD SAMARITAN LAW

SECTION 3.10. G.S. 90-21.14 reads as rewritten:

"§ 90-21.14. First aid or emergency treatment; liability limitation.

1 (a) Any person, including a volunteer medical or health care provider at a facility of a
2 local health department as defined in G.S. 130A-2 or at a nonprofit community health center or
3 a volunteer member of a rescue squad, who ~~receives no compensation for his services as an~~
4 ~~emergency medical care provider, who voluntarily~~ and without expectation of compensation
5 renders first aid or emergency health care treatment to a person who is unconscious, ill or
6 injured,

7 (1) When the reasonably apparent circumstances require prompt decisions and
8 actions in medical or other health care, and

9 (2) When the necessity of immediate health care treatment is so reasonably
10 apparent that any delay in the rendering of the treatment would seriously
11 worsen the physical condition or endanger the life of the person,

12 shall not be liable for damages for injuries alleged to have been sustained by the person or for
13 damages for the death of the person alleged to have occurred by reason of an act or omission in
14 the rendering of the treatment unless it is established that the injuries were or the death was
15 caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the
16 person rendering the treatment. The immunity conferred in this section also applies to any
17 person who uses an automated external defibrillator (AED) and otherwise meets the
18 requirements of this section.

19"

20 21 OPEN BURNING

22 **SECTION 3.11.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
23 NCAC 02D .1902 (Definitions) apply to this section.

24 **SECTION 3.11.(b)** 15A NCAC 02D .1903 (Open Burning Without an Air Quality
25 Permit). – Until the effective date of the revised permanent rule that the Commission is
26 required to adopt pursuant to Section 3.11(d) of this section, the Commission and the
27 Department shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality
28 Permit) as provided in Section 3.11(c) of this section.

29 **SECTION 3.11.(c)** Implementation. – Notwithstanding Paragraph (b) of 15A
30 NCAC 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is
31 required for the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the
32 following conditions are met:

33 (1) The material burned originates on the premises of private residences and is
34 burned on those premises.

35 (2) There are no public pickup services available.

36 (3) Nonvegetative materials, such as household garbage, lumber, or any other
37 synthetic materials, are not burned.

38 (4) The burning is initiated no earlier than 8:00 A.M. and no additional
39 combustible material is added to the fire between 6:00 P.M. on one day and
40 8:00 A.M. on the following day.

41 (5) The burning does not create a nuisance.

42 (6) Material is not burned when the North Carolina Forest Service has banned
43 burning for that area.

44 The burning of logs or stumps of any size shall not be considered to create a nuisance for
45 purposes of the application of the open burning air quality permitting exception described in
46 this subsection.

47 **SECTION 3.11.(d)** Additional Rule-Making Authority. – The Commission shall
48 adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit)
49 consistent with Section 3.11(c) of this section. Notwithstanding G.S. 150B-19(4), the rule
50 adopted by the Commission pursuant to this section shall be substantively identical to the
51 provisions of Section 3.11(c) of this act. Rules adopted pursuant to this section are not subject

1 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
 2 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
 3 objections had been received as provided by G.S. 150B-21.3(b2).

4 **SECTION 3.11.(e) Sunset.** – Section 3.11(c) of this section expires on the date that
 5 rules adopted pursuant to Section 3.11(d) of this section become effective.

6 **SECTION 3.11.(f) Local Government Air Pollution Control Program Limitation.** –
 7 G.S. 143-215.112(c) is amended by adding a new subdivision to read:

8 **"§ 143-215.112. Local air pollution control programs.**

9 ...
 10 (c) (1) The governing body of any county, municipality, or group of counties and
 11 municipalities within a designated area of the State, as defined in this Article
 12 and Article 21, subject to the approval of the Commission, is hereby
 13 authorized to establish, administer, and enforce a local air pollution control
 14 program for the county, municipality, or designated area of the State which
 15 includes but is not limited to:

- 16 a. Development of a comprehensive plan for the control and abatement
 17 of new and existing sources of air pollution;
 18 b. Air quality monitoring to determine existing air quality and to define
 19 problem areas, as well as to provide background data to show the
 20 effectiveness of a pollution abatement program;
 21 c. An emissions inventory to identify specific sources of air
 22 contamination and the contaminants emitted, together with the
 23 quantity of material discharged into the outdoor atmosphere;
 24 d. Adoption, after notice and public hearing, of air quality and emission
 25 control standards, or adoption by reference, without public hearing,
 26 of any applicable rules and standards duly adopted by the
 27 Commission; and administration of such rules and standards in
 28 accordance with provisions of this section.
 29 e. Provisions for the establishment or approval of time schedules for the
 30 control or abatement of existing sources of air pollution and for the
 31 review of plans and specifications and issuance of approval
 32 documents covering the construction and operation of pollution
 33 abatement facilities at existing or new sources;
 34 f. Provision for adequate administrative staff, including an air pollution
 35 control officer and technical personnel, and provision for laboratory
 36 and other necessary facilities.

37 ...
 38 (6) No local air pollution control program may limit or otherwise regulate any
 39 combustion heater, appliance, or fireplace in private dwellings. For purposes
 40 of this subdivision, "combustion heater, appliance, or fireplace" means any
 41 heater, appliance, or fireplace that burns combustion fuels, including, but not
 42 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
 43 coal, for heating, cooking, drying, or decorative purposes."

44 **SECTION 3.11.(g) G.S. 143-215.108 is amended by adding a new subsection to**
 45 **read:**

46 **"§ 143-215.108. Control of sources of air pollution; permits required.**

47 ...
 48 (j) No Power to Regulate Residential Combustion. – Nothing in this section shall be
 49 interpreted to give the Commission or the Department the power to regulate any combustion
 50 heater, appliance, or fireplace in private dwellings, except to the extent required by federal law.
 51 For purposes of this subsection, "combustion heater, appliance, or fireplace" means any heater,

1 appliance, or fireplace that burns combustion fuels, including, but not limited to, natural or
2 liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating, cooking, drying, or
3 decorative purposes."

4 **SECTION 3.11.(h)** G.S. 160A-193 is amended by adding a new subsection to
5 read:

6 "**§ 160A-193. Abatement of public health nuisances.**

7 (a) A city shall have authority to summarily remove, abate, or remedy everything in the
8 city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or
9 public safety. Pursuant to this section, the governing board of a city may order the removal of a
10 swimming pool and its appurtenances upon a finding that the swimming pool or its
11 appurtenances is dangerous or prejudicial to public health or safety. The expense of the action
12 shall be paid by the person in default. If the expense is not paid, it is a lien on the land or
13 premises where the nuisance occurred. A lien established pursuant to this subsection shall have
14 the same priority and be collected as unpaid ad valorem taxes.

15 ...

16 (c) The authority granted by this section does not authorize the application of a city
17 ordinance banning or otherwise limiting outdoor burning to persons living within one mile of
18 the city, unless the city provides those persons with either (i) trash and yard waste collection
19 services or (ii) access to solid waste dropoff sites on the same basis as city residents."

20 21 **INLET HAZARD AREAS**

22 **SECTION 3.12.(a)** The definitions set out in G.S. 113A-103 apply to this section.

23 **SECTION 3.12.(b)** 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). –
24 Until the effective date of the revised permanent rule that the Commission is required to adopt
25 pursuant to Section 3.12(d) of this section, the Commission and the Department shall
26 implement 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section
27 3.12(c) of this section.

28 **SECTION 3.12.(c)** Implementation. – Notwithstanding Subparagraph (3) of 15A
29 NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any
30 inlet hazard area in any location with the following characteristics:

- 31 (1) The location is the former location of an inlet, but the inlet has been closed
32 for at least 15 years.
33 (2) Due to shoreline migration, the location no longer includes the current
34 location of the inlet.
35 (3) The location includes an inlet providing access to a State Port via a channel
36 maintained by the United States Army Corps of Engineers.

37 **SECTION 3.12.(d)** Additional Rule-Making Authority. – The Commission shall
38 adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent
39 with Section 3.12(c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the
40 Commission pursuant to this section shall be substantively identical to the provisions of Section
41 3.12(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A
42 of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become
43 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
44 received as provided by G.S. 150B-21.3(b2).

45 **SECTION 3.12.(e)** Sunset. – Section 3.12(c) of this section expires on the date that
46 rules adopted pursuant to subsection (d) of this section become effective.

47 **SECTION 3.12.(f)** Nothing in this section is intended to prevent the Commission
48 from (i) studying any current inlet hazard area or any other area considered by the Commission
49 for designation as an inlet hazard area or (ii) designating new inlet hazard areas.

50 51 **HUNTING TRIALS**

1 **SECTION 3.13.(a)** G.S. 113-274 reads as rewritten:

2 "**§ 113-274. Permits.**

3 (a) As used in this Article, the word "permit" refers to a written authorization issued
4 without charge by an employee or agent of the Wildlife Resources Commission to an individual
5 or a person to conduct some activity over which the Wildlife Resources Commission has
6 jurisdiction. When sale of wildlife resources is permitted, rules or the directives of the
7 Executive Director may require the retention of invoices or copies of invoices in lieu of a
8 permit.

9 (b) Except as otherwise specifically provided, no one may engage in any activity for
10 which a permit is required without having first procured a current and valid permit.

11 (c) The Wildlife Resources Commission may issue the following permits:

12 ...

13 **(3d)** Field trial dog handler or judge permit. – Authorizes a person to participate
14 as a dog handler or judge in a field trial authorized under G.S. 113-291.1(d)
15 without possessing a hunting license so long as that person does not
16 participate in any hunting activities with the dog. For purposes of this
17 subdivision, the term "hunting activities" does not include field trials using
18 exclusively either domestically raised waterfowl and game birds or legally
19 taken dead game.

20 "

21 **SECTION 3.13.(b)** This section becomes effective July 1, 2014.

22 **ADJUST UTILITY REGULATORY FEE**

23 **SECTION 3.15.(a)** G.S. 62-302 reads as rewritten:

24 "**§ 62-302. Regulatory fee.**

25 (a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
26 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of
27 regulating public utilities is a burden incident to the privilege of operating as a public utility.
28 Therefore, for the purpose of defraying the cost of regulating public utilities, every public
29 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in
30 addition to all other fees and taxes, as provided in this section. The fees collected shall be used
31 only to pay the expenses of the Commission and the Public Staff in regulating public utilities in
32 the interest of the public.

33 It is also the policy of the State to provide limited oversight of certain electric membership
34 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
35 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
36 electric membership corporation whose principal purpose is to furnish or cause to be furnished
37 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
38 provided in this section.

39 (b) Public Utility Rate. –

40 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

41 (2) ~~The~~ For noncompetitive jurisdictional revenues as defined in
42 sub-subdivision (4)a. of this subsection, the public utility regulatory fee for
43 each fiscal year shall be is the greater of (i) a percentage rate, established by
44 the General Assembly, of each public utility's North Carolina
45 noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and
46 twenty-five cents (\$6.25) each quarter. For subsection (h) competitive
47 jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection
48 and subsection (m) competitive jurisdictional revenues as defined in
49 sub-subdivision (4)c. of this subsection, the public utility regulatory fee for
50

1 each fiscal year is a percentage rate established by the General Assembly of
 2 each public utility's competitive jurisdictional revenues for each quarter.

3 When the Commission prepares its budget request for the upcoming fiscal
 4 year, the Commission shall propose a percentage rate of the public utility
 5 regulatory fee. For fiscal years beginning in an odd-numbered year, that
 6 proposed rate shall be included in the budget message the Governor submits
 7 to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years
 8 beginning in an even-numbered year, that proposed rate shall be included in
 9 a special budget message the Governor shall submit to the General
 10 Assembly. The General Assembly shall set the percentage rate of the public
 11 utility regulatory fee by law.

