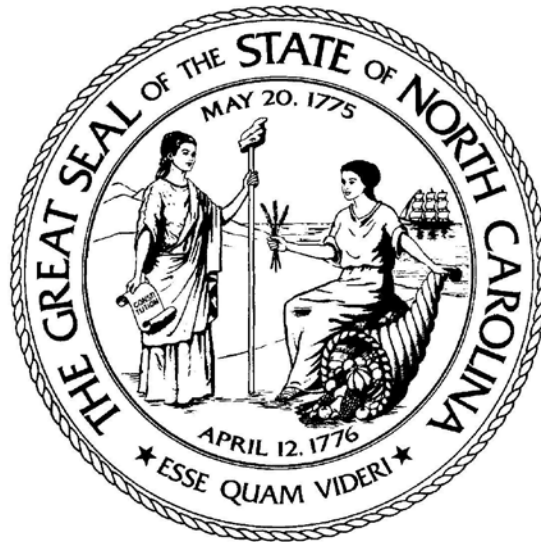


# **Senate Appropriations Committee on Natural and Economic Resources**

## **Proposed Special Provisions for Proposed Senate Committee Substitute to H.B. 97, 2015 Appropriations Act**



**June 15, 2015**

46 **PART XIII. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

47  
48 **TVA SETTLEMENT FUNDS**

49 **SECTION 13.2.** In fiscal year 2015-2016, The Department of Agriculture and  
50 Consumer Services shall apply for two million two hundred forty thousand dollars (\$2,240,000)  
51 from the Tennessee Valley Authority Settlement Agreement in compliance with the

requirements of paragraphs 122 through 128 of the Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern District of Tennessee, and Appendix C to the Compliance Agreement. The funds received by the State shall be allocated to the following programs for projects, with priority given to projects in the counties of Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, and Yancey:

- (1) One million dollars (\$1,000,000) to the Agriculture Cost Share Program for Nonpoint Source Pollution Control.
- (2) Five hundred thousand dollars (\$500,000) to the Department's Bioenergy Development Program.
- (3) Five hundred thousand dollars (\$500,000) to the North Carolina Agricultural Development and Farmland Preservation Trust Fund to be used, notwithstanding G.S. 106-744, in the areas specified in this section.
- (4) Two hundred forty thousand dollars (\$240,000) to the North Carolina Agricultural Water Resources Assistance Program.

## DISPOSITION OF ROSE HILL LABORATORY PROPERTY

**SECTION 13.3.** The Department of Administration shall sell the building and associated real property formerly used to house the Veterinary Diagnostic Laboratory located in the Town of Rose Hill in Duplin County.

## DRUG MANUFACTURING LICENSING AND REGISTRATION FEES

**SECTION 13.4.(a)** G.S. 106-140.1(h) reads as rewritten:

"(h) The Commissioner shall adopt rules to implement the registration requirements of this section. These rules ~~may shall~~ provide for an annual registration fee of ~~up to five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) for companies operating as ~~manufacturers, wholesalers, or repackagers~~ manufacturers or repackagers and ~~seven hundred dollars (\$700.00) for companies operating as wholesalers.~~ The Department of Agriculture and Consumer Services shall use these funds for the implementation of the North Carolina Food, Drug and Cosmetic Act."

**SECTION 13.4.(b)** G.S. 106-145.4(b) reads as rewritten:

**"§ 106-145.4. Application and fee for license.**

"(b) Fee. – An application for an initial license or a renewed license as a wholesale distributor shall be accompanied by a nonrefundable fee of ~~five hundred dollars (\$500.00)~~ one thousand dollars (\$1,000) for a manufacturer or ~~three hundred fifty dollars (\$350.00)~~ seven hundred dollars (\$700.00) for any other person."

## FOOD MANUFACTURER AND RETAILER INSPECTION FEES

**SECTION 13.5.** G.S. 106-254 reads as rewritten:

**"§ 106-254. Inspection fees; wholesalers; retailers and cheese factories.**

For the purpose of defraying the expenses incurred in the enforcement of this Article, the owner, proprietor or operator of each ice cream factory where ice cream, milk shakes, milk sherbet, sherbet, water ices, mixes for frozen or semifrozen desserts and other similar frozen or semifrozen food products are made or stored, or any cheese factory or butter-processing plant that disposes of its products at wholesale to retail dealers for resale in this State shall pay to the Commissioner of Agriculture each year an inspection fee of ~~forty dollars (\$40.00)~~ one hundred dollars (\$100.00). Each maker of ice cream, milk shakes, milk sherbet, sherbet, water ices and/or other similar frozen or semifrozen food products who disposes of his product at retail only, and cheese factories, shall pay to the Commissioner of Agriculture an inspection fee of ~~ten dollars (\$10.00)~~ fifty dollars (\$50.00) each year. The inspection fee of ~~ten dollars (\$10.00)~~

1 fifty dollars (\$50.00) shall not apply to conventional spindle-type milk-shake mixers, but shall  
2 apply to milk-shake dispensing and vending machines, which operate on a continuous or  
3 automatic basis."  
4

## 5 SPAY/NEUTER PROGRAM REVISIONS

6 **SECTION 13.7.** G.S. 19A-63 reads as rewritten:

### 7 "§ 19A-63. Eligibility for distributions from Spay/Neuter Account.

8 (a) A county or city is eligible for reimbursement from the Spay/Neuter Account if it  
9 meets the following condition:

- 10 (1) The county or city offers one or more of the following programs to  
11 low-income persons on a year-round basis for the purpose of reducing the  
12 cost of spaying and neutering procedures for dogs and cats:
- 13 a. A spay/neuter clinic operated by the county or city.
  - 14 ~~b. A spay/neuter clinic operated by a private organization under~~  
15 ~~contract or other arrangement with the county or city.~~
  - 16 c. A contract or contracts with one or more veterinarians, whether or  
17 not located within the county, to provide reduced-cost spaying and  
18 neutering procedures.
  - 19 d. Subvention of the spaying and neutering costs incurred by  
20 low-income pet owners through the use of vouchers or other  
21 procedure that provides a discount of the cost of the spaying or  
22 neutering procedure fixed by a participating veterinarian or other  
23 provider.
  - 24 e. Subvention of the spaying and neutering costs incurred by persons  
25 who adopt a pet from an animal shelter operated by or under contract  
26 with the county or city.

27 (2) Reserved for future codification purposes.

28 (b) For purposes of this Article, the term "low-income person" shall mean an individual  
29 ~~who qualifies for one or more of the programs of public assistance administered by the~~  
30 ~~Department of Health and Human Services pursuant to Chapter 108A of the General Statutes or~~  
31 ~~whose annual household income is under three hundred percent (300%) lower than one~~  
32 ~~hundred percent (100%)~~ of the federal poverty level guidelines published by the United States  
33 Department of Health and Human Services.

34 (c) Each county shall make rules or publish guidelines that designate what proof a  
35 low-income person must submit to establish that the person ~~qualifies for public assistance~~  
36 ~~under subsection (b) of this section or has an annual household income lower than three~~  
37 ~~hundred percent (300%) one hundred percent (100%)~~ of the federal poverty level guidelines  
38 published by the United States Department of Health and Human Services."  
39

## 40 CONSERVATION RESERVE ENHANCEMENT PROGRAM REPORT

41 **SECTION 13.8.(a)** The Department of Agriculture and Consumer Services shall  
42 study and report on the activities of the Conservation Reserve Enhancement Program. The  
43 report shall include, at a minimum, the following components:

- 44 (1) A listing of contracts currently in effect and contracts entered into in each of  
45 the last five fiscal years, including the acreage and location of the land under  
46 contract and the distribution of contracts by duration.
- 47 (2) A five-year projection of future funding requirements.
- 48 (3) A detailed listing of the conservation practices used at project sites over the  
49 last five fiscal years and an assessment of the effectiveness of those practices  
50 for preventing or reducing nonpoint source pollution.

- (4) An assessment of the effectiveness and impact of the program in both protection of waterways from nonpoint source pollution and the leveraging of additional programs and efforts to reduce nonpoint source pollution.

**SECTION 13.8.(b)** The Department shall submit its findings and report to the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the House Appropriations Committee on Agriculture and Natural and Economic Resources and to the Fiscal Research Division no later than April 1, 2016.

#### **CRAFT BEER MARKETING**

**SECTION 13.9.** The additional funds allocated by this act to the Marketing Division of the Department of Agriculture and Consumer Services shall be used for the promotion of craft beer produced in the State.

#### **REPEAL MINE SAFETY AND HEALTH ACT**

**SECTION 13.10.(a)** Article 2A of Chapter 74 of the General Statutes is repealed.

**SECTION 13.10.(b)** G.S. 130A-460 reads as rewritten:

**"§ 130A-460. Report to Department of Labor.**

...

(c) Subsection (b) shall not apply to inspections conducted for the Industrial Commission pursuant to ~~G.S. 97-76 and shall not affect the allocation of responsibilities set forth in G.S. 74-24.4(c)-G.S. 97-76.~~"

#### **PART XIV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

##### **PROSPERITY ZONE DENR LIAISONS**

**SECTION 14.1.** Section 4.1 of S.L. 2014-18 reads as rewritten:

**"SECTION 4.1.** No later than January 1, 2015, the Departments of Commerce, Environment and Natural Resources, and Transportation shall have at least one employee physically located in the same office in each of the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with local governments, schools and colleges, planning and development bodies, and businesses in that zone. The departments shall jointly select the office. For purposes of this Part, the Department of Commerce may contract with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for each office in each of the Collaboration for Prosperity ~~Zones.~~Zones, and the Department of Environment and Natural Resources shall fulfill the departmental liaison requirements from existing positions.

No later than January 1, 2015, the Community Colleges System Office shall designate at least one representative from a community college or from the Community Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the community college system, the community colleges in the zone, and other educational agencies and schools within the zone. A liaison may be from a business center located in a community college. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation.

No later than January 1, 2015, the State Board of Education shall designate at least one representative from a local school administrative unit or from the Department of Public Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school administrative units and other public schools within the zone. These liaisons are not required to be collocated with the liaisons from the Departments of Commerce, Environment and Natural Resources, and Transportation."

**IMPROVE FINANCIAL MANAGEMENT OF ENVIRONMENTAL STEWARDSHIP FUNDS THROUGH CONSERVATION GRANT FUND**

**SECTION 14.2.** G.S. 147-69.2(d) reads as rewritten:

"(d) The State Treasurer may invest funds deposited pursuant to ~~subdivision (a)(17i) subdivisions (a)(17i) or (a)(17j)~~ of this section in any of the investments authorized under subdivisions (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation Easement Endowment ~~Fund, Fund or the Conservation Grant Fund, as applicable,~~ and interest or other investment income earned thereon shall be prorated and credited to the North Carolina Conservation Easement Endowment ~~Fund Fund or the Conservation Grant Fund~~ on the basis of the amounts ~~thereof contributed,~~ contributed to the respective Funds, figured according to sound accounting principles."

**ALLOW REVENUE GENERATED FROM TIMBER SALE TO BE RETAINED IN A NONREVERTING ACCOUNT FOR A PERIOD OF FOUR YEARS**

**SECTION 14.3.** The Department of Environment and Natural Resources' Stewardship Program may retain revenue generated from timber harvesting on the Great Coharie property in the Conservation Grant Endowment Interest Fund (6705) for the purpose of restoration and stewardship of that property and these funds are hereby appropriated for that purpose. Any unused portion of this revenue remaining in the Fund on June 30, 2019, shall revert to the General Fund.

**ENVIRONMENTAL MANAGEMENT OF IMPAIRED LAKES**

**SECTION 14.5.(a)** Of the funds appropriated in this act to the Clean Water Management Trust Fund, the sum of five million dollars (\$5,000,000) in the 2015-2017 fiscal biennium shall be used by the Department of Environment and Natural Resources to plan and execute in situ water quality mitigation measures at Jordan Lake and Falls Lake as described in this section and to initiate data collection and modeling of nutrient-related water quality impairment at High Rock Lake. Priority shall be given to the development and support of basinwide nutrient management strategies that include in-lake water quality mitigation.

**JORDAN LAKE**

**SECTION 14.5.(b)** The General Assembly finds that, due to the late deployment of the Jordan Lake Nutrient Mitigation Demonstration Project (Jordan Lake Project) established by Section 14.3A of S.L. 2013-360, and as recommended to the Senate Agriculture/Environment/Natural Resources Committee by the Department of Environment and Natural Resources, an extension of the Jordan Lake Project authorization is necessary. With funds allocated by this section, the Department shall extend by 24 months the duration of the Jordan Lake Project, as well as any associated water quality monitoring, contracts with third parties, contract support, and oversight activities. In addition, the Department is authorized to expand the scope of the Jordan Lake Project and may enter into additional contracts with third parties for in-lake mitigation technologies to supplement the existing Jordan Lake Project. The funds allocated by this section may also be used for that purpose. Any additional contracts entered into under this subsection shall not be subject to Articles 3, 3D, or 8 of Chapter 143 of the General Statutes.

**SECTION 14.5.(c)** Section 1(b) of S.L. 2013-395 reads as rewritten:

**"SECTION 1.(b)** The implementation dates of the Jordan Lake Rules and Jordan Lake Session Laws that begin July 1, 2013, or later shall be delayed for a period of ~~three~~ five years."

1           **SECTION 14.5.(d)** Section 14.3A(b) of S.L. 2013-360 reads as rewritten:

2           "**SECTION 14.3A.(b)** Report. – ~~No later than October 1, 2015, the~~ The Department of  
3 Environment and Natural Resources shall submit ~~an interim report~~ reports on implementation  
4 of the demonstration project to the Environmental Review Commission and the Fiscal Research  
5 Division of the General ~~Assembly~~. Assembly no later than October 1 of 2015 and 2016. No  
6 later than ~~April 1, 2016, April 1, 2017,~~ the Department of Environment and Natural Resources  
7 shall submit a final report on implementation of the demonstration project to the Environmental  
8 Review Commission and the Fiscal Research Division of the General Assembly."  
9

## 10   **FALLS LAKE**

11           **SECTION 14.5.(e)** In implementing the Falls Lake Nutrient Management Strategy,  
12 the Department and the Environmental Management Commission shall do both of the  
13 following:

- 14           (1) Examine the results of the Jordan Lake Project to determine if the  
15 deployment of similar technology in Falls Lake could reduce or prevent the  
16 adverse impacts of excessive nutrient loading in Falls Lake. No later than six  
17 months after the completion of the Jordan Lake Nutrient Mitigation  
18 Demonstration Project, the Department and the Environmental Management  
19 Commission shall report the results of the determination made pursuant to  
20 this subdivision to the Environmental Review Commission.
- 21           (2) No later than October 1, 2015, consult with the United States Environmental  
22 Protection Agency to determine if all of the components of the Falls Lake  
23 Nutrient Management Strategy are necessary to comply with federal water  
24 quality requirements for Falls Lake and if alternative strategies could be  
25 employed to comply with federal water quality requirements for Falls Lake.  
26 No later than January 1, 2016, the Department of Environment and Natural  
27 Resources and the Environmental Management Commission shall report the  
28 results of the consultation made pursuant to this subdivision to the  
29 Environmental Review Commission.

30           **SECTION 14.5.(f)** The Department may use funds allocated by this section to  
31 establish a 24-month demonstration project for the management of nutrients in Falls Lake. The  
32 demonstration project shall specifically focus on preventing and reducing harmful algal blooms  
33 and excessive chlorophyll as well as providing other nutrient mitigation measures through use  
34 of in situ technologies approved by the Secretary of Environment and Natural Resources. The  
35 Department may purchase or lease technology devices and, notwithstanding any other  
36 provision of law, may enter into prepaid leases for technology devices until June 30, 2017. The  
37 Department, in consultation with the Environmental Management Commission, shall have the  
38 sole authority to determine the size and scope of any demonstration project as well as the  
39 technology or technologies deployed, provided, however, that the Department shall issue a  
40 Request for Proposal for any leases or contracts authorized by this subsection and shall evaluate  
41 and select contractors based on likelihood of success rather than price and, therefore, any  
42 contract entered into under this subsection shall not be subject to Article 3, 3D or 8 of Chapter  
43 143 of the General Statutes.  
44

## 45   **CLEAN WATER MANAGEMENT TRUST FUND PURPOSES**

46           **SECTION 14.5A.(a)** G.S. 113A-253(c) reads as rewritten:

47           "(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance  
48 projects to clean up or prevent surface water pollution and for land preservation in accordance  
49 with this Article. ~~Revenue~~ The Trustees shall observe the following primary and secondary  
50 priorities in allocation or awarding revenue in the Fund ~~may be used for any of the following~~  
51 ~~purposes:~~ Fund. Funds may be used for a grant to fund a project for a purpose that is a

secondary priority only if no grant applicants for projects for a purpose that is a primary priority meet the criteria for funding established by the Trustees:

- ~~(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.~~
- ~~(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.~~
- ~~(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.~~
- ~~(4) To restore previously degraded lands to reestablish their ability to protect water quality.~~
- ~~(5) through (7) Repealed by Session Laws 2013 360, s. 14.3(d), effective August 1, 2013.~~
- ~~(8) To facilitate planning that targets reductions in surface water pollution.~~
- ~~(8a) To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.~~
- ~~(8b) To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.~~
- ~~(8c) To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.~~
- ~~(8d) To acquire land that contributes to the development of a balanced State program of historic properties.~~
- ~~(8e) To authorize expenditures from the Fund not to exceed the sum of seven hundred fifty thousand dollars (\$750,000) and any fees collected under G.S. 113A-164.12 to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes, and to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.~~
- ~~(9) To fund operating expenses of the Board of Trustees and its staff.~~
- (1) Primary purposes:
  - a. To finance innovative efforts, including pilot projects, to improve stormwater management, to reduce pollutants entering the State's waterways, to improve water quality, to mitigate water quality in-situ through use of in-water technologies in State rivers and lakes, and to research alternative solutions to the State's water quality problems.
  - b. To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.
  - c. To promote activities related to the reintroduction and expansion of shellfish populations within waters of the State when that reintroduction or expansion will improve water quality.

- 1                    d. To facilitate planning that targets reductions in surface water  
2                    pollution.
- 3            (2)   Secondary purposes:
- 4                    a. To acquire land for riparian buffers for the purposes of providing  
5                    environmental protection for surface waters and urban drinking water  
6                    supplies and establishing a network of riparian greenways for  
7                    environmental, educational, and recreational uses.
- 8                    b. To acquire conservation easements or other interests in real property  
9                    for the purpose of protecting and conserving surface waters and  
10                   enhancing drinking water supplies, including the development of  
11                   water supply reservoirs.
- 12                   c. To coordinate with other public programs involved with lands  
13                   adjoining water bodies to gain the most public benefit while  
14                   protecting and improving water quality.
- 15                   d. To restore previously degraded lands to reestablish their ability to  
16                   protect water quality.
- 17                   e. To acquire land that represents the ecological diversity of North  
18                   Carolina, including natural features such as riverine, montane,  
19                   coastal, and geologic systems and other natural areas to ensure their  
20                   preservation and conservation for recreational, scientific,  
21                   educational, cultural, and aesthetic purposes.
- 22                   f. To acquire land that contributes to the development of a balanced  
23                   State program of historic properties."

24            **SECTION 14.5A.(b)** G.S. 113A-253(d) is repealed.

25

26   **INLET AND PORT ACCESS MANAGEMENT**

27            **SECTION 14.6.(a)** G.S. 143-215.73F reads as rewritten:

28   **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**  
29   **Fund.**

30            (a)   Fund Established. – The Shallow Draft Navigation Channel Dredging and Lake  
31   Maintenance Fund is established as a special revenue fund. The Fund consists of fees credited  
32   to it under ~~G.S. 75A-3, 75A-38, G.S. 75A-3 and G.S. 75A-38 and 105-449.126.~~ taxes credited  
33   under G.S. 105-449.126.

34            (b)   Uses of Fund. – Revenue in the Fund may only be used ~~to~~ for the following  
35   purposes:

36                   (1)   To provide the State's share of the costs associated with any dredging project  
37                   designed to keep shallow draft navigation channels located in State waters or  
38                   waters of the state located within lakes navigable and ~~safe, or for safe.~~

39                   (2)   For aquatic weed control projects in waters of the State located within lakes  
40                   under Article 15 of Chapter 113A of the General Statutes. Funding for  
41                   aquatic weed control projects is limited to five hundred thousand dollars  
42                   (\$500,000) in each fiscal year.

43            (c)   Cost-Share. – Any project funded by revenue from the Fund must be cost-shared  
44   with non-State dollars on a one-to-one basis, provided that the cost-share for a lake located  
45   within a component of the State Parks System shall be provided by the Division of Parks and  
46   Recreation of the Department of Environment and Natural Resources. The Division of Parks  
47   and Recreation may use funds allocated to the State Parks System for capital projects under  
48   G.S. 113-44.15 for the cost-share.

49            (d)   Waiver of Cost-Share. – The Secretary may waive or modify the non-State  
50   cost-share requirement for dredging projects that (i) alleviate a navigational emergency or (ii)  
51   represent an opportunity to supplement or leverage Corps funding that would be lost if a

cost-share was required. The Secretary may only waive or modify the non-State cost-share requirement up to an amount not to exceed five hundred thousand dollars (\$500,000) per project.

(e) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund for a particular project or group of projects may make a written request to the Secretary that the contribution be returned if the contribution has not been spent or encumbered within two years of receipt of the contribution by the Fund. If the written request is made prior to the funds being spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the later of (i) receiving the request or (ii) the expiration of the two-year period described by this subsection.

(f) Reporting. – The Secretary shall report any waivers or modifications of the cost-share requirement made under subsection (d) of this section within 30 days of issuing the waiver or modification to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the General Assembly. The report shall include an explanation of the factors in subsection (d) of this section that are the basis for the waiver or modification decision.

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

(1) Corps. – The United States Army Corps of Engineers.

(2) Costs associated with a dredging project. – Includes the cost of the dredging operation, surveys or studies directly attributable to the project, and the costs of disposal of dredged material.

(3) Navigational emergency. – With respect to a shallow draft navigation channel, the removal of or statement of intent to remove one or more navigational buoys by the United States Coast Guard from the channel due to shoaling.

(4) Shallow draft navigation channel. – (i) a ~~A~~ waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which tidal and other currents flow, or (iii) other interior coastal waterways. ~~"Shallow draft navigation channel"~~ The term includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Hatteras Inlet, Rollinson, Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort Harbor."

**SECTION 14.6.(b)** Notwithstanding G.S. 143-215.73F, the funds available in the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund shall be reserved for all of the following purposes:

(1) The sum of four million dollars (\$4,000,000) shall be reserved for Oregon Inlet dredging needs.

(2) The sum of one hundred fifty thousand dollars (\$150,000) shall be reserved to reimburse the Department of Administration for its costs associated with exploring options for acquiring Oregon Inlet and the adjacent real property, including, but not limited to, surveys and appraisals, legal research, and studies related to sand management, engineering proposals, and larval transport.

(3) The sum of seven hundred fifty thousand dollars (\$750,000) shall be reserved to reimburse the Department of Administration for its costs associated with the implementation of Section 14.7(g) of S.L. 2014-100.

Upon completion of the actions defined in Sections 14.7(a) through (f) of S.L. 2014-100 by the Secretary of Administration and the federal government, Section 14.7(g) of S.L. 2014-100 is repealed. The Department of Administration shall use the report submitted by the Department of Transportation pursuant to Section 14.7(h) of S.L. 2014-100 and consult with the Department of Transportation when prioritizing condemnation of all existing and future transportation corridors on the Outer Banks, a right retained by the State and recorded in a deed executed on August 7, 1958, when these lands were conveyed to the federal government.

- (4) The sum of two hundred fifty thousand dollars (\$250,000) shall be reserved for use by the Department of Environment and Natural Resources to update the Beach and Inlet Management Plan. The Department may enter into a sole-source contract of up to two hundred fifty thousand dollars (\$250,000) with the firm that developed the initial Plan to have the firm update the Plan. The updated Plan shall include a recommended schedule for ongoing inlet maintenance. No later than December 1, 2016, the Department shall report to the Environmental Review Commission on the updated Plan.

The conditions on funding set out in G.S. 143-215.73F(c) may not be waived pursuant to G.S. 143-215.73F(d) for funds reserved for the Oregon Inlet dredging needs set out in subdivision (1) of this subsection. If State funds reserved for the purposes listed above are not spent or encumbered by June 30, 2016, the State funds shall be unreserved and made available for any of the uses set out in G.S. 143-215.73F.

**SECTION 14.6.(c)** Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8C. Deep Draft Navigation Channel Dredging and Maintenance Fund.

**"§ 143-215.73G. Deep Draft Navigation Channel Dredging and Maintenance Fund.**

(a) Fund Established. – The Deep Draft Navigation Channel Dredging and Maintenance Fund is established as a special revenue fund. The Fund consists of General Fund appropriations, gifts, or grants, including monies contributed by a non-State entity for a particular dredging project or group of projects and any other revenues specifically allocated to the Fund by an act of the General Assembly.

(b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs associated with projects providing safe and efficient navigational access to a State Port, including the design, construction, expansion, modification, or maintenance of deep draft navigation channels, turning basins, berths, and related structures, as well as surveys or studies related to any of the foregoing and the costs of disposal of dredged material.

(c) Conditions on Funding. – State funds credited to the Fund from the sources described in subsection (a) of this section must be cost-shared on a one-to-one basis with funds provided by the State Ports Authority, provided that:

(1) Funds contributed to the Fund by a non-State entity are not considered State funds and may be used to provide the cost-share required by this subsection.

(2) The Secretary may waive or modify the cost-share requirement for any project that supplements Corps funding for a study authorized by the Corps related to navigational access to a State Port, based on availability of alternate funding sources.

(d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund for a particular project or group of projects may make a written request to the Secretary that the contribution be returned if the contribution has not been spent or encumbered within two years of receipt of the contribution by the Fund. If the written request is made prior to the funds being spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the

later of (i) receiving the request or (ii) the expiration of the two-year period described by this subsection.

(e) Definitions. – The following definitions apply in this Part:

(1) Corps. – The United States Army Corps of Engineers.

(2) State Port. – Facilities at Wilmington or Morehead City managed or operated by the State Ports Authority."

**SECTION 14.6.(d)** SPA Memorandum of Agreement. – The State Ports Authority shall negotiate with the United States Army Corps of Engineers (hereafter, "Corps") a memorandum of agreement allowing for nonfederal funding of dredging and related studies or maintenance at the State Ports located at Wilmington and Morehead City. The memorandum required by this subsection shall be for as long a term as possible.

**SECTION 14.6.(e)** DENR Memorandum of Agreement. – The Division of Water Resources of the Department of Environment and Natural Resources shall negotiate with the Corps a memorandum of agreement allowing for nonfederal funding of dredging of Oregon Inlet. The memorandum required by this subsection shall be for as long a term as possible.

**SECTION 14.6.(f)** Port Access Lands Acquisition Agreement. – Notwithstanding Chapter 146 of the General Statutes or any other provision of law, the Department of Administration, on behalf of the State, shall seek to initiate negotiations with the appropriate agency of the federal government for an agreement to acquire the federally owned property necessary for management of deep draft navigation channels providing access to State Port facilities at Morehead City from the federal government in exchange for State-owned real property.

(1) Interagency cooperation. – The North Carolina Ports Authority and the Department of Transportation shall be included in the planning and carrying out of these negotiations, but the ultimate approval authority remains solely with the Secretary of the Department of Administration.

(2) Terms of agreement. – The Secretary of the Department of Administration shall have the authority to negotiate the terms of the acquisition agreement. The agreement (i) shall provide for the acquisition of interests in real property described in this subsection and no other; (ii) shall provide that the conveyances described in the agreement become effective as soon as practicable; and (iii) shall incorporate the relevant terms of this subsection.

(3) Execution of deeds. – Within 30 days of the acquisition becoming effective, the Attorney General shall execute any documents or deeds necessary to effectuate the acquisition under the exact terms set forth in the acquisition agreement. All State agencies and officials shall cooperate to the fullest extent possible in effectuating the acquisition agreement.

(4) Reporting. – Within 30 days after an agreement is entered into pursuant to this section, the Secretary of the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement.

**SECTION 14.6.(g)** Contested Case Exemption. – G.S. 150B-1(e) is amended by adding a new subdivision to read:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

...

(22) The Secretary of Environment and Natural Resources for the waiver or modification of non-State cost-share requirements under G.S. 143-215.73F and G.S. 143-215.73G."