12 The percentage rate may not exceed the amount necessary to generate funds
 13 sufficient to defray the estimated cost of the operations of the Commission
 14 and the Public Staff for the upcoming fiscal year, including a reasonable
 15 margin for a reserve fund. The amount of the reserve may not exceed the
 16 estimated cost of operating the Commission and the Public Staff for the
 17 upcoming fiscal year. In calculating the amount of the reserve, the General
 18 Assembly shall consider all relevant factors that may affect the cost of
 19 operating the Commission or the Public Staff or a possible unanticipated
 20 increase or decrease in North Carolina jurisdictional revenues.

21 (3) If the Commission, the Public Staff, or both experience a revenue shortfall,
 22 the Commission shall implement a temporary public utility regulatory fee
 23 surcharge to avert the deficiency that would otherwise occur. In no event
 24 may the total percentage rate of the public utility regulatory fee plus any
 25 surcharge established by the Commission exceed twenty-five hundredths
 26 percent (0.25%).

27 (4) ~~As used in this section, the term "North Carolina jurisdictional revenues"~~
 28 ~~means:~~section:

29 a. ~~All~~"Noncompetitive jurisdictional revenues" means all revenues
 30 derived or realized from intrastate tariffs, rates, and charges approved
 31 or allowed by the Commission or collected pursuant to Commission
 32 order or rule, but not including tap-on fees or any other form of
 33 contributions in aid of construction.

34 b. ~~All~~"Subsection (h) competitive jurisdictional revenues" means all
 35 revenues derived from retail services provided by local exchange
 36 companies and competing local providers that have elected to operate
 37 under no longer otherwise regulated by the operation of
 38 G.S. 62-133.5(h) or G.S. 62-133.5(m) for a local exchange company
 39 or competing local provider that has elected to be regulated under
 40 those subsections G.S. 62-133.5(h).

41 c. "Subsection (m) competitive jurisdictional revenues" means all
 42 revenues derived from retail services provided by local exchange
 43 companies and competing local providers that have elected to operate
 44 under G.S. 62-133.5(m).

45 ...
 46 (e) Recovery of Fee Increase. – If a utility's regulatory fee obligation is increased, the
 47 Commission shall either adjust the utility's rates to allow for the recovery of the increased fee
 48 obligation or approve the utility's request for an accounting order allowing deferral of the
 49 increase in the fee obligation."

50 **SECTION 3.15.(b)** The percentage rate to be used in calculating the public utility
 51 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)

1 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each
2 quarter that begins on or after July 1, 2015, is six-hundredths of one percent (0.06%).

3 **SECTION 3.15.(c)** The percentage rate to be used in calculating the public utility
4 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h)
5 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each
6 quarter that begins on or after July 1, 2016, is four-hundredths of one percent (0.04%).

7 **SECTION 3.15.(d)** The percentage rate to be used in calculating the public utility
8 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m)
9 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each
10 quarter that begins on or after July 1, 2015, is five-hundredths of one percent (0.05%).

11 **SECTION 3.15.(e)** The percentage rate to be used in calculating the public utility
12 regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m)
13 competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each
14 quarter that begins on or after July 1, 2016, is two-hundredths of one percent (0.02%).

15 **SECTION 3.15.(f)** For the 2015-2016 and 2016-2017 fiscal years, the percentage
16 rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each
17 public utility's North Carolina noncompetitive jurisdictional revenues as defined by
18 G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected
19 as a result of subsections (b), (c), (d), and (e) of this section and shall be set to ensure the total
20 regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of
21 the operations of the Commission and the Public Staff for the upcoming fiscal year, including a
22 reasonable margin for a reserve fund.

23 **SECTION 3.15.(g)** This section becomes effective July 1, 2015.
24

25 **AMEND JORDAN LAKE RULE FOR EXISTING RIPARIAN BUFFERS**

26 **SECTION 3.16.** Section 2(c) of S.L. 2013-395 reads as rewritten:

27 **"SECTION 2.(c)** Implementation. – The Protection of Existing Riparian Buffers Rule
28 shall be implemented as follows:

- 29 (1) Notwithstanding the Table of Uses set out in subdivision (9) of the
30 Protection of Existing Riparian Buffers Rule, utility, nonelectric, other than
31 perpendicular crossings that have impacts only in Zone Two shall be
32 categorized as exempt.
- 33 (2) Notwithstanding the Table of Uses set out in subdivision (9) of the
34 Protection of Existing Riparian Buffers Rule, the piping of a stream allowed
35 under a permit issued by the United States Army Corps of Engineers shall be
36 categorized as an ~~allowable~~ exempt use.
- 37 (3) Notwithstanding the definition of "Airport Facilities" set out in
38 sub-subdivision (b) of subdivision (2) of the Protection of Existing Riparian
39 Buffers Rule, "Airport Facilities" shall include any aeronautic industrial
40 facilities that require direct access to the airfield."
41

42 **ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS**

43 **SECTION 3.17.(a)** G.S. 143-215.3A reads as rewritten:

44 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title**
45 **V Account; I & M Air Pollution Control Account; reports.**

46 ...

47 (c) The Department shall report to the Environmental Review Commission and the
48 Fiscal Research Division on the cost of the State's environmental permitting programs
49 contained within the Department on or before 1 November of each year. ~~In addition, the~~
50 ~~Department shall report to the Environmental Review Commission and the Fiscal Research~~
51 ~~Division on the cost of the Title V Program on or before 1 November of each year. The reports~~

1 report shall include, but ~~are~~is not limited to, fees set and established under this Article, fees
 2 collected under this Article, revenues received from other sources for environmental permitting
 3 and compliance programs, changes made in the fee schedule since the last report, anticipated
 4 revenues from all other sources, interest earned and any other information requested by the
 5 General Assembly."

6 **SECTION 3.17.(b)** The following sections of S.L. 2002-4 are repealed:

7 (1) Section 10.

8 (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.

9 (3) Section 12.

10 (4) Section 13.

11 **SECTION 3.17.(c)** G.S. 143-215.108(g) is repealed.

13 **CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT** 14 **OF VENOMOUS SNAKES AND OTHER REPTILES**

15 **SECTION 3.18.** G.S. 114-419(b) reads as rewritten:

16 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;**
 17 **disposition of reptiles.**

18 ...

19 (b) If the Museum or the Zoological Park or their designated representatives find that a
 20 seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under this
 21 Article, the Museum or the Zoological Park or their designated representative shall determine
 22 final disposition of the reptile in a manner consistent with the safety of the public, which in the
 23 case of a venomous reptile for which antivenin approved by the United States Food and Drug
 24 Administration is not readily available, ~~may include euthanasia~~shall be euthanized unless the
 25 species is protected under the federal Endangered Species Act of 1973."

27 **TRANSFER RULE-MAKING AUTHORITY FOR WASTEWATER SYSTEMS FROM** 28 **COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT** 29 **COMMISSION AND MAKE OTHER CHANGES TO ACHIEVE ON-SITE** 30 **WASTEWATER REGULATORY REFORM**

31 **SECTION 3.19.(a)** G.S. 130A-334 reads as rewritten:

32 "**§ 130A-334. Definitions.**

33 The following definitions shall apply throughout this Article:

34 (1) "Commission" means the Environmental Management Commission.

35 ~~(4)~~(1a) "Construction" means any work at the site of placement done for the purpose
 36 of preparing a residence, place of business or place of public assembly for
 37 initial occupancy, or subsequent additions or modifications which increase
 38 sewage flow.

39 ~~(4a)~~(1b) "Department" means the Department of Health and Human Services.

40 (1c) "Ground absorption system" means a system of tanks, treatment units,
 41 nitrification fields and appurtenances for wastewater collection, treatment,
 42 and subsurface disposal.

43 ...

44 (7a) "Plat" means a property survey prepared by a registered land surveyor,
 45 drawn to a scale of one inch equals no more than 60 feet, that includes: the
 46 specific location of the proposed facility and appurtenances, the site for the
 47 proposed wastewater system, and the location of water supplies and surface
 48 waters. "Plat" also means, for subdivision lots approved by the local
 49 planning authority ~~and recorded with the county register of deeds~~, if a local
 50 planning authority exists at the time of application for a permit under this
 51 Article, a copy of the ~~recorded~~ subdivision plat that has been recorded with

1 the county register of deeds and is accompanied by a site plan that is drawn
2 to scale.

3 ...
4 (14) "Wastewater" means any sewage or industrial process wastewater
5 discharged, transmitted, or collected from a residence, place of business,
6 place of public assembly, or other places into a wastewater system.

7 (15) "Wastewater system" means a system of wastewater collection, treatment,
8 and disposal in single or multiple components, including a ground
9 absorption system, privy, septic tank system, public or community
10 wastewater system, wastewater reuse or recycle system, mechanical or
11 biological wastewater treatment system, any other similar system, and any
12 chemical toilet used only for human waste. A wastewater system located on
13 multiple adjoining lots or tracts of land under common ownership or control
14 shall be considered a single system for purposes of permitting under this
15 Article."

16 **SECTION 3.19.(b)** G.S. 130A-335 reads as rewritten:

17 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

18 (a) A person owning or controlling a residence, place of business or a place of public
19 assembly shall provide an approved wastewater system. Except as may be allowed under
20 another provision of law, all wastewater from water-using fixtures and appliances connected to
21 a water supply source shall discharge to the approved wastewater system. A wastewater system
22 may include components for collection, treatment and disposal of wastewater.

23 (b) ~~All wastewater~~Wastewater systems shall be regulated by the Department under rules
24 adopted by the ~~Commission except for the following wastewater systems that shall be regulated~~
25 ~~by the Department under rules adopted by the Environmental Management~~
26 ~~Commission:Commission, including all of the following:~~

- 27 (1) Wastewater collection, treatment, and disposal systems designed to
28 discharge effluent to the land surface or surface waters.
29 (2) Wastewater systems designed for groundwater remediation, groundwater
30 injection, or landfill leachate collection and disposal.
31 (3) Wastewater systems designed for the complete recycle or reuse of industrial
32 process wastewater.
33 (4) Gray water systems as defined in G.S. 143-350.

34 ...
35 (f1) A preconstruction conference with the owner or developer, or an agent of the owner
36 or developer, and a representative of the local health department shall be required for any
37 authorization for wastewater system construction issued with an improvement permit under
38 G.S. 130-336 when the authorization is greater than five years old. Following the conference,
39 the local health department shall ~~issue a revised authorization~~advise the owner or developer of
40 any rule changes for wastewater system construction ~~that includes incorporating current~~
41 technology that can reasonably be expected to improve the performance of the system. The
42 local health department shall issue a revised authorization for wastewater system construction
43 incorporating the rule changes upon the written request of the owner or developer.

44 ...
45 (h) Except as provided in this subsection, a chemical or portable toilet may be placed at
46 any location where the chemical or portable toilet can be operated and maintained under
47 sanitary conditions. A chemical or portable toilet shall not be used as a replacement or
48 substitute for a water closet or urinal where a water closet or urinal connected to a permanent
49 wastewater treatment system is required by the North Carolina State Building Code, except that
50 a chemical or portable toilet may be used to supplement a water closet or urinal during periods
51 of peak use. A chemical or portable toilet shall not be used as an alternative to the repair of a

1 water closet, urinal, or wastewater treatment system. It shall be unlawful to discharge sewage
2 or other waste from a chemical or portable toilet used for human waste except into a
3 wastewater system that has been approved by the Department under rules adopted by the
4 Commission ~~or by the Environmental Management Commission~~ or at a site that is permitted by
5 the Department under G.S. 130A-291.1."

6 **SECTION 3.19.(c)** G.S. 130A-336 reads as rewritten:

7 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
8 **required.**

9 ...

10 (b) The local health department shall issue an authorization for wastewater system
11 construction authorizing work to proceed and the installation or repair of a wastewater system
12 when it has determined after a field investigation that the system can be installed and operated
13 in compliance with this Article and rules adopted pursuant to this Article. This authorization for
14 wastewater system construction shall be valid for a period equal to the period of validity of the
15 improvement permit, ~~not to exceed five years,~~ and may be issued at the same time the
16 improvement permit is issued. No person shall commence or assist in the installation,
17 construction, or repair of a wastewater system unless an improvement permit and an
18 authorization for wastewater system construction have been obtained from the Department or
19 the local health department. No improvement permit or authorization for wastewater system
20 construction shall be required for maintenance of a wastewater system. The Department and the
21 local health department may impose conditions on the issuance of an improvement permit and
22 an authorization for wastewater system construction.

23 (c) Unless the Commission otherwise provides by rule, plans, and specifications for all
24 wastewater systems designed for the collection, treatment, and disposal of industrial process
25 wastewater shall be reviewed and approved by the Department prior to the issuance of an
26 authorization for wastewater system construction by the local health department.

27 (d) If a local health department repeatedly fails to issue or deny improvement permits
28 for conventional septic tank systems within 60 days of receiving completed applications for the
29 permits, then the Department of Environment and Natural Resources may withhold public
30 health funding from that local health department."

31 32 **REPEAL WASTE MANAGEMENT BOARD RULES**

33 **SECTION 3.20.(a)** The General Assembly finds that the statutory authority for the
34 Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore,
35 regulations previously promulgated by that Board are no longer enforceable or necessary.

36 **SECTION 3.20.(b)** The Secretary of Environment and Natural Resources shall
37 repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December
38 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the
39 Secretary, the Department of Environment and Natural Resources, the Environmental
40 Management Commission, or any other political subdivision of the State shall not implement or
41 enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).

42 43 **EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES**

44 **SECTION 3.21.** Section 34(b) of Session Law 2013-413 reads as rewritten:

45 "**SECTION 34.(b)** Implementation. – Notwithstanding the Daily Flow for Design rates
46 listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1
47 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall
48 be exempt from the Daily Flow for Design, and any other design flow standards that are
49 established by the Department of Health and Human Services or the Commission for Public
50 Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A~~
51 ~~.1949(b)~~ 15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through

1 engineering design that utilizes low-flow fixtures and low-flow technologies and the design is
 2 prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the
 3 General Statutes. The Department and Commission may ~~establish~~establish, by rule, lower
 4 limits on reduced flow rates as necessary to ensure wastewater system integrity and protect
 5 public health, safety, and welfare, provided that the Commission relies on scientific
 6 evidence specific to soil types found in North Carolina that the lower limits are necessary for
 7 those soil types. Rules adopted pursuant to this section shall become effective as provided in
 8 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
 9 G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to
 10 be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC
 11 18A .1938(e)."
 12

13 REPEAL OBSOLETE STATUTES

14 SECTION 3.22. The following statutes are repealed:

- 15 (1) G.S. 14-197. Using profane or indecent language on public highways;
 16 counties exempt.
- 17 (2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency;
 18 false statement of emergency.

19 INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS

20 SECTION 3.23.(a). G.S. 14-129 reads as rewritten:

21 "§ 14-129. Taking, etc., of certain wild plants from land of another.

22 No person, firm or corporation shall dig up, pull up or take from the land of another or from
 23 any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing
 24 arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot
 25 (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower
 26 (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra*
 27 *cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*),
 28 Gentians (*Gentiana*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and
 29 *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*),
 30 Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*),
 31 Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee
 32 Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas
 33 Greens-Lycopodium), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and
 34 Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other
 35 coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any
 36 ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea,
 37 without having in his possession a permit to dig up, pull up or take such plants, signed by the
 38 owner of such land, or by his duly authorized agent. Any person convicted of violating the
 39 provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of
 40 not less than ~~ten dollars (\$10.00)~~seventy-five dollars (\$75.00) nor more than ~~fifty dollars~~
 41 ~~(\$50.00)~~one hundred seventy-five dollars (\$175.00) for each ~~offense~~offense, with each plant
 42 taken in violation of this section constituting a separate offense. The Clerk of Court for the
 43 jurisdiction in which a conviction occurs under this section involving any species listed in this
 44 section that also appears on the North Carolina Protected Plants list created under the authority
 45 granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the
 46 Plant Conservation Board so the Board may consider a civil penalty under the authority of that
 47 Article.~~The provisions of this section shall not apply to the Counties of Cabarrus, Carteret,~~
 48 ~~Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,~~
 49 ~~Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham,~~
 50 ~~Rowan and Swain."~~
 51

1 **SECTION 3.23.(b)** G.S. 106-202.19 reads as rewritten:

2 "**§ 106-202.19. Unlawful acts; penalties; enforcement.**

3 (a) Unless the conduct is covered under some other provision of law providing greater
4 punishment, it is unlawful to engage in any of the following conduct:

5 (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the
6 lands of another, any plant on a protected plant list without a written permit
7 from the owner which is dated and valid for no more than 180 days and
8 which indicates the species or higher taxon of plants for which permission is
9 granted; except that the incidental disturbance of protected plants during
10 agricultural, forestry or development operations is not illegal so long as the
11 plants are not collected for sale or commercial use.

12 ...

13 (a1) Any person convicted of violating this Article, or any rule of the Board adopted
14 pursuant to this Article shall be guilty of a Class 2 misdemeanor. Each illegal movement or
15 distribution of a protected plant shall constitute a separate violation. In addition, if any person
16 continues to violate or further violates any provision of this Article after written notice from the
17 Board, the court may determine that each day during which the violation continued or is
18 repeated constitutes a separate violation subject to the foregoing penalties.

19 (a2) A civil penalty of not more than two thousand dollars (\$2,000) ~~may~~shall be
20 assessed by the Board against any person guilty of violating this Article a second or subsequent
21 time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted
22 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

23 "

24
25 **INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT**
26 **REQUIRED PLACARD**

27 **SECTION 3.24.(a)** G.S. 20-37.6 reads as rewritten:

28 "**§ 20-37.6. Parking privileges for handicapped drivers and passengers.**

29 ...

30 (d) Designation of Parking Spaces. – Designation of parking spaces for handicapped
31 persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating
32 a parking space for handicapped persons ~~shall~~may state the maximum penalty for parking in the
33 space in violation of the law. A sign designating a parking space for handicapped persons shall
34 not state the incorrect maximum penalty for parking in the space in violation of the law.

35 ...

36 (f) Penalties for Violation. –

37 (1) A violation of G.S. 20-37.6(e)(1), ~~(2)(2)~~, or (3) is an infraction which carries
38 a penalty of at least ~~one~~three hundred dollars ~~(\$100.00)~~(\$300.00) but not
39 more than ~~two~~five hundred ~~fifty~~-dollars ~~(\$250.00)~~(\$500.00), and whenever
40 evidence shall be presented in any court of the fact that any automobile,
41 truck, or other vehicle was found to be parked in a properly designated
42 handicapped parking space in violation of the provisions of this section, it
43 shall be prima facie evidence in any court in the State of North Carolina that
44 the vehicle was parked and left in the space by the person, firm, or
45 corporation in whose name the vehicle is registered and licensed according
46 to the records of the Division. No evidence tendered or presented under this
47 authorization shall be admissible or competent in any respect in any court or
48 tribunal except in cases concerned solely with a violation of this section.

49 "

50 **SECTION 3.24.(b)** This section becomes effective December 1, 2014, and applies
51 to violations committed on or after that date.

REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

SECTION 3.25.(a) G.S. 62-36A and G.S. 62-36.1 are repealed.

SECTION 3.25.(b) G.S. 62-133.2(g) is repealed.

SECTION 3.25.(c) Section 14 of S.L. 2002-4 is repealed.

SECTION 3.25.(d) Section 14 of S.L. 2007-397 is repealed.

SECTION 3.25.(e) Section 6.1 of S.L. 1995-27 is repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 3.26. G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan ~~annually~~ biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office ~~an annual~~ a biennial written report of utility consumption and costs. Management plans submitted ~~annually~~ biennially by State institutions of higher learning shall include all of the following:

- (1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.
- (2) The cost of analyzing the projected energy savings.
- (3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.
- (4) An analysis that identifies projected annual energy savings and estimated payback periods.

...

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. ~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher~~

1 learning and to the State Energy Office. The State Energy Office shall review each audit and, in
2 consultation with the affected State agency or State institution of higher learning, incorporate
3 the audit findings and recommendations into the management plan required by subsection (a)
4 of this section.

5 (c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

6 (h) ~~When conducting a facilities condition and assessment under this section, the~~
7 ~~Department of Administration shall identify and recommend to the State Energy Office any~~
8 ~~facility of a State agency or State institution of higher learning as suitable for building~~
9 ~~commissioning to reduce energy consumption within the facility or as suitable for installing an~~
10 ~~energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this~~
11 ~~Article.~~

12 (i) ~~Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt~~
13 ~~architectural and engineering standards to implement this section.~~

14 (j) The State Energy Office shall submit a report by December 1 of ~~each~~every
15 odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~Energy
16 Policy Commission describing the comprehensive program to manage energy, water, and other
17 utility use for State agencies and State institutions of higher learning required by subsection (a)
18 of this section. The report shall also contain the following:

- 19 (1) A comprehensive overview of how State agencies and State institutions of
20 higher learning are managing energy, water, and other utility use and
21 achieving efficiency gains.
- 22 (2) Any new measures that could be taken by State agencies and State
23 institutions of higher learning to achieve greater efficiency gains, including
24 any changes in general law that might be needed.
- 25 (3) A summary of the State agency and State institutions of higher learning
26 management plans required by subsection (a) of this ~~section and the energy~~
27 ~~audits required by subsection (b1) of this section.~~
- 28 (4) A list of the State agencies and State institutions of higher learning that did
29 and did not submit management plans required by subsection (a) of this
30 ~~section and a list of the State agencies and State institutions of higher~~
31 ~~learning that received an energy audit.~~section.
- 32 (5) Any recommendations on how management plans can be better managed
33 and implemented."

34 35 **COASTAL STORMWATER GRANDFATHER**

36 **SECTION 3.27.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
37 NCAC 2H .1002 apply to this section.

38 **SECTION 3.27.(b)** 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
39 Counties). – Until the effective date of the revised permanent rule that the Commission is
40 required to adopt pursuant to Section 3.28(d) of this section, the Commission and the
41 Department shall implement 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
42 Counties) as provided in Section 3.28(c) of this section.

43 **SECTION 3.27.(c)** Implementation. – Notwithstanding Paragraph (h) of 15A
44 NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), the provisions and
45 requirements applicable to any grandfathered development activity subject to Subparagraph
46 (a)(2) of 15A NCAC 02H .1005 shall also be applicable to an expansion of the development
47 activity. For purposes of this subsection, "grandfathered development activity" means
48 development activity that is regulated by provisions and requirements of 15A NCAC 02H
49 .1005 (Stormwater Requirements: Coastal Counties) that was effective at the time of the
50 original issuance of any of the authorizations listed in Subparagraph (h)(2) of 15A NCAC 02H
51 .1005, because the authorization meets the criteria set forth in that Subparagraph; and

1 "expansion of the development activity" means development activity conducted on a
2 contiguous property or properties under a subdivision plat approved by the local government
3 prior to July 3, 2012.