**SECTION 14.6.(h)** The General Assembly finds that the New Inlet Dam or "The Rocks" is a breakwater established by the United States Army Corps of Engineers in the late 1800s. The New Inlet Dam is composed of two components, a Northern Component that extends from Federal Point to Zeke's Island and a Southern Component that extends southwestward from Zeke's Island and separates the New Inlet from the main channel of the Cape Fear River. The General Assembly further finds that the Southern Component of the New Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that it is necessary to remove the Southern Component of the New Inlet Dam in order to reestablish the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this end, the Department of Environment and Natural Resources shall do all of the following:

- (1) Notify the United States Army Corps of Engineers of the State's intent to remove the Southern Component of the New Inlet Dam.
- (2) Issue a Request for Proposals for a firm capable of conducting all aspects of removal of the Southern Component of the New Inlet Dam, including securing all necessary State and federal permits and developing and implementing a removal plan. Identification of a capable firm pursuant to this section shall be done in accordance with Article 8 of Chapter 143 of the General Statutes.
- (3) Execute a contract with the firm chosen to implement subdivision (2) of this subsection and exercise oversight of the fulfillment of the contract. Execution of a contract pursuant to this section shall be done in accordance with Article 8 of Chapter 143 of the General Statutes.
- (4) Request approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island for both of the following changes:
  - a. Moving the current western boundary 200 feet seaward and removing the area that lies between the current boundary and the new boundary from the North Carolina National Estuarine Research Reserve.
  - b. Compensating for any loss of acreage pursuant to sub-subdivision a. of this subdivision by adding a corresponding amount of acreage to the northern boundary of Zeke's Island from adjacent acreage at Fort Fisher State Recreation Area.
- (5) If the Department obtains approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island as described in subdivision (4) of this subsection, the Coastal Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) as follows:
  - a. Definitions. – "Reserve Components Rule" means 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) for purposes of this section and its implementation.
  - b. Reserve Components Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to sub-subdivision d. of this subdivision, the Commission and the Department of Environment and Natural Resources shall implement the Reserve Components Rule, as provided in sub-subdivision c. of this subdivision.
  - c. Implementation. – Notwithstanding the Reserve Components Rule, the Commission shall adjust the boundary established for Zeke's Island in conformance with any boundary change that is approved by

the National Oceanic and Atmospheric Administration pursuant to subdivision (4) of this subsection.

- d. Additional rule-making authority. – The Commission shall adopt a rule to replace the Reserve Components Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subdivision shall be substantively identical to the provisions of sub-subdivision c. of this subdivision. Rules adopted pursuant to this subdivision are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subdivision 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).
- e. Effective date. – Sub-subdivision c. of this subdivision expires when permanent rules to replace sub-subdivision c. of this subdivision have become effective, as provided by sub-subdivision d. of this subdivision.

Notwithstanding any other provision of law, the Department of Environment and Natural Resources may use funds from the Deep Draft Navigation Channel Dredging and Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by subsection (c) of this section, to implement this subsection.

**SECTION 14.6.(i)** Coastal Waterways User Identification Number and Fee. – Article 1 of Chapter 75A of the General Statutes is amended by adding a new section to read:

**"§ 75A-5.3. Coastal Waterways User Identification Number required.**

(a) Definitions. – As used in this section, "coastal fishing waters" has the same meaning as in G.S. 113-129.

(b) Coastal Waterways User Identification Number Required. – All of the following vessels are required to be numbered with a Coastal Waterways User Identification Number issued by the Wildlife Resources Commission:

- (1) A vessel required to be numbered pursuant to G.S. 75A-4 that is 24 feet or more in length and that is operated in the coastal fishing waters of the State.
- (2) A vessel that (i) is numbered in accordance with applicable federal law or in accordance with a federally approved numbering system of another state, (ii) is 24 feet or more in length, and (iii) is used to engage in commercial or recreational fishing in the coastal fishing waters of the State under any of the following fishing licenses:
- a. A Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.
- b. A Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
- c. A Shellfish License issued pursuant to G.S. 113-169.2.
- d. A Recreational Commercial Gear License issued pursuant to G.S. 113-173.
- e. A Coastal Recreational Fishing License issued pursuant to G.S. 113-174.2 or G.S. 113-351.
- f. A For-Hire License issued pursuant to G.S. 113-174.3.

(c) Fees. – The annual fee for a Coastal Waterways User Identification Number shall be calculated by rounding down the length of the vessel to the nearest foot, dividing this length by eight, and multiplying the result by the length of the vessel rounded down to the nearest foot. The result of this calculation shall be rounded down to the nearest cent, and this result shall be the dollar amount of the annual fee for each vessel. Notwithstanding this subsection, an annual fee for a Coastal Waterways User Identification Number shall not be greater than the fee for a

100-foot vessel. The funds collected pursuant to this section shall be credited on a quarterly basis to the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund established by G.S. 143-215.73F.

(d) Renewal of Number. – An owner of a vessel issued a Coastal Waterways User Identification Number pursuant to this section shall renew the number on or before the number expires. If the number is not renewed before it expires, it shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Commission and shall be accompanied by a fee in the amount set forth in subsection (c) of this section.

(e) Duplicate Number. – The Commission shall issue a duplicate number for a Coastal Waterways User Identification Number upon application by the person entitled to hold the number if the Commission is satisfied the original number has been lost, stolen, mutilated, destroyed, or has become illegible.

(f) Vessel Change of Ownership. – Should the ownership of a vessel with a valid Coastal Waterways User Identification Number change, a new application form with the fee set forth in subsection (c) of this section shall be filed with the Commission by the new owner upon expiration if the new owner intends to use the vessel as described in subsection (b) of this section. Coastal Waterways User Identification Numbers are not transferable from one vessel to another.

(g) Duration. – Coastal Waterways User Identification Numbers are valid for a period of 12 months from the date of issuance. Subsequent renewals made before the expiration date of the number are valid the first day after the expiration of the currently valid number. Renewals made after the number expires are valid for a period of 12 months from the date of issuance.

(h) Display. – Notwithstanding G.S. 75A-5(k), the Coastal Waterways User Identification Number shall be displayed on each side of the bow of the vessel.

(i) Penalty. – A person who fails to obtain and display the Coastal Waterways User Identification Number required by this section is responsible for an infraction as provided in G.S. 14-3.1 and shall pay a fine equal to the amount of the fee for the applicable Coastal Waterways User Identification Number.

(j) Rule Making. – The Wildlife Resources Commission shall adopt rules to implement this section."

**SECTION 14.6.(j)** G.S. 75A-5.2(c) reads as rewritten:

"(c) As compensation for services rendered to the Commission and to the general public, vessel agents shall receive the surcharge listed below. The surcharge shall be added to the fee for each certificate issued.

(1) Renewal of certificate of number – \$3.00.

(2) Transfer of ownership and certificate of number – \$5.00.

(3) Issuance of new certificate of number – \$5.00.

(4) Issuance of duplicate certificate of number – \$3.00.

(5) Issuance or transfer of certificate of title – \$5.00.

(6) Issuance of new, duplicate, or renewal Coastal Waterways User Identification Number – \$3.50."

**SECTION 14.6.(k)** The Wildlife Resources Commission shall disseminate information regarding the Coastal Waterways User Identification Number to the public in order to inform affected vessel owners of the Coastal Waterways User Identification Number requirements.

**SECTION 14.6.(l)** Coastal Waterways User Fee Administrative Costs. – Notwithstanding G.S. 75A-3, of the funds to be transferred to the Shallow Draft Navigation Channel and Lake Dredging Fund pursuant to G.S. 75A-3, the Wildlife Resources Commission

may retain up to two hundred fifty thousand dollars (\$250,000) in each fiscal year of the 2015-2017 fiscal biennium to implement subsections (i), (j), and (k) of this section.

**SECTION 14.6.(m)** Amend Dare County Occupancy Tax. – Effective July 1, 2015, for net proceeds collected on or after that date, Chapter 449 of the 1985 Session Laws, as amended by Chapters 177 and 906 of the 1991 Session Laws, Part VII of S.L. 2001-439, and Section 7 of S.L. 2010-78, is amended by adding a new section to read:

"Sec. 3.3. Waterway Maintenance. – Notwithstanding any provision restricting the use of taxes authorized in this act, the county may use up to three million dollars (\$3,000,000) of the net proceeds of the taxes authorized by Sections 3.1 and 3.2 of this act per fiscal year for maintenance of waterways located wholly or partially in the county. This section is repealed for fiscal years beginning on or after July 1, 2020."

**SECTION 14.6.(n)** Section 1 of S.L. 2013-182 is repealed.

**SECTION 14.6.(o)** G.S. 153A-132(i), as rewritten by S.L. 2013-182, reads as rewritten:

"(i) A county may by ordinance prohibit the abandonment of vessels in navigable waters within the county's ordinance-making jurisdiction, subject to the provisions of this subsection. The provisions of this section shall apply to abandoned vessels in the same manner that they apply to abandoned or junked motor vehicles to the extent that the provisions may apply to abandoned vessels. For purposes of this subsection, an "abandoned vessel" is one that meets any of the following:

- (1) A vessel that is moored, anchored, or otherwise located for more than 30 consecutive days in any 180 consecutive-day period without permission of the dock owner.
- (2) A vessel that is in danger of sinking, has sunk, is resting on the bottom, or is located such that it is a hazard to navigation or is an immediate danger to other vessels.

Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have been in place for more than 10 years shall not be considered abandoned vessels and shall not be removed under the provisions of this section without the approval of the Department of Cultural Resources, which is the legal custodian of these properties pursuant to G.S. 121-22 and G.S. 121-23. This subsection applies only to the counties set out in G.S. 113A-103(2)."

**SECTION 14.6.(p)** The Coastal Resources Commission shall amend its rules for the use of temporary erosion control structures to provide for all of the following:

- (1) Allow the placement of temporary erosion control structures on a property that is experiencing coastal erosion even if there are no imminently threatened structures on the property if the property is adjacent to a property where temporary erosion control structures have been placed.
- (2) Allow the placement of contiguous temporary erosion control structures from one shoreline boundary of a property to the other shoreline boundary, regardless of proximity to an imminently threatened structure.
- (3) The termination date of all permits for contiguous temporary erosion control structures on the same property shall be the same and shall be the latest termination date for any of the permits.
- (4) The replacement, repair, or modification of damaged temporary erosion control structures that are either legally placed with a current permit or legally placed with an expired permit, but the status of the permit is being litigated by the property owner.

**SECTION 14.6.(q)** The Coastal Resources Commission shall adopt temporary rules to implement subsection (p) of this section no later than December 31, 2015. The Commission shall also adopt permanent rules to implement this section.

SECTION 14.6.(r) Subsections (a) through (i) of G.S. 75A-5.3, as enacted by subsection (i) of this section, become effective January 1, 2016.

#### USE OF OYSTER SHELLS PROHIBITED IN COMMERCIAL LANDSCAPING

SECTION 14.7.(a) Article 20 of Chapter 113 of the General Statutes is amended by adding a new section to read:

**"§ 113-270. Use of oyster shells by landscape contractors prohibited.**

(a) No landscape contractor shall use oyster shells as a ground cover.

(b) Enforcement of the prohibition set forth in this section shall be under the jurisdiction of the Marine Fisheries Commission.

(c) For purposes of this section, landscape contractor shall have the definition set forth in G.S. 89D-11."

SECTION 14.7.(b) This section is effective October 1, 2015.

#### CORE SOUND OYSTER LEASING

SECTION 14.8. The Division of Marine Fisheries of the Department of Environment and Natural Resources shall, in consultation with representatives of the commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core Sound that are currently subject to a moratorium on shellfish leasing. The Division shall submit a report regarding the plan no later than April 1, 2016, to the Joint Legislative Commission on Governmental Operations.

#### AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY LEGISLATION

SECTION 14.9. Section 44 of S.L. 2014-120 reads as rewritten:

**"SENATOR JEAN PRESTON MARINE SHELLFISH—OYSTER SANCTUARY PROGRAM**

"SECTION 44.(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."~~to enhance shellfish habitats within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water quality, and the economy. This will be achieved through the establishment of a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of Senator Jean Preston and shall be called the "Senator Jean Preston Oyster Sanctuary Network".

"SECTION 44.(b) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall ~~designate an area of appropriate acreage 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~~develop a plan to construct and manage additional oyster habitats. The new sanctuaries, along with selected existing oyster sanctuaries, shall be included in the Senator Jean Preston Oyster Sanctuary Network. The plan shall include the following components:

- (1) ~~Location and delineation of the sanctuary.~~oyster sanctuaries. — The plan should include a location~~locations for the sanctuary~~sanctuary network components that minimizes~~minimize~~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. The location of sanctuaries shall take into account connectivity to existing oyster sanctuaries and proposed oyster enhancement sites. New oyster sanctuaries shall be designed to provide hook-and-line fishing while allowing the development of complex fish habitats and brood-stock oysters that will enhance recruitment in the surrounding reefs. The plan should outline a 10-year development project to accomplish the expansion.

(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) Enhancement of oyster habitat restoration. – The General Assembly finds that the lack of a reliable State-based supply of oyster seed and inadequate funding for cultch planting are limitations to the expansion of oyster harvesting and the restoration of wild oyster habitat in North Carolina. Therefore, the plan should include the following:

a. Provisions and recommendations to facilitate the availability of oyster seed produced in North Carolina for wild oyster habitat restoration projects as well as oyster aquaculture and to reduce potential negative impacts from importation of non-native oyster seed.

b. Plans, where feasible, for public-private partnerships for State-based production of viable oyster seed through the creation of one or more production hatcheries and recommendations for increased support of the existing research hatchery at UNC-Wilmington.

c. Plans and cost estimates for an expansion of cultch planting in suitable areas of the State's coastal waters in order to expand areas suitable for development of wild oyster habitat.

(4) Economic relief. – The plan should consider a waiver of application fees and yearly rental fees for new shellfish leases for an established period of time to further promote and support shellfish aquaculture in North Carolina. The new leasing fee waiver program should include measures to discourage speculation and target persons with a genuine interest in starting a shellfish aquaculture business, such as a requirement that the lease be nontransferable for a five-year period.

(5) Outreach. – The plan should include outreach and education that promotes, whenever possible, public-private partnerships utilizing the Sea Grant College Program, local colleges, and other nongovernmental organizations to (i) encourage shellfish aquaculture and provide technical assistance to broaden cost-effective technologies available to leaseholders; (ii) encourage best management practices to leaseholders; and (iii) inform fishermen and the public on the benefits provided by the Senator Jean Preston Oyster Sanctuary Network.

(6) Monitoring. – The plan should include a monitoring plan designed to (i) determine the success of oyster reef construction and (ii) evaluate the cost benefit of the oyster sanctuary network and harvestable enhancement sites.

(3)(7) 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 for Division staff to expand oyster restoration and monitoring activities for 10 years. The plan should provide that, whenever possible, public-private partnerships are employed to meet the construction, seeding, and outreach requirements of the plan.

(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 percent (50%) of their income from commercial fishing with those licenses.

(5)(8) Recommendations. – The plan should shall 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, provide enhanced recreational and commercial fishing opportunities, and expand the coastal economy.

(9) No funding for sanctuaries in closed areas. – The plan shall provide that no funding or other resources shall be available in water bodies where a moratorium or other legal prohibition on shellfish leasing under Article 16 of Chapter 113 of the General Statutes is currently in effect. This subdivision does not apply to leasing moratoria imposed because the area is closed to shellfish harvesting or recommended for closure by the State Health Director due to pollution.

"SECTION 44.(c) No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, March 1, 2016, the Department of Environment and Natural Resources shall report to the Environmental Review Commission Chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division regarding its implementation of this section and its recommended plan."

## **SHELLFISH CULTIVATION LEASING REFORM**

**SECTION 14.10.(a)** G.S. 113-202(i) reads as rewritten:

**"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued prior to January 1, 1966.**

...

(i) After a lease application is approved by the Secretary, the applicant shall submit to the Secretary a survey of the area approved for leasing and information sufficient to define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The survey information shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When an acceptable survey information is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased. The information required by this subsection may be based on coordinate information produced using a device equipped to receive global positioning system data."

**SECTION 14.10.(b)** G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the ~~fifth-tenth~~ anniversary of the granting of the lease. Renewal leases are issued for a period of ~~five-10~~ years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00) per acre ~~for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965,~~ leases and from the beginning for renewals of leases entered into after that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of one dollar (\$1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

**SECTION 14.10.(c)** This section applies to shellfish lease applications received by the Department of Environment and Natural Resources on or after the date this act becomes law.

#### **SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING**

**SECTION 14.10A.(a)** The Division of Marine Fisheries and Division of Coastal Management of the Department of Environment and Natural Resources shall, in consultation with representatives of nongovernmental conservation organizations working on oyster restoration, create a new permitting process specifically designed for oyster restoration projects that apply to oyster restoration projects instead of a major development permit under G.S. 113A-118. The Department shall submit its report, including recommended legislation, to the Environmental Review Commission no later than May 1, 2016.

**SECTION 14.10A.(b)** Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in subsection (c) of this section.

**SECTION 14.10A.(c)** Notwithstanding 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or educational activity permit for approved activities conducted by or under the direction of a nongovernmental conservation organization in addition to a scientific or educational institution. For purposes of this section, a nongovernmental conservation organization is defined as an organization whose primary mission is the conservation of natural resources.

**SECTION 14.10A.(d)** The Environmental Management Commission shall adopt rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection 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 14.10A.(e)** This section is effective when this act becomes law. Subsection (c) of this section expires on the date that rules adopted pursuant to subsection (d) of this section become effective.

#### **SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER**

**SECTION 14.10B.** G.S. 113-169.2 reads as rewritten:

**"§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) License or Endorsement Necessary to Take or Sell Shellfish Taken by Hand Methods. – It is unlawful for an individual to take shellfish from the public or private grounds of the State as part of a commercial fishing operation by hand methods without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take shellfish by hand methods and sell such shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(a1) License Necessary to Take or Sell Shellfish Taken by Mechanical Means. – ~~Subject to~~ ~~Except as provided in subsection (i) of this section, an individual who takes shellfish from the public or private grounds of the State by mechanical means must obtain an SCFL under the provisions of G.S. 113-168.2.~~

...  
(i) Taking Shellfish Without a License for Personal Use. ~~Use or as Employee of Certain License Holders.~~ – Shellfish may be taken without a license ~~for~~ under the following circumstances:

(1) For personal use in quantities established by rules of the Marine Fisheries Commission.

(2) When the taking is from an area leased for the cultivation of shellfish under Article 16 of this Chapter by a person who is an employee of a leaseholder holding a valid SCFL issued under the provisions of G.S. 113-168.2."

**WATER COLUMN LEASING CLARIFICATION**

**SECTION 14.10C.(a)** G.S. 113-201.1(5) reads as rewritten:

"(5) "Water column" means the vertical extent of water, including the surface ~~thereof,~~ above a designated area of submerged bottom land."

**SECTION 14.10C.(b)** G.S. 113-202 is amended by adding a new subsection to read:

"(r) A lease under this section shall include the right to place devices or equipment related to the cultivation or harvesting of marine resources on or within 18 inches of the leased bottom. Devices or equipment not resting on the bottom or extending more than 18 inches above the bottom will require a water column lease under G.S. 113-202.1."

**SECTION 14.10C.(c)** G.S. 113-202.1 reads as rewritten:

**"§ 113-202.1. Water column leases for aquaculture.**

...  
(c) The Secretary shall not amend shellfish cultivation leases to authorize ~~use~~ uses of the water column involving devices or equipment not resting on the bottom or that extend more than 18 inches above the bottom unless:

(1) The leaseholder submits an application, accompanied by a nonrefundable application fee of one hundred dollars (\$100.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;

(2) The proposed amendment has been noticed consistent with G.S. 113-202(f);

(3) Public hearings have been conducted consistent with G.S. 113-202(g);

(4) The aspects of the proposals which require use and dedication of the water column have been documented and are recognized by the Secretary as commercially feasible forms of aquaculture which will enhance shellfish production on the leased area;

(5) It is not feasible to undertake the aquaculture activity outside of coastal fishing waters; and

- (6) The authorized water column use has the least disruptive effect on other public trust uses of the waters of any available technology to produce the shellfish identified in the proposal.

...."

## **BLUE RIBBON OYSTER STUDY**

**SECTION 14.10D.** The Joint Legislative Oversight Committee on Natural and Economic Resources created by this act shall convene a stakeholder working group to study and advance efforts to ecologically restore the resource and achieve economic stability of the shellfish aquaculture industry, including (i) how best to spend financial resources to counter declining oyster populations and habitats; (ii) the use of nonnative oyster species to accomplish oyster restoration; (iii) means of combating oyster disease and managing harvesting practices to balance the needs of the industry and promote long-term viability and health of oyster habitat and substrate; (iv) economic aquaculture methods to improve oyster stock and populations; (v) long-term, dedicated options for funding sources and water quality improvements; (vi) means to increase oyster production for both population growth and harvest; (vii) options that expand the use of private hatchery capacity in the State; (viii) options for promoting the use of cultch planting to enhance and increase oyster habitat and population; (ix) other resources that might be leveraged to enhance reform efforts; and (x) any other issue the Committee deems relevant. In the conduct of this study, the Committee may consult with representatives of the North Carolina Division of Marine Fisheries, the Marine Fisheries Commission, nature conservation entities, and commercial and recreational oyster harvesting industries and with experts in the fields of marine biology and marine ecology. The Department of Environment and Natural Resources shall provide any information and personnel requested by the Committee in the conduct of this study.

## **FISHERY MANAGEMENT PLAN PROCEDURES**

**SECTION 14.10E.(a)** The Marine Fisheries Commission shall study its procedures for adoption of temporary supplemental management measures to the State's fishery management plans. The study shall include a review of the opportunities provided in the process for public input and comment from commercial and recreational fishing interests, local governments, environmental and conservation nonprofits, and other stakeholders, and an assessment of whether economic impact of a proposed measure is adequately addressed in the formulation, approval, and implementation of temporary supplemental management measures. The Commission shall report no later than April 1, 2016, to the chairs of the Senate Natural and Economic Resources Committee, the chairs of the House Agriculture and Natural and Economic Resources Committee, and the Fiscal Research Division.

**SECTION 14.10E.(b)** The Marine Fisheries Commission shall not adopt any temporary supplemental management measures to the State's fishery management plans until the study required by this section has been submitted or July 1, 2016, whichever occurs later.

## **DIVISION OF MARINE FISHERIES/NO JOINT ENFORCEMENT AGREEMENTS**

**SECTION 14.10F.(a)** G.S. 113-224 reads as rewritten:

### **"§ 113-224. Cooperative agreements by Department.**

(a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

(b) The Fisheries Director or a designee of the Fisheries Director may not enter into an agreement with the National Marine Fisheries Service of the United States Department of Commerce allowing Division of Marine Fisheries inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of the National Marine Fisheries Service."

**SECTION 14.10F.(b)** G.S. 128-1.1(c2) is repealed.

## **COMMERCIAL FISHING FOR-HIRE LOGBOOK**

**SECTION 14.10G.(a)** G.S. 113-174.3(e), as enacted by subsection 14.8(o) of S.L. 2013-360, reads as rewritten:

"(e) Each individual who obtains a for-hire license ~~shall~~ may submit to the Division logbooks summarizing catch and effort statistical data to the Division. The Commission may adopt rules that determine the means and methods to satisfy the requirements of this subsection."

**SECTION 14.10G.(b)** Section 14.8(ab) of S.L. 2013-360 reads as rewritten:

**"SECTION 14.8.(ab)** This G.S. 113-174.3(e), as enacted by subsection 14.8(o) of this section, becomes effective January 1, 2016. The remainder of this section becomes effective August 1, 2013."

**SECTION 14.10G.(c)** Prior to any further implementation of subsection 14.8(o) of S.L. 2013-360, the Division of Marine Fisheries shall conduct a 12-month implementation process to include seeking input from stakeholders with regard to the requirement and public workshops to provide education for persons subject to the requirement. The process shall also include the establishment of a stakeholder advisory group that includes persons who are for-hire license holders representing all major recreational fishing areas on the North Carolina coast. The Division shall review and provide a written response to any issues raised by the advisory group and shall report to the Environmental Review Commission no later than January 15, 2016, regarding the implementation process required by this section.

## **DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION**

**SECTION 14.10H.(a)** G.S. 143-254.5 reads as rewritten:

**"§ 143-254.5. Disclosure of personal identifying information.**

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

**SECTION 14.10H.(b)** G.S. 143B-289.52(h) reads as rewritten:

"(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, date of birth, and telephone number."

## **BEACH EROSION STUDY**

**SECTION 14.10I.(a)** The Division of Coastal Management shall study and develop a proposed strategy for preventing, mitigating, and remediating the effects of beach erosion. The study shall consider efforts by other states and countries to prevent beach erosion and ocean overwash and to renourish and sustain beaches and coastlines and incorporate best practices into the strategy.

**SECTION 14.10I.(b)** By February 15, 2016, the Division of Coastal Management shall report to the Environmental Review Commission, the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the House Appropriations Committee on Agriculture, Natural, and Economic Resources, and the Fiscal Research Division on the results

of the study and its proposed strategy as required by subsection (a) of this section, including any legislative recommendations.

## **DYNAMIC PRICING FOR STATE PARKS AND ATTRACTIONS**

**SECTION 14.11.(a)** G.S. 150B-1(d) reads as rewritten:

### **"§ 150B-1. Policy and scope.**

(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

(26) The Board of Agriculture in the Department of Agriculture and Consumer Services with respect to ~~annual~~ the following:

a. Annual admission fees for the State Fair.

b. Operating hours, admission fees, or related activity fees at State forests.

The Board shall annually post the admission fee and operating hours schedule on its Web site and provide notice of the ~~fee~~-schedule, along with a citation to this section, to all persons named on the mailing list maintained pursuant to G.S. 150B-21.2(d).

(27) The Department of Environment and Natural Resources with respect to operating hours, admission fees, or related activity fees at:

a. The North Carolina Zoological Park pursuant to G.S. 143B-335.

b. State parks pursuant to G.S. 113-35.

c. The North Carolina Aquariums pursuant to G.S. 143B-289.44.

d. The North Carolina Museum of Natural Sciences.

The exclusion from rule making for the setting of operating hours set forth in this subdivision shall not apply to a decision to eliminate all public operating hours for the sites and facilities listed."

**SECTION 14.11.(b)** The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, State parks, the North Carolina Museum of Natural Sciences, and the North Carolina Aquariums, may establish admission fees and related activity fees. In setting these fees, the Department of Environment and Natural Resources shall use a dynamic pricing strategy as defined in subsection (e) of this section. Any rule currently in the Administrative Code related to fees covered by subsection (a) of this section is ineffective and repealed upon the effective date of new admission fees and related activity fees adopted by the Department under the authority set out in that subsection. Notice of the initial adoption of new admission fees and related activity fees under subsection (a) of this section shall be given by the Department to the Codifier of Rules, who, upon receipt of notice of the initial adoption of new admission fees and related activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

**SECTION 14.11.(c)** The Department of Cultural Resources may establish admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and museums. In setting these fees, the Department shall use a dynamic pricing strategy as defined in subsection (e) of this section.

**SECTION 14.11.(d)** The Department of Agriculture and Consumer Services may establish admission fees and related activity fees authorized by G.S. 106-877 for State forests. In setting these fees, the Department shall use a dynamic pricing strategy as defined in subsection (e) of this section.

**SECTION 14.11.(e)** For purposes of this section, "dynamic pricing" is the adjustment of fees for admission and related activities from time to time to reflect market forces, including seasonal variations and special event interests, with the intent and effect to

maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly.

**SECTION 14.11.(f)** No later than March 1, 2016, the Department of Environment and Natural Resources, the Department of Cultural Resources, and the Department of Agriculture and Consumer Services shall submit a report on implementation of the new pricing strategy to the Environmental Review Commission, including an evaluation of the feasibility and obstacles to charging new entrance or admission fees at other attractions not subject to this section.

**SECTION 14.11.(g)** This part applies to admission fees or related activity fees charged on or after the effective date of this act.

## **WATER INFRASTRUCTURE AUTHORITY REVISIONS**

**SECTION 14.13.(a)** G.S. 159G-20(1) is recodified as G.S. 159G-20(1a), and G.S. 159G-20(1a) is recodified as G.S. 159G-20(1c).