4 **SECTION 3.27.(d)** Additional Rule-Making Authority. – The Commission shall
5 adopt a rule to amend 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties)
6 consistent with Section 3.28(c) of this section. Notwithstanding G.S. 150B-19(4), the rule
7 adopted by the Commission pursuant to this section shall be substantively identical to the
8 provisions of Section 3.28(c) of this act. Rules adopted pursuant to this section are not subject
9 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
10 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
11 objections had been received as provided by G.S. 150B-21.3(b2).

12 **SECTION 3.27.(e)** Sunset. – Section 3.28(c) of this section expires on the date that
13 rules adopted pursuant to Section 3.28(d) of this section become effective.
14

15 **PESTICIDE USE FOR MOLES**

16 **SECTION 3.28.** G.S. 113-300.2 is amended by adding a new subsection to read:

17 "(g) Notwithstanding any other provision of law, it is lawful to use any pesticide
18 registered by the Pesticide Board to control any species of mole other than the Star-Nosed mole
19 (*Condyluria cristata parva*), provided that (i) all rules regulating the application of pesticides
20 adopted by the Pesticide Board are followed, and (ii) pesticides used to control these species
21 are applied in a manner that minimizes hazards to nontarget species."
22

23 **CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE** 24 **AGENCY**

25 **SECTION 3.29.(a)** G.S. 153A-364 reads as rewritten:

26 "**§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

27 ...

28 (b) A county may require periodic inspections as part of a targeted effort within a
29 geographic area that has been designated by the county commissioners. The county shall not
30 discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice
31 to all owners and residents of properties in the affected area about the periodic inspections plan
32 and information regarding a public hearing regarding the plan; (ii) hold a public hearing
33 regarding the plan; and (iii) establish a plan to address the ability of low-income residential
34 property owners to comply with minimum housing code standards. A residential building or
35 structure that is subject to periodic inspections by the North Carolina Housing Finance Agency
36 (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the
37 Agency has issued a finding that the building or structure is in compliance with federal
38 standards established by the United States Department of Housing and Urban Development to
39 assess the physical condition of residential property. The owner or manager of a residential
40 building or structure subject to periodic inspections by the Agency shall, within 10 days of
41 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
42 the Agency showing that the residential building or structure is in compliance with federal
43 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
44 Results Letter as provided in this subsection, the residential building or structure shall be
45 subject to periodic inspections as provided in this subsection until the Compliance Results
46 Letter is submitted to the inspection department.

47"

48 **SECTION 3.29.(b)** G.S. 160A-424 reads as rewritten:

49 "**§ 160A-424. Periodic inspections.**

50 ...

1 (b) A city may require periodic inspections as part of a targeted effort within a
2 geographic area that has been designated by the city council. The municipality shall not
3 discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice
4 to all owners and residents of properties in the affected area about the periodic inspections plan
5 and information regarding a public hearing regarding the plan; (ii) hold a public hearing
6 regarding the plan; and (iii) establish a plan to address the ability of low-income residential
7 property owners to comply with minimum housing code standards. A residential building or
8 structure that is subject to periodic inspections by the North Carolina Housing Finance Agency
9 (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the
10 Agency has issued a finding that the building or structure is in compliance with federal
11 standards established by the United States Department of Housing and Urban Development to
12 assess the physical condition of residential property. The owner or manager of a residential
13 building or structure subject to periodic inspections by the Agency shall, within 10 days of
14 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
15 the Agency showing that the residential building or structure is in compliance with federal
16 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
17 Results Letter as provided in this subsection, the residential building or structure shall be
18 subject to periodic inspections as provided in this subsection until the Compliance Results
19 Letter is submitted to the inspection department.

20"

21 SECURITY GRILLES

22 **SECTION 3.30.(a)** Notwithstanding Section 1008.1.4.5 of the 2012 NC State
23 Building Code (Fire Code), horizontal sliding or vertical security grilles shall be permitted at
24 all exits or exit access doorways, provided that the grilles are openable from the inside without
25 the use of a key or special knowledge or effort during periods that the space is occupied by
26 authorized persons and that the grilles remain secured in the full-open position during the
27 period of occupancy by the general public.

28 **SECTION 3.30.(b)** The Building Code Council shall adopt a rule to amend Section
29 1008.1.4.5 of the 2012 NC State Building Code (Fire Code) consistent with Section 3.31(a) of
30 this section.

31 **SECTION 3.30.(c)** Section 3.31(a) of this section expires on the date that the rule
32 adopted pursuant to Section 3.31(b) of this section becomes effective.

33 REWRITE LANDSCAPE CONTRACTOR LICENSING STATUTES

34 **SECTION 3.31.(a)** G.S. 89D-1 through G.S. 89D-10 are repealed.

35 **SECTION 3.31.(b)** Chapter 89D of the General Statutes is amended by adding the
36 following new sections to read:

37 "§ 89D-11. Definitions.

38 The following definitions apply in this Chapter:

39 (1) Board. – The North Carolina Landscape Contractors' Licensing Board.

40 (2) Landscape construction or contracting. – The act of providing services as a
41 landscape contractor, as defined in this section, for compensation or other
42 consideration.

43 (3) Landscape contractor. – Any person who, for compensation or other
44 consideration, does any of the following:

45 a. Engages in the business requiring the art, experience, ability,
46 knowledge, science, and skill to prepare contracts and bid for the
47 performance of landscape services, including installing, planting,
48 repairing, and managing gardens, lawns, shrubs, vines, trees, or other
49 decorative vegetation, including the finish grading and preparation of
50 decorative vegetation, including the finish grading and preparation of
51 decorative vegetation, including the finish grading and preparation of

- 1 plots and areas of land for decorative utilitarian treatment and
2 arrangement.
- 3 b. Practices the act of horticulture consultation or planting design for
4 employment purposes.
- 5 c. Constructs, installs, or maintains landscape drainage systems and
6 cisterns; provided the landscaping contractor makes no connection to
7 pipes, fixtures, apparatus, or appurtenances installed upon the
8 premises, or in a building, to supply water thereto or convey sewage
9 or other waste therefrom as defined in G.S. 87-21.
- 10 d. Designs, installs, or maintains low-voltage landscape lighting
11 systems; provided (i) the work does not exceed the scope of the
12 exception set forth in G.S. 87-43.1(7); and (ii) the low-voltage
13 lighting systems do not exceed 50 volts and constitute a Class II or
14 Class III cord and plug connected power system.
- 15 e. Engages in the construction of garden pools, retaining walls, walks,
16 patios, or other decorative landscape features.
- 17 (4) Person. – An individual, firm, partnership, association, corporation, or other
18 legal entity.

19 **"§ 89D-12. License required; use of seal; posting license.**

20 (a) Except as otherwise provided in this Chapter, no person shall engage in the practice
21 of landscape construction or contracting, use the designation "landscape contractor," or
22 advertise using any title or description that implies licensure as a landscape contractor unless
23 the person is licensed as a landscape contractor as provided by this Chapter. All landscape
24 construction or contracting performed by a partnership, association, corporation, firm, or other
25 group shall be performed under an individual who is readily available to exercise supervision
26 over the landscape construction and contracting work and who is licensed by the Board under
27 this Chapter.

28 (b) Nothing in this Chapter shall be construed to authorize a landscape contractor to
29 engage in any of the following:

- 30 (1) The practice of landscape architecture as defined in G.S. 89A-1.
31 (2) The practice of engineering as defined in G.S. 89C-3.
32 (3) Practice as a well contractor certified under Article 7A of Chapter 87 of the
33 General Statutes.
34 (4) The practice of irrigation contracting as defined in G.S. 89G-1.
35 (5) The practice of architecture as defined in G.S. 83A-1.
36 (6) The practice of plumbing, heating group number one, heating group number
37 two, heating group number three, fire sprinkler, or fuel piping contracting as
38 defined in G.S. 87-21; provided the landscaping contractor may install
39 piping, fittings, valves, and associated components for the purpose of
40 landscape contracting that is downstream of a potable water source,
41 groundwater source, or grey water source, and downstream of a backflow
42 prevention assembly.
43 (7) The practice of electrical contracting as defined in G.S. 87-43.

44 (c) A landscape contractor licensed under this Chapter is not required to be licensed as
45 a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed
46 landscape contractor is performing landscape construction or contracting work valued at an
47 amount greater than thirty thousand dollars (\$30,000).

48 (d) Upon licensure by the Board, each landscape contractor shall obtain a seal of the
49 design authorized by the Board and bearing the name of the licensee, the number of the license,
50 and the legend "N.C. Licensed Landscape Contractor." A landscape contractor may use the seal
51 only while the license is valid.

1 (e) Every landscape contractor issued a license under this Chapter shall display the
2 license conspicuously in the landscape contractor's place of business. Every landscape
3 contractor shall display the license number issued to the contractor by the Board on all business
4 cards, contracts, and vehicles used by the contractor in the landscape contracting business.

5 **"§ 89D-13. Exemptions.**

6 The provisions of this Chapter shall not apply to the following:

- 7 (1) Any federal, State, or local governmental agency performing landscaping on
8 public property.
- 9 (2) The North Carolina Department of Transportation (NCDOT). However, for
10 landscape installations or establishment periods for any project that exceeds
11 the current contract amount requiring performance and payment bonds
12 according to State law, NCDOT shall require a licensed landscape contractor
13 to perform the work. NCDOT, at its discretion, may require a licensed
14 landscape contractor for landscape projects of any cost.
- 15 (3) Any property owner performing landscape work on his or her own property.
- 16 (4) Any person or business owning or operating a golf course.
- 17 (5) Any landscaping work where the price of all contracts for labor, material,
18 and other items for a given job site during any consecutive 12-month period
19 is less than twenty-five thousand dollars (\$25,000). A local governmental
20 unit shall not enact a local ordinance or regulation requiring licensure for
21 landscaping work performed pursuant to this subdivision.
- 22 (6) Any person or business licensed pursuant to Article 1 of Chapter 87 of the
23 General Statutes who possesses a classification under G.S. 87-10(b) as a
24 building contractor, a residential contractor, or a public utilities contractor
25 when the contractor uses the contractor's own employees to perform
26 landscape construction or contracting. A public utilities contractor exempted
27 by this subdivision may only perform the activities described in
28 G.S. 87-10(b)(3)a.
- 29 (7) Any person or business licensed as an electrical contractor under Article 4 of
30 Chapter 87 of the General Statutes who is designing, installing, or
31 maintaining any electric work, wiring, devices, appliances, or equipment.
- 32 (8) Any person or business licensed as a plumbing contractor under Article 2 of
33 Chapter 87 of the General Statutes who is installing pipes, fixtures,
34 apparatus, or appurtenances to supply water thereto or convey sewage or
35 other waste therefrom, including the installation, repair, or maintenance of
36 water mains, water taps, services lines, water meters, or backflow prevention
37 assemblies supplying water for irrigation systems or repairs to an irrigation
38 system.
- 39 (9) A professional engineer licensed pursuant to Chapter 89C of the General
40 Statutes.
- 41 (10) A professional landscape architect licensed under Chapter 89A of the
42 General Statutes.
- 43 (11) An individual or a business engaged in any of the following activities while
44 performing that activity:
 - 45 a. Clearing and grading plots and areas of land.
 - 46 b. Erosion control.
 - 47 c. Arboriculture, including consultations on pruning and removal of
48 trees.
 - 49 d. The installation of sod, seed, or plugs by sod producers certified by
50 the Plant Industry Division of the North Carolina Department of
51 Agriculture and Consumer Services.

- 1 e. Landscape construction performed by utilities contractors for the
2 purpose of grading and erosion control.
3 f. Lawn mowing, turf edging, and debris removal services.
4 g. Turf management or lawn care services only, including fertilization,
5 aeration, weed control, or other turf management or lawn care
6 practices other than mowing or edging.
7 h. Design, installation, and maintenance of on-site wastewater disposal
8 or reuse systems within the on-site wastewater permit specifications.

- 9 (12) Any person performing landscaping work on a farm for use in agriculture
10 production, farming, or ranching.

11 **"§ 89D-14. The North Carolina Landscape Contractors' Licensing Board.**

12 (a) There is created the North Carolina Landscape Contractors' Licensing Board. The
13 Board shall consist of nine members appointed as follows:

- 14 (1) One member appointed by the Governor who is a member of the general
15 public.
16 (2) One member appointed by the Commissioner of Agriculture pursuant to
17 recommendations from The North Carolina Green Industry Council.
18 (3) One member appointed by the Board of Directors of the North Carolina
19 Nursery and Landscape Association, Inc., who is a practicing nurseryman
20 operating a nursery certified by the North Carolina Department of
21 Agriculture and Consumer Services Plant Industry Division.
22 (4) Four members who are licensed landscape contractors in the business of
23 landscape construction or contracting. One of the four members shall be
24 appointed by the General Assembly upon the recommendation of the
25 Speaker of the House of Representatives pursuant to recommendations from
26 The North Carolina Green Industry Council; one shall be appointed by the
27 General Assembly upon the recommendation of the President Pro Tempore
28 of the Senate pursuant to recommendations from the Carolinas Irrigation
29 Association, who is also a licensed irrigation contractor; and two shall be
30 appointed by the Board of Directors of the North Carolina Nursery and
31 Landscape Association, Inc.
32 (5) One member appointed by the Board of Directors of the North Carolina
33 Chapter of the American Society of Landscape Architects who is a
34 registered landscape architect.
35 (6) One member appointed by the President of The University of North Carolina
36 from within the land grant university community who is knowledgeable in
37 landscaping methods and practices.

38 (b) All appointments shall be for three-year terms. No member shall serve more than
39 two complete consecutive terms.

40 (c) A vacancy on the Board created by death, resignation, or otherwise shall be filled in
41 the same manner as the original appointment, except that all unexpired terms of Board
42 members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.
43 Appointees to fill vacancies shall serve the remainder of the unexpired term and until their
44 successors are appointed and qualified.

45 (d) The Board shall elect annually a chair and other officers as it deems necessary to
46 carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority
47 of the Board shall constitute a quorum.

48 (e) Each member of the Board may receive per diem and reimbursement for travel and
49 subsistence as set forth in G.S. 93B-5.

1 (f) The Board shall be entitled to the services of the Attorney General in connection
2 with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent
3 it in the enforcement of this Chapter.

4 **"§ 89D-15. Powers and duties.**

5 The Board shall have the following powers and duties:

- 6 (1) Administer and enforce the provisions of this Chapter.
- 7 (2) Adopt, amend, or repeal rules to carry out the provisions of this Chapter.
- 8 (3) Examine and determine the qualifications and fitness of applicants for
9 licensure and licensure renewal.
- 10 (4) Issue, renew, deny, restrict, suspend, or revoke licenses.
- 11 (5) Reprimand or otherwise discipline licensees under this Chapter.
- 12 (6) Receive and investigate complaints from members of the public.
- 13 (7) Conduct investigations to determine whether violations of this Chapter exist
14 or constitute grounds for disciplinary action against licensees under this
15 Chapter.
- 16 (8) Conduct administrative hearings in accordance with Article 3A of Chapter
17 150B of the General Statutes.
- 18 (9) Seek injunctive relief through any court of competent jurisdiction for
19 violations of this Chapter.
- 20 (10) Collect fees required by G.S. 89D-21 and any other monies permitted by law
21 to be paid to the Board.
- 22 (11) Require licensees to file and maintain an adequate surety bond.
- 23 (12) Establish and approve continuing education requirements for persons
24 licensed under this Chapter.
- 25 (13) Employ a secretary-treasurer and any other clerical personnel the Board
26 deems necessary to carry out the provisions of this Chapter and to fix
27 compensation for employees.
- 28 (14) Maintain a record of all proceedings conducted by the Board and make
29 available to licensees and other concerned parties an annual report of all
30 Board action.
- 31 (15) Adopt and publish a code of professional conduct for all persons licensed
32 under this Chapter.
- 33 (16) Adopt and publish a code of minimum practice standards for landscape
34 construction and contracting.
- 35 (17) Adopt a seal containing the name of the Board for use on licenses and
36 official reports issued by the Board.

37 **"§ 89D-16. Application for license; qualifications; examination; issuance.**

38 (a) Upon application to the Board and payment of the required fees, an applicant for
39 licensure as a landscape contractor may sit for the examination if the applicant submits
40 evidence demonstrating the applicant's qualifications for licensure under this Chapter as
41 prescribed in rules adopted by the Board and meets all of the following qualifications:

- 42 (1) Is at least 18 years of age.
- 43 (2) Is of good moral character as determined by the Board.
- 44 (3) Provides evidence of business identification as required by the Board.
- 45 (4) Files with the Board and maintains a corporate surety bond executed by a
46 company authorized to do business in this State or an irrevocable letter of
47 credit issued by an insured institution. The surety bond or the letter of credit
48 shall be in the amount of ten thousand dollars (\$10,000). The surety bond or
49 letter of credit shall be approved by the Board as to form and shall be
50 conditioned upon the obligor faithfully conforming to and abiding by the
51 provisions of this Chapter. Any person claiming to be injured by an act of a

1 licensed landscape contractor that constitutes a violation of this Chapter may
2 institute an action to recover against the licensee and the surety.

3 (b) If the applicant meets all the qualifications in subsection (a) of this section, the
4 applicant shall be required to pass an examination administered by the Board before the Board
5 may issue the license. The Board shall establish the scope and subject matter of the
6 examination to be administered. The Board shall administer examinations at least twice a year
7 at a time and place to be determined by the Board.

8 (c) When the Board determines that an applicant has met all the qualifications for
9 licensure, submitted the required fee, and passed the examination, the Board shall issue a
10 license to the applicant.

11 **"§ 89D-17. Corporations; partnerships; persons doing business under trade name.**

12 (a) The Board may issue a license in the name of a corporation if the corporation
13 complies with the following:

14 (1) One or more officers or full-time employees, or both, empowered to act for
15 the corporation are individuals licensed under this Chapter.

16 (2) Only the officers or employees described in subdivision (1) of this
17 subsection execute contracts for landscape construction or contracting in the
18 name of a corporation and are readily available to exercise supervision over
19 the work performed pursuant to the contract.

20 (b) The Board may issue a license in the name of a limited liability company if the
21 company complies with the following:

22 (1) One or more managers, as defined in G.S. 57D-1-03, executives, or full-time
23 employees, or a combination thereof, are individuals licensed under this
24 Chapter.

25 (2) Only the managers, executives, or employees described in subdivision (1) of
26 this subsection execute contracts for landscape construction or contracting in
27 the name of the limited liability company and are readily available to
28 exercise supervision over the work performed pursuant to the contract.

29 (c) The Board may issue a license in the name of a partnership if the partnership
30 complies with the following:

31 (1) One or more general partners or full-time employees empowered to act for
32 the partnership are individuals licensed under this Chapter.

33 (2) Only the partners or employees described in subdivision (1) of this
34 subsection execute contracts for landscape construction or contracting in the
35 name of the partnership and are readily available to exercise supervision
36 over the work performed pursuant to the contract.

37 (d) The Board may issue a license in an assumed or designated trade name if the owner
38 of the business complies with the following:

39 (1) The owner or one or more full-time employees empowered to act for the
40 owner is an individual licensed under this Chapter.

41 (2) Only the persons described in subdivision (1) of this subsection execute
42 contracts for landscape construction or contracting in the assumed or
43 designated trade name of the business and are readily available to exercise
44 supervision over the work performed pursuant to the contract.

45 (e) When the Board issues a license under this section, the Board shall indicate on the
46 license the name and license number of the individual licensee connected to the corporation,
47 partnership, or business conducted under an assumed or designated trade name.

48 (f) A person licensed pursuant to this section shall be readily available to exercise
49 supervision over a contract for landscape construction or contracting until the contract is
50 completed.

1 (g) When a licensee executes a contract for landscape construction or contracting in any
2 capacity other than as a sole proprietor contracting on the licensee's own behalf, the person on
3 whose behalf the licensee is executing the contract shall be licensed under this section.

4 (h) A corporation, partnership, or person doing business under an assumed or
5 designated trade name shall notify the Board in accordance with rules adopted by the Board if
6 an individual licensee who is indicated in the license issued under this section ceases to be an
7 officer, partner, owner, or employee of the corporation, partnership, or person doing business
8 under the assumed or designated trade name. If the corporation, partnership, or person no
9 longer has an officer, general partner, owner, or employee described in subdivision (a)(1),
10 (b)(1), or (c)(1) of this section, the corporation, partnership, or person shall have 120 days from
11 the date the officer, general partner, owner, or employee ceases the relationship with the
12 corporation, partnership, or person to satisfy the requirements described in subdivision (a)(1),
13 (b)(1), or (c)(1) of this section. The Board may, in its discretion, grant the corporation,
14 partnership, or person a period greater than 120 days to satisfy the requirements described in
15 subdivision (a)(1), (b)(1), or (c)(1) of this section as it deems appropriate. After 120 days, or a
16 time period greater than 120 days as approved by the Board, if the corporation, partnership, or
17 person does not have an officer, general partner, owner, or employee as described in
18 subdivision (a)(1), (b)(1), or (c)(1) of this section, the license issued under this section is
19 automatically suspended and the corporation, partnership, or person shall cease practicing
20 landscape construction or contracting.

21 **"§ 89D-18. Licensing of nonresidents.**

22 (a) Definitions. – The following definitions apply in this section:

- 23 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
24 final notice of assessment issued to a taxpayer by the Secretary of Revenue
25 when the taxpayer no longer has the right to contest the amount.
- 26 (2) Foreign corporation. – A corporation as defined in G.S. 55-1-40.
- 27 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
28 or a foreign partnership.
- 29 (4) Foreign limited liability company. – A company as defined in
30 G.S. 57D-1-03.
- 31 (5) Foreign partnership. – One of the following that does not have a permanent
32 place of business in this State:
- 33 a. A foreign limited partnership as defined in G.S. 59-102.
- 34 b. A general partnership formed under the laws of a jurisdiction other
35 than this State.

36 (b) Licensing. – Except as provided in this section, the Board may issue a license to a
37 nonresident individual or a foreign entity that meets the requirements for licensure under this
38 Chapter.

39 (c) Certificate of Authority Required. – The Board shall not issue a license for a foreign
40 corporation unless the corporation has obtained a certificate of authority from the Secretary of
41 State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a
42 license for a foreign limited liability company unless the company has obtained a certificate of
43 authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General
44 Statutes.

45 (d) Information. – The Board, upon request, shall provide the Secretary of Revenue the
46 name, address, and tax identification number of every nonresident individual and foreign entity
47 licensed by the Board. The information to be provided under this section shall be in a form
48 required by the Secretary of Revenue.