**SECTION 14.13.(b)** G.S. 159G-20, as amended by subsection (a) of this section, reads as rewritten:

### **"§ 159G-20. Definitions.**

The following definitions apply in this Chapter:

- (1) Affordability. – The relative affordability of a project for a community compared to other communities in North Carolina based on factors that shall include, at a minimum, water and sewer service rates, median household income, poverty rates, employment rates, the population of the served community, and past expenditures by the community on water infrastructure compared to that community's capacity for financing of water infrastructure improvements.
- (1a) Asset management plan. – The strategic and systematic application of management practices applied to the infrastructure assets of a local government unit in order to minimize the total costs of acquiring, operating, maintaining, improving, and replacing the assets while at the same time maximizing the efficiency, reliability, and value of the assets.
- (1b) Authority. – The State Water Infrastructure Authority created and established pursuant to Article 5 of this Chapter.
- ...
- ~~(9) High-unit cost project.~~— A project that results in an estimated average household user fee for water and sewer service in the area served by the project in excess of the high-unit cost threshold. The average household user fee is calculated for a continuous 12-month period.
- ~~(10) High-unit cost threshold.~~— Either of the following amounts determined on the basis of data from the most recent federal decennial census and updated by the U.S. Department of Housing and Urban Development's annual estimated income adjustment factors:
  - a. One and one-half percent (1.5%) of the median household income in an area that receives both water and sewer service.
  - b. Three-fourths of one percent (3/4%) of the median household income in an area that receives only water service or only sewer service.
- ...
- (13) Local government unit. – Any of the following:
  - a. A city as defined in G.S. 160A-1.
  - b. A county.
  - c. A consolidated city-county as defined in G.S. 160B-2.

- d. A county water and sewer district created pursuant to Article 6 of Chapter 162A of the General Statutes.
- e. A metropolitan sewerage district or a metropolitan water district created pursuant to Article 4 of Chapter 162A of the General Statutes.
- f. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
- g. A sanitary district created pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes.
- h. A joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes.
- i. A joint agency that was created by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that provided drinking water and wastewater services off the airport premises before 1 January 1995.
- (13a) Merger. – The consolidation of two or more water and/or sewer systems into one system with common ownership, management, and operation.
- (14) Nonprofit water corporation. – A nonprofit corporation that is incorporated under Chapter 55A of the General Statutes solely for the purpose of providing drinking water or wastewater services and is an eligible applicant for a federal loan or grant from the Rural Utility Services Division, U.S. Department of Agriculture.
- (15) Public water system. – Defined in G.S. 130A-313.
- (16) Regionalization. – The physical interconnecting of an eligible entity's wastewater system to another entity's wastewater system for the purposes of providing regional treatment or the physical interconnecting of an eligible entity's public water system to another entity's water system for the purposes of providing regional water supply.
- ...
- (21) Targeted interest rate project. – Either of the following types of projects:
  - a. ~~A high unit cost project that is awarded a loan.~~ A project that is awarded a loan from the Drinking Water Reserve or the Wastewater Reserve based on affordability.
  - b. A project that is awarded a loan from the CWSRF or the DWSRF and is in a category for which federal law encourages a special focus.

...."

**SECTION 14.13.(c)** G.S. 159G-23 reads as rewritten:

**"§ 159G-23. ~~Common criteria~~Priority consideration for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The ~~criteria~~ considerations for priority in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Infrastructure must ~~establish a system of assigning points to applications based on the following criteria:~~ consider the following items when evaluating applications:

- (1) Public necessity. – ~~An applicant must explain how the project~~ A project that promotes public health and protects the environment. A project that ~~that~~ improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority. ~~system.~~
- (2) Effect on impaired waters. – A project that improves designated impaired waters of the ~~State~~ State.

- (3) Efficiency. – A project that achieves efficiencies in meeting the State's water infrastructure needs or reduces vulnerability to drought consistent with Part 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by one of the following ~~methods has priority:~~methods:
- a. The combination of two or more wastewater or public water systems into a regional wastewater or public water system by merger, consolidation, or another means.
  - b. Conservation or reuse of water, including bulk water reuse facilities and waterlines to supply reuse water for irrigation and other approved uses.
  - c. Construction of an interconnection between water systems intended for use in drought or other water shortage emergency.
  - d. Repair or replacement of leaking waterlines to improve water conservation and efficiency or to prevent contamination.
  - e. Replacement of meters and installation of new metering systems.
- (4) Comprehensive land-use plan. – A project that is located in a city or county that has adopted or has taken significant steps to adopt a comprehensive land-use plan under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes ~~has priority over a project located in a city or county that has not adopted a plan or has not taken steps to do so.~~Statutes. The existence of a plan has more priority than steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan that exceeds the minimum State standards for protection of water resources has ~~more~~higher priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. A land-use plan is not considered a comprehensive land-use plan unless it has provisions that protect existing water uses and ensure compliance with water quality standards and classifications in all waters of the State affected by the plan.
- (5) Flood hazard ordinance. – A project that is located in a city or county that has adopted a flood hazard prevention ordinance under ~~G.S. 143-215.54A~~ has priority over a project located in a city or county that has not adopted an ordinance.~~G.S. 143-215.54A.~~ A plan that exceeds the minimum standards under G.S. 143-215.54A for a flood hazard prevention ordinance has ~~more~~higher priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. If no part of the service area of a project is located within the 100-year floodplain, the project has ~~the same priority~~equal consideration under this subdivision as if it were located in a city or county that has adopted a flood hazard prevention ordinance. The most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department determine whether an area is within the 100-year floodplain.
- (6) Sound management. – A project submitted by a local government unit that has demonstrated a willingness and ability to meet its responsibilities through sound fiscal policies and efficient operation and ~~management has priority.~~management.
- (6a) Asset management plan. – A project submitted by a local government unit with more than 1,000 service connections that has developed and is implementing an asset management plan ~~has priority over a project submitted by a local government unit with more than 1,000 service~~

- connections that has not developed or is not implementing an asset management plan.
- (7) Capital improvement plan. – A project that implements the applicant's capital improvement plan for the wastewater system or public water system it manages has priority over a project that does not implement a capital improvement plan. To receive priority, a manages, so long as the capital improvement plan must sets out the applicant's expected water infrastructure needs for at least 10 years.
- (8) Coastal habitat protection. – A project that implements a recommendation of a Coastal Habitat Protection Plan adopted by the Environmental Management Commission, the Coastal Resources Commission, and the Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over other projects that affect counties subject to that Plan. G.S. 143B-279.8. If no part of the service area of a project is located within a county subject to that Plan, the project has equal priority under this subdivision with a project that receives priority under this subdivision.
- (9) ~~High unit cost threshold. – A high unit cost project has priority over projects that are not high unit cost projects. The priority given to a high unit cost project shall be set using a sliding scale based on the amount by which the applicant exceeds the high unit cost threshold. Affordability. – The relative affordability of a project for a community compared to other communities in North Carolina.~~
- (10) Merger and Regionalization. – A project to provide for the planning of regional public water and wastewater systems, to provide for the orderly coordination of local actions relating to public water and wastewater systems, or to help realize economies of scale in regional public water and wastewater systems through consolidation, management, merger, or interconnection of public water and wastewater systems has priority. If an applicant demonstrates that it is not feasible for the project to include regionalization, the funding agency shall assign the project the same priority under this subdivision as a project that includes regionalization.
- (11) State water supply plan. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m), has priority. G.S. 143-355(m).
- (12) Water conservation measures for drought. – A project that includes adoption of water conservation measures by a local government unit that are more stringent than the minimum water conservation measures required pursuant to G.S. 143-355.2 has priority. G.S. 143-355.2.
- (13) Low-income residents. – A project that is located in an area annexed by a municipality under Article 4A of Chapter 160A of the General Statutes in order to provide water or sewer services to low-income residents has priority. ~~For purposes of this section, low-income residents are those with a family income that is eighty percent (80%) or less of median family income.~~ residents."

**SECTION 14.13.(c1)** G.S. 159G-31 reads as rewritten:

**"§ 159G-31. Entities eligible to apply for loan or grant.**

(a) A local government unit or a nonprofit water corporation is eligible to apply for a loan or grant from the CWSRF, the DWSRF, the Wastewater Reserve, or the Drinking Water Reserve. An investor-owned drinking water corporation is also eligible to apply for a loan or grant from the DWSRF. Other entities are not eligible for a loan or grant from these accounts.

(b) Entities eligible in subsection (a) of this section for grants from the Wastewater Reserve and the Drinking Water Reserve may be limited, based on affordability, to a portion of the total construction costs for the project types defined in G.S. 159G-33(a)(2) and G.S. 159G-34(a)(2).

(c) To the extent that funds are available, loans shall be considered for the portion of construction costs not eligible for grant funding."

**SECTION 14.13.(d)** G.S. 159G-33(a)(4) is recodified as G.S. 159G-33(a)(5).

**SECTION 14.13.(e)** G.S. 159G-33(a), as amended by subsection (d) of this section, reads as rewritten:

"(a) Types. – The Department is authorized to make the types of loans and grants listed in this subsection from the Wastewater Reserve. Each type of loan or grant must be administered through a separate account within the Wastewater Reserve.

(1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project authorized in G.S. 159G-32(b).

(2) ~~High unit cost~~Project grant. – A ~~high unit cost~~project grant is available for a ~~portion of the portion of the~~ construction costs of a wastewater collection system ~~project or project~~, a wastewater treatment works ~~project that results in an estimated average household user fee for water and sewer service in the area served by the project that exceeds the high unit cost threshold.~~project, or a stormwater quality project as authorized in G.S. 159G-32(b).

(3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical assistance~~merger/regionalization feasibility grant is available to determine the ~~best way to correct the deficiencies in a wastewater collection system or wastewater treatment works that either is not in compliance with its permit limits or, as identified in the most recent inspection report by the Department under G.S. 143-215.3, is experiencing operational problems and is at risk of violating its permit limits.~~feasibility of consolidating the management of multiple utilities into a single utility operation or to provide regional treatment and the best way of carrying out the consolidation or regionalization. The Department shall not make a loan or grant under this subdivision for a merger or regionalization proposal that would result in a new surface water transfer regulated under G.S. 143-215.22L.

(4) Asset inventory and assessment grant. – An asset inventory and assessment grant is available to inventory the existing water and/or sewer system and document the condition of the inventoried infrastructure.

(5) Emergency loan. – An emergency loan is available in the event the Secretary certifies that a serious public health hazard related to the inadequacy of an existing wastewater collection system or wastewater treatment works is present or imminent in a community."

**SECTION 14.13.(f)** G.S. 159G-34(a)(4) is recodified as G.S. 159G-34(a)(5).

**SECTION 14.13.(g)** G.S. 159G-34(a), as amended by subsection (f) of this section, reads as rewritten:

"(a) Types. – The Department is authorized to make the types of loans and grants listed in this section from the Drinking Water Reserve. Each type of loan or grant must be administered through a separate account within the Drinking Water Reserve.

(1) ~~General.—Loan.~~ Loan. – A loan ~~or grant~~ is available for a project for a public water system.

(2) ~~High unit cost~~Project grant. – A project grant is available for ~~the a~~ portion of the construction costs of a public water system project ~~that results in an estimated average household user fee for water and sewer service in the area~~

- 1 served by the project that exceeds the high unit cost threshold as defined in  
2 G.S. 159G-32(c).
- 3 (3) ~~Technical assistance~~Merger/regionalization feasibility grant. – A ~~technical~~  
4 ~~assistance~~merger/regionalization grant is available to determine the best way  
5 to correct the deficiencies in a public water system that does not comply  
6 with State law or the rules adopted to implement that law.feasibility of  
7 consolidating the management of multiple utilities into a single utility  
8 operation or to provide regional water supply and the best way of carrying  
9 out the consolidation or regionalization. The Department shall not make a  
10 loan or grant under this subdivision for a merger or regionalization proposal  
11 that would result in a new surface water transfer regulated under  
12 G.S. 143-215.22L.
- 13 (4) Asset inventory and assessment grant. – An asset inventory and assessment  
14 grant is available to inventory the existing water and/or sewer system and  
15 document the condition of the inventoried infrastructure.
- 16 (5) Emergency loan. – An emergency loan is available to an applicant in the  
17 event the Secretary certifies that either a serious public health hazard or a  
18 drought emergency related to the water supply system is present or imminent  
19 in a community."

20 **SECTION 14.13.(h)** G.S. 159G-35 reads as rewritten:

21 **"§ 159G-35. Criteria for loans and grants.**

22 (a) CWSRF and DWSRF. – Federal law determines the criteria for awarding a loan or  
23 grant from the CWSRF or the DWSRF. An award of a loan or grant from one of these accounts  
24 must meet the criteria set under federal law. The Department is directed to establish through  
25 negotiation with the United States Environmental Protection Agency the criteria for evaluating  
26 applications for loans and grants from the CWSRF and the DWSRF and the priority assigned to  
27 the criteria. The Department must incorporate the negotiated criteria and priorities in the  
28 Capitalization Grant Operating Agreement between the Department and the United States  
29 Environmental Protection Agency. The criteria and priorities incorporated in the Agreement  
30 apply to a loan or grant from the CWSRF or the DWSRF. ~~The common criteria~~priority  
31 considerations in G.S. 159G-23 do not apply to a loan or grant from the CWSRF or the  
32 DWSRF.

33 (b) Reserves. – ~~The common criteria~~priority considerations in G.S. 159G-23 apply to a  
34 loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Department  
35 may establish by rule other criteria that apply to a loan or grant from the Wastewater Reserve  
36 or the Drinking Water Reserve."

37 **SECTION 14.13.(i)** G.S. 159G-36(c) reads as rewritten:

38 "(c) Reserve Recipient Limit. – The following limits apply to ~~a~~the loan or grant types  
39 made from the Wastewater Reserve or the Drinking Water Reserve to the same local  
40 government unit or nonprofit water corporation:

- 41 (1) The amount of loans awarded for a fiscal year may not exceed three million  
42 dollars (\$3,000,000).
- 43 (2) The amount of loans awarded for three consecutive fiscal years for targeted  
44 interest rate projects may not exceed three million dollars (\$3,000,000).
- 45 (3) The amount of ~~high unit cost~~project grants awarded for three consecutive  
46 fiscal years may not exceed three million dollars (\$3,000,000).
- 47 (4) The amount of ~~technical assistance~~merger/regionalization feasibility grants  
48 awarded for three consecutive fiscal years may not exceed fifty thousand  
49 dollars (\$50,000).

(5) The amount of asset inventory and assessment grants awarded for three consecutive fiscal years may not exceed one hundred fifty thousand dollars (\$150,000)."

**SECTION 14.13.(j)** The Division of Water Infrastructure of the Department of Environment and Natural Resources shall report to the Environmental Review Commission and the Fiscal Research Division regarding its implementation of the relative affordability of projects criteria for grants from the Wastewater Reserve or Drinking Water Reserve set forth in G.S. 159G-23(9), as amended by subsection (c) of this section, within 30 days of the adoption of the affordability criteria.

#### **WATER INFRASTRUCTURE STATE MATCH SURPLUS FUNDS**

**SECTION 14.14.** Notwithstanding G.S. 159G-22, funds appropriated in this act to the Division of Water Infrastructure for the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund to provide State matching funds that are in excess of the amount required to draw down the maximum amount of federal capitalization grant funds may be used for State water and wastewater infrastructure grants awarded from the Wastewater Reserve and the Drinking Water Reserve that benefit rural and economically distressed areas of the State.

#### **ENCOURAGE INTERCONNECTION OF PUBLIC WATER SYSTEMS**

**SECTION 14.14A.(a)** G.S. 130A-317 is amended by adding a new subsection to read:

"(g) The Department shall identify systems meeting all of the following criteria:

- (1) As constructed or altered, the system appears capable of interconnectivity with another system or systems located within the same river basin, as set out in G.S. 143-215.22.
- (2) The system appears to have adequate unallocated capacity to expand.
- (3) Interconnectivity would promote public health, protect the environment, or ensure compliance with established drinking water rules.

The Department shall notify the identified systems of the potential for interconnectivity in the future. The systems so notified may discuss options for potential interconnectivity, including joint operations, regionalization, or merger. The Local Government Commission shall be copied on the notice from the Department and shall assist the systems with any questions regarding liabilities of the systems and alterations to the operational structure of the systems."

**SECTION 14.14A.(b)** The Commission for Public Health may adopt rules to implement G.S. 130A-317, as amended by this section.

#### **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES/CLOSE CERTAIN SPECIAL FUNDS**

**SECTION 14.16.(a)** The Office of State Budget and Management, in conjunction with the Office of the State Controller and the Department of Environment and Natural Resources, shall transfer the unencumbered cash balances in the following funds as of June 30, 2015, to the Department's General Fund budget and then close each of these special funds:

- (1) Mining Fees (Special Fund Code 24300-2745).
- (2) Mining Interest (Special Fund Code 24300-2610).
- (3) Storm Water Permits (Special Fund Code 24300-2750).
- (4) UST Soil Permitting (Special Fund Code 24300-2391).

**SECTION 14.16.(b)** G.S. 74-54.1(b) reads as rewritten:

"(b) ~~The Mining Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Mining Account General Fund and shall be applied to the costs of administering this Article.~~"

**SECTION 14.16.(c)** G.S. 130A-309.17(i) is repealed.

**SECTION 14.16.(d)** G.S. 143-215.3A(a) reads as rewritten:

"(a) The Water and Air Quality Account is established as an account within the Department. Revenue in the Account shall be applied to the costs of administering the programs for which the fees were collected. Revenue credited to the Account pursuant to G.S. 105-449.43, G.S. 105-449.125, and G.S. 105-449.136 shall be used to administer the air quality program. Any funds credited to the Account from fees collected for laboratory facility certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert. Any other funds credited to the Account that are not expended at the end of each fiscal year shall not revert. Except for the following fees, all application fees and permit administration fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this Chapter shall be credited to the Account:

- (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other Hazardous Substances Pollution Protection Fund.
- (2) Fees credited to the Title V Account.
- (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- (4) Fees collected under G.S. 143-215.28A.
- (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
- (6) Fees collected under G.S. 143-215.3D for the following permits and certificates shall be credited to the General Fund for use by the Department to administer the program for which the fees were collected:
  - a. Stormwater permits and certificates of general permit coverage authorized under G.S. 143-214.7.
  - b. Permits to apply petroleum contaminated soil to land authorized under G.S. 143-215.1."

**SECTION 14.16.(e)** The transfers in subsection (a) of this section are to offset reductions in General Fund appropriations to the Department of Environment and Natural Resources for the 2015-2016 fiscal year. Fee receipts previously deposited to the funds listed in subsection (a) of this section shall be budgeted to support the programs and functions previously supported by those funds.

## **PHASEOUT OF NONCOMMERCIAL LEAKING UST FUND**

**SECTION 14.16A.(a)** G.S. 143-215.94B(b) reads as rewritten:

"(b) The Commercial Fund shall be used for the payment of the following costs up to an aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product from a commercial underground storage tank:

- (1) For discharges or releases discovered or reported between 30 June 1988 and 31 December 1991 inclusive, the cleanup of environmental damage as required by G.S. 143-215.94E(a) in excess of fifty thousand dollars (\$50,000) per occurrence.
- (2) For discharges or releases discovered on or after 1 January 1992 and reported between 1 January 1992 and 31 December 1993 inclusive, the cleanup of environmental damage as required by G.S. 143-215.94E(a) in excess of twenty thousand dollars (\$20,000) per occurrence.
- (2a) For discharges or releases discovered and reported on or after 1 January 1994 and prior to 1 January 1995, the cleanup of environmental damage as

- required by G.S. 143-215.94E(a) in excess of twenty thousand dollars (\$20,000) if the owner or operator (i) notifies the Department prior to 1 January 1994 of its intent to permanently close the tank in accordance with applicable regulations or to upgrade the tank to meet the requirements that existing underground storage tanks must meet by 22 December 1998, (ii) commences closure or upgrade of the tank prior to 1 July 1994, and (iii) completes closure or upgrade of the tank prior to 1 January 1995.
- (3) For discharges or releases reported on or after 1 January 1994, the cleanup of environmental damage as required by G.S. 143-215.94E(a) in excess of twenty thousand dollars (\$20,000) if, prior to the discharge or release, the commercial underground storage tank from which the discharge or release occurred met the performance standards applicable to tanks installed after 22 December 1988 or met the requirements that existing underground storage tanks must meet by 22 December 1998.
- (4) For discharges or releases reported on or after 1 January 1994 from a commercial underground storage tank that does not qualify under subdivision (2a) of this subsection or does not meet the standards in subdivision (3) of this subsection, sixty percent (60%) of the costs per occurrence of the cleanup of environmental damage as required by G.S. 143-215.94E(a) that exceeds twenty thousand dollars (\$20,000) but is not more than one hundred fifty-seven thousand five hundred dollars (\$157,500) and one hundred percent (100%) of the costs above this amount, up to the limits established in this section.
- (5) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars (\$100,000) per occurrence.
- (6) Reimbursing the State for damages or other costs incurred as a result of a loan from the Loan Fund. The per occurrence limit does not apply to reimbursements to the State under this subdivision.
- (7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Commercial Fund is responsible for the payment of costs under subdivisions (1) through (4) of this subsection.
- (8) The costs of a site investigation required by the Department for the purpose of determining whether a release from a tank system has occurred, whether or not the investigation confirms that a release has occurred. This subdivision shall not be construed to allow reimbursement for costs of investigations that are part of routine leak detection procedures required by statute or rule.
- (9) If the owner or operator cannot be identified or fails to proceed with the cleanup.
- (10) That was taken out of operation prior to 1 January 1974 if, at the time the discharge or release is discovered, neither the owner or operator owns or leases the lands on which the tank is located.
- (11) Where the owner of the commercial underground storage tank is the owner only as a result of owning the land on which the commercial underground storage tank is located, the owner did not know or have reason to know that the underground storage tank was located on the property, and the land was not transferred to the owner to avoid liability for the commercial underground storage tank.
- (12) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars (\$100,000) per occurrence caused by releases from noncommercial underground storage tanks reported to the

Department prior to August 1, 2015, if the claim for compensation is made prior to July 1, 2016."

**SECTION 14.16A.(b)** G.S. 143-215.94D reads as rewritten:

**"§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

(a) There is established under the control and direction of the Department the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, or other monies paid to it or recovered on behalf of the Noncommercial Fund.

(b) The Noncommercial Fund shall be used for the payment of the costs set out in subsection (b1) of this section, up to an aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product reported to the Department prior to August 1, 2015, from:

(1) Noncommercial underground storage tanks if the discharge or release meets the minimum priority criteria for corrective action established by the Department.

~~(2) Commercial underground storage tanks if the owner or operator cannot be identified or fails to proceed with the cleanup.~~

~~(3) Commercial underground storage tanks that were taken out of operation prior to 1 January 1974 if, at the time the discharge or release is discovered, neither the owner or operator owns or leases the lands on which the tank is located.~~

~~(4) Commercial underground storage tanks if the owner of the commercial underground storage tank is the owner only as a result of owning the land on which the commercial underground storage tank is located, the owner did not know or have reason to know that the underground storage tank was located on the property, and the land was not transferred to the owner to avoid liability for the commercial underground storage tank.~~

(b1) The Noncommercial Fund shall be used for the payment of the ~~costs of~~ following costs, provided a claim for compensation is made prior to July 1, 2016:

(1) For releases discovered or reported to the Department prior to August 1, 2013, the cleanup of environmental damage as required by G.S. 143-215.94E(a).

~~(1a) For releases discovered or reported to the Department on or after August 1, 2013, August 1, 2013, and prior to August 1, 2015, the cleanup of environmental damage as required by G.S.143-215.94E(a) in excess of two thousand dollars (\$2,000) or the sum of the following amounts, whichever is less:~~

a. A deductible of one thousand dollars (\$1,000) per occurrence.

b. A co-payment equal to ten percent (10%) of the costs of the cleanup of environmental damage, per occurrence.

~~(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars (\$100,000) per occurrence.~~

(3) Reimbursing the State for damages or other costs incurred as a result of a loan from the Loan Fund. The per occurrence limit does not apply to reimbursements to the State under this subdivision.

(4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Noncommercial Fund is responsible for the payment of costs under subdivisions (1) through (3) of this subsection and subsection (b) of this section.

(b2) The Noncommercial Fund may be used by the Department for the payment of costs necessary to render harmless any noncommercial underground storage tank from which a discharge or release has not occurred but which poses an imminent hazard to the environment if the owner or operator cannot be identified or located, or if the owner or operator fails to take action to render harmless the underground storage tank within 90 days after having been notified of the imminent hazard posed by the underground storage tank. The Secretary shall seek to recover the costs of the action from the owner or operator as provided in G.S. 143-215.94G.

(b3) For purposes of subsection (b1) of this section, the cleanup of environmental damage includes connection of a third party to a public water system if the Department determines that connection of the third party to a public water system is a cost-effective measure, when compared to other available measures, to reduce risk to human health or the environment. A payment or reimbursement under this subsection is subject to the requirements and limitations of this section. This subsection shall not be construed to limit any right or remedy available to a third party under any other provision of law. This subsection shall not be construed to require a third party to connect to a public water system. Except as provided by this subsection, connection to a public water system does not constitute cleanup under Part 2 of this Article, G.S. 143-215.94E, G.S. 143-215.94V, any other applicable statute, or at common law.

(b4) The Noncommercial Fund shall pay any claim made after 1 September 2001 for compensation to third parties pursuant to subdivision (2) of subsection (b1) of this section only if the owner, operator, or other party responsible for the discharge or release has complied with the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited by another provision of law.

(c) The Noncommercial Fund is to be available on an occurrence basis, without regard to number of occurrences associated with tanks owned or operated by the same owner or operator.

(d) The Noncommercial Fund shall not be used for:

- (1) Costs incurred as a result of a discharge or release from an aboveground tank, aboveground pipe or fitting not connected to an underground storage tank, or vehicle.
- (2) The removal or replacement of any tank, pipe, fitting or related equipment.
- (3) Costs incurred as a result of a discharge or release of petroleum from a transmission pipeline.
- (4) Costs intended to be paid for by the Commercial Fund.
- (5) Costs associated with the administration of any underground storage tank program other than the program administered pursuant to this Part.
- (6) Costs paid or reimbursed by or from any source other than the Noncommercial Fund, including, but not limited to, any payment or reimbursement made under a contract of insurance.
- (7) Costs incurred as a result of the cleanup of environmental damage to groundwater to a more protective standard than the risk-based standard required by the Department unless the cleanup of environmental damage to groundwater to a more protective standard is necessary to resolve a claim for compensation by a third party for property damage.
- (8) Costs in excess of those required to achieve the most cost-effective cleanup.

(e) The Noncommercial Fund shall be treated as a special trust fund pursuant to G.S. 147-69.2 and G.S. 147-69.3, except that interest and other income received on the Fund balance shall be treated as set forth in G.S. 147-69.1(d).

(f) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by Session Laws 2008-195, s. 11.

(g) The Noncommercial Fund may be used to support the administrative functions of the program for underground storage tanks under this Part and Part 2B of this Article up to the amounts allowed by law, which amounts may be changed from time to time. In the case of a legislated increase or decrease in salaries and benefits, the administrative allowance existing at the time of the increase or decrease shall be correspondingly increased or decreased an amount equal to the legislated increase or decrease in salaries and benefits.

(h) During each fiscal year, the Department shall use up to one hundred thousand (\$100,000) of the funds in the Noncommercial Fund to fund necessary assessment and cleanup to be conducted by the Department of discharges or releases for which a responsible party has been identified but for which the responsible party can demonstrate that undertaking the costs of assessment and cleanup will impose a severe financial hardship. Any portion of the \$100,000 designated each fiscal year, which is not used during that fiscal year to address situations of severe financial hardship, shall revert to the Noncommercial Fund for the uses otherwise provided by this section. The Commission shall adopt rules to define severe financial hardship; establish criteria for assistance due to severe financial hardship pursuant to this section; and establish a process for evaluation and determinations of eligibility with respect to applications for assistance due to severe financial hardship. The Commission shall create a subcommittee of the Commission's Committee on Civil Penalty Remissions as established by G.S. 143B-282.1 to render determinations of eligibility under this subsection."