49 (e) Delinquents. – If the Secretary of Revenue determines that any nonresident
50 individual or foreign entity licensed by the Board owes a delinquent income tax debt, the
51 Secretary of Revenue may notify the Board of the nonresident individual and foreign entity and

1 instruct the Board not to renew the nonresident individual or foreign entity's license. The Board
 2 shall not renew the license of a nonresident individual or foreign entity identified by the
 3 Secretary of Revenue unless the Board receives a written statement from the Secretary that (i)
 4 the debt has been paid or (ii) the debt is being paid pursuant to an installment agreement.

5 **"§ 89D-19. Reciprocity.**

6 The Board may issue a license, without examination, to any person who is a landscape
 7 contractor licensed, certified, or registered in another state or country if the requirements for
 8 licensure, certification, or registration in the other state or country are substantially equivalent
 9 to the requirements for licensure in this State.

10 **"§ 89D-20. License renewal and continuing education.**

11 (a) Every license issued under this Chapter shall be renewed on or before the first day
 12 of August of each year. Any person who desires to continue to practice shall apply for a license
 13 renewal and shall submit the required fee. Licenses that are not renewed shall be automatically
 14 revoked. A license may be renewed at any time within one year after its expiration if (i) the
 15 applicant pays the required renewal fee and late renewal fee, (ii) the Board finds that the
 16 applicant has not used the license in a manner inconsistent with the provisions of this Chapter
 17 or engaged in the practice of landscape construction or contracting after notice of revocation,
 18 and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter.
 19 When necessary, the Board may require licensees to demonstrate continued competence as a
 20 condition of license renewal.

21 (b) As a condition of license renewal, a licensee shall meet the continuing education
 22 requirements set by the Board. Each licensee shall complete seven continuing education units
 23 per year. The Board may suspend a licensee's license for 30 days for failure to obtain
 24 continuing education units required by this subsection. Upon payment of a reinstatement fee,
 25 submitting to the Board proof of the continuing education units required by this subsection, and
 26 payment of the license renewal fee and late renewal fee, the licensee's license shall be
 27 reinstated. Failure to request a reinstatement of the license and failure to pay the reinstatement
 28 fee, renewal fee, and late renewal fee shall result in the forfeiture of a license. Upon forfeiture,
 29 a person shall be required to submit a new application and retake the examination as provided
 30 in this Chapter.

31 **"§ 89D-21. Expenses and fees.**

32 (a) The Board may impose the following fees not to exceed the amounts listed below:

33	<u>(1) Application fee</u>	<u>\$100.00</u>
34	<u>(2) Examination fee</u>	<u>250.00</u>
35	<u>(3) Individual license fee and individual license renewal</u>	<u>100.00</u>
36	<u>(4) Initial corporate, limited liability company, partnership,</u>	
37	<u>or trade name license</u>	<u>100.00</u>
38	<u>(5) Corporate, limited liability company, partnership,</u>	
39	<u>or trade-name license renewal</u>	<u>100.00</u>
40	<u>(6) Late renewal fee</u>	<u>50.00</u>
41	<u>(7) Reinstatement fee</u>	<u>250.00</u>
42	<u>(8) License by reciprocity</u>	<u>250.00</u>
43	<u>(9) Duplicate license</u>	<u>25.00</u>

44 (b) When the Board uses a testing service for the preparation, administration, or grading
 45 of examinations, the Board may charge the applicant the actual cost of the examination services
 46 and a prorated portion of the examination fee.

47 **"§ 89D-22. Disciplinary action.**

48 (a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or
 49 renew a license if a licensee or applicant does any of the following:

- 50 (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or
 51 attempting to obtain a license or the renewal of a license.

- 1 (2) Practices or attempts to practice landscape construction or contracting by
2 fraudulent misrepresentation.
- 3 (3) Commits an act of gross malpractice or incompetence as determined by the
4 Board.
- 5 (4) Has been convicted of or pled guilty or no contest to a crime that indicates
6 that the person is unfit or incompetent to practice as a landscape contractor
7 or that indicates that the person has deceived or defrauded the public.
- 8 (5) Has been declared incompetent by a court of competent jurisdiction.
- 9 (6) Has willfully violated any provision in this Chapter or any rules adopted by
10 the Board.
- 11 (7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
- 12 (8) Fails to file the required surety bond or letter of credit or to keep the bond or
13 letter of credit in force.

14 (b) The Board may assess costs, including reasonable attorneys' fees and investigatory
15 costs, in a proceeding under this section against an applicant or licensee found to be in violation
16 of this Chapter.

17 **"§ 89D-23. Civil penalties.**

18 (a) In addition to taking any of the actions permitted under G.S. 89D-22, the Board may
19 assess a civil penalty not in excess of two thousand dollars (\$2,000) for each violation of any
20 section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of
21 any civil penalty assessed under this section shall be remitted to the Civil Penalty and
22 Forfeiture Fund in accordance with G.S. 115C-457.2.

23 (b) Before imposing and assessing a civil penalty and fixing the amount of the penalty,
24 the Board shall, as a part of its deliberations, take into consideration the following factors:

- 25 (1) The nature, gravity, and persistence of the particular violation.
- 26 (2) The appropriateness of the imposition of a civil penalty when considered
27 alone or in combination with other punishment.
- 28 (3) Whether the violation was willful and malicious.
- 29 (4) Any other factors that would tend to mitigate or aggravate the violations
30 found to exist.

31 **"§ 89D-24. Injunction to prevent violation; notification of complaints.**

32 (a) If the Board finds that a person who does not have a license issued under this
33 Chapter is engaging in the practice of landscape construction or contracting, the Board may
34 appear in its own name in superior court in actions for injunctive relief to prevent any person
35 from violating the provisions of this Chapter or the rules adopted by the Board.

36 (b) A licensed landscape contractor shall notify the Board of any written complaints
37 filed against the landscape contractor not resolved within 30 days from the date the complaint
38 was filed by registered mail to the Board."

39 **SECTION 3.31.(c)** Members serving on the North Carolina Landscape
40 Contractors' Registration Board on the effective date of this act shall continue to serve until
41 members of the North Carolina Landscape Contractors' Licensing Board, newly structured
42 under G.S. 89D-14(a), as enacted by Section 3.31(b) of this act, are appointed.

43 **SECTION 3.31.(d)** Once the term of one of the current public members appointed
44 by the Governor expires, the General Assembly, upon the recommendation of the Speaker of
45 the House of Representatives, shall appoint a licensed landscape contractor in the business of
46 landscape construction and contracting. Once the term of one of the current members appointed
47 by the Commissioner of Agriculture expires, the General Assembly, upon the recommendation
48 of the President Pro Tempore of the Senate, shall appoint a licensed landscape contractor in the
49 business of landscape construction and contracting. All records, staff, funds, and other items of
50 the North Carolina Landscape Contractors' Registration Board are transferred to and made the
51 property of the North Carolina Landscape Contractors' Licensing Board.

1 **SECTION 3.31.(e)** Any person who, on or before December 31, 2014, meets at
2 least one of the following criteria shall be issued a landscape contractor's license by the North
3 Carolina Landscape Contractors' Licensing Board, without the requirement of examination,
4 upon submission of a completed application and payment of the application fee on or before
5 August 1, 2015:

- 6 (1) Is registered as a landscape contractor.
- 7 (2) Is licensed as an irrigation contractor.
- 8 (3) Is certified as a turf grass professional.
- 9 (4) Has three years of documented experience in the person's own business as a
10 landscape contractor or three years of documented experience as an
11 employee in a landscape contracting business and meets all other
12 requirements and qualifications for licensure as a landscape contractor.
13 Educational experience can be applied towards the three-year experience
14 requirement as follows:
 - 15 a. One year of credit for a two-year degree in related educational
16 training.
 - 17 b. Two years of credit for a four-year degree in related educational
18 training.
 - 19 c. Up to two years of credit for education or business experience in
20 general business management.

21 Landscape contractors currently registered under Chapter 89D of the General Statutes shall not
22 be required to renew the registration for the 2015 calendar year to qualify for the landscape
23 contractor's license, as enacted by Subsection 3.31(b) of this section.

24 **SECTION 3.31.(f)** Subsection (a) of this section becomes effective August 1,
25 2015.

26 **CLARIFY RIGHTS OF MARINE ARTIFACT DONORS**

27 **SECTION 3.32.(a)** Article 3 of Chapter 121 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 121-23.1. Right of donor to display artifacts.**

30 (a) Any person who legally discovers a shipwreck or a shipwreck site or who salvages
31 marine artifacts on or after November 21, 1996, within State waters and donates the artifacts or
32 any contractual interest in the artifacts gained under this Article to the State shall retain the
33 right to access the artifacts and the right, either within the State or outside the State, to (i)
34 display or tour these artifacts or (ii) conduct nondestructive analysis and research if all of the
35 following occur:

- 36 (1) Forty percent (40%) of the net proceeds from any display of the artifacts are
37 paid annually to the General Fund no later than January 15 of any year
38 following a year when the artifacts are displayed.
- 39 (2) At least one-third of the salvaged artifacts, that represent a cross section of
40 the collection, remain in State custody.
- 41 (3) To-scale replicas of any artifacts determined to be unique by the Department
42 of Cultural Resources and not remaining in State custody under subdivision
43 (2) of this section are provided to the State at no cost while the artifacts are
44 on display.
- 45 (4) The display or tour will return to the State at least once every two years for a
46 period of no less than one year upon the request of the Department of
47 Cultural Resources.
- 48 (5) Any display or tour of artifacts shall also include information identifying the
49 State as the location where the artifacts were found and generally promoting
50 the natural and cultural heritage of the State.
- 51

1 For purposes of this section, "marine artifacts" shall mean an artifact described by
 2 G.S. 121-22 that was retained by a person holding a license under G.S. 121-25.

3 (b) Rights granted under this section shall be valid for a period of 30 years after
 4 discovery of the shipwreck, shipwreck site, or marine artifacts. At the end of the 30-year
 5 period, the Department shall return the replicas provided under subdivision (a)(3) to the person
 6 who donated the artifacts or the person's heir or designee."

7 **SECTION 3.32.(b)** This section is effective when it becomes law and applies to
 8 any marine artifacts or contractual interest in marine artifacts donated to the State on or after
 9 January 1, 1998.

10
 11 **TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION**
 12 **FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION**

13 **SECTION 3.33.(a)** G.S. 130A-29 reads as rewritten:

14 **"§ 130A-29. Commission for Public Health – Creation, powers and duties.**

15 ...

16 (c) The Commission shall adopt rules:

- 17 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
 18 (2) Establishing standards for approving sewage-treatment devices and holding
 19 tanks for marine toilets as provided in G.S. 75A-6(o).
 20 (3) Establishing specifications for sanitary privies for schools where
 21 water-carried sewage facilities are unavailable as provided in
 22 G.S. 115C-522.
 23 (4) Establishing requirements for the sanitation of local confinement facilities as
 24 provided in Part 2 of Article 10 of Chapter 153A of the General Statutes.
 25 (5) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1075, s. 1.
 26 (5a) Establishing eligibility standards for participation in Department
 27 reimbursement programs.
 28 ~~(6) Requiring proper treatment and disposal of sewage and other waste from~~
 29 ~~ehemical and portable toilets.~~
 30 (7) Establishing statewide health outcome objectives and delivery standards.
 31 (8) Establishing permit requirements for the sanitation of premises, utensils,
 32 equipment, and procedures to be used by a person engaged in tattooing, as
 33 provided in Part 11 of Article 8 of this Chapter.
 34 (9) Implementing immunization requirements for adult care homes as provided
 35 in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113.
 36 (10) Pertaining to the biological agents registry in accordance with
 37 G.S. 130A-479.
 38 (11) For matters within its jurisdiction that allow for and regulate horizontal
 39 drilling and hydraulic fracturing for the purpose of oil and gas exploration
 40 and development.

41"

42 **SECTION 3.33.(b)** G.S. 130A-290 reads as rewritten:

43 **"§ 130A-290. Definitions.**

44 (a) Unless a different meaning is required by the context, the following definitions shall
 45 apply throughout this Article:

46 ...

47 (3a) "Commission" means the Environmental Management Commission.

48 ...

49 (35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or
 50 sludge from a waste treatment plant, water supply treatment plant or air
 51 pollution control facility, domestic sewage and sludges generated by the

1 treatment thereof in sanitary sewage collection, treatment and disposal
 2 systems, and other material that is either discarded or is being accumulated,
 3 stored or treated prior to being discarded, or has served its original intended
 4 use and is generally discarded, including solid, liquid, semisolid or contained
 5 gaseous material resulting from industrial, institutional, commercial and
 6 agricultural operations, and from community activities. The term does not
 7 include:

- 8 a. Fecal waste from fowls and animals other than humans.
- 9 b. Solid or dissolved material in:
 - 10 1. Domestic sewage and sludges generated by treatment thereof
 - 11 in sanitary sewage collection, treatment and disposal systems
 - 12 which are designed to discharge effluents to the surface
 - 13 waters.
 - 14 2. Irrigation return flows.
 - 15 3. Wastewater discharges and the sludges incidental to and
 - 16 generated by treatment which are point sources subject to
 - 17 permits granted under Section 402 of the Water Pollution
 - 18 Control Act, as amended (P.L. 92-500), and permits granted
 - 19 under G.S. 143-215.1 by the ~~Environmental Management~~
 - 20 ~~Commission~~ Commission. However, any sludges that meet
 - 21 the criteria for hazardous waste under RCRA shall also be a
 - 22 solid waste for the purposes of this Article.

23"

24 **SECTION 3.33.(c)** G.S. 130A-291.1 reads as rewritten:

25 **"§ 130A-291.1. Septage management program; permit fees.**

26 ...
 27 (d) Septage shall be treated and disposed only at a wastewater system that has been
 28 approved by the Department under rules adopted by the Commission ~~or by the Environmental~~
 29 ~~Management Commission~~ or at a site that is permitted by the Department under this section. A
 30 permit shall be issued only if the site satisfies all of the requirements of the rules adopted by the
 31 Commission.

32"

33 **SECTION 3.33.(d)** G.S. 130A-294(a)(4) reads as rewritten:

34 **"§ 130A-294. Solid waste management program.**

35 (a) The Department is authorized and directed to engage in research, conduct
 36 investigations and surveys, make inspections and establish a statewide solid waste management
 37 program. In establishing a program, the Department shall have authority to:

38 ...

- 39 (4) a. Develop a permit system governing the establishment and operation
- 40 of solid waste management facilities. A landfill with a disposal area
- 41 of 1/2 acre or less for the on-site disposal of land clearing and inert
- 42 debris is exempt from the permit requirement of this section and shall
- 43 be governed by G.S. 130A-301.1. Demolition debris from the
- 44 decommissioning of manufacturing buildings, including electric
- 45 generating stations, that is disposed of on the same site as the
- 46 decommissioned buildings, is exempt from the permit requirement of
- 47 this section and rules adopted pursuant to this section and shall be
- 48 governed by G.S. 130A-301.3. The Department shall not approve an
- 49 application for a new permit, the renewal of a permit, or a substantial
- 50 amendment to a permit for a sanitary landfill, excluding demolition
- 51 landfills as defined in the rules of the Commission, except as

1 provided in subdivisions (3) and (4) of subsection (b1) of this
 2 section. No permit shall be granted for a solid waste management
 3 facility having discharges that are point sources until the Department
 4 has referred the complete plans and specifications to the
 5 ~~Environmental Management~~ Commission and has received advice in
 6 writing that the plans and specifications are approved in accordance
 7 with the provisions of G.S. 143-215.1. In any case where the
 8 Department denies a permit for a solid waste management facility, it
 9 shall state in writing the reason for denial and shall also state its
 10 estimate of the changes in the applicant's proposed activities or plans
 11 that will be required for the applicant to obtain a permit.

12 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1,
 13 2007.

14 c. The Department shall deny an application for a permit for a solid
 15 waste management facility if the Department finds that:

- 16 1. Construction or operation of the proposed facility would be
 17 inconsistent with or violate rules adopted by the Commission.
- 18 2. Construction or operation of the proposed facility would
 19 result in a violation of water quality standards adopted by the
 20 ~~Environmental Management~~ Commission pursuant to
 21 G.S. 143-214.1 for waters, as defined in G.S. 143-213.
- 22 3. Construction or operation of the facility would result in
 23 significant damage to ecological systems, natural resources,
 24 cultural sites, recreation areas, or historic sites of more than
 25 local significance. These areas include, but are not limited to,
 26 national or State parks or forests; wilderness areas; historic
 27 sites; recreation areas; segments of the natural and scenic
 28 rivers system; wildlife refuges, preserves, and management
 29 areas; areas that provide habitat for threatened or endangered
 30 species; primary nursery areas and critical fisheries habitat
 31 designated by the Marine Fisheries Commission; and
 32 Outstanding Resource Waters designated by the
 33 ~~Environmental Management~~ Commission.

34"

35 **SECTION 3.33.(e)** G.S. 130A-300 reads as rewritten:

36 **"§ 130A-300. Effect on laws applicable to water pollution control.**

37 This Article shall not be considered as amending, repealing or in any manner abridging or
 38 interfering with those sections of the General Statutes of North Carolina relative to the control
 39 of water pollution as now administered by the ~~Environmental Management~~ Commission nor
 40 shall the provisions of this Article be construed as being applicable to or in any way affecting
 41 the authority of the ~~Environmental Management~~ Commission to control the discharges of
 42 wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the
 43 General Statutes."

44 **SECTION 3.33.(f)** G.S. 130A-302 reads as rewritten:

45 **"§ 130A-302. Sludge deposits at sanitary landfills.**

46 Sludges generated by the treatment of wastewater discharges which are point sources
 47 subject to permits granted under Section 402 of the Federal Water Pollution Act, as amended
 48 (P.L. 92-500), or permits generated under G. S. 143-215.1 by the ~~Environmental Management~~
 49 Commission shall not be deposited in or on a sanitary landfill permitted under this Article
 50 unless in a compliance with the rules concerning solid waste adopted under this Article."

51 **SECTION 3.33.(g)** G.S. 130A-310.3 reads as rewritten:

1 **"§ 130A-310.3. Remedial action programs for inactive hazardous substance or waste**
2 **disposal sites.**

3 ...

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

10 ...

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

18"

19 **SECTION 3.33.(h)** G.S. 130A-310.4(g) reads as rewritten:

20 "(g) The Commission ~~on Health Services [Commission for Public Health]~~ shall adopt
21 rules prescribing the form and content of the notices required by this section. The proposed
22 remedial action plan shall include a summary of all alternatives considered in the development
23 of the plan. A record shall be maintained of all comment received by the Department regarding
24 the remedial action plan."

25 **SECTION 3.33.(i)** G.S. 130A-310.31(b)(5) reads as rewritten:

26 "(5) "Unrestricted use standards" when used in connection with "cleanup",
27 "remediated", or "remediation" means contaminant concentrations for each
28 environmental medium that are considered acceptable for all uses and that
29 comply with generally applicable standards, guidance, or established
30 methods governing the contaminants that are established by statute or
31 adopted, published, or implemented by the ~~Environmental Management~~
32 ~~Commission, the~~ Commission, or the Department instead of the site-specific
33 contaminant levels established pursuant to this Part."

34 **SECTION 3.33.(j)** G.S. 130A-310.65 reads as rewritten:

35 **"§ 130A-310.65. Definitions.**

36 As used in this Part:

37 (1) "Background standard" means the naturally occurring concentration of a
38 substance in the absence of the release of a contaminant.

39 (2) "~~Commission~~" ~~means the Environmental Management Commission created~~
40 ~~pursuant to G.S. 143B-282.~~

41 ...

42 (12) "Unrestricted use standards" means contaminant concentrations for each
43 environmental medium that are acceptable for all uses; that are protective of
44 public health, safety, and welfare and the environment; and that comply with
45 generally applicable standards, guidance, or methods established by statute
46 or adopted, published, or implemented by the ~~Commission, the Commission~~
47 ~~for Public Health, Commission~~ or the Department."

48 **SECTION 3.33.(k)** G.S. 113-391(a)f. reads as rewritten:

49 "f. Management of wastes produced in connection with oil and gas
50 exploration and development and use of horizontal drilling and
51 hydraulic fracturing treatments for that purpose. Such rules shall

1 address storage, transportation, and disposal of wastes that may
 2 contain radioactive materials or wastes that may be toxic or have
 3 other hazardous wastes' characteristics that are not otherwise
 4 regulated as a hazardous waste by the federal Resource Conservation
 5 and Recovery Act (RCRA), such as top-hole water, brines, drilling
 6 fluids, additives, drilling muds, stimulation fluids, well servicing
 7 fluids, oil, production fluids, and drill cuttings from the drilling,
 8 alteration, production, plugging, or other activity associated with oil
 9 and gas wells. Wastes generated in connection with oil and gas
 10 exploration and development and use of horizontal drilling and
 11 hydraulic fracturing treatments for that purpose that constitute
 12 hazardous waste under RCRA shall be subject to rules adopted by the
 13 Environmental Management Commission for Public Health to
 14 implement RCRA requirements in the State."

15 **SECTION 3.33.(l)** G.S. 113-415 reads as rewritten:

16 **"§ 113-415. Conflicting laws.**

17 No provision of this Article shall be construed to repeal, amend, abridge or otherwise
 18 affect: ~~(i) affect the authority and responsibility~~ responsibility (i) vested in the Environmental
 19 Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the
 20 location, construction, repair, operation and abandonment of wells, or the authority and
 21 responsibility wells; (ii) vested in the Environmental Management Commission related to the
 22 control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the
 23 General Statutes; or (ii) the authority or responsibility (iii) vested in the Department and the
 24 Environmental Management Commission for Public Health by Article 10 of Chapter 130A of
 25 the General Statutes pertaining to public water-supply ~~requirements,~~ requirements; or ~~the~~
 26 ~~authority and responsibility (iv) vested in the Environmental Management Commission for~~
 27 ~~Public Health~~ related to the management of solid and hazardous waste as provided in Article 9
 28 of Chapter 130A of the General Statutes."

29 **SECTION 3.33.(m)** The Revisor of Statutes shall make any conforming statutory
 30 changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter
 31 130A of the General Statutes from the Commission for Public Health to the Environmental
 32 Management Commission.

33 **SECTION 3.33.(n)** The Codifier of Rules shall make any conforming rule changes
 34 necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of
 35 the General Statutes from the Commission for Public Health to the Environmental Management
 36 Commission.

37
 38 **TRANSFER DRINKING WATER RULE-MAKING AUTHORITY FROM**
 39 **COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT**
 40 **COMMISSION**

41 **SECTION 3.34.(a)** G.S. 130A-313 is amended by adding a new subdivision to
 42 read:

43 "(2a) "Commission" means the Environmental Management Commission."