**SECTION 14.16A.(c)** G.S. 143-215.94N(b) reads as rewritten:

"(b) ~~The Except as otherwise specified in this Part, the~~ provisions of this Part as they relate to costs paid from the Noncommercial Fund apply to discharges or releases without regard to the date discovered or reported; however, reimbursement of costs under G.S. 143-215.94G(d)(1), (2), (3), (3a), and (4) shall be for the full amount of the costs paid for from the Noncommercial Fund and shall not be limited pursuant to G.S. 143-215.94E(b) for discharges or releases from commercial underground storage tanks discovered or reported on or before 30 June 1988."

**SECTION 14.16A.(d)** G.S. 143-215.94A(6), G.S. 143-215.94B(d)(4), G.S. 143-215.94D, and G.S. 143-215.94N(b) are repealed.

**SECTION 14.16A.(e)** G.S. 143-215.94E reads as rewritten:

**"§ 143-215.94E. Rights and obligations of the owner or operator.**

...

(b1) In the case of a discharge or release from a commercial underground storage tank where the owner and operator cannot be identified or located, or where the owner and operator fail to proceed as required by subsection (a) of this section, the following requirements apply:

(1) ~~if~~If the current landowner of the land in which the commercial underground storage tank is located notifies the Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the discharge or release and to restore the area affected in accordance with the requirements of this Article and applicable federal and State laws, regulations, and rules, the current landowner may elect to have the Commercial Fund pay or reimburse the current landowner for any costs described in subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) that exceed the amounts for which the owner or operator is responsible under that subsection.

a. The current landowner is not eligible for payment or reimbursement until the current landowner has paid the costs described in subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) for which the owner or operator is responsible.

b. Eligibility for reimbursement under this subsection may be transferred from a current landowner who has paid the costs described in subdivisions (1), (2), (2a), (3), and (4) of G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) to a subsequent landowner.

The current landowner shall submit documentation of all expenditures as required by G.S. 143-215.94G(b).

(2) The sum of payments from the Commercial Fund and from all other sources shall not exceed one million dollars (\$1,000,000) per discharge or release except as provided in G.S. 143-215.94B(b2).

(3) This subsection shall not be construed to require a current landowner to cleanup a discharge or release of petroleum from an underground storage tank for which the current landowner is not otherwise responsible. This subsection does not alter any right, duty, obligation, or liability of a current landowner, former landowner, subsequent landowner, owner, or operator under other provisions of law.

(4) This subsection shall not be construed to limit the authority of the Department to engage in a cleanup under this Article or any other provision of law. In the event that an owner or operator is subsequently identified or located, the Secretary shall seek reimbursement as provided in G.S. 143-215.94G(d). ~~The current landowner shall submit documentation of all expenditures as required by G.S. 143-215.94G(b).~~

~~(e) In the case of a discharge or release from a noncommercial underground storage tank or a commercial underground storage tank eligible for the Noncommercial Fund in accordance with G.S. 143-215.94D(b), where the owner or operator has been identified and has proceeded with the cleanup, the owner or operator may elect to have the Noncommercial Fund pay or reimburse the owner or operator for any costs described in G.S. 143-215.94D(b1) up to a maximum of one million dollars (\$1,000,000) per discharge or release.~~

~~(e1) In the case of a discharge or release from a noncommercial underground storage tank where the owner and operator cannot be identified or located, or where the owner and operator fail to proceed as required by subsection (a) of this section, if the current landowner of the land in which the noncommercial underground storage tank is located notifies the Department in accordance with G.S. 143-215.85 and undertakes to collect and remove the discharge or release and to restore the area affected in accordance with the requirements of this Article and applicable federal and State laws, regulations, and rules, the current landowner may elect to have the Noncommercial Fund pay or reimburse the current landowner for any costs described in G.S. 143-215.94D(b1). Eligibility for reimbursement under this subsection may be transferred to a subsequent landowner from a current landowner. The sum of payments from the Noncommercial Fund and from all other sources shall not exceed one million dollars (\$1,000,000) per discharge or release. This subsection shall not be construed to require a current landowner to clean up a discharge or release of petroleum from an underground storage tank for which the current landowner is not otherwise responsible. This subsection does not alter any right, duty, obligation, or liability of a current landowner, former landowner, subsequent landowner, owner, or operator under other provisions of law. This subsection shall not be construed to limit the authority of the Department to engage in a cleanup under this Article or any other provision of law. The current landowner shall submit documentation of all expenditures as required by G.S. 143-215.94G(b).~~

...

(e1) The Department may contract for any services necessary to evaluate any claim for reimbursement or compensation from either the Commercial Fund or the Noncommercial Fund, may contract for any expert witness or consultant services necessary to defend any decision to

1 pay or deny any claim for reimbursement, and may pay the cost of these services from the fund  
2 against which the claim is made; provided that in any fiscal year the Department shall not  
3 expend from either fund more than one percent (1%) of the unobligated balance of the fund on  
4 30 June of the previous fiscal year. The cost of contractual services to evaluate a claim or for  
5 expert witness or consultant services to defend a decision with respect to a claim shall be  
6 included as costs under G.S. 143-215.94B(b), 143-215.94B(b1), and 143-215.94D(b1).

7 ...

8 (e4) (1) If the owner or operator takes initial steps to collect and remove the  
9 discharge or release as required by the Department and completes the initial  
10 assessment required to determine degree of risk, the owner or operator shall  
11 not be subject to any violation or penalty for any failure to proceed with  
12 further assessment or cleanup under G.S. 143-215.84 or this section before  
13 the owner or operator is authorized to proceed with further assessment or  
14 cleanup as provided in subsection (e5) of this section. The lack of  
15 availability of funds in the Commercial Fund ~~or the Noncommercial Fund~~  
16 shall not relieve an owner or operator of responsibility to immediately  
17 undertake to collect and remove the discharge or release or to conduct any  
18 assessment or cleanup ordered by the Department or be a defense against  
19 any violations and penalties issued to the owner or operator for failure to  
20 conduct required assessment or cleanup.

21 (2) The Department shall establish the degree of risk to human health and the  
22 environment posed by a discharge or release of petroleum from a  
23 commercial underground storage tank and shall determine a schedule for  
24 further assessment and cleanup that is based on the degree of risk to human  
25 health and the environment posed by the discharge or release and that gives  
26 priority to the assessment and cleanup of discharges and releases that pose  
27 the greatest risk. If any of the costs of assessment and cleanup of the  
28 discharge or release from a commercial underground storage tank are  
29 eligible to be paid or reimbursed from the Commercial Fund, the Department  
30 shall also consider the availability of funds in the Commercial Fund and the  
31 order in which the discharge or release was reported in determining the  
32 schedule.

33 ~~(3) The Department shall establish the degree of risk to human health and the~~  
34 ~~environment posed by a discharge or release of petroleum from a~~  
35 ~~noncommercial underground storage tank and shall determine a schedule for~~  
36 ~~further assessment and cleanup that is based on the degree of risk to human~~  
37 ~~health and the environment posed by the discharge or release and that gives~~  
38 ~~priority to the assessment and cleanup of discharges and releases that pose~~  
39 ~~the greatest risk. If any of the costs of assessment or cleanup of the discharge~~  
40 ~~or release from a noncommercial underground storage tank are eligible to be~~  
41 ~~paid or reimbursed from the Noncommercial Fund, the Department shall~~  
42 ~~also consider the availability of funds in the Noncommercial Fund and the~~  
43 ~~order in which the discharge or release was reported in determining the~~  
44 ~~schedule.~~

45 (4) The Department may revise the schedules that apply to the assessment and  
46 cleanup of any discharge or release at any time based on its reassessment of  
47 any of the foregoing factors.

48 ...

49 (f1) Any person seeking payment or reimbursement from ~~either the Commercial Fund or~~  
50 ~~the Noncommercial Fund~~ shall certify to the Department that the costs to be paid or reimbursed  
51 by the Commercial Fund ~~or the Noncommercial Fund~~ are not eligible to be paid or reimbursed

by or from any other source, including any contract of insurance. If any cost paid or reimbursed by the Commercial Fund ~~or the Noncommercial Fund~~ is eligible to be paid or reimbursed by or from another source, that cost shall not be paid from, or if paid shall be repaid to, the Commercial Fund ~~or the Noncommercial Fund~~. As used in this Part, the phrase "any other source including any contract of insurance" does not include self-insurance.

...

(j) An owner, operator, or landowner shall request that the Department determine whether any of the costs of assessment and cleanup of a discharge or release from a petroleum underground storage tank are eligible to be paid or reimbursed from either the Commercial Fund ~~or the Noncommercial Fund~~ within one year after completion of any task that is eligible to be paid or reimbursed under G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

(k) An owner, operator, or landowner shall request payment or reimbursement from the Commercial Fund ~~or the Noncommercial Fund~~ for the cost of a task within one year after the completion of the task. The Department shall deny any request for payment or reimbursement of the cost of any task that would otherwise be eligible to be paid or reimbursed if the request is not received within 12 months after the later of the date on which the:

- (1) Department determines that the cost is eligible to be paid or reimbursed.
- (2) Task is completed."

**SECTION 14.16A.(f)** G.S. 143-215.94G reads as rewritten:

**"§ 143-215.94G. Authority of the Department to engage in cleanups; actions for fund reimbursement.**

(a) The Department may use staff, equipment, or materials under its control or provided by other cooperating federal, State, or local agencies and may contract with any agent or contractor it deems appropriate to investigate a release, to develop and implement a cleanup plan, to provide interim alternative sources of drinking water to third parties, and to pay the initial costs for providing permanent alternative sources of drinking water to third parties, and shall pay the costs resulting from ~~commercial underground storage tanks from the Commercial Fund and shall pay the costs resulting from noncommercial underground storage tanks from the Noncommercial Fund~~ whenever there is a discharge or release of petroleum from any of the following:

- (1) A noncommercial underground storage tank.
- (2) An underground storage tank whose owner or operator cannot be identified or located.
- (3) An underground storage tank whose owner or operator fails to proceed as required by G.S. 143-215.94E(a).
- (4) A commercial underground storage tank taken out of operation prior to 1 January 1974 if, when the discharge or release is discovered, neither the owner nor operator owns or leases the land on which the underground storage tank is located.

(a1) Every State agency shall provide to the Department to the maximum extent feasible such staff, equipment, and materials as may be available and useful to the development and implementation of a cleanup program.

(a2) The cost of any action authorized under subsection (a) of this section shall be paid, to the extent funds are available, from the following sources in the order listed:

- (1) Any funds to which the State is entitled under any federal program providing for the cleanup of petroleum discharges or releases from underground storage tanks, including, but not limited to, the Leaking Underground Storage Tank Trust Fund established pursuant to 26 U.S.C. § 4081 and 42 U.S.C. § 6991b(h).
- (2) The Commercial Fund ~~or the Noncommercial Fund~~.

(a3) Expired October 1, 2011, pursuant to Session Laws 2001-442, s. 8, as amended by Session Laws 2008-195, s. 11.

(b) Whenever the discharge or release of a petroleum product is from a commercial underground storage tank, the Department may supervise the cleanup of environmental damage required by G.S. 143-215.94E(a). If the owner or operator elects to have the Commercial Fund reimburse or pay for any costs allowed under subsection (b) or (b1) of G.S. 143-215.94B, the Department shall require the owner or operator to submit documentation of all expenditures claimed for the purposes of establishing that the owner or operator has spent the amounts required to be paid by the owner or operator pursuant to and in accordance with G.S. 143-215.94E(b). The Department shall allow credit for all expenditures that the Department determines to be reasonable and necessary. The Department may not pay for any costs for which the Commercial Fund was established until the owner or operator has paid the amounts specified in G.S. 143-215.94E(b).

(c) The Secretary shall keep a record of all expenses incurred for the services of State personnel and for the use of the State's equipment and material.

(d) The Secretary shall seek reimbursement through any legal means available, for:

- (1) Any costs not authorized to be paid from ~~either the Commercial or the Noncommercial~~ Fund;
- (2) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) required to be paid for by the owner or operator pursuant to G.S. 143-215.94E(b) where the owner or operator of a commercial underground storage tank is later identified or located;
- (3) The amounts provided for in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1) required to be paid for by the owner or operator pursuant to G.S. 143-215.94E(b) where the owner or operator of a commercial underground storage tank failed to proceed as required by G.S. 143-215.94E(a);
- (3a) The amounts provided for by G.S. 143-215.94B(b)(5) required to be paid by the owner or operator to third parties for the cost of providing interim alternative sources of drinking water to third parties and the initial cost of providing permanent alternative sources of drinking water to third parties;
- (4) Any funds due under G.S. 143-215.94E(g); and
- (5) Any funds to which the State is entitled under any federal program providing for the cleanup of petroleum discharges or releases from underground storage tanks; [and]
- (6) The amounts provided for in G.S. 143-215.94B(b5) and G.S. 143-215.94D(b2).

(e) In the event that a civil action is commenced to secure reimbursement pursuant to subdivisions (1) through (4) of subsection (d) of this section, the Secretary may recover, in addition to any amount due, the costs of the action, including but not limited to reasonable attorney's fees and investigation expenses. Any monies received or recovered as reimbursement shall be paid into the appropriate fund or other source from which the expenditures were made.

~~(f) In the event that a recovery equal to or in excess of the amounts required to be paid for by the owner or operator pursuant to G.S. 143-215.94E(b) is recovered pursuant to subdivisions (2) and (3) of subsection (d) of this section for the costs described in G.S. 143-215.94B(b) or G.S. 143-215.94B(b1), the Department shall transfer funds from the Commercial Fund that would have been paid from the Commercial Fund pursuant to subsection (b) or (b2) of G.S. 143-215.94B if the owner or operator had proceeded with the cleanup, but which were paid from the Noncommercial Fund, into the Noncommercial Fund.~~

(g) If the Department paid or reimbursed costs that are not authorized to be paid or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a misrepresentation by

an agent who acted on behalf of an owner, operator, or landowner, the Department shall first seek reimbursement, pursuant to subdivision (1) of subsection (d) of this section, from the agent of monies paid to or retained by the agent.

(h) The Department shall take administrative action to recover costs or bring a civil action pursuant to subdivision (1) of subsection (d) of this section to seek reimbursement of costs in accordance with the time limits set out in this subsection.

(1) The Department shall take administrative action to recover costs or bring a civil action to seek reimbursement of costs that are not authorized to be paid from the Commercial Fund under subdivision (1), (2), or (3) of G.S. 143-215.94B(d) ~~or from the Noncommercial Fund under subdivision (1), (2), or (3) of G.S. 143-215.94D(d)~~ within five years after payment.

(2) The Department shall take administrative action to recover costs or bring a civil action to seek reimbursement of costs other than those described in subdivision (1) of this subsection within three years after payment.

(3) Notwithstanding the time limits set out in subdivisions (1) and (2) of this subsection, the Department may take administrative action to recover costs or bring a civil action to seek reimbursement of costs paid as a result of fraud or misrepresentation at any time.

(i) An administrative action or civil action that is not commenced within the time allowed by subsection (h) of this section is barred.

(j) Except with the consent of the claimant, the Department may not withhold payment or reimbursement of costs that are authorized to be paid from the Commercial Fund ~~or the Noncommercial Fund~~ in order to recover any other costs that are in dispute unless the Department is authorized to withhold payment by a final decision of the Commission pursuant to G.S. 150B-36 or an order or final decision of a court."

**SECTION 14.16A.(g)** G.S. 143-215.94J reads as rewritten:

**"§ 143-215.94J. Limitation of liability of the State of North Carolina.**

(a) No claim filed against ~~either the Commercial Fund or the Noncommercial Fund~~ shall be paid except from assets of the respective fund as provided for in this Part or as may otherwise be authorized by law.

(b) This Part shall not be construed to obligate the General Assembly to make any appropriation to implement the provisions of this Part; nor shall it be construed to obligate the Secretary to take any action pursuant to this Part for which funds are not available from appropriations or otherwise.

(c) The Secretary may budget anticipated receipts as needed to implement this Part.

~~(d) Should the Secretary find that the Noncommercial Fund balance is insufficient to satisfy all claims and other obligations of the Noncommercial Fund incurred pursuant to this Part, the Secretary may transfer funds which would otherwise revert to the General Fund to the Noncommercial Fund in order to meet such claims and obligations.~~

(e) If at any time ~~either the~~ fund balance is insufficient to pay all valid claims against it, the claims shall be paid in full in the order in which they are finally determined. The Secretary may retain not more than five hundred thousand dollars (\$500,000) in the ~~Noncommercial~~ Commercial Fund as a contingency reserve and not apply the reserve to the claims. The Department may use the contingency reserve to conduct cleanups in accordance with G.S. 143-215.94G when an imminent hazard poses a threat to human health or to significant natural resources."

**SECTION 14.16A.(h)** G.S. 143-215.94M reads as rewritten:

**"§ 143-215.94M. Reports.**

(a) The Secretary shall present an annual report to the Environmental Review Commission, the Fiscal Research Division, the Senate Appropriations Subcommittee on

1 Natural and Economic Resources, and the House Appropriations Subcommittee on Natural and  
2 Economic Resources which shall include at least the following:

- 3 (1) A list of all discharges or releases of petroleum from underground storage  
4 tanks.
- 5 (2) ~~A list of all cleanups requiring State funding through the Noncommercial~~  
6 ~~Fund and a comprehensive budget to complete such cleanups.~~
- 7 (3) A list of all cleanups undertaken by tank owners or operators and the status  
8 of these cleanups.
- 9 (4) A statement of receipts and disbursements for ~~both the Commercial Fund~~  
10 ~~and the Noncommercial Fund.~~
- 11 (5) A statement of all claims against ~~both the Commercial Fund and the~~  
12 ~~Noncommercial Fund~~, including claims paid, claims denied, pending claims,  
13 anticipated claims, and any other obligations.
- 14 (6) The adequacy of ~~both the Commercial Fund and the Noncommercial Fund~~ to  
15 carry out the purposes of this Part together with any recommendations as to  
16 measures that may be necessary to assure the continued solvency of the  
17 Commercial Fund ~~and the Noncommercial Fund.~~
- 18 (7) Repealed by Session Laws 2012-200, s. 23, effective August 1, 2012.

19 (b) The report required by this section shall be made by the Secretary on or before  
20 November 1 of each year."

21 **SECTION 14.16A.(i)** Subsections (d) through (h) of this section become effective  
22 December 31, 2016. The balance remaining in the Noncommercial Leaking Petroleum  
23 Underground Storage Tank Cleanup Fund and any outstanding requests for payment or  
24 reimbursement that have been deemed eligible by the Department prior to that date are  
25 transferred to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.  
26 The Revisor of Statutes may conform names and titles changed by this section, and may correct  
27 statutory references as required by this section, throughout the General Statutes. In making the  
28 changes authorized by this section, the Revisor may also adjust subject and verb agreement and  
29 the placement of conjunctions.

## 30 ENVIRONMENTAL ASSESSMENT METHODOLOGY

31 **SECTION 14.19.** The Department of Environment and Natural Resources shall  
32 review and revise its procedures and rate tables for reimbursement of soil assessment activities  
33 in order to facilitate the use of the Ultra Violet Fluorescence (UVF) test method as a substitute  
34 for US EPA Method 8015 for soil assessment and petroleum contamination delineation  
35 activities, where the substitution would (i) not violate federal law or regulations, (ii) provide  
36 equivalent accuracy and quality of results, and (iii) result in appreciable cost savings.

## 37 LANDFILL CHANGES

38 **SECTION 14.20.(a)** G.S. 130A-294 reads as rewritten:

39 **"§ 130A-294. Solid waste management program.**

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

- 43 ...
- 44 (4) a. Develop a permit system governing the establishment and operation  
45 of solid waste management facilities. A landfill with a disposal area  
46 of 1/2 acre or less for the on-site disposal of land clearing and inert  
47 debris is exempt from the permit requirement of this section and shall  
48 be governed by G.S. 130A-301.1. Demolition debris from the  
49 decommissioning of manufacturing buildings, including electric  
50  
51

generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, ~~the renewal of a permit, major permit modification,~~ or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.

...

(a2) ~~Permits for sanitary landfills and transfer stations shall be issued for (i) a design and operation phase of five years or (ii) a design and operation phase of 10 years. A permit issued for a design and operation phase of 10 years shall be subject to a limited review within five years of the issuance date.~~ the life-of-site of the facility unless revoked as otherwise provided under this Article or upon the expiration of any local government franchise required for the facility pursuant to subsection (b1) of this section. For purposes of this section, "life-of-site" means the period from the initial receipt of solid waste at the facility until the Department approves final closure of the facility. Permits issued pursuant to this subsection shall take into account the duration of any permits previously issued for the facility and the remaining capacity at the facility.

(a3) Each permit for a sanitary landfill and transfer station shall have a limited review of the permit five years after issuance of the initial permit and at five-year intervals thereafter until expiration of the permit. The limited review includes review of the operational activities at the facility for the preceding time period, as well as future operational plans, financial assurance cost estimates, environmental monitoring plans, closure plans, post-closure plans, and any other applicable plans for the facility. Whenever such review is undertaken, the Department may modify the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or conditions on which the original permit was based have been changed by statute or rule. If, upon such review, the Department finds that repeated material or substantial violations at the sanitary landfill render operation of the facility a danger to human health, safety, and welfare, or the environment, the Department shall modify or revoke the permit. Parties aggrieved by a final decision of the Department pursuant to this subsection may appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydrogeological research and studies; sanitary engineering research and studies; and current technological development in equipment and

1 methods. The rules shall not apply to the management of solid waste that is generated by an  
2 individual or individual family or household unit on the individual's property and is disposed of  
3 on the individual's property.

4 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this  
5 section, a "substantial amendment" means either:

6 a. An increase of ten percent (10%) or more in:

- 7 1. The population of the geographic area to be served by the  
8 sanitary landfill;
- 9 2. The quantity of solid waste to be disposed of in the sanitary  
10 landfill; or
- 11 3. The geographic area to be served by the sanitary landfill.

12 b. A change in the categories of solid waste to be disposed of in the  
13 sanitary landfill or any other change to the application for a permit or  
14 to the permit for a sanitary landfill that the Commission or the  
15 Department determines to be substantial.

16 (2) A person who intends to apply for a new permit, ~~the renewal of a permit,~~  
17 major permit modification, or a substantial amendment to a permit for a  
18 sanitary landfill shall obtain, prior to applying for a permit, a franchise for  
19 the operation of the sanitary landfill from each local government having  
20 jurisdiction over any part of the land on which the sanitary landfill and its  
21 appurtenances are located or to be located. A local government may adopt a  
22 franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise  
23 granted for a sanitary landfill shall be granted for the life-of-site of the  
24 landfill and shall include all of the following:

- 25 a. A statement of the population to be served, including a description of  
26 the geographic area.
- 27 b. A description of the volume and characteristics of the waste stream.
- 28 c. A projection of the useful life of the sanitary landfill.
- 29 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
- 30 e. The procedures to be followed for governmental oversight and  
31 regulation of the fees and rates to be charged by facilities subject to  
32 the franchise for waste generated in the jurisdiction of the franchising  
33 entity.
- 34 f. A facility plan for the sanitary landfill that shall include the  
35 boundaries of the proposed facility, proposed development of the  
36 facility ~~site in five-year operational phases,~~ site, the boundaries of all  
37 waste disposal units, final elevations and capacity of all waste  
38 disposal units, the amount of waste to be received per day in tons, the  
39 total waste disposal capacity of the sanitary landfill in tons, a  
40 description of environmental controls, and a description of any other  
41 waste management activities to be conducted at the facility. In  
42 addition, the facility plan shall show the proposed location of soil  
43 borrow areas, leachate facilities, and all other facilities and  
44 infrastructure, including ingress and egress to the facility.

45 ...  
46 (4) An applicant for a new permit, ~~the renewal of a permit,~~ major permit  
47 modification, or a substantial amendment to a permit for a sanitary landfill  
48 shall request each local government having jurisdiction over any part of the  
49 land on which the sanitary landfill and its appurtenances are located or to be  
50 located to issue a determination as to whether the local government has in  
51 effect a franchise, zoning, subdivision, or land-use planning ordinance

applicable to the sanitary landfill and whether the proposed sanitary landfill, or the existing sanitary landfill as it would be operated under the ~~renewed or major permit modification or~~ substantially amended permit, would be consistent with the applicable ordinances. The request to the local government shall be accompanied by a copy of the permit application and shall be delivered to the clerk of the local government personally or by certified mail. In order to serve as a basis for a determination that an application for a new permit, ~~the renewal of a permit, major permit modification,~~ or a substantial amendment to a permit for a sanitary landfill is consistent with a zoning, subdivision, or land-use planning ordinance, an ordinance or zoning classification applicable to the real property designated in the permit application shall have been in effect not less than 90 days prior to the date the request for a determination of consistency is delivered to the clerk of the local government. The determination shall be verified or supported by affidavit signed by the chief administrative officer, the chief administrative officer's designee, clerk, or other official designated by the local government to make the determination and, if the local government states that the sanitary landfill as it would be operated under the ~~new, renewed, new permit, major permit modification,~~ or substantially amended permit is inconsistent with a franchise, zoning, subdivision, or land-use planning ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of the determination shall be provided to the applicant when the determination is submitted to the Department. The Department shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant; provided that if a local government fails to submit a determination to the Department as provided by this subsection within 15 days after receipt of the request, the Department shall proceed to consider the permit application without regard to a franchise, local zoning, subdivision, and land-use planning ordinances. Unless the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the sanitary landfill as it would be operated under the ~~new, renewed, new permit, major permit modification,~~ or substantially amended permit is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Department shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the sanitary landfill under the permit, comply with all lawfully adopted local ordinances cited in the determination that apply to the sanitary landfill. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

- (5) As used in this subdivision, "coal-fired generating unit" and "investor-owned public utility" have the same meaning as in G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3), or (b1)(4) of this section, no

franchise shall be required for a sanitary landfill used only to dispose of waste generated by a coal-fired generating unit that is owned or operated by an investor-owned utility subject to the requirements of G.S. 143-215.107D.

...."

**SECTION 14.20.(b)** No later than July 1, 2016, the Environmental Management Commission shall adopt rules to allow applicants for permits for sanitary landfills to apply for a permit for the life-of-site of the facility. No later than July 1, 2016, the Commission shall also adopt rules to allow applicants for permits for transfer stations to apply for a permit to construct and operate a transfer station for the life-of-site of the station.

**SECTION 14.20.(c)** G.S. 130A-295.8 reads as rewritten:

**"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

(a) The Solid Waste Management Account is established as a nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(b) As used in this section:

(1) "Major permit modification" means either of the following:

- a. ~~an~~ An application for any change to the approved engineering plans for a sanitary landfill or transfer station permitted for a 10-year life-of-site design capacity that does not constitute a "permit amendment," "new permit," or "permit modification."
- b. An application for a permit to be issued pursuant to G.S. 130A-294(a2), which is issued for a duration of less than a facility's life-of-site based upon permits previously issued to a facility.

(1a) "New permit" means any of the following:

- a. An application for a permit for a solid waste management facility that has not been previously permitted by the Department. The term includes one site suitability review, the initial permit to construct, and one permit to ~~operate the constructed portion of a phase included in the permit to construct.~~ operate.
- b. An application that proposes to expand the boundary of a permitted waste management facility for the purpose of expanding the permitted activity.
- c. An application that includes a proposed expansion to the boundary of a waste disposal unit within a permitted solid waste management facility.
- d. An application for a substantial amendment to a solid waste permit, as defined in G.S. 130A-294.

(2) "Permit amendment" means any of the following:

- a. ~~An application for a permit to construct and one permit to operate for the second and subsequent phases of landfill development described in the approved facility plan for a permitted solid waste management facility.~~
- b. An application for the five-year renewal of a permit for a permitted solid waste management facility or for a permit review of a permitted solid waste management facility. This sub-subdivision shall not apply to sanitary landfills or transfer stations.
- c. Any application that proposes a change in ownership or corporate structure of a permitted solid waste management facility. This

sub-subdivision shall not apply to sanitary landfills or transfer stations.

- (3) "Permit modification" means any of the following:
- a. An application for any change to the plans approved in a permit for a solid waste management facility that does not constitute a "permit amendment" or a "new permit". This sub-subdivision shall not apply to sanitary landfills or transfer stations.
  - b. ~~A second or subsequent permit to operate for a constructed portion of a phase included in the permit to construct.~~
  - c. An application for a five-year limited review of a ~~10-year~~ life-of-site permit, as required by ~~G.S. 130A-294(a2),~~ G.S. 130A-294(a3), including review of the ~~operations plan,~~ operational activities at the facility for the preceding time period, as well as future operational plans, closure plan, ~~plans,~~ post-closure plan, ~~plans,~~ financial assurance cost estimates, environmental monitoring plans, and any other applicable plans for the facility.

(4) "Ownership modification" means any application that proposes a change in ownership or corporate structure of a permitted sanitary landfill or transfer station.

~~(c) An applicant for a permit shall pay an application fee upon submission of an application according to the following schedule:~~

- (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Five Year) —\$25,000.
- (1a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten Year) —\$38,500.
- (2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Five Year) —\$15,000.
- (2a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Ten Year) —\$28,500.
- (3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Modification (Five Year) —\$1,500.
- (3a) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of solid waste, Major Modification (Ten Year) —\$7,500.
- (4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Five Year) —\$50,000.
- (4a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, New Permit (Ten Year) —\$77,000.
- (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Five Year) —\$30,000.
- (5a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Amendment (Ten Year) —\$57,000.
- (6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Modification (Five Year) —\$3,000.
- (6a) Municipal Solid Waste Landfill accepting 100,000 tons/year or more of solid waste, Major Modification (Ten Year) —\$15,000.
- (7) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Five Year) —\$15,000.
- (7a) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, New Permit (Ten Year) —\$22,500.
- (8) Construction and Demolition Landfill accepting less than 100,000 tons/year of solid waste, Amendment (Five Year) —\$9,000.

- 1           (8a)   ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~  
2           ~~of solid waste, Amendment (Ten Year) — \$16,500.~~
- 3           (9)    ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~  
4           ~~of solid waste, Modification (Five Year) — \$1,500.~~
- 5           (9a)   ~~Construction and Demolition Landfill accepting less than 100,000 tons/year~~  
6           ~~of solid waste, Major Modification (Ten Year) — \$4,500.~~
- 7           (10)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
8           ~~of solid waste, New Permit (Five Year) — \$30,000.~~
- 9           (10a)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
10           ~~of solid waste, New Permit (Ten Year) — \$46,000.~~
- 11           (11)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
12           ~~of solid waste, Amendment (Five Year) — \$18,500.~~
- 13           (11a)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
14           ~~of solid waste, Amendment (Ten Year) — \$34,500.~~
- 15           (12)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
16           ~~of solid waste, Modification (Five Year) — \$2,500.~~
- 17           (12a)   ~~Construction and Demolition Landfill accepting 100,000 tons/year or more~~  
18           ~~of solid waste, Major Modification (Ten Year) — \$9,250.~~
- 19           (13)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste, New~~  
20           ~~Permit (Five Year) — \$15,000.~~
- 21           (13a)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste, New~~  
22           ~~Permit (Ten Year) — \$22,500.~~
- 23           (14)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~  
24           ~~Amendment (Five Year) — \$9,000.~~
- 25           (14a)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~  
26           ~~Amendment (Ten Year) — \$16,500.~~
- 27           (15)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~  
28           ~~Modification (Five Year) — \$1,500.~~
- 29           (15a)   ~~Industrial Landfill accepting less than 100,000 tons/year of solid waste,~~  
30           ~~Major Modification (Ten Year) — \$4,500.~~
- 31           (16)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste, New~~  
32           ~~Permit (Five Year) — \$30,000.~~
- 33           (16a)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste, New~~  
34           ~~Permit (Ten Year) — \$46,000.~~
- 35           (17)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~  
36           ~~Amendment (Five Year) — \$18,500.~~
- 37           (17a)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~  
38           ~~Amendment (Ten Year) — \$34,500.~~
- 39           (18)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~  
40           ~~Modification (Five Year) — \$2,500.~~
- 41           (18a)   ~~Industrial Landfill accepting 100,000 tons/year or more of solid waste,~~  
42           ~~Major Modification (Ten Year) — \$9,250.~~
- 43           (19)   ~~Tire Monofill, New Permit — \$1,750.~~
- 44           (19a)   ~~Tire Monofill, New Permit (Ten Year) — \$2,500.~~
- 45           (20)   ~~Tire Monofill, Amendment — \$1,250.~~
- 46           (20A)   ~~Tire Monofill, Amendment (Ten Year) — \$2,000.~~
- 47           (21)   ~~Tire Monofill, Modification — \$500.~~
- 48           (21A)   ~~Tire Monofill, Major Modification — \$625.~~
- 49           (22)   ~~Treatment and Processing, New Permit — \$1,750.~~
- 50           (23)   ~~Treatment and Processing, Amendment — \$1,250.~~
- 51           (24)   ~~Treatment and Processing, Modification — \$500.~~

- 1           ~~(25) Transfer Station, New Permit (Five Year) — \$5,000.~~  
2           ~~(25a) Transfer Station, New Permit (Ten Year) — \$7,500.~~  
3           ~~(26) Transfer Station, Amendment (Five Year) — \$3,000.~~  
4           ~~(26a) Transfer Station, Amendment (Ten Year) — \$5,500.~~  
5           ~~(27) Transfer Station, Modification (Five Year) — \$500.~~  
6           ~~(27a) Transfer Station, Major Modification (Ten Year) — \$1,500.~~  
7           ~~(28) Incinerator, New Permit — \$1,750.~~  
8           ~~(29) Incinerator, Amendment — \$1,250.~~  
9           ~~(30) Incinerator, Modification — \$500.~~  
10          ~~(31) Large Compost Facility, New Permit — \$1,750.~~  
11          ~~(32) Large Compost Facility, Amendment — \$1,250.~~  
12          ~~(33) Large Compost Facility, Modification — \$500.~~  
13          ~~(34) Land Clearing and Inert, New Permit — \$1,000.~~  
14          ~~(35) Land Clearing and Inert, Amendment — \$500.~~  
15          ~~(36) Land Clearing and Inert, Modification — \$250.~~  
16          ~~(d) A permitted solid waste management facility shall pay an annual permit fee on or~~  
17          ~~before 1 August of each year according to the following schedule:~~  
18               ~~(1) Municipal Solid Waste Landfill — \$3,500.~~  
19               ~~(2) Post-Closure Municipal Solid Waste Landfill — \$1,000.~~  
20               ~~(3) Construction and Demolition Landfill — \$2,750.~~  
21               ~~(4) Post-Closure Construction and Demolition Landfill — \$500.~~  
22               ~~(5) Industrial Landfill — \$2,750.~~  
23               ~~(6) Post-Closure Industrial Landfill — \$500.~~  
24               ~~(7) Transfer Station — \$750.~~  
25               ~~(8) Treatment and Processing Facility — \$500.~~  
26               ~~(9) Tire Monofill — \$500.~~  
27               ~~(10) Incinerator — \$500.~~  
28               ~~(11) Large Compost Facility — \$500.~~  
29               ~~(12) Land Clearing and Inert Debris Landfill — \$500.~~  
30          ~~(d1) A permitted solid waste management facility shall pay an annual permit fee on or~~  
31          ~~before August 1 of each year according to the following schedule:~~  
32               ~~(1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year of~~  
33               ~~solid waste — \$7,500.~~  
34               ~~(2) Municipal Solid Waste Landfill accepting 100,000 tons/year or more but less~~  
35               ~~than 250,000 tons/year of solid waste — \$12,000.~~  
36               ~~(3) Municipal Solid Waste Landfill accepting 250,000 tons/year or more of solid~~  
37               ~~waste — \$20,000.~~  
38               ~~(4) Post-Closure Municipal Solid Waste Landfill — \$1,000.~~  
39               ~~(5) Construction and Demolition Landfill accepting less than 25,000 tons/year~~  
40               ~~of solid waste — \$6,000.~~  
41               ~~(6) Construction and Demolition Landfill accepting 25,000 tons/year or more of~~  
42               ~~solid waste — \$9,250.~~  
43               ~~(7) Post-Closure Construction and Demolition Landfill — \$500.~~  
44               ~~(8) Industrial Landfill accepting less than 100,000 tons/year of solid waste —~~  
45               ~~\$7,500.~~  
46               ~~(9) Industrial Landfill accepting 100,000 tons/year or more of solid waste —~~  
47               ~~\$15,000.~~  
48               ~~(10) Post-Closure Industrial Landfill — \$500.~~  
49               ~~(11) Transfer Station accepting less than 25,000 tons/year of solid waste — \$750.~~  
50               ~~(12) Transfer Station accepting 25,000 tons/year or more of solid waste — \$1,500.~~  
51               ~~(13) Treatment and Processing Facility — \$750.~~

(14) Tire Monofill – \$6,000.

(15) Incinerator – \$750.

(16) Large Compost Facility – \$750.

(17) Land Clearing and Inert Debris Landfill – \$750.

(d2) Upon submission of an application for a new permit, an applicant shall pay an application fee in the amount of ten percent (10%) of the annual permit fee imposed for that type of solid waste management facility as identified in subdivisions (1) through (17) of subsection (d1) of this section.

...."

**SECTION 14.20.(d)** G.S. 130A-295.3 reads as rewritten:

**"§ 130A-295.3. Environmental compliance review requirements for applicants and permit holders.**

...

(b) The Department shall conduct an environmental compliance review of each applicant for a new ~~permit, permit renewal, permit~~ and permit amendment under this Article. The environmental compliance review shall evaluate the environmental compliance history of the applicant for a period of five years prior to the date of the application and may cover a longer period at the discretion of the Department. The environmental compliance review of an applicant may include consideration of the environmental compliance history of the parents, subsidiaries, or other affiliates of an applicant or parent that is a business entity, including any business entity or joint venturer with a direct or indirect interest in the applicant, and other facilities owned or operated by any of them. The Department shall determine the scope of the review of the environmental compliance history of the applicant, parents, subsidiaries, or other affiliates of the applicant or parent, including any business entity or joint venturer with a direct or indirect interest in the applicant, and of other facilities owned or operated by any of them. An applicant for a permit shall provide environmental compliance history information for each facility, business entity, joint venture, or other undertaking in which any of the persons listed in this subsection is or has been an owner, operator, officer, director, manager, member, or partner, or in which any of the persons listed in this subsection has had a direct or indirect interest as requested by the Department.

...."

**SECTION 14.20.(e)** This section becomes effective August 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise agreements executed on or after August 1, 2015. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, when that permit is next subject to renewal after July 1, 2016, and (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016.

## **ENVIRONMENTAL REVIEW COMMISSION STUDIES**

**SECTION 14.21.(a)** The Environmental Review Commission shall convene a stakeholder working group to study local government authority over solid waste management matters, including (i) the authority to enact ordinances concerning collection and processing of solid waste generated within their jurisdictions, as well as their authority to charge fees for such services; (ii) an examination of costs to local governments for providing solid waste collection and processing services to citizens; (iii) whether efficiencies and cost reductions could be realized through privatization of such services, and what impacts might result from privatization, including any bearing on local government financing of currently sited solid waste management facilities; and (iv) any other issue the Commission deems relevant. In the conduct of this study, the Commission shall consult with representatives of the League of

Municipalities, the Association of County Commissioners, the Local Government Commission, faculty from the School of Government at the University of North Carolina at Chapel Hill, as well as private waste management interests, at a minimum. The Division of Waste Management and the Division of Environmental Assistance and Customer Service of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

**SECTION 14.21.(b)** The Environmental Review Commission shall study the use of new technologies and strategies, including the use of integrated and mobile aerosolization systems, to dewater leachate and other forms of wastewater for the purpose of reducing the burden and cost of disposal at the site where it is generated. The Commission shall determine the efficiency, cost-effectiveness, and environmental impact of each studied technology and strategy. The Division of Waste Management and the Division of Water Resources of the Department of Environment and Natural Resources shall provide any information and personnel requested by the Commission in the conduct of a study required by this section.

## **PRE-1983 LANDFILL CLEANUP PRIVATIZATION**

**SECTION 14.22.(a)** Legislative Findings. – The General Assembly makes the following findings:

- (1) Section 5 of Article XIV of the North Carolina Constitution sets out the conservation and protection of State lands and waters as a policy of the State, and a more expeditious method for remediation and reuse of pre-1983 landfill sites and other State-identified contaminated sites is in furtherance of that policy.
- (2) Despite past legislative directives, a dedicated source of revenue, and a considerable fund balance, little progress has been made in active cleanup of these landfill sites.
- (3) Qualified private firms should be given the opportunity to remediate pre-1983 landfills and other State-identified contamination sites.
- (4) Implementation of a site assessment and remediation program based on requests for proposal from private firms for the 10 highest-priority pre-1983 landfill sites will result in multiple benefits to the State, including (i) reducing known environmental hazards that are associated with the many identified sites across the State, (ii) decreasing the State's economic liability for these sites, (iii) promoting economic growth through the job creation associated with returning these sites to beneficial and productive use, and (iv) establishing an efficient, cost-effective model for other State projects.

**SECTION 14.22.(b)** G.S. 130A-310.6 is amended by adding a new subsection to read:

"(h) The Department shall implement an ongoing program that provides for the expeditious assessment and, where indicated as necessary based on assessment and other data, the conduct of site remediation by qualified private entities at no less than 10 of the pre-1983 landfill sites that have been identified by the Department as being among the 100 sites rated highest in priority under subsection (c) of this section. The program shall include the following activities to be undertaken by the Department:

- (1) Contract via issuance of a Request for Proposal with one or more qualified private entities who have prequalified under procedures established by the Department for (i) remaining assessment and contamination delineation activities necessary to identify those sites within the 100 highest-priority sites where completion of site remediation will yield maximum health, safety, and economic benefits based on an evaluation of potential beneficial and productive use of the site, impact of the unremediated site on uses of

surrounding property, and other pertinent factors and (ii) remediation of the selected sites utilizing private sector best practices for maximizing efficacy and cost-effectiveness of the remedial alternative selected.

- (2) Develop requirements for full-time monitoring of project sites to ensure that remedial activities are conducted in a safe and environmentally protective manner and performed to a health-based, predetermined risk standard based on the proposed subsequent use of the properties."

**SECTION 14.22.(c)** G.S. 143-64.34 reads as rewritten:

**"§ 143-64.34. Exemption of certain projects.**

(a) State capital improvement projects under the jurisdiction of the State Building Commission, capital improvement projects of The University of North Carolina, and community college capital improvement projects, where the estimated expenditure of public money is less than five hundred thousand dollars (\$500,000), are exempt from the provisions of this Article.

(b) Pre-1983 landfill sites remediated pursuant to G.S. 130A-310.6 are exempt from the provisions of this Article."

**SECTION 14.22.(d)** The Department of Environment and Natural Resources shall seek United States Environmental Protection Agency approval for implementation of all elements of the program required by this section. On or before December 31, 2015, the Department shall develop and submit any Memoranda of Agreement, delineations of programmatic responsibility, procedure for coordination, and other information that the United States Environmental Protection Agency may require in order to effectuate the elements of the program required by this section.

**SECTION 14.22.(e)** If approval for implementation of all elements of the program required by this section is received by the United States Environmental Protection Agency, the Department of Environment and Natural Resources shall issue the Request for Proposal required by G.S. 130A-310.6(h), as enacted by subsection (b) of this section, no later than 60 days of receipt of that approval.

**SECTION 14.22.(f)** The Department shall review and evaluate other states' requirements, programs, and policies for remediation of sites similar to those classified as "pre-1983 landfills" as defined by the State with a focus on other states that may have implemented requirements, programs, and policies that are resulting in safe remediation of such sites and that are performed in a more cost-effective and expeditious manner than that performed in North Carolina under traditional remediation requirements, programs, and policies and report its findings, including recommendations for further legislative action, to the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division prior to May 15, 2016.

**COMPENSATORY MITIGATION REQUIREMENTS**

**SECTION 14.23.(a)** The Department of Environment and Natural Resources, Division of Mitigation Services, shall develop a program to increase the State's ability to utilize private mitigation banks to satisfy compensatory mitigation requirements of the State. The program shall include all of the following components:

- (1) Thirty months after the effective date of this act, the Division of Mitigation Services shall cease acceptance of fees for governmental and nongovernmental entities in lieu of mitigation for stream, wetland, riparian buffer, and nutrient impacts permitted to occur in the Neuse, Cape Fear, and Tar-Pamlico River Basins.
- (2) The Department, with the concurrence of the Environmental Management Commission (Commission), may cease acceptance of fees in lieu of

- 1 mitigation within additional river basins after June 30, 2018, provided the  
2 public is notified at least 24 months in advance of the cessation of service.
- 3 (3) In the event of unforeseen, unique, or exigent circumstances and upon the  
4 request of the Secretary of Commerce or the Secretary of Transportation, the  
5 Department may direct the Division of Mitigation Services to accept fees in  
6 lieu of mitigation to support permits for projects owned or sponsored by  
7 those Departments.
- 8 (4) The Division of Mitigation Services shall continue to provide watershed  
9 planning statewide under a fee structure set by the Commission.
- 10 (5) The Division of Mitigation Services will manage the inventory and  
11 utilization of all existing mitigation credits held by the North Carolina  
12 Department of Transportation and shall also oversee and direct the future  
13 acquisition of mitigation credits by that Department.

14 **SECTION 14.23.(b)** No later than October 1, 2015, the Commission shall adopt  
15 temporary rules consistent with this subsection. The temporary rules shall remain in effect until  
16 permanent rules that replace the temporary rules become effective.  
17

#### 18 **PETITION FOR WETLANDS MITIGATION FLEXIBILITY**

19 **SECTION 14.24.(a)** No later than October 1, 2015, the Department of  
20 Environment and Natural Resources shall petition the Wilmington District, the South Atlantic  
21 District, and the Headquarters of the United States Army Corps of Engineers (the Corps  
22 Offices) to allow for greater flexibility and opportunity to perform wetlands mitigation outside  
23 of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Department  
24 shall seek this greater flexibility and opportunity for mitigation for both public and private  
25 development. The Department shall request that the Corps Offices review the flexibility and  
26 opportunities for mitigation allowed by other Districts of the United States Army Corps of  
27 Engineers, both within the South Atlantic District and nationwide.

28 **SECTION 14.24.(b)** The Department shall report on its progress in petitioning the  
29 Corps Offices as required by subsection (a) of this section to the Environmental Review  
30 Commission, the chairs of the Senate Appropriations Committee on Natural and Economic  
31 Resources and the House Appropriations Committee on Agriculture and Natural and Economic  
32 Resources, and the Fiscal Research Division no later than January 1, 2016.  
33

#### 34 **SECTION 404 PERMITTING PROGRAM DELEGATION**

35 **SECTION 14.25.** The funds appropriated in this act for Section 404 Program  
36 delegation application shall be used by the Department of Environment and Natural Resources  
37 to issue a Request for Proposal for a consultant to plan and prepare an application for the  
38 assumption by the State of administration of the Section 404 permitting program under the  
39 Federal Water Pollution Control Act for North Carolina from the United States Army Corps of  
40 Engineers (Corps).  
41

#### 42 **REPEAL SEDIMENTATION CONTROL COMMISSION AND TRANSFER** 43 **RESPONSIBILITIES TO THE ENVIRONMENTAL MANAGEMENT** 44 **COMMISSION AND REFORM CIVIL PENALTIES UNDER THE** 45 **SEDIMENTATION POLLUTION CONTROL ACT**

46 **SECTION 14.26.(a)** Part 8 of Article 7 of Chapter 143B of the General Statutes is  
47 repealed.

48 **SECTION 14.26.(b)** G.S. 113A-52(2) reads as rewritten:

49 "(2) "Commission" means the ~~North—Carolina—Sedimentation~~  
50 ~~Control~~ Environmental Management Commission."  
51

**SECTION 14.26.(c)** G.S. 113A-54.1(c) reads as rewritten:

**"§ 113A-54.1. Approval of erosion control plans.**

(c) The Commission shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the ~~Environmental Management~~ Commission to protect riparian buffers along surface waters. The Director of the Division of Energy, Mineral, and Land Resources may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;
- (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or
- (4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article."

**SECTION 14.26.(d)** G.S. 113A-57(1) reads as rewritten:

**"§ 113A-57. Mandatory standards for land-disturbing activity.**

No land-disturbing activity subject to this Article shall be undertaken except in accordance with the following mandatory requirements:

- (1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the ~~Environmental Management~~ Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the ~~Sedimentation Control~~ Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse."

**SECTION 14.26.(e)** G.S. 113A-61(b1) reads as rewritten:

"(b1) A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the ~~Environmental Management~~ Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.

- (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
- (4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article."

**SECTION 14.26.(f)** G.S. 113A-125(c) reads as rewritten:

"(c) Within the meaning of this section, "existing regulatory permits" include dredge and fill permits issued pursuant to G.S. 113-229; sand dune permits issued pursuant to G.S. 104B-4; air pollution control and water pollution control permits, special orders or certificates issued pursuant to G.S. 143-215.1 and 143-215.2, or any other permits, licenses, authorizations, approvals or certificates issued by the Board of Water and Air Resources pursuant to Chapter 143; capacity use area permits issued pursuant to G.S. 143-215.15; final approval of dams pursuant to G.S. 143-215.30; floodway permits issued pursuant to G.S. 143-215.54; water diversion authorizations issued pursuant to G.S. 143-354(c); oil refinery permits issued pursuant to G.S. 143-215.99; mining operating permits issued pursuant to G.S. 74-51; permissions for construction of wells issued pursuant to G.S. 87-88; and rules concerning pesticide application within the coastal area issued pursuant to G.S. 143-458; approvals by the Department of Health and Human Services of plans for water supply, drainage or sewerage, pursuant to G.S. 130-161.1 and 130-161.2; standards and approvals for solid waste disposal sites and facilities, adopted by the Department of Health and Human Services pursuant to Chapter 130, Article 13B; permits relating to sanitation of shellfish, crustacea or scallops issued pursuant to Chapter 130, Articles 14A or 14B; permits, approvals, authorizations and rules issued by the Department of Health and Human Services pursuant to Articles 23 or 24 of Chapter 130 with reference to mosquito control programs or districts; any permits, licenses, authorizations, rules, approvals or certificates issued by the Department of Health and Human Services relating to septic tanks or water wells; oil or gas well rules and orders issued for the protection of environmental values or resources pursuant to G.S. 113-391; a certificate of public convenience and necessity issued by the State Utilities Commission pursuant to Chapter 62 for any public utility plant or system, other than a carrier of persons or property; permits, licenses, leases, options, authorization or approvals relating to the use of State forestlands, State parks or other state-owned land issued by the State Department of Administration, the State Department of Natural and Economic Resources or any other State department, agency or institution; any approvals of erosion and sedimentation control plans that may be issued by the ~~North Carolina Sedimentation Control~~ Commission pursuant to G.S. 113A-60 or 113A-61; and any permits, licenses, authorizations, rules, approvals or certificates issued by any State agency pursuant to any environmental protection legislation not specified in this subsection that may be enacted prior to the permit changeover date."

**SECTION 14.26.(g)** G.S. 143B-279.3(b) reads as rewritten:

"(b) All functions, powers, duties, and obligations previously vested in the following commissions, boards, councils, and committees of the following departments are transferred to and vested in the Department of Environment and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

- (1) Repealed by Session Laws 1993, c. 501, s. 27.
- (2) Radiation Protection Commission, Department of Health and Human Services.
- (3) Repealed by Session Laws 1997-443, s. 11A.6.
- (4) Water Treatment Facility Operators Board of Certification, Department of Health and Human Services.
- (5) to (8) Repealed by Session Laws 1997-443, s. 11A.6.

- (9) Coastal Resources Commission, Department of Natural Resources and Community Development.
- (10) Environmental Management Commission, Department of Natural Resources and Community Development.
- (11) Air Quality Council, Department of Natural Resources and Community Development.
- (12) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
- (13) Repealed by Session Laws 2011-145, s. 13.25(e), effective July 1, 2011.
- (14) North Carolina Mining and Energy Commission, Department of Natural Resources and Community Development.
- (15) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
- (16) Marine Fisheries Commission, Department of Natural Resources and Community Development.
- (17) Parks and Recreation Council, Department of Natural Resources and Community Development.
- (18) Repealed by Session Laws 2013-360, s. 14.3(j), effective August 1, 2013.
- (19) North Carolina Trails Committee, Department of Natural Resources and Community Development.
- ~~(20) Sedimentation Control Commission, Department of Natural Resources and Community Development.~~
- (21) Repealed by Session Laws 2011-145, s. 13.22A(d), effective July 1, 2011.
- (22) North Carolina Zoological Park Council, Department of Natural Resources and Community Development.
- (23) Repealed by Session Laws 1997-286, s. 6."

**SECTION 14.26.(h)** G.S. 150B-19.3 reads as rewritten:

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

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

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

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

- (1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
- (2) The Environmental Management Commission created pursuant to G.S. 143B-282.
- (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.

(6) The Commission for Public Health created pursuant to G.S. 130A-29.

~~(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.~~

(8) **(Effective until August 1, 2015)** The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.

(8) **(Effective August 1, 2015)** The North Carolina Oil and Gas Commission created pursuant to G.S. 143B-293.1.

(9) The Pesticide Board created pursuant to G.S. 143-436."

**SECTION 14.26.(i)** G.S. 143B-282 reads as rewritten:

**"§ 143B-282. Environmental Management Commission – creation; powers and duties.**

(a) There is hereby created the Environmental Management Commission of the Department of Environment and Natural Resources with the power and duty to promulgate rules to be followed in the protection, preservation, and enhancement of the water and air resources of the State.

(1) Within the limitations of G.S. 143-215.9 concerning industrial health and safety, the Environmental Management Commission shall have all of the following powers and duties:

...

w. To, in cooperation with the Secretary of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program pursuant to Article 4 of Chapter 113A of the General Statutes.

x. To assist local governments in the development of erosion and sedimentation programs pursuant to G.S. 113A-60.

y. To assist and encourage other State agencies in the development of erosion and sedimentation control programs pursuant to G.S. 113A-56.

z. To develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54.

(2) The Environmental Management Commission shall adopt rules:

...

m. For the control of erosion and sedimentation pursuant to G.S. 113A-54.

...."

**SECTION 14.26.(j)** Notwithstanding G.S. 113A-54(b), the Environmental Management Commission shall review the rules adopted by the Sedimentation Control Commission and amend or repeal any such rules that the Environmental Management Commission determines to be outdated, unnecessary, duplicative, or confusing. The Environmental Management Commission shall report its findings and any actions taken pursuant to this section to the Environmental Review Commission on or before January 1, 2016.

**SECTION 14.26.(k)** G.S. 113A-54 is amended by adding a new subsection to read:

"(g) The Commission is authorized to make the final decision on a request for the remission of a civil penalty under G.S. 113A-64.2."

**SECTION 14.26.(l)** G.S. 113A-64(a) reads as rewritten:

"(a) Civil Penalties. –

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).

(2) The Secretary or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the ~~penalty and penalty~~, the reason for assessing the ~~penalty-penalty~~, the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2, the date of the deadline for that person to make the request regarding this particular penalty, and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to be subject to the maximum cumulative total civil penalty under subdivision (1) of this subsection. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

...."

**SECTION 14.26.(m)** Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

**"§ 113A-64.2. Remission of civil penalties.**

(a) Notwithstanding G.S. 143B-282.1(c), the Commission's Committee on Civil Penalty Remissions shall evaluate requests for remission of civil penalties assessed under this Article in accordance with this section.

(b) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Commission within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

(c) The following factors shall be considered in determining whether a civil penalty remission request will be approved:

(1) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.

(2) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.

(3) Whether the violation was inadvertent or a result of an accident.

(4) Whether the petitioner had been assessed civil penalties for any previous violations.

(5) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.

(6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

(d) The petitioner has the burden of providing information concerning the financial impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial hardship.

(e) The Commission may remit the entire amount of the penalty only when the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.

(f) The Commission may not impose a penalty under this section that is in excess of the civil penalty imposed by the Department."

**SECTION 14.26.(n)** G.S. 113A-61.1(c) reads as rewritten:

"(c) If the Secretary, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Department, local government, or other approving authority shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the Department, local government, or other approving authority is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures."

**SECTION 14.26.(o)** Subsections (a) through (j) of this section become effective June 30, 2015. The remainder of this section is effective when this act becomes law and applies to civil penalties assessed and notices of violation issued on or after that date.

## ENERGY CENTERS

**SECTION 14.27.** Of the funds appropriated in this act for University energy centers, the sum of seven hundred ninety-four thousand one hundred forty-eight dollars (\$794,148) shall be allocated to the existing energy center at North Carolina Agricultural and Technical University and the sum of three hundred seventeen thousand ninety-four dollars (\$317,094) shall be allocated to the University of North Carolina at Charlotte for establishment of a University Energy Center. The Centers shall prioritize the use of these funds for study of the beneficial reuse of coal combustion residuals.

## **GEOLOGICAL RESEARCH FUNDS**

**SECTION 14.28.(a)** The funds appropriated by this act to the Department of Environment and Natural Resources for geological research related to natural gas assessment and development shall be used to fund a contract with a qualified private entity to perform a comprehensive basin analysis on all known and potential onshore natural gas resources within the State. The contract may include as part of the statewide basin analysis the digitization, analysis, or reanalysis of geologic data related to natural gas exploration or development opportunities, including utilization of existing seismic reflection data. The analysis shall include recommendations and conclusions regarding the extent of potential natural gas-bearing rocks in the State, the potential volumes of oil and gas within these basins, and additional data and data analysis necessary to better quantify geographic extent, volume, and quality of potential onshore oil and gas resources (together with cost estimates to acquire and process these data).

**SECTION 14.28.(b)** The Department shall transmit the consultant's report and recommendations no later than December 1, 2016, to the Environmental Review Commission; the chairs of the Senate Appropriations Committee on Natural and Economic Resources and the House Appropriations Committee on Agriculture, Natural, and Economic Resources; and the Fiscal Research Division on the results of the study and its proposed strategy as required by subsection (a) of this section, including any legislative recommendations.

## **RESTRICTION ON CERTAIN FEDERAL GRANTS**

**SECTION 14.29.** The Department of Environment and Natural Resources shall not apply for funding from the following grant programs in future grant cycles:

- (1) SEP (State Energy Program) Competitive Grant.
- (2) Clean Energy and Manufacturing.

## **CONSOLIDATE ALL STATE ATTRACTIONS WITHIN DEPARTMENT OF CULTURAL RESOURCES TO CREATE THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

**SECTION 14.30.(a)** The Department of Cultural Resources is renamed the Department of Natural and Cultural Resources, and all functions, powers, duties, and obligations vested in the following programs, divisions, and entities within the Department of Environment and Natural Resources are transferred to, vested in, and consolidated within the Department of Natural and Cultural Resources by a Type I transfer, as defined in G.S. 143A-6:

- (1) The Division of Parks and Recreation.
- (2) The State Parks System, including Mount Mitchell State Park.
- (3) The North Carolina Aquariums Division.
- (4) The North Carolina Zoological Park.
- (5) The Museum of Natural Sciences.

**SECTION 14.30.(b)** All functions, powers, duties, and obligations vested in the following commissions, boards, councils, and committees within the Department of

Environment and Natural Resources are transferred to, vested in, and consolidated within the Department of Natural and Cultural Resources by a Type II transfer, as defined in G.S. 143A-6:

- (1) North Carolina Parks and Recreation Authority.
- (2) North Carolina Trails Committee.
- (3) North Carolina Zoological Park Council.
- (4) Advisory Commission for North Carolina State Museum of Natural Sciences.

**SECTION 14.30.(c)** The Department of Environment and Natural Resources is renamed the Department of Environmental Quality. All references to the Department of Environment and Natural Resources or the Department of Cultural Resources in acts of the 2015 General Assembly taking effect after the effective date of this section shall be construed to refer to the Department of Environmental Quality or the Department of Natural and Cultural Resources, respectively. References to duties or requirements of the Department of Environment and Natural Resources with respect to entities transferred under subsections (a) and (b) of this section shall be construed as duties or requirements of the Department of Natural and Cultural Resources as reorganized by this section.

## RECODIFICATION OF AFFECTED STATUTES

**SECTION 14.30.(d)** The following apply to any recodification pursuant to subsections (e) through (k) of this section:

- (1) The recodifications are of the affected statutes as rewritten by subsections (l) through (r) of this section, as applicable.
- (2) Prior session laws that required the Revisor of Statutes to set out certain provisions as notes to the former statutes shall be set out as notes to the recodified statutes.

**SECTION 14.30.(e)** Subchapter II of Chapter 113 of the General Statutes, consisting of Article 2 and Article 2C, and G.S. 113-23 are recodified as Parts 31 and 32 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Article 2:	Part 31:
G.S. 113-29	G.S. 143B-135.10
G.S. 113-34	G.S. 143B-135.12
G.S. 113-34.1	G.S. 143B-135.14
G.S. 113-35	G.S. 143B-135.16
G.S. 113-37	G.S. 143B-135.18
G.S. 113-39	G.S. 143B-135.20
G.S. 113-40	G.S. 143B-135.22
G.S. 113-41	G.S. 143B-135.24
G.S. 113-42	G.S. 143B-135.26
G.S. 113-43	G.S. 143B-135.28
G.S. 113-44	G.S. 143B-135.30
Article 2C:	Part 32:
G.S. 113-44.7	G.S. 143B-135.40
G.S. 113-44.8	G.S. 143B-135.42
G.S. 113-23	G.S. 143B-135.43
G.S. 113-44.9	G.S. 143B-135.44
G.S. 113-44.10	G.S. 143B-135.46
G.S. 113-44.11	G.S. 143B-135.48
G.S. 113-44.12	G.S. 143B-135.50
G.S. 113-44.13	G.S. 143B-135.52
G.S. 113-44.14	G.S. 143B-135.54

G.S. 113-44.15

G.S. 143B-135.56

**SECTION 14.30.(f)** Articles 5 and 6 of Chapter 113A of the General Statutes and Part 21 of Article 7 of Chapter 143B of the General Statutes and Article 3 of Chapter 113A of the General Statutes are recodified as Parts 33, 34, 35, and 36 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

Former CitationRecodified Citation

Article 5:

Part 33:

G.S. 113A-72

G.S. 143B-135.70

G.S. 113A-73

G.S. 143B-135.72

G.S. 113A-74

G.S. 143B-135.74

G.S. 113A-75

G.S. 143B-135.76

G.S. 113A-76

G.S. 143B-135.78

G.S. 113A-77

G.S. 143B-135.80

Article 6:

Part 34:

G.S. 113A-83

G.S. 143B-135.90

G.S. 113A-84

G.S. 143B-135.92

G.S. 113A-85

G.S. 143B-135.94

G.S. 113A-86

G.S. 143B-135.96

G.S. 113A-87

G.S. 143B-135.98

G.S. 113A-87.1

G.S. 143B-135.100

G.S. 113A-88

G.S. 143B-135.102

G.S. 113A-89

G.S. 143B-135.104

G.S. 113A-90

G.S. 143B-135.106

G.S. 113A-91

G.S. 143B-135.108

G.S. 113A-92

G.S. 143B-135.110

G.S. 113A-92.1

G.S. 143B-135.112

G.S. 113A-93

G.S. 143B-135.114

G.S. 113A-94

G.S. 143B-135.116

G.S. 113A-95

G.S. 143B-135.118

Part 21:

Part 35:

G.S. 143B-333

G.S. 143B-135.130

G.S. 143B-334

G.S. 143B-135.132

Article 3:

Part 36:

G.S. 113A-30

G.S. 143B-135.140

G.S. 113A-31

G.S. 143B-135.142

G.S. 113A-32

G.S. 143B-135.144

G.S. 113A-33

G.S. 143B-135.146

G.S. 113A-34

G.S. 143B-135.148

G.S. 113A-35

G.S. 143B-135.150

G.S. 113A-35.1

G.S. 143B-135.152

G.S. 113A-35.2

G.S. 143B-135.154

G.S. 113A-36

G.S. 143B-135.156

G.S. 113A-37

G.S. 143B-135.158

G.S. 113A-38

G.S. 143B-135.160

G.S. 113A-39

G.S. 143B-135.162

G.S. 113A-40

G.S. 143B-135.164

G.S. 113A-41

G.S. 143B-135.166

G.S. 113A-42

G.S. 143B-135.168

G.S. 113A-43

G.S. 143B-135.170

G.S. 113A-44

G.S. 143B-135.172

**SECTION 14.30.(g)** Part 5C of Article 7 of Chapter 143B of the General Statutes is recodified as Part 37 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 5C:	Part 37:
G.S. 143B-289.40	G.S. 143B-135.180
G.S. 143B-289.41	G.S. 143B-135.182
G.S. 143B-289.42	G.S. 143B-135.184
G.S. 143B-289.43	G.S. 143B-135.186
G.S. 143B-289.44	G.S. 143B-135.188
G.S. 143B-289.45	G.S. 143B-135.190

**SECTION 14.30.(h)** Part 13A of Article 7 of Chapter 143B of the General Statutes is recodified as Part 38 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 13A:	Part 38:
G.S. 143B-313.1	G.S. 143B-135.200
G.S. 143B-313.2	G.S. 143B-135.202

**SECTION 14.30.(i)** Part 22 of Article 7 of Chapter 143B of the General Statutes is recodified as Part 39 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 22:	Part 39:
G.S. 143B-335	G.S. 143B-135.205
G.S. 143B-336	G.S. 143B-135.207
G.S. 143B-336.1	G.S. 143B-135.209

**SECTION 14.30.(j)** Article 14 of Chapter 143 of the General Statutes, consisting of G.S. 143-177 through G.S. 143-177.3, is recodified into Part 39 of Article 2 of Chapter 143B as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
G.S. 143-177	G.S. 143B-135.210
G.S. 143-177.1	G.S. 143B-135.211
G.S. 143-177.2	G.S. 143B-135.212
G.S. 143-177.3	G.S. 143B-135.213

**SECTION 14.30.(k)** Part 29 of Article 7 of Chapter 143B of the General Statutes is recodified as Part 40 of Article 2 of Chapter 143B of the General Statutes as set forth in the table below:

<u>Former Citation</u>	<u>Recodified Citation</u>
Part 29:	Part 40:
G.S. 143B-344.18	G.S. 143B-135.215
G.S. 143B-344.19	G.S. 143B-135.217
G.S. 143B-344.20	G.S. 143B-135.219
G.S. 143B-344.21	G.S. 143B-135.221
G.S. 143B-344.22	G.S. 143B-135.223
G.S. 143B-344.23	G.S. 143B-135.229

**REVISIONS OF RECODIFIED STATUTES**

**SECTION 14.30.(l)** Parts 31 and 32 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (e) of this section, reads as rewritten:

"Part 31. Acquisition and Control of State Parks.

**"§ 143B-135.10. Definitions.**

(a) In this ~~Article, Part~~, unless the context requires otherwise, "Department" means the Department of ~~Environment and Natural Resources; Natural and Cultural Resources~~, and "Secretary" means the Secretary of ~~Environment and Natural Resources; Natural and Cultural Resources~~.

(b) ~~Repealed by Session Laws 2011-145, s. 13.25(n), effective July 1, 2011."~~

...

**"§ 143B-135.14. Power to acquire conservation lands not included in the State Parks System.**

The Department of Administration may acquire and allocate to the Department of ~~Environment and Natural Resources; Natural and Cultural Resources~~ for management by the Division of Parks and Recreation lands that the Department of ~~Environment and Natural Resources; Natural and Cultural Resources~~ finds are important for conservation purposes but which are not included in the State Parks System. Lands acquired pursuant to this section are not subject to ~~Article 2C of Chapter 113; Part 32 of Article 2 of Chapter 143B~~ of the General Statutes and may be traded or transferred as necessary to protect, develop, and manage the Mountains to Sea State Park Trail, other State parks, or other conservation lands. This section does not expand the power granted to the Department of ~~Environment and Natural Resources; Natural and Cultural Resources~~ under ~~G.S. 113-34(a); G.S. 143B-135.12(a)~~ to acquire land by condemnation.

**"§ 143B-135.16. Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.**

(a) The Department shall make reasonable rules governing the use by the public of State parks and State lakes under its charge. These rules shall be posted in conspicuous places on and adjacent to the properties of the State and at the courthouse of the county or counties in which the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.

~~(a1)~~(b) The Department may adopt rules under which the Secretary may issue a special-use permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions. The rules shall require that experts supervise the use of pyrotechnics and that written authorization for the use of pyrotechnics be obtained from the board of commissioners of the county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may impose any conditions on a permit that the Secretary determines to be necessary to protect public health, safety, and welfare. These conditions shall include a requirement that the permittee execute an indemnification agreement with the Department and obtain general liability insurance covering personal injury and property damage that may result from the use of pyrotechnics with policy limits determined by the Secretary.

~~(b)~~(c) The Department may construct, operate, and maintain within the State parks, State lakes, and other areas under its charge suitable public service facilities and conveniences, and may charge and collect reasonable fees for the use of these facilities and conveniences. The Department may also charge and collect reasonable fees for each of the following:

- (1) The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes under rules adopted by the Department.
- (2) Fishing privileges in State parks and State lakes, provided that these privileges shall be extended only to holders of State hunting and fishing licenses who comply with all State game and fish laws.

(3) Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.

(4) The erection, maintenance, and use of a marina at Carolina Beach.

~~(b1)~~(d) Members of the public who pay a fee under subsection ~~(b)~~-(c) of this section for access to Fort Fisher State Recreation Area may have 24-hour access to Fort Fisher State Recreation Area from September 15 through March 15 of each year.

~~(e)~~(e) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the waters under its charge. The Department may charge and collect reasonable fees for the use of boats and other watercraft that are purchased and maintained by the Department; however, the Department shall not charge a fee for the use or operation of any other boat or watercraft on these waters.

~~(d)~~(f) The Department may grant to private individuals or companies concessions for operation of public service facilities for such periods and upon such conditions as the Department deems to be in the public interest. The Department may adopt reasonable rules for the regulation of the use by the public of the lands and waters under its charge and of the public service facilities and conveniences authorized under this section. A violation of these rules is punishable as a Class 3 misdemeanor.

~~(d1)~~(g) The Department shall ~~implement the following recommendations:~~ validate no less frequently than every five years the number of visitors per car used in the calculation of visitor counts at State Parks.

~~(e)~~(h) The authority granted to the Department under this section is in addition to any authority granted to the Department under any other provision of law.

**"§ 143B-135.18. Legislative authority necessary for payment.**

Nothing in this ~~Article-Part~~ shall operate or be construed as authority for the payment of any money out of the State treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly.

...."

"Part 32. State Parks Act.

**"§ 143B-135.40. Short title.**

This ~~Article-Part~~ shall be known as the State Parks Act.

**"§ 143B-135.42. Declaration of policy and purpose.**

(a) The State of North Carolina offers unique archaeologic, geologic, biological, scenic, and recreational resources. These resources are part of the heritage of the people of this State. The heritage of a people should be preserved and managed by the people for their use and for the use of their visitors and descendants.

(b) The General Assembly finds it appropriate to establish the State Parks System. This system shall consist of parks which include representative examples of the resources sought to be preserved by this ~~Article-Part~~, together with such surrounding lands as may be appropriate. Park lands are to be used by the people of this State and their visitors in order to promote understanding of and pride in the natural heritage of this State.

(c) The tax dollars of the people of the State should be expended in an efficient and effective manner for the purpose of assuring that the State Parks System is adequate to accomplish the goals as defined in this ~~Article-Part~~.

(d) The purpose of this ~~Article-Part~~ is to establish methods and principles for the planned acquisition, development, and operation of State parks.

**"§ 143B-135.44. Definitions.**

As used in this ~~Article-Part~~, unless the context requires otherwise:

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

- (2) "Park" means any tract of land or body of water comprising part of the State Parks System under this ~~Article-Part~~, including existing State parks, State natural areas, State recreation areas, State trails, State rivers, and State lakes.
- (3) "Plan" means State Parks System Plan.
- (4) "Secretary" means the Secretary of ~~Environment and Natural~~ and Cultural Resources.
- (5) "State Parks System" or "system" mean all those lands and waters which comprise the parks system of the State as established under this ~~Article-Part~~.

**"§ 143B-135.46. Powers of the Secretary.**

The Secretary shall implement the provisions of this ~~Article-Part~~ and shall be responsible for the administration of the State Parks System.

**"§ 143B-135.48. Preparation of a System Plan.**

(a) The Secretary shall prepare and adopt a State Parks System Plan by December 31, 1988. The Plan, at a minimum, shall:

- (1) Outline a method whereby the mission and purposes of the State Parks System as defined in ~~G.S. 113-44.8~~ G.S. 143B-135.42 can be achieved in a reasonable, timely, and cost-effective manner;
- (2) Evaluate existing parks against these standards to determine their statewide significance;
- (3) Identify duplications and deficiencies in the current State Parks System and make recommendations for correction;
- (4) Describe the resources of the existing State Parks System and their current uses, identify conflicts created by those uses, and propose solutions to them; and
- (5) Describe anticipated trends in usage of the State Parks System, detail what impacts these trends may have on the State Parks System, and recommend means and methods to accommodate those trends successfully.

(b) The Plan shall be developed with full public participation, including a series of public meetings held on adequate notice under rules which shall be adopted by the Secretary. The purpose of the public meetings and other public participation shall be to obtain from the public:

- (1) Views and information on the needs of the public for recreational resources in the State Parks System;
- (2) Views and information on the manner in which these needs should be addressed;
- (3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

(c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions to the Plan shall be made consistent with and under the rules providing public participation in adoption of the Plan.

(d) No later than October 1 of each year, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, the Senate and the House of Representatives ~~Appropriations Subcommittees on Natural and Economic Resources,~~ appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous fiscal year.

**"§ 143B-135.50. Classification of parks resources.**

After adopting the Plan, the Secretary shall identify and classify the major resources of each of the parks in the State Parks System, in order to establish the major purpose or purposes of each of the parks, consistent with the Plan and the purposes of this ~~Article-Part~~.

**"§ 143B-135.52. General management plans.**

Every park classified pursuant to ~~G.S. 113-44.12~~ G.S. 143B-135.50 shall have a general management plan. The plan shall include a statement of purpose for the park based upon its relationship to the System Plan and its classification. An analysis of the major resources and facilities on hand to achieve those purposes shall be completed along with a statement of management direction. The general management plan shall be revised as necessary to comply with the System Plan and to achieve the purposes of this ~~Article~~ Part.

**"§ 143B-135.54. Additions to and deletions from the State Parks System.**

(a) If, in the course of implementing ~~G.S. 113-44.12~~ G.S. 143B-135.50 the Secretary determines that the major purposes of a park are not consistent with the purposes of this ~~Article~~ Part and the Plan, the Secretary may propose to the General Assembly the deletion of that park from the State Parks System. On a majority vote of each house of the General Assembly, the General Assembly may remove the park from the State Parks System. No other agency or governmental body of the State shall have the power to remove a park or any part from the State Parks System.

(b) New parks shall be added to the State Parks System by the Department after authorization by the General Assembly. Each additional park shall be authorized only by an act of the General Assembly. Additions shall be consistent with and shall address the needs of the State Parks System as described in the Plan. All additions shall be accompanied by adequate authorization and appropriations for land acquisition, development, and operations.

**"§ 143B-135.56. Parks and Recreation Trust Fund.**

...

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under ~~subdivision~~ subsection (b1) of this section, this report shall include the operating expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.

...."

**SECTION 14.30.(m)** Parts 33-36 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (f) of this section, read as rewritten:

"Part 33. North Carolina Appalachian Trails System Act.

**"§ 143B-135.70. Short title.**

This ~~Article~~ Part may be cited as the North Carolina Appalachian Trails System Act.

**"§ 143B-135.72. Policy and purpose.**

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas of the State, the Appalachian Trail should be protected in North Carolina as a segment of the National Scenic Trails System.

(b) The purpose of this ~~Article~~ Part is to provide the means for attaining these objectives by instituting a North Carolina Appalachian Trail System, designating the Appalachian Trail lying or located in the North Carolina Counties of Avery, Mitchell, Yancey, Madison, Haywood, Swain, Graham, Macon, and Clay, as defined in the Federal Register of the National Trails Act as the basic component of that System, and by prescribing the methods by which, and standards according to which, additional connecting trails may be added to the System.

**"§ 143B-135.74. Appalachian Trails System; connecting or side trails; coordination with the National Trails System Act.**

Connecting or side trails may be established, designated and marked as components of the Appalachian Trail System by the Department of ~~Environment and Natural~~ and Cultural Resources in consultation with the federal agencies charged with the responsibility for the

administration and management of the Appalachian Trail in North Carolina. Criteria and standards of establishment will coincide with those set forth in the National Trails System Act (PL 90-543).

**"§ 143B-135.76. Assistance under this ~~Article-Part~~ with the National Trails System Act (PL 90-543).**

(a) The Department of Administration in cooperation with other appropriate State departments shall consult with the federal agencies charged with the administration of the Appalachian Trail in North Carolina and develop a mutually agreeable plan for the orderly and coordinated acquisition of Appalachian Trail right-of-way and the associated tracts, as needed, to provide a suitable environment for the Appalachian Trail in North Carolina.

(b) The Department of ~~Environment and Natural~~ and Cultural Resources and the federal agencies charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall give due consideration to the conservation of the environment of the Appalachian Trail and, in accordance with the National Trails System Act, may obtain advice and assistance from local governments, Carolina Mountain Club, Nantahala Hiking Club, Piedmont Appalachian Trail Hikers, Appalachian Trail Conference, other interested organizations and individuals, landowners and land users concerned.

(c) The Board of Transportation shall cooperate and assist in carrying out the purposes of this ~~Article-Part~~ and the National Trails System Act where their highway projects cross or may be adjacent to any component of the Appalachian Trail System.

(d) Lands acquired by the State of North Carolina within the 200-foot right-of-way of the Appalachian Trail and within the exterior boundaries of the Pisgah or Nantahala National Forests, will be conveyed to the United States Forest Service as the federal agency charged with the responsibility for the administration and management of the Appalachian Trail within these specific areas.

(e) Lands acquired by the State of North Carolina outside of the boundaries of the Appalachian Trail right-of-way will be administered by the appropriate State department in such a manner as to preserve and enhance the environment of the Appalachian Trail.

(f) In consultation with the Department of ~~Environment and Natural~~ and Cultural Resources, the federal agency charged with the responsibility of the administration of the Appalachian Trail in North Carolina shall establish use regulations in accordance with the National Trails System Act.

(g) The use of motor vehicles on the trails of the North Carolina Appalachian Trail System may be authorized when such use is necessary to meet emergencies or to enable adjacent landowners to have reasonable access to their lands and timber rights provided that the granting of this access is in accordance with limitations and conditions of such use set forth in the National Trails System Act.

**"§ 143B-135.78. Acquisition of rights-of-way and lands; manner of acquiring.**

The State of North Carolina may use lands for trail purposes within the boundaries of areas under its administration that are included in the rights-of-way selected for the Appalachian Trail System. The Department of Administration may acquire lands or easements by donation or purchase with funds donated or appropriated for such purpose.

**"§ 143B-135.80. Expenditures authorized.**

The Department is authorized to spend any federal, State, local or private funds available for this purpose to the Department for acquisition and development of the Appalachian Trail System.

"Part 34. North Carolina Trails System.

**"§ 143B-135.90. Short title.**

This ~~Article-Part~~ shall be known and may be cited as the "North Carolina Trails System Act."

**"§ 143B-135.92. Declaration of policy and purpose.**

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanded population and in order to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural and remote areas of the State, trails should be established in natural, scenic areas of the State, and in and near urban areas.

(b) The purpose of this ~~Article-Part~~ is to provide the means for attaining these objectives by instituting a State system of scenic and recreation trails, coordinated with and complemented by existing and future local trail segments or systems, and by prescribing the methods by which, and standards according to which, components may be added to the State trails system.

**"§ 143B-135.94. Definitions.**

Except as otherwise required by context, the following terms when used in this ~~Article-Part~~ shall be construed respectively to mean:

- (1) "Department" means the North Carolina Department of ~~Environment and~~ Natural and Cultural Resources.
- (2) "Political subdivision" means any county, any incorporated city or town, or other political subdivision.
- (3) "Scenic easement" means a perpetual easement in land which
  - a. Is held for the benefit of the people of North Carolina,
  - b. Is specifically enforceable by its holder or beneficiary, and
  - c. Limits or obligates the holder of the servient estate, his heirs, and assigns with respect to their use and management of land and activities conducted thereon, the object of such limitations and obligations being the maintenance or enhancement of the natural beauty of the land in question or of areas affected by it.
- (4) "Secretary" means the Secretary of ~~Environment and~~ Natural and Cultural Resources, except as otherwise specified in this ~~Article-Part~~.
- (5) "State trails system" means the trails system established in this ~~Article-Part~~ or pursuant to the State Parks Act, ~~Article 2C of Chapter 113 of the General Statutes, Part 32 of this Article~~, and including all trails and trail segments, together with their rights-of-way, added by any of the procedures described in this ~~Article or Article 2C of Chapter 113 of the General Statutes, Part or Part 32 of this Article~~.
- (6) "Trail" means:
  - a. Park trail. – A trail designated and managed as a unit of the North Carolina State Parks System under ~~Article 2C of Chapter 113 of the General Statutes, Part 32 of this Article~~.
  - b. Designated trail. – A trail designated by the Secretary pursuant to this ~~Article-Part~~ as a component of the State trails system and that is managed by another governmental agency or by a corporation listed with the Secretary of State.
  - c. A State scenic trail, State recreation trail, or State connecting trail under ~~G.S. 113A-86~~ G.S. 143B-135.96 when the intended primary use of the trail is to serve as a park trail or designated trail.
  - d. Any other trail that is open to the public and that the owner, lessee, occupant, or person otherwise in control of the land on which the trail is located allows to be used as a trail without compensation, including a trail that is not designated by the Secretary as a component of the State trails system.
- (7) "Trails Committee" means the North Carolina Trails Committee established by Part 35 of this Article.

**"§ 143B-135.96. Composition of State trails system.**

1 The State trails system shall be composed of designated:

- 2 (1) State scenic trails, which are defined as extended trails so located as to  
3 provide maximum potential for the appreciation of natural areas and for the  
4 conservation and enjoyment of the significant scenic, historic, natural,  
5 ecological, geological or cultural qualities of the areas through which such  
6 trails may pass.
- 7 (2) State recreation trails, which are defined as trails planned principally for  
8 recreational value and may include trails for foot travel, horseback,  
9 nonmotorized bicycles, nonmotorized water vehicles, and two-wheel-and  
10 four-wheel-drive motorized vehicles. More than one of the aforesaid types of  
11 travel may be permitted on a single trail in the discretion of the Secretary.
- 12 (3) Connecting or side trails, which will provide additional points of public  
13 access to State recreation or State scenic trails or which will provide  
14 connections between such trails.

15 **"§ 143B-135.98. Authority to designate trails.**

16 The Department may establish and designate trails on:

- 17 (1) Lands administered by the Department,
- 18 (2) Lands under the jurisdiction of a State department, political subdivision, or  
19 federal agency, or
- 20 (3) Private lands provided, fee-simple title, lesser estates, scenic easements,  
21 easements of surface ingress and egress running with the land, leases, or  
22 other written agreements are obtained from landowners through which a  
23 State trail may pass.

24 **"§ 143B-135.100. Use of State land for bicycling; creation of trails by volunteers.**

25 (a) Any land held in fee simple by this State, any agency of this State, or any land  
26 purchased or leased with funds provided by this State may be open and available for use by  
27 bicyclists upon establishment of a usage agreement. The usage agreement shall be established  
28 between the land manager and any local cycling group or organization intending to use the land  
29 and shall specify the terms and conditions for use of the land. The land manager shall designate  
30 a representative with knowledge of off-road bicycle trail building to negotiate the agreement.  
31 Upon establishment of the usage agreement, any bicyclist may use the land pursuant to the  
32 agreement.

33 The land manager shall not be required to create, maintain, or make available any special  
34 trails, paths, or other accommodations to any user of the land for cycling purposes. However,  
35 once a usage agreement has been established, any local cycling group or organization may  
36 create and maintain special trails for cycling purposes. Any trails created for the purpose of  
37 off-road cycling shall be created and maintained using commonly accepted best practices.

38 (b) Notwithstanding the provisions of subsection (a) of this section, any land may be  
39 restricted or removed from use by bicyclists if it is determined by the State, an agency of the  
40 State, or the holder of land purchased or leased with State funds that the use would cause  
41 substantial harm to the land or the environment or that the use would violate another State or  
42 federal law. Before restricting or removing land from use by bicyclists, the State, the agency of  
43 the State, or the holder of the land purchased or leased with State funds must show why the  
44 lands should not be open for use by bicyclists. Local cycling groups or organizations shall be  
45 notified of the intent to restrict or remove the land from use by bicyclists and provided an  
46 opportunity to show why cycling should be allowed on the land. Notice of any land restricted  
47 or removed from use by bicyclists pursuant to this subsection shall be filed with the Division of  
48 Bicycle and Pedestrian Transportation of the Department of Transportation.

49 (c) The Division of Bicycle and Pedestrian Transportation of the Department of  
50 Transportation shall keep a record of all lands made open and available for use by bicyclists  
51 pursuant to this section and shall make the information available to the public upon request.

(d) Any land open and available for use by bicyclists, pursuant to subsection (a) of this section, shall also be available to members of the public for hiking and walking. Persons using the land pursuant to this subsection shall yield the right-of-way to bicyclists when hiking or walking on any trails created and maintained for the purpose of off-road cycling and so designated along that trail.

(e) Notwithstanding any other provision of this section, any hiking, walking, or use of bicycles on game lands administered by the Wildlife Resources Commission shall be restricted to roads and trails designated for vehicular use. Hiking, walking, or bicycle use by persons not hunting shall be restricted to days closed to hunting. The Wildlife Resources Commission may restrict the use of bicycles on game lands where necessary to protect sensitive wildlife habitat or species and shall file notice of any restrictions with the Division of Bicycle and Pedestrian Transportation of the Department of Transportation.

**"§ 143B-135.102. ~~North Carolina Trails Committee; composition; meetings and functions.~~ Trails Committee duties.**

~~(a) Repealed by Session Laws 1973, c. 1262, s. 82.~~

~~(b)(a)~~ The Committee shall meet in various sections of the State not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of this ~~Article~~ Part.

~~(c)(b)~~ The Committee shall coordinate trail development among local governments, and shall assist local governments in the formation of their trail plans and advise the Department quarterly of its findings.

~~(d)(c)~~ The Secretary, with advice of the Committee, shall study trail needs and potentials, and make additions to the State Trails System as needed. He shall submit an annual report to the Governor and General Assembly on trail activities by the Department, including rights-of-way that have been established and on the program for implementing this ~~Article~~ Part. Each report shall include a short statement on the significance of the various trails to the System. The Secretary shall make such rules as to trail development, management, and use that are necessary for the proper implementation of this ~~Article~~ Part.

**"§ 143B-135.104. Location of trails.**

The process of locating routes of designated trails to be added to the system shall be as follows:

For State scenic trails, the Secretary or a designee, after consulting with the Committee, shall recommend a route. For State recreation trails and for connecting or side trails, the Secretary or a designee, after consulting with the Committee, shall select the route. The Secretary may provide technical assistance to political subdivisions or private, nonprofit organizations that develop, construct, or maintain designated trails or other public trails that complement the State trails system. When a route shall traverse land within the jurisdiction of a governmental unit or political subdivision, the Department shall consult with such unit or such subdivision prior to its final determination of the location of the route. The selected route shall be compatible with preservation or enhancement of the environment it traverses. Reasonable effort shall be made to minimize any adverse effects upon adjacent landowners and users. Notice of the selected route shall be published by the Department in a newspaper of general circulation in the area in which the trail is located, together with appropriate maps and descriptions to be conspicuously posted at the appropriate courthouse. Such publication shall be prior to the designation of the trail by the Secretary.

**"§ 143B-135.106. Scenic easements within right-of-way.**

Within the boundaries of the right-of-way, the Secretary of the North Carolina Department of Administration may acquire, on behalf of the State of North Carolina, lands in fee title, or interest in land in the form of scenic easements, cooperative agreements, easements of surface ingress and egress running with the land, leases, or less than fee estates. Acquisition of land or of interest therein may be by gift, purchased with donated funds or funds appropriated by the

governmental agencies for this purpose, proceeds from the sale of bonds or exchange. Any change in value of land resulting from the grant of an easement shall be taken into consideration in the assessment of the land for tax purposes.

**"§ 143B-135.108. Trails within parks; conflict of laws.**

Any component of the System that is or shall become a part of any State park, recreation area, wildlife management area, or similar area shall be subject to the provisions of this ~~Article~~ Part as well as any other laws under which the other areas are administered, and in the case of conflict between the provisions the more restrictive provisions shall apply.

**"§ 143B-135.110. Uniform trail markers.**

The Department, in consultation with the Committee, shall establish a uniform marker for trails contained in the System. An additional appropriate symbol characterizing specific trails may be included on the marker. The markers shall be placed at all access points, together with signs indicating the modes of locomotion that are prohibited for the trail, provided that where the trail constitutes a portion of a national scenic trail, use of the national scenic trail uniform marker shall be considered sufficient. The route of the trail and the boundaries of the right-of-way shall be adequately marked.

**"§ 143B-135.112. Adopt-A-Trail Program.**

The Department shall establish an Adopt-A-Trail Program to coordinate with the Trails Committee and local groups or persons on trail development and maintenance. Local involvement shall be encouraged, and interested groups are authorized to "adopt-a-trail" for such purposes as placing trail markers, trail building, trail blazing, litter control, resource protection, and any other activities related to the policies and purposes of this ~~Article~~ Part.

**"§ 143B-135.114. Administrative policy.**

The North Carolina Trails System shall be administered by the Department according to the policies and criteria set forth in this ~~Article~~ Part. The Department shall, in addition, have or designate the responsibility for maintaining the trails, building bridges, campsites, shelters, and related public-use facilities where required.

**"§ 143B-135.116. Incorporation in National Trails System.**

Nothing in this ~~Article~~ Part shall preclude a component of the State Trails System from becoming a part of the National Trails System. The Secretary shall coordinate the State Trails System with the National Trails System and is directed to encourage and assist any federal studies for inclusion of North Carolina trails in the National Trails System. The Department may enter into written cooperative agreements for joint federal-State administration of a North Carolina component of the National Trails System, provided such agreements for administration of land uses are not less restrictive than those set forth in this ~~Article~~ Part.

**"§ 143B-135.118. Trail use liability.**

(a) Any person, as an owner, lessee, occupant, or otherwise in control of land, who allows without compensation another person to use the land for designated trail or other public trail purposes or to construct, maintain, or cause to be constructed or maintained a designated trail or other public trail owes the person the same duty of care he owes a trespasser.

(b) Any person who without compensation has constructed, maintained, or caused to be constructed or maintained a designated trail or other public trail pursuant to a written agreement with any person who is an owner, lessee, occupant, or otherwise in control of land on which a trail is located shall owe a person using the trail the same duty of care owed a trespasser.

(c) ~~Repealed by Session Laws 1993, c. 184, s. 6.~~

"Part 35. North Carolina Trails Committee.

**"§ 143B-135.130. North Carolina Trails Committee – creation; powers and duties.**

There is hereby created the North Carolina Trails Committee of the Department of ~~Environment and Natural~~ and Cultural Resources. The Committee shall have the following functions and duties:

- (1) To meet not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of ~~G.S. 113A-88~~ G.S. 143B-135.102.
- (2) To coordinate trail development among local governments, and to assist local governments in the formation of their trail plans and advise the Department of its findings.
- (3) To advise the Secretary of trail needs and potentials pursuant to ~~G.S. 113A-88~~ G.S. 143B-135.102.

**"§ 143B-135.132. North Carolina Trails Committee – members; selection; removal; compensation.**

The North Carolina Trails Committee shall consist of seven members appointed by the Secretary of ~~Environment and Natural~~ and Cultural Resources. Two members shall be from the mountain section, two from the Piedmont section, two from the coastal plain, and one at large. They shall as much as possible represent various trail users.

~~The initial members of the North Carolina Trails Committee shall be the members of the current North Carolina Trails Committee who shall serve for a period equal to the remainder of their current term on the North Carolina Trails Committee. At the end of the respective terms of office of the initial members of the Committee, the appointment of their successors shall be for~~ Committee members shall serve staggered terms of four years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Committee created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

The Secretary of ~~Environment and Natural~~ and Cultural Resources shall designate a member of the Committee to serve as chairman at the pleasure of the Governor.

Members of the Committee shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

"Part 36. Natural and Scenic Rivers System.

**"§ 143B-135.140. Short title.**

This ~~Article-Part~~ shall be known and may be cited as the "Natural and Scenic Rivers Act of 1971."

**"§ 143B-135.142. Declaration of policy.**

The General Assembly finds that certain rivers of North Carolina possess outstanding natural, scenic, educational, geological, recreational, historic, fish and wildlife, scientific and cultural values of great present and future benefit to the people. The General Assembly further finds as policy the necessity for a rational balance between the conduct of man and the preservation of the natural beauty along the many rivers of the State. This policy includes retaining the natural and scenic conditions in some of the State's valuable rivers by maintaining them in a free-flowing state and to protect their water quality and adjacent lands by retaining these natural and scenic conditions. It is further declared that the preservation of certain rivers or segments of rivers in their natural and scenic condition constitutes a beneficial public purpose.

**"§ 143B-135.144. Declaration of purpose.**

The purpose of this ~~Article-Part~~ is to implement the policy as set out in ~~G.S. 113A-31~~ G.S. 143B-135.142 by instituting a North Carolina natural and scenic rivers system, and by prescribing methods for inclusion of components to the system from time to time.

**"§ 143B-135.146. Definitions.**

As used in this ~~Article-Part~~, unless the context requires otherwise:

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

**"§ 143B-135.148. Types of scenic rivers.**

The following types of rivers are eligible for inclusion in the North Carolina natural and scenic rivers system:

Class I. Natural river areas. Those free-flowing rivers or segments of rivers and adjacent lands existing in a natural condition. Those rivers or segments of rivers that are free of man-made impoundments and generally inaccessible except by trail, with the lands within the boundaries essentially primitive and the waters essentially unpolluted. These represent vestiges of primitive America.

Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of impoundments, with the lands within the boundaries largely primitive and largely undeveloped, but accessible in places by roads.

Class III. Recreational river areas. Those rivers or segments of rivers that offer outstanding recreation and scenic values and that are largely free of impoundments. They may have some development along their shorelines and have more extensive public access than natural or scenic river segments. Recreational river segments may also link two or more natural and/or scenic river segments to provide a contiguous designated river area. No provision of this section shall interfere with flood control measures; provided that recreational river users can continue to travel the river.

**"§ 143B-135.150. Criteria for system.**

For the inclusion of any river or segment of river in the natural and scenic river system, the following criteria must be present:

- (1) River segment length – must be no less than one mile.
- (2) Boundaries – of the system shall be the visual horizon or such distance from each shoreline as may be determined to be necessary by the Secretary, but shall not be less than 20 feet.

- (3) Water quality – shall not be less than that required for Class "C" waters as established by the North Carolina Environmental Management Commission.
- (4) Water flow – shall be sufficient to assure a continuous flow and shall not be subjected to withdrawal or regulation to the extent of substantially altering the natural ecology of the stream.
- (5) Public access – shall be limited, but may be permitted to the extent deemed proper by the Secretary, and in keeping with the property interest acquired by the Department and the purpose of this ~~Article~~ Part.

**"§ 143B-135.152. Components of system; management plan; acquisition of land and easements; inclusion in national system.**

(a) That segment of the south fork of the New River extending from its confluence with Dog Creek in Ashe County downstream through Ashe and Alleghany Counties to its confluence with the north fork of the New River and the main fork of the New River in Ashe and Alleghany Counties downstream to the Virginia State line shall be a scenic river area and shall be included in the North Carolina Natural and Scenic Rivers System.

The Department shall prepare and implement a management plan for this river section. This management plan shall recognize and provide for the protection of the existing undeveloped scenic and pastoral features of the river. Furthermore, it shall specifically provide for continued use of the lands adjacent to the river for normal agricultural activities, including, but not limited to, cultivation of crops, raising of cattle, growing of trees and other practices necessary to these agricultural pursuits.

For purposes of implementing this section and the management plan, the Department may acquire lands or interests in lands, provide for protection of scenic values as described in ~~G.S. 143A-38,~~ G.S. 143B-135.160, and provide for public access. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised on May 26, 1975.

Should the Governor seek inclusion of this river segment in the National System of Wild and Scenic Rivers by action of the Secretary of Interior, such inclusion shall be at no cost to the federal government, as prescribed in the National Wild and Scenic Rivers Act, and therefore shall be under the terms described in this section of the North Carolina Wild and Scenic Rivers Act and in the management plan developed pursuant thereto.

(b) ~~Repealed by Session Laws 2012-200, s. 24, effective August 1, 2012.~~

**"§ 143B-135.154. Additional components.**

That segment of the Linville River beginning at the State Highway 183 bridge over the Linville River and extending approximately 13 miles downstream to the boundary between the United States Forest Service lands and lands of Duke Power Company (latitude 35° 50' 20") shall be a natural river area and shall be included in the North Carolina Natural and Scenic River System.

That segment of the Horsepasture River in Transylvania County extending downstream from Bohaynee Road (N.C. 281) to Lake Jocassee shall be a natural river and shall be included in the North Carolina Natural and Scenic Rivers System.

That segment of the Lumber River extending from county road 1412 in Scotland County downstream to the North Carolina-South Carolina state line, a distance of approximately 102 river miles, shall be included in the Natural and Scenic Rivers System and classified as follows: from county road 1412 in Scotland County downstream to the junction of the Lumber River and Back Swamp shall be classified as scenic; from the junction of the Lumber River and Back Swamp downstream to the junction of the Lumber River and Jacob Branch and the river within the Fair Bluff town limits shall be classified as recreational; and from the junction of the Lumber River and Jacob Branch downstream to the North Carolina-South Carolina state line, excepting the Fair Bluff town limits, shall be classified as natural.

"§ 143B-135.156. Administrative agency; federal grants; additions to the system; regulations.

(a) The Department is the agency of the State of North Carolina with the duties and responsibilities to administer and control the North Carolina natural and scenic rivers system.

(b) The Department shall be the agency of the State with the authority to accept federal grants of assistance in planning, developing (which would include the acquisition of land or an interest in land), and administering the natural and scenic rivers system.

(c) The Secretary of the Department shall study and from time to time submit to the Governor and to the General Assembly proposals for the additions to the system of rivers and segments of rivers which, in his judgment, fall within one or more of the categories set out in ~~G.S. 113A-34.~~ G.S. 143B-135.148. Each proposal shall specify the category of the proposed addition and shall be accompanied by a detailed report of the facts which, in the Secretary's judgment, makes the area a worthy addition to the system.

Before submitting any proposal to the Governor or the General Assembly for the addition to the system of a river or segment of a river, the Secretary or his authorized representative, shall hold a public hearing in the county or counties where said river or segment of river is situated. Notice of such public hearing shall be given by publishing a notice once each week for two consecutive weeks in a newspaper having general circulation in the county where said hearing is to be held, the second of said notices appearing not less than 10 days before said hearing. Any person attending said hearing shall be given an opportunity to be heard. Notwithstanding the provisions of the foregoing, no public hearing shall be required with respect to a river bounded solely by the property of one owner, who consents in writing to the addition of such river to the system.

The Department shall also conduct an investigation on the feasibility of the inclusion of a river or a segment of river within the system and file a written report with the Governor when submitting a proposal.

The Department shall also, before submitting such a proposal to the Governor or the General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining said river or segment of river of its intention to make such proposal. In the event the Department, after due diligence, is unable to determine the owner or lessee of any such land, the Department may publish a notice for four successive weeks in a newspaper having general circulation in the county where the land is situated of its intention to make a proposal to the Governor or General Assembly for the addition of a river or segment of river to the system.

~~(c1)~~(d) Upon receipt of a request in the form of a resolution from the commissioners of the county or counties in which a river segment is located and upon studying the segment and determining that it meets the criteria set forth in ~~G.S. 113A-35,~~ G.S. 143B-135.150, the Secretary may designate the segment a potential component of the natural and scenic rivers system. The designation as a potential component shall be transmitted to the Governor and all appropriate State agencies. Any segment so designated is subject to the provisions of this ~~Article-Part~~ applicable to designated rivers, except for acquisition by condemnation or otherwise, and to any rules adopted pursuant to this ~~Article-Part.~~ The Secretary shall make a full report and, if appropriate, a proposal for an addition to the natural and scenic rivers system to the General Assembly within 90 days after the convening of the next session following issuance of the designation, and the General Assembly shall determine whether to designate the segment as a component of the natural and scenic rivers system. If the next session of the General Assembly fails to take affirmative action on the designation, the designation as a potential component shall expire.

~~(d)~~(e) The Department may adopt rules to implement this ~~Article-Part.~~

"§ 143B-135.158. Raising the status of an area.

Whenever in the judgment of the Secretary of the Department a scenic river segment has been sufficiently restored and enhanced in its natural scenic and recreational qualities, such

segment may be reclassified with the approval of the Department, to a natural river area status and thereafter administered accordingly.

**"§ 143B-135.160. Land acquisition.**

(a) The Department of Administration is authorized to acquire for the Department, within the boundaries of a river or segment of river as set out in ~~G.S. 113A-35~~ G.S. 143B-135.150 on behalf of the State of North Carolina, lands in fee title or a lesser interest in land, preferably "scenic easements." Acquisition of land or interest therein may be by donation, purchase with donated or appropriated funds, exchange or otherwise.

(b) The Department of Administration in acquiring real property or a property interest therein as set out in this ~~Article-Part~~ shall have and may exercise the power of eminent domain in accordance with Article 3 of Chapter 40A of the General Statutes.

**"§ 143B-135.162. Claim and allowance of charitable deduction for contribution or gift of easement.**

The contribution or donation of a "scenic easement," right-of-way or any other easement or interest in land to the State of North Carolina, as provided in this ~~Article-Part~~, shall be deemed a contribution to the State of North Carolina within the provisions of G.S. 105-130.9 and section 170(c)(1) of the Internal Revenue Code. The value of the contribution or donation shall be the fair market value of the easement or other interest in land when the contribution or donation is made.

**"§ 143B-135.164. Component as part of State park, wildlife refuge, etc.**

Any component of the State natural and scenic rivers system that is or shall become a part of any State park, wildlife refuge, or state-owned area shall be subject to the provisions of this ~~Article-Part~~ and the ~~Articles-laws~~ under which the other areas may be administered, and in the case of conflict between the provisions of these ~~Articles-laws~~, the more restrictive provisions shall apply.

**"§ 143B-135.166. Component as part of national wild and scenic river system.**

Nothing in this ~~Article-Part~~ shall preclude a river or segment of a river from becoming part of the national wild and scenic river system. The Secretary ~~of the Department~~ is directed to encourage and assist any federal studies for the inclusion of North Carolina rivers in the national system. The Secretary may enter into cooperative agreements for joint federal-state administration of a North Carolina river or segment of river: Provided, that such agreements relating to water and land use are not less restrictive than the requirements of this ~~Article-Part~~.

**"§ 143B-135.168. Violations.**

(a) Civil Action. – Whoever violates, fails, neglects or refuses to obey any provision of this ~~Article-Part~~ or rule or order of the Secretary may be compelled to comply with or obey the same by injunction, mandamus, or other appropriate remedy.

(b) Penalties. – Whoever violates, fails, neglects or refuses to obey any provision of this ~~Article-Part~~ or rule or order of the Secretary is guilty of a Class 3 misdemeanor and may be punished only by a fine of not more than fifty dollars (\$50.00) for each violation, and each day such person shall fail to comply, where feasible, after having been officially notified by the Department shall constitute a separate offense subject to the foregoing penalty.

**"§ 143B-135.170. Authorization of advances.**

The Department of Administration is hereby authorized to advance from land-purchase appropriations necessary amounts for the purchase of land in those cases where reimbursement will be later effected by the Bureau of Outdoor Recreation of the United States Department of the Interior.

**"§ 143B-135.172. Restrictions on project works on natural or scenic river.**

The State Utilities Commission may not permit the construction of any dam, water conduit, reservoir, powerhouse transmission line, or any other project works on or directly affecting any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. No department or agency of the State may assist by loan, grant, license, permit,

or otherwise in the construction of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System. This section shall not, however, preclude licensing of or assistance to a development below or above a designated or potential component. No department or agency of the State may recommend authorization of any water resources project that would have a direct and adverse effect on any river that is designated as a component or potential component of the State Natural and Scenic Rivers System, or request appropriations to begin construction of any such project, regardless of when authorized, without advising the Secretary in writing of its intention to do so at least 60 days in advance. Such department or agency making such recommendation or request shall submit a written impact statement to the General Assembly to accompany the recommendation or request specifically describing how construction of the project would be in conflict with the purposes of this act and how it would affect the component or potential component."

**SECTION 14.30.(n)** Part 37 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (g) of this section, reads as rewritten:

"Part 37. Division of North Carolina Aquariums.

**"§ 143B-135.180. Division of North Carolina Aquariums – creation.**

The Division of North Carolina Aquariums is created in the Department of ~~Environment and Natural and Cultural~~ Resources.

**"§ 143B-135.182. Division of North Carolina Aquariums – organization; powers and duties.**

(a) The Division of North Carolina Aquariums shall be organized as prescribed by the Secretary of ~~Environment and Natural and Cultural~~ Resources and shall exercise the following powers and duties:

~~(1) Repealed by Session Laws 1991, c. 320, s. 3.~~

~~(1a)~~(1) Establish and maintain the North Carolina Aquariums.

~~(1b)~~(2) Administer the operations of the North Carolina Aquariums, such administrative duties to include, but not be limited to the following:

- a. Adopt goals and objectives for the Aquariums and review and revise these goals and objectives periodically.
- b. Review and approve requests for use of the Aquarium facilities and advise the Secretary of ~~Environment and Natural and Cultural~~ Resources on the most appropriate use consistent with the goals and objectives of the Aquariums.
- c. Continually review and evaluate the types of projects and programs being carried out in the Aquarium facilities and determine if the operation of the facilities is in compliance with the established goals and objectives.
- d. Recommend to the Secretary of ~~Environment and Natural and Cultural~~ Resources any policies and procedures needed to assure effective staff performance and proper liaison among Aquarium facilities in carrying out the overall purposes of the Aquarium programs.
- e. Review Aquarium budget submissions to the Secretary of Environment and Natural Resources.
- f. Recruit and recommend to the Secretary of ~~Environment and Natural and Cultural~~ Resources candidates for the positions of directors of the Aquariums.
- g. Create local advisory committees in accordance with the provisions of ~~G.S. 143B-289.43~~ G.S. 143B-135.186.

(1e)(3) Notwithstanding Article 3A of Chapter 143 of the General Statutes, and G.S. 143-49(4), dispose of any exhibit, exhibit component, or object from the collections of the North Carolina Aquariums by sale, lease, or trade. A sale, lease, or trade under this subdivision shall be conducted in accordance with generally accepted practices for zoos and aquariums that are accredited by the American Association of Zoos and Aquariums. After deducting the expenses attributable to the sale or lease, the net proceeds of any sale or lease shall be credited to the North Carolina Aquariums Fund.

(2); (3) Repealed by Session Laws 1993, c. 321, s. 28(e).

(4) through (6) Repealed by Session Laws 1991, c. 320, s. 3.

(7) Assume any other powers and duties assigned to it by the Secretary.

(b) The Secretary may adopt any rules and procedures necessary to implement this section.

**"§ 143B-135.184. North Carolina Aquariums; purpose.**

The purpose of establishing and maintaining the North Carolina Aquariums is to promote an awareness, understanding, and appreciation of the diverse natural and cultural resources associated with North Carolina's oceans, estuaries, rivers, streams, and other aquatic environments.

**"§ 143B-135.186. Local advisory committees; duties; membership.**

Local advisory committees created pursuant to ~~G.S. 143B-289.41(a)(1b)~~ G.S. 143B-135.182(a)(2) shall assist each North Carolina Aquarium in its efforts to establish projects and programs and to assure adequate citizen-consumer input into those efforts. Members of these committees shall be appointed by the Secretary of ~~Environment and Natural and Cultural Resources~~ Environment and Natural and Cultural Resources for three-year terms from nominations made by the Director of the Office of Marine Affairs. Each committee shall select one of its members to serve as chairperson. Members of the committees shall serve without compensation for services or expenses.

**"§ 143B-135.188. North Carolina Aquariums; fees; fund.**

(a) Fees. – The Secretary of ~~Environment and Natural and Cultural Resources~~ Environment and Natural and Cultural Resources may adopt a schedule of fees for the aquariums and piers operated by the North Carolina Aquariums, including:

- (1) Gate admission fees.
- (2) Facility rental fees.
- (3) Educational programs.

(b) Fund. – The North Carolina Aquariums Fund is hereby created as a special ~~and nonreverting~~ fund. The North Carolina Aquariums Fund shall be used for the following:

- (1) ~~repair, Repair, renovation, expansion, maintenance, and educational exhibit construction, and operational expenses construction~~ at existing aquariums, aquariums.
- (2) ~~to pay~~ Payment of the debt service and lease payments related to the financing of expansions of aquariums, aquariums.
- (3) ~~and to match~~ Matching of private funds that are raised for these purposes.

(c) Disposition of Fees. – All entrance fee receipts shall be credited to the ~~North Carolina Aquariums Fund. Receipts so credited that are necessary to support the personnel and operational expenses of the aquariums shall be transferred to the aquariums' General Fund operating budget on a monthly basis.~~ budget. In each fiscal year, the Secretary may transfer the receipts from the North Carolina aquariums' General Fund to the North Carolina Aquariums Fund in an amount not to exceed the sum of the following:

- (1) One million dollars (\$1,000,000).
- (2) The amount needed to cover the expenses described by subdivision (2) of subsection (b) this section.

(d) Approval. – The Secretary may approve the use of the North Carolina Aquariums Fund for repair and renovation projects at the aquariums related facilities that comply with the following:

(1) The total project cost is less than two hundred fifty thousand dollars (\$250,000).

(2) The project meets the requirements of G.S. 143C-4-3(b).

~~(d)(e) Report. – The Division of North Carolina Aquariums shall submit to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, appropriations committees with jurisdiction over natural and economic resources, and the Fiscal Research Division by September 30 of each year a report on the North Carolina Aquariums Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.~~  
...."

**SECTION 14.30.(o)** Part 38 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (h) of this section, reads as rewritten:

"Part 38. North Carolina Parks and Recreation Authority.

**"§ 143B-135.200. North Carolina Parks and Recreation Authority; creation; powers and duties.**

The North Carolina Parks and Recreation Authority is created, to be administered by the Department of ~~Environment and Natural~~ and Cultural Resources. The North Carolina Parks and Recreation Authority shall have at least the following powers and duties:

- (1) To receive public and private donations, appropriations, grants, and revenues for deposit into the Parks and Recreation Trust Fund.
- (2) To allocate funds for land acquisition from the Parks and Recreation Trust Fund.
- (3) To allocate funds for repairs, renovations, improvements, construction, and other capital projects from the Parks and Recreation Trust Fund.
- (4) To solicit financial and material support from public and private sources.
- (5) To develop effective public and private support for the programs and operations of the parks and recreation areas.
- (6) To consider and to advise the Secretary of ~~Environment and Natural~~ and Cultural Resources on any matter the Secretary may refer to the North Carolina Parks and Recreation Authority.

**"§ 143B-135.202. North Carolina Parks and Recreation Authority; members; selection; compensation; meetings.**

(a) Membership. – The North Carolina Parks and Recreation Authority shall consist of nine members. The members shall include persons who are knowledgeable about park and recreation issues in North Carolina or with expertise in finance. In making appointments, each appointing authority shall specify under which subdivision of this subsection the person is appointed. Members shall be appointed as follows:

- (1) One member appointed by the Governor.
- (2) One member appointed by the Governor.
- (3) One member appointed by the Governor.
- ~~(3a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- ~~(3b) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- (4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- (5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.

- (6) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121.
- ~~(7) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- ~~(7a) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- ~~(8)~~(7) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- ~~(9)~~(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- ~~(10)~~(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121.
- ~~(11) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~
- ~~(12) Repealed by Session Laws 2013-360, s. 14.5(a), effective July 1, 2013.~~

(b) Terms. – Members shall serve staggered terms of office of three years. Members shall serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The terms of members appointed under subdivision (1), (5), or ~~(9)~~(8) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), (4), or ~~(8)~~(7) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), or ~~(10)~~(9) of subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Chair. – The Governor shall appoint one member of the North Carolina Parks and Recreation Authority to serve as Chair.

(d) Vacancies. – A vacancy on the North Carolina Parks and Recreation Authority shall be filled by the appointing authority responsible for making the appointment to that position as provided in subsection (a) of this section. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Removal. – The Governor may remove, as provided in Article 10 of Chapter 143C of the General Statutes any member of the North Carolina Parks and Recreation Authority appointed by the Governor for misfeasance, malfeasance, or nonfeasance. The General Assembly may remove any member of the North Carolina Parks and Recreation Authority appointed by the General Assembly for misfeasance, malfeasance, or nonfeasance.

(f) Compensation. – The members of the North Carolina Parks and Recreation Authority shall receive per diem and necessary travel and subsistence expenses according to the provisions of G.S. 138-5.

(g) Meetings. – The North Carolina Parks and Recreation Authority shall meet at least quarterly at a time and place designated by the Chair.

(h) Quorum. – A majority of the North Carolina Parks and Recreation Authority shall constitute a quorum for the transaction of business.

(i) Staff. – All clerical and other services required by the North Carolina Parks and Recreation Authority shall be provided by the Secretary of ~~Environment and Natural~~ Cultural Resources.

**SECTION 14.30.(p)** Part 39 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (i) of this section, reads as rewritten:

"Part 39. North Carolina Zoological Park Council.

**"§ 143B-135.205. North Carolina Zoological Park Council – creation; powers and duties.**

There is hereby created the North Carolina Zoological Park Council of the Department of ~~Environment and Natural~~ and Cultural Resources. The North Carolina Zoological Park Council shall have the following functions and duties:

- (1) To advise the Secretary on the basic concepts of and for the Zoological Park, approve conceptual plans for the Zoological Park and its ~~buildings;~~buildings.
- (2) To advise on the construction, furnishings, equipment and operations of the North Carolina Zoological ~~Park;~~Park.
- ~~(2a)~~(3) To establish and set admission fees with the approval of the Secretary of ~~Environment and Natural~~ and Cultural Resources as provided in ~~G.S. 143-177.3(b);~~G.S. 143B-135.213.
- ~~(3)~~(4) To recommend programs to promote public appreciation of the North Carolina Zoological ~~Park;~~Park.
- ~~(4)~~(5) To disseminate information on animals and the park as deemed ~~necessary;~~necessary.
- ~~(5)~~(6) To develop effective public support of the North Carolina Zoological Park through whatever means are desirable and ~~necessary;~~necessary.
- ~~(6)~~(7) To solicit financial and material support from various private sources within and without the State of North ~~Carolina;~~ and Carolina.
- ~~(7)~~(8) To advise the Secretary of ~~Environment and Natural~~ and Cultural Resources upon any matter the Secretary may refer to it.

**"§ 143B-135.207. North Carolina Zoological Park Council – members; selection; removal; chairman; compensation; quorum; services.**

The North Carolina Zoological Park Council of the Department of ~~Environment and~~ Natural and Cultural Resources shall consist of 15 members appointed by the Governor, one of whom shall be the Chairman of the Board of Directors of the North Carolina Zoological Society.

~~The initial members of the Council shall be the members of the Board of Directors of the North Carolina Zoo Authority who shall serve for a period equal to the remainder of their current terms on the Board of Directors of the North Carolina Zoological Authority, all of whose terms expire July 15, 1975.~~ At the end of the respective terms of office of the initial members of the Council, the Governor, to achieve staggered terms, shall appoint five members for terms of two years, five members for terms of four years and five members for terms of six years. Thereafter, the appointment of their successors shall be for terms of six years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

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

The Governor shall designate a member of the Council to serve as chairman at his pleasure.

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

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of ~~Environment and Natural~~ and Cultural Resources.

**"§ 143B-135.209. Special North Carolina Zoo Fund.**

~~A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as~~

required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide a report on or before October 1 of each year to the Office of State Budget and Management, the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section.

(a) Fund. – The North Carolina Zoo Fund is created as a special fund. The North Carolina Zoo Fund shall be used for the following types of projects at the North Carolina Zoological Park and to match private funds raised for these types of projects:

- (1) Repair, renovation, expansion, maintenance, and educational exhibit construction.
- (2) Renovations of exhibits in habitat clusters, visitor services facilities, and support facilities (including greenhouses and temporary animal holding areas).
- (3) The acquisition, maintenance, or replacement of tram equipment as required to maintain adequate service to the public.

(b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina Zoological Park's General Fund operating budget. In each fiscal year, the Secretary may transfer fee receipts from the North Carolina Zoological Park's General Fund to the North Carolina Zoo Fund in an amount not to exceed one million dollars (\$1,000,000).

(c) Approval. – The Secretary may approve the use of the North Carolina Zoo Fund for repair and renovation projects at the North Carolina Zoological Park recommended by the Council that comply with the following:

- (1) The total project cost is less than two hundred fifty thousand dollars (\$250,000).
- (2) The project meets the requirements of G.S. 143C-4-3(b).

(d) Report. – The Department shall submit to the House and Senate appropriations committees with jurisdiction over natural and economic resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Zoo Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

**SECTION 14.30.(q)** G.S. 143B-135.210 through G.S. 143B-135.213, as recodified by subsection (j) of this section, read as rewritten:

**"§ 143-135.210. Right to receive gifts.**

In order to carry out the purposes of this ~~Article-Part~~, the ~~Board-Council~~ is authorized to acquire by gift or will, absolutely or in trust, from individuals, corporations, or any other source money or other property, or any interests in property, which may be retained, sold or otherwise used to promote the purposes of this ~~Article-Part~~. The use of gifts shall be subject to such limitations as may be imposed thereon by donors, notwithstanding any other provisions of this ~~Article-Part~~.

**"§ 143-135.211. Tax exemption for gifts to North Carolina Zoological Park-Fund-Park.**

All gifts made to the North Carolina Zoological Park for the purposes of this ~~Article-Part~~ shall be exempt from every form of taxation including, but not by the way of limitation, ad valorem, intangible, gift, inheritance and income taxation. Proceeds from the sale of any property acquired under the provisions of this ~~Article-Part~~ shall be deposited in the North Carolina State treasury and shall be credited to the North Carolina Zoological Park.

**"§ 143-135.212. Cities and counties.**

Cities and counties are hereby authorized to expend funds derived from nontax sources and to make gifts of surplus property, to assist in carrying out the purposes of this ~~Article-Part~~.

**"§ 143-135.213. Sources of funds.**

(a) It is the intent of this ~~Article-Part~~ that the funds for the creation, establishment, construction, operation and maintenance of the North Carolina Zoological Park shall be obtained primarily from private sources; however, the Council under the supervision and approval and with the assistance of the Secretary of ~~Environment and Natural~~ and Cultural Resources is hereby authorized to receive and expend such funds as may from time to time become available by appropriation or otherwise from the State of North Carolina; provided, that the ~~North Carolina Zoological Park~~ Council shall not in any manner pledge the faith and credit of the State of North Carolina for any of its purposes.

(b) The Council with the approval of the Secretary of ~~Environment and Natural~~ and Cultural Resources is authorized to establish and set admission fees which are reasonable and consistent with the purpose and function of the North Carolina Zoological Park."

**SECTION 14.30.(r)** Part 40 of Article 2 of Chapter 143B of the General Statutes, as recodified by subsection (k) of this section, reads as rewritten:

"Part 40. ~~Advisory Commission for~~ North Carolina State Museum of Natural Sciences.

**"§ 143B-135.215. Commission created; membership.**

There is created an Advisory Commission for the North Carolina State Museum of Natural Sciences which shall determine its own organization. It shall consist of at least nine members, which shall include the Director of the North Carolina State Museum of Natural Sciences, the Commissioner of Agriculture, the State Geologist and Secretary of ~~Environment and Natural~~ and Cultural Resources, the Director of the Institute of Fisheries Research of the University of North Carolina, the Director of the Wildlife Resources Commission, the Superintendent of Public Instruction, or qualified representative of any or all of the above-named members, and at least three persons representing the East, the Piedmont, and the Western areas of the State. Members appointed by the Governor shall serve for four-year staggered terms. Terms shall begin on 1 September. Members appointed by the Governor shall not serve more than three consecutive four-year terms. Any member may be removed by the Governor for cause.

...

**"§ 143B-135.221. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to ~~the 1995 General Assembly, and to each succeeding the~~ General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations on or before October 1 of each year.

**"§ 143B-135.223. Museum of Natural Sciences; disposition of objects.**

Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other law pertaining to surplus State property, the Department of ~~Environment and Natural~~ and Cultural Resources may sell or exchange any object from the collection of the Museum of Natural Sciences when it would be in the best interest of the Museum to do so. Sales or exchanges shall be conducted in accordance with generally accepted practices for accredited museums. If an object is sold, the net proceeds of the sale shall be deposited in the State treasury to the credit of a special fund to be used for the improvement of the Museum's collections or exhibits.

**"§ 143B-135.225. Museum of Natural Sciences; fees; fund.**

(a) Fund. – The North Carolina Museum of Natural Sciences Fund is created as a special fund. The North Carolina Museum of Natural Sciences Fund shall be used for repair, renovation, expansion, maintenance, and educational exhibit construction at the North Carolina Museum of Natural Sciences and to match private funds raised for these projects.

(b) Disposition of Fees. – All fee receipts shall be credited to the North Carolina Museum of Natural Sciences' General Fund operating budget. In each fiscal year, the Secretary may transfer fee receipts from the North Carolina Museum of Natural Sciences' General Fund to the North Carolina Museum Fund in an amount not to exceed one million dollars (\$1,000,000).

(c) Approval. – The Secretary may approve the use of the North Carolina Museum of Natural Sciences Fund for repair and renovation projects at the North Carolina Museum of Natural Sciences recommended by the Advisory Council that comply with the following:

(1) The total project cost is less than two hundred fifty thousand dollars (\$250,000).

(2) The project meets the requirements of G.S. 143C-4-3(b).

(d) Report. – The Department shall submit to the House and Senate appropriations committees with jurisdiction over natural and economic resources and the Fiscal Research Division by September 30 of each year a report on the North Carolina Museum Fund that shall include the source and amounts of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

**"§ 143B-135.229. ~~North Carolina Museum of Forestry;~~ Museum of Natural Sciences at Whiteville; satellite museum.**

The Department of ~~Environment and Natural and Cultural Resources~~ shall establish and administer the North Carolina Museum of ~~Forestry~~ Museum of Natural Sciences at Whiteville in Columbus County as a satellite museum of the North Carolina State Museum of Natural Sciences."

## CHANGES TO STATUTORY REFERENCES TO DEPARTMENTS

**SECTION 14.30.(s)** The following statutes are amended by deleting the language "Department of Cultural Resources" wherever it appears and substituting "Department of Natural and Cultural Resources": G.S. 7A-343.1, G.S. 7B-3000, G.S. 8-6, G.S. 8-7, G.S. 8-34, G.S. 14-76.1, G.S. 15C-7, G.S. 20-79.4, G.S. 20-81.12, G.S. 62-102, G.S. 65-85, G.S. 70-2, G.S. 70-13, G.S. 70-13.1, G.S. 70-16, G.S. 70-18, G.S. 70-19, G.S. 70-20, G.S. 70-28, G.S. 70-31, G.S. 70-48, G.S. 70-49, G.S. 70-50, G.S. 70-51, G.S. 70-52, G.S. 75D-5, G.S. 97-24, G.S. 100-2, G.S. 102-17, G.S. 105-129.36A, G.S. 105-256, G.S. 111-28, G.S. 111-47.2, G.S. 115C-218.25, G.S. 120-37, G.S. 121-2, G.S. 121-3, G.S. 121-4, G.S. 121-4.1, G.S. 121-5, G.S. 121-5.1, G.S. 121-6, G.S. 121-7, G.S. 121-7.1, G.S. 121-7.2, G.S. 121-7.3, G.S. 121-7.4, G.S. 121-7.5, G.S. 121-7.6, G.S. 121-8, G.S. 121-9, G.S. 121-9.1, G.S. 121-10, G.S. 121-11, G.S. 121-12, G.S. 121-12.1, G.S. 121-12.2, G.S. 121-13, G.S. 121-14, G.S. 121-15, G.S. 121-16, G.S. 121-18, G.S. 121-20, G.S. 121-23, G.S. 121-24, G.S. 121-25, G.S. 121-25.1, G.S. 121-26, G.S. 121-27, G.S. 125-1, G.S. 125-2, G.S. 125-5, G.S. 125-7, G.S. 125-8, G.S. 125-10, G.S. 125-11.8, G.S. 125-14, G.S. 126-5, G.S. 130A-93, G.S. 132-3, G.S. 132-4, G.S. 132-8, G.S. 132-8.1, G.S. 132-8.2, G.S. 136-42.1, G.S. 136-42.2, G.S. 136-42.3, G.S. 136-43.1, G.S. 140-5.12, G.S. 140-5.13, G.S. 140-5.14, G.S. 142-13, G.S. 143-138, G.S. 143-268, G.S. 143-300, G.S. 143-406, G.S. 143-410, G.S. 143-411, G.S. 143-431, G.S. 143-432, G.S. 143-640, G.S. 143-641, G.S. 143-642, G.S. 143-675, G.S. 143-676, G.S. 143-677, G.S. 143B-2, G.S. 143B-6, G.S. 143B-49, G.S. 143B-51, G.S. 143B-53.1, G.S. 143B-53.2, G.S. 143B-53.3, G.S. 143B-62, G.S. 143B-63, G.S. 143B-67, G.S. 143B-68, G.S. 143B-71, G.S. 143B-72, G.S. 143B-73, G.S. 143B-73.1, G.S. 143B-74, G.S. 143B-74.2, G.S. 143B-79, G.S. 143B-85, G.S. 143B-87.2, G.S. 143B-90, G.S. 143B-95, G.S. 143B-111, G.S. 143B-121, G.S. 143B-123, G.S. 143B-124, G.S. 143B-125, G.S. 143B-126, G.S. 143B-127, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.8A, G.S. 143B-131.9, G.S. 143B-133, G.S. 143B-135, G.S. 143B-181, G.S. 143B-417, G.S. 143B-948, G.S. 150B-1, G.S. 153A-266, G.S. 153A-373, G.S. 160A-400.4, G.S. 160A-400.6, G.S. 160A-433, G.S. 161-11.5, G.S. 163-82.10, G.S. 163-278.22,

1 G.S. 163-278.30. In any other instances in the General Statutes in which there is a reference to  
2 the Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may  
3 replace that reference with a reference to the Department of Natural and Cultural Resource, as  
4 appropriate.

5 **SECTION 14.30.(t)** The following statutes are amended by deleting the language  
6 "Secretary of Cultural Resources" wherever it appears and substituting "Secretary of Natural  
7 and Cultural Resources": G.S. 20-79.5, G.S. 47-16.5, G.S. 116B-70, G.S. 121-2, G.S. 121-9,  
8 G.S. 121-10, G.S. 121-12.2, G.S. 125-2, G.S. 125-9, G.S. 125-11.11, G.S. 132-8,  
9 G.S. 136-43.1, G.S. 140-5.14, G.S. 140-5.15, G.S. 143-200, G.S. 143-201, G.S. 143-204.8,  
10 G.S. 143-675, G.S. 143-676, G.S. 143B-52, G.S. 143B-62, G.S. 143B-63, G.S. 143B-72,  
11 G.S. 143B-74, G.S. 143B-74.1, G.S. 143B-79, G.S. 143B-80, G.S. 143B-83, G.S. 143B-84,  
12 G.S. 143B-87, G.S. 143B-88, G.S. 143B-90, G.S. 143B-91, G.S. 143B-97, G.S. 143B-98,  
13 G.S. 143B-99, G.S. 143B-101, G.S. 143B-102, G.S. 143B-105, G.S. 143B-106,  
14 G.S. 143B-109, G.S. 143B-110, G.S. 143B-114, G.S. 143B-115, G.S. 143B-131.2,  
15 G.S. 143B-133, G.S. 143B-135, G.S. 147-54.3, G.S. 153A-267. In any other instances in the  
16 General Statutes in which there is a reference to the Secretary of Cultural Resources or a  
17 derivative thereof, the Revisor of Statutes may replace that reference with a reference to the  
18 Secretary of Natural and Cultural Resources, as appropriate.

19 **SECTION 14.30.(u)** The following statutes are amended by deleting the language  
20 "Department of Environment and Natural Resources" wherever it appears and substituting  
21 "Department of Environmental Quality": G.S. 14-86.2, G.S. 14-137, G.S. 15A-1343,  
22 G.S. 18B-902, G.S. 20-85, G.S. 20-128, G.S. 20-183.7, G.S. 62-102, G.S. 62-110.1,  
23 G.S. 62-133.6, G.S. 62-133.8, G.S. 62-302.1, G.S. 69-25.5, G.S. 74-38, G.S. 74-49, G.S. 74-53,  
24 G.S. 74-76, G.S. 75A-17, G.S. 76-40, G.S. 77-90, G.S. 77-95, G.S. 77-114, G.S. 77-125,  
25 G.S. 77-127, G.S. 77-141, G.S. 77-142, G.S. 87-85, G.S. 87-95, G.S. 87-97, G.S. 87-98.2,  
26 G.S. 90A-21, G.S. 90A-25, G.S. 90A-47.3, G.S. 95-225, G.S. 100-2, G.S. 104E-7,  
27 G.S. 104E-15, G.S. 104E-24, G.S. 105-122, G.S. 105-129.81, G.S. 105-130.10,  
28 G.S. 105-187.24, G.S. 105-187.63, G.S. 105-259, G.S. 105-275, G.S. 105-277.13,  
29 G.S. 105-449.107, G.S. 106-24, G.S. 106-143, G.S. 106-678, G.S. 106-762, G.S. 106-805,  
30 G.S. 106-806, G.S. 106-860, G.S. 110-92, G.S. 110-142.2, G.S. 113-1, G.S. 113-3, G.S. 113-8,  
31 G.S. 113-8.01, G.S. 113-14.1, G.S. 113-14.3, G.S. 113-16, G.S. 113-17, G.S. 113-18,  
32 G.S. 113-19, G.S. 113-20, G.S. 113-21, G.S. 113-25, G.S. 113-26.1, G.S. 113-128,  
33 G.S. 113-168, G.S. 113-174, G.S. 113-251, G.S. 113-300.6, G.S. 113-378, G.S. 113-389,  
34 G.S. 113-425, G.S. 113A-52, G.S. 113A-103, G.S. 113A-104, G.S. 113A-113, G.S. 113A-118,  
35 G.S. 113A-129.2, G.S. 113A-134.11, G.S. 113A-134.12, G.S. 113A-153, G.S. 113A-164.12,  
36 G.S. 113A-167, G.S. 113A-168, G.S. 113A-169, G.S. 113A-170, G.S. 113A-221,  
37 G.S. 113A-230, G.S. 113A-231, G.S. 113A-232, G.S. 113A-235, G.S. 113A-253,  
38 G.S. 113A-255, G.S. 113B-2, G.S. 113B-6, G.S. 113B-11, G.S. 113B-30, G.S. 115C-522,  
39 G.S. 120-70.43, G.S. 120-76, G.S. 121-4, G.S. 126-5, G.S. 128-1.1, G.S. 130A-1.1,  
40 G.S. 130A-4, G.S. 130A-24, G.S. 130A-26.1, G.S. 130A-33.50, G.S. 130A-47,  
41 G.S. 130A-131.7, G.S. 130A-290, G.S. 130A-295.9, G.S. 130A-301, G.S. 130A-309.14,  
42 G.S. 130A-309.140, G.S. 130A-310.60, G.S. 130A-313, G.S. 130A-336, G.S. 130A-481,  
43 G.S. 136-21, G.S. 136-28.8, G.S. 136-44.7B, G.S. 136-44.7D, G.S. 136-44.36D, G.S. 136-123,  
44 G.S. 136-202, G.S. 139-8, G.S. 139-46, G.S. 143-58.2, G.S. 143-58.4, G.S. 143-64.11,  
45 G.S. 143-64.12, G.S. 143-64.17F, G.S. 143-64.17G, G.S. 143-64.17H, G.S. 143-138,  
46 G.S. 143-166.13, G.S. 143-211, G.S. 143-212, G.S. 143-214.7A, G.S. 143-214.8,  
47 G.S. 143-214.13, G.S. 143-214.25A, G.S. 143-215.8D, G.S. 143-215.9B, G.S. 143-215.9C,  
48 G.S. 143-215.73A, G.S. 143-215.77, G.S. 143-215.94I, G.S. 143-215.94L,  
49 G.S. 143-215.94HH, G.S. 143-215.107B, G.S. 143-215.107C, G.S. 143-228.10, G.S. 143-240,  
50 G.S. 143-252, G.S. 143-253, G.S. 143-286.1, G.S. 143-289, G.S. 143-320, G.S. 143-323,  
51 G.S. 143-350, G.S. 143-355, G.S. 143-355.2, G.S. 143-436, G.S. 143-439, G.S. 143B-2,

G.S. 143B-6, G.S. 143B-131.2, G.S. 143B-181, G.S. 143B-279.1, G.S. 143B-279.2, G.S. 143B-279.3, G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8, G.S. 143B-279.9, G.S. 143B-279.10, G.S. 143B-279.11, G.S. 143B-279.12, G.S. 143B-279.13, G.S. 143B-279.14, G.S. 143B-279.15, G.S. 143B-279.16, G.S. 143B-279.17, G.S. 143B-281.1, G.S. 143B-282, G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-284, G.S. 143B-285, G.S. 143B-285.22, G.S. 143B-289.50, G.S. 143B-289.51, G.S. 143B-289.52, G.S. 143B-289.61, G.S. 143B-290, G.S. 143B-293.1, G.S. 143B-298, G.S. 143B-299, G.S. 143B-300, G.S. 143B-301, G.S. 143B-301.1, G.S. 143B-301.10, G.S. 143B-324.1, G.S. 143B-324.2, G.S. 143B-344.34, G.S. 143B-344.35, G.S. 143B-344.36, G.S. 143B-344.37, G.S. 143B-344.38, G.S. 143B-344.44, G.S. 143B-344.50, G.S. 143B-344.55, G.S. 143B-417, G.S. 143B-431.01, G.S. 143B-437, G.S. 143B-437.01, G.S. 146-8, G.S. 147-33.104A, G.S. 148-10, G.S. 150B-1, G.S. 150B-19.3, G.S. 153A-136, G.S. 153A-226, G.S. 153A-421, G.S. 156-59, G.S. 156-74, G.S. 156-76, G.S. 156-83, G.S. 159G-20, G.S. 159C-7, G.S. 159D-7, G.S. 159G-70, G.S. 159I-3, G.S. 162A-23, G.S. 162A-24, G.S. 162A-25, G.S. 162A-29, G.S. 162A-30, G.S. 162A-33, G.S. 162A-35, G.S. 166A-19.3, G.S. 166A-26. In any other instances in the General Statutes in which there is a reference to the Department of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace that reference with a reference to the Department of Environmental Quality, as appropriate.

**SECTION 14.30.(v)** The following statutes are amended by deleting the language "Secretary of Environment and Natural Resources" wherever it appears and substituting "Secretary of Environmental Quality": G.S. 7A-29, G.S. 20-79.5, G.S. 47C-3-122, G.S. 47F-3-122, G.S. 58-78-1, G.S. 62-133.6, G.S. 68-43, G.S. 77-95, G.S. 77-114, G.S. 77-130, G.S. 87-94, G.S. 87-95, G.S. 87-98.2, G.S. 90A-21, G.S. 90A-22, G.S. 90A-23, G.S. 90A-24, G.S. 90A-25.1, G.S. 90A-28, G.S. 90A-30, G.S. 90A-37, G.S. 90A-38, G.S. 90A-39, G.S. 90A-43, G.S. 104E-5, G.S. 104E-17, G.S. 105-129.83, G.S. 105-187.84, G.S. 105-259, G.S. 106-744, G.S. 113-1, G.S. 113-128, G.S. 113-182.1, G.S. 113-221.4, G.S. 113-300.7, G.S. 113A-24, G.S. 113A-52, G.S. 113A-103, G.S. 113A-107, G.S. 113A-115.1, G.S. 113A-164.3, G.S. 113A-166, G.S. 113A-208, G.S. 113A-212, G.S. 113A-221, G.S. 113A-234, G.S. 113A-241, G.S. 113A-258, G.S. 113A-259, G.S. 113B-2, G.S. 113B-3, G.S. 120-150, G.S. 130A-4, G.S. 130A-17, G.S. 130A-18, G.S. 130A-19, G.S. 130A-20, G.S. 130A-22, G.S. 130A-23, G.S. 130A-27, G.S. 130A-47, G.S. 130A-290, G.S. 130A-301, G.S. 130A-313, G.S. 130A-334, G.S. 136-102.3, G.S. 143-58.4, G.S. 143-212, G.S. 143-215.8D, G.S. 143-215.18, G.S. 143-215.22L, G.S. 143-215.40, G.S. 143-215.70, G.S. 143-215.77, G.S. 143-215.86, G.S. 143-215.94HH, G.S. 143-215.107D, G.S. 143-215.126, G.S. 143-243, G.S. 143-320, G.S. 143-726, G.S. 143B-86, G.S. 143B-115, G.S. 143B-279.4, G.S. 143B-279.5, G.S. 143B-279.7, G.S. 143B-279.8, G.S. 143B-281.1, G.S. 143B-282.1, G.S. 143B-283, G.S. 143B-285.23, G.S. 143B-289.50, G.S. 143B-289.53, G.S. 143B-291, G.S. 143B-293.2, G.S. 143B-300, G.S. 143B-301, G.S. 143B-324.1, G.S. 143B-407, G.S. 143B-411.1, G.S. 143B-426.25, G.S. 143B-431.01, G.S. 148-26, G.S. 153A-301, G.S. 158-7.3, G.S. 159G-20, G.S. 159I-7, G.S. 160A-515.1, G.S. 162A-33, G.S. 162A-35. In any other instances in the General Statutes in which there is a reference to the Secretary of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace that reference with a reference to the Secretary of Environmental Quality, as appropriate.

**SECTION 14.30.(w)** The following statutes are amended by deleting the language "Department of Environment and Natural Resources" wherever it appears and substituting "Department of Natural and Cultural Resources": G.S. 100-11, G.S. 100-12, G.S. 100-13, G.S. 100-14, G.S. 146-30. In any other instances in the General Statutes in which there is a reference to the Department of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace that reference with a reference to the Department of Natural and Cultural Resources, as appropriate.

**SECTION 14.30.(x)** The following statutes are amended by deleting the language "Secretary of the Department of Cultural Resources" wherever it appears and substituting "Secretary of Natural and Cultural Resources": G.S. 70-1, G.S. 70-3, G.S. 70-4, G.S. 113A-259, G.S. 116-37.1, G.S. 116-65, G.S. 121-13, G.S. 132-5.1, G.S. 143-640, G.S. 143B-53.2, G.S. 143B-131.1, G.S. 143B-131.2, G.S. 143B-131.6, G.S. 143B-131.9. In any other instances in the General Statutes in which there is a reference to the Secretary of the Department of Cultural Resources or a derivative thereof, the Revisor of Statutes may replace that reference with a reference to the Secretary of Natural and Cultural Resources, as appropriate.

**SECTION 14.30.(y)** The following statutes are amended by deleting the language "Secretary of the Department of Environment and Natural Resources" wherever it appears and substituting "Secretary of Environmental Quality": G.S. 113-173.1, G.S. 127C-2. In any other instances in the General Statutes in which there is a reference to the Secretary of the Department of Environment and Natural Resources or a derivative thereof, the Revisor of Statutes may replace that reference with a reference to the Secretary of Environmental Quality, as appropriate.

## CONFORMING CHANGES

**SECTION 14.30.(z)** The following statutes are amended by deleting the language "Article 2C of Chapter 113" wherever it appears and substituting "Part 32 of Article 7 of Chapter 143B": G.S. 20-81.12, G.S. 143-260.10, G.S. 143B-260.10C, G.S. 143B-260.10D, G.S. 143B-260.10E.

**SECTION 14.30.(aa)** The following statutes are amended by deleting the language "G.S. 113-44.14" wherever it appears and substituting "G.S. 143B-135.54": G.S. 143-260.10, G.S. 143B-260.10C, G.S. 143B-260.10D, G.S. 143B-260.10G.

**SECTION 14.30.(bb)** G.S. 14-131 reads as rewritten:

**"§ 14-131. Trespass on land under option by the federal government.**

On lands under option which have formally or informally been offered to and accepted by either the North Carolina Department of ~~Environment and Natural~~ and ~~Cultural~~ Resources or the Department of Environmental Quality by the acquiring federal agency and tentatively accepted by ~~said a~~ Department for administration as State forests, State parks, State game refuges or for other public purposes, it shall be unlawful to cut, dig, break, injure or remove any timber, lumber, firewood, trees, shrubs or other plants; or any fence, house, barn or other structure; or to pursue, trap, hunt or kill any bird