44 **SECTION 3.34.(b)** G.S. 87-97(i) reads as rewritten:

45 **"§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

46 ...
 47 ~~(i) Commission for Public Health~~ Environmental Management Commission to Adopt
 48 Drinking Water Testing Rules. – The ~~Commission for Public Health~~ Environmental
 49 Management Commission shall adopt rules governing the sampling and testing of well water
 50 and the reporting of test results. The rules shall allow local health departments to designate
 51 third parties to collect and test samples and report test results. The rules shall also provide for

1 corrective action and retesting where appropriate. The ~~Commission for Public~~
2 ~~Health~~Commission may by rule require testing for additional parameters, including volatile
3 organic compounds, if the Commission makes a specific finding that testing for the additional
4 parameters is necessary to protect public health. If the Commission finds that testing for certain
5 volatile organic compounds is necessary to protect public health and initiates rule making to
6 require testing for certain volatile organic compounds, the Commission shall consider all of the
7 following factors in the development of the rule: (i) known current and historic land uses
8 around well sites and associated contaminants; (ii) known contaminated sites within a given
9 radius of a well and any known data regarding dates of contamination, geology, and other
10 relevant factors; (iii) any GIS-based information on known contamination sources from
11 databases available to the Department of Environment and Natural Resources; and (iv) visual
12 on-site inspections of well sites. In addition, the rules shall require local health departments to
13 educate citizens for whom new private drinking water wells are constructed and for citizens
14 who contact local health departments regarding testing an existing well on all of the following:

- 15 (1) The scope of the testing required pursuant to this Article.
- 16 (2) Optional testing available pursuant to this Article.
- 17 (3) The limitations of both the required and optional testing.
- 18 (4) Minimum drinking water standards."

19 **SECTION 3.34.(c)** The Codifier of Rules shall make any conforming rule changes
20 necessary to reflect the transfer of rule-making authority under Article 10 of Chapter 130A of
21 the General Statutes from the Commission for Public Health to the Environmental Management
22 Commission.

23

24 WELL CONTRACTOR LICENSING CHANGES

25 **SECTION 3.35.(a)** G.S. 87-43.1 is amended by adding the following new
26 subdivision to read:

27 "§ 87-43.1. Exceptions.

28 The provisions of this Article shall not apply:

- 29 ...
- 30 (10) To the installation, construction, maintenance, or repair of electrical wiring,
31 devices, appliances, or equipment by a person certified as a well contractor
32 under Article 7A of this Chapter when running electrical wires from the well
33 pump to the pressure switch."

34 **SECTION 3.35.(b)** G.S. 87-98.6 reads as rewritten:

35 "§ 87-98.6. Well contractor qualifications and examination.

36 (a) The Commission, with the advice and assistance of the Secretary, shall establish
37 minimum requirements of education, experience, and knowledge for each type of certification
38 for well contractors and shall establish procedures for receiving applications for certification,
39 conducting examinations, and making investigations of applicants as may be necessary and
40 appropriate so that prompt and fair consideration will be given to each applicant.

41 (b) The Commission, with the advice and assistance of the Secretary, shall establish
42 minimum requirements of education, experience, and knowledge for each type of certification
43 for well contractors for the installation, construction, maintenance, and repair of electrical
44 wiring devices, appliances, and equipment related to the construction, operation, and repair of
45 wells. Requirements developed pursuant to this subsection shall apply only to the initial
46 certification of an applicant and shall not be required as part of continuing education or as a
47 condition of certification renewal."

48 **SECTION 3.35.(c)** This section is effective when it becomes law. The
49 requirements of subsection (b) of G.S. 87-98.6, as enacted by Section 3.35(b) of this section,
50 apply to applicants applying for certification on or after the date this section becomes effective.
51

STANDARDIZE LOCAL WELL PROGRAMS

SECTION 3.36.(a) G.S. 87-97 reads as rewritten:

"§ 87-97. Permitting, inspection, and testing of private drinking water wells.

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own forms unless the local program submits a petition for rule making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.

...

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is issued. issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

...."

SECTION 3.36.(b) Notwithstanding 15A NCAC 02C .0107(j)(2), neither the Department of Environment and Natural Resources nor any local well program shall require that well contractor identification plates include the well construction permit numbers. Local well programs may install a plate with the well construction permit number or any other information deemed relevant on a well at the expense of the local program.

SECTION 3.36.(c) The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02C .0107(j)(2) consistent with Section 3.36(b) of this section.

SECTION 3.36.(d) Section 3.36(b) of this section expires on the date that the rule adopted pursuant to Section 3.36(c) of this section becomes effective.

SECTION 3.36.(e) If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be onsite during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

PART IV. STUDIES**HONEYBEE WORKING GROUP**

SECTION 4.1.(a) The General Assembly recognizes the importance of the State's agriculture sector and heritage and the importance of honeybee pollination to this sector. In an effort to proactively address the issue of Colony Collapse Disorder and its damaging effects on honeybee populations, the Department of Agriculture and Consumer Services shall create the Honeybee Improvement for Vital Ecology (HIVE) working group. The group shall consist of nine members appointed as follows:

- (1) The Commissioner of Agriculture, or the Commissioner's designee, serving ex officio.

- 1 (2) A representative from the Plant Protection Section of the Department of
2 Agriculture and Consumer Services.
- 3 (3) A representative from the Department of Transportation.
- 4 (4) A representative from the Utilities Commission Public Staff.
- 5 (5) Two representatives from publicly owned utilities that operate within the
6 State.
- 7 (6) Two representatives from the biotechnology sector whose company is
8 actively involved in honeybee research.
- 9 (7) One researcher from North Carolina State University, who shall be an
10 entomologist or apiculturist.

11 Vacancies in the HIVE group shall be filled by the Department of Agriculture and
12 Consumer Services. A quorum of the group shall consist of five members.

13 The HIVE group may contract for professional, clerical, or consultant services.

14 **SECTION 4.1.(b)** Purpose. – The HIVE group shall create and issue a report
15 containing the following:

- 16 (1) A list of bee-friendly vegetation and planting requirements for such
17 vegetation. The list shall include a recommendation as to the appropriateness
18 of locating each bee-friendly plant with respect to:
 - 19 a. Department of Transportation public road rights-of-way,
 - 20 b. Rights-of-way held by publicly owned utilities.
- 21 (2) Whether planting requirements for bee-friendly vegetation within
22 rights-of-way for public utilities should be voluntary or required.
- 23 (3) A recommendation from the Department of Transportation as to whether
24 priority should be given to bee-friendly vegetation for landscaping projects
25 within Department-owned rights-of-way and rest areas. Any
26 recommendation of priority shall also include a percentage breakdown of
27 urban and rural areas to be targeted.
- 28 (4) A recommendation from the Utilities Commission Public Staff, publicly
29 owned utilities, or both as to dedications of rural easements for bee-friendly
30 vegetation, including a percentage breakdown of urban and rural areas to be
31 targeted.
- 32 (5) A recommendation from the Department of Agriculture and Consumer
33 Services as to whether a statewide bee-friendly vegetation planting program
34 would be beneficial to the State's agriculture industry, including any
35 estimated benefit. In doing so, the Department of Agriculture and Consumer
36 Services shall address the following:
 - 37 a. The willingness of farms to plant bee-friendly vegetation in rural
38 areas;
 - 39 b. The ability of the Department of Agriculture and Consumer Services
40 to provide support for a farm planting program from existing funds;
41 and
 - 42 c. The ability of research stations or other properties to plant
43 bee-friendly vegetation.

44 **SECTION 4.1.(c)** Staff. – The Department of Agriculture and Consumer Services
45 shall assign professional and clerical staff to assist in the work of the HIVE group.

46 **SECTION 4.1.(d)** Report. – The HIVE group shall submit a final report to the
47 Environmental Review Commission by November 30, 2014. The report shall contain the
48 information required in this section and any findings, legislative proposals, cost/benefit
49 analyses, or additional recommendations for legislative action to proactively address Colony
50 Collapse Disorder or other honeybee-related issues that may threaten the economy, ecology,
51 and agricultural heritage of the State.

SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY

SECTION 4.2.(a) It is the intent of the General Assembly to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

SECTION 4.2.(b) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall designate a contiguous area of approximately 10,000 acres within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes the following components:

- (1) Location and delineation of the sanctuary. – The plan should include a location for the sanctuary that minimizes the impact on commercial trawling. In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.
- (2) Administration. – The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.
- (3) Funding. – The plan should include a request for appropriations sufficient to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.
- (4) Commercial fisherman relief. – To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty (50%) of their income from commercial fishing with those licenses.
- (5) Recommendations. – The plan should include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, and expand the coastal economy.

SECTION 4.2.(c) No later than October 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY INTERBASIN TRANSFERS

SECTION 4.3.(a) The Department of Environment and Natural Resources shall study the statutes and rules governing interbasin transfers and make recommendations as to whether the statutes and rules should be amended. The study shall specifically examine all of the following:

- 1 (1) Whether and to what extent temporary and emergency interbasin transfers,
2 including interbasin transfers to provide drought relief, should be subject to
3 different regulatory requirements than long-term interbasin transfers.
- 4 (2) Whether and to what extent interbasin transfers between river sub-basins
5 should be subject to different regulatory requirements than interbasin
6 transfers between major river basins.
- 7 (3) Whether there are types of interbasin transfers that should be exempted from
8 the interbasin certification or other regulatory requirements.

9 **SECTION 4.3.(b)** No later than October 1, 2014, the Department of Environment
10 and Natural Resources shall report its findings and recommendations to the Environmental
11 Review Commission.

12 **PROGRAM EVALUATION DIVISION TO STUDY WATER AND SEWER SYSTEMS**

13 **SECTION 4.4.(a)** The Joint Legislative Program Evaluation Oversight Committee
14 shall include in the 2014-2015 Work Plan for the Program Evaluation Division of the General
15 Assembly a study of the benefits that may result from the merger of public water systems and
16 wastewater collection and treatment works. The Program Evaluation Division shall specifically
17 include the following in the study:
18

- 19 (1) Consideration of whether the benefits that have resulted from the merger of
20 certain public water systems and certain wastewater collection and treatment
21 works can be replicated for other systems. In considering this issue, the
22 Program Evaluation Division shall investigate the performance of the
23 Charlotte-Mecklenburg Utility Department, the Cape Fear Public Utility
24 Authority, and Two Rivers Utilities.
- 25 (2) Whether the State can incentivize public water systems and wastewater
26 collection and treatment works that provide service that is affordable,
27 reliable, and in compliance with all applicable laws to purchase, to
28 interconnect with, or enter into joint management agreements with public
29 water systems and wastewater collection and treatment works that do not
30 provide service that is affordable, reliable, and in compliance with all
31 applicable laws.
- 32 (3) Whether the State can allow public water systems and wastewater collection
33 and treatment works that provide service that is affordable, reliable, and in
34 compliance with all applicable laws to apply for grant funding or other
35 assistance on the behalf of public water systems and wastewater collection
36 and treatment works that do not provide service that is affordable, reliable,
37 and in compliance with all applicable laws if the award of such funding is
38 contingent on purchase, interconnection, or a joint management agreement
39 between the systems.

40 **SECTION 4.4.(b)** The Program Evaluation Division shall submit its findings and
41 recommendations to the Joint Legislative Program Evaluation Oversight Committee and the
42 Environmental Review Commission at a date to be determined by the Joint Legislative
43 Program Evaluation Oversight Committee.
44

45 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

46 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or
47 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
48 the part declared to be unconstitutional or invalid.

49 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
50 law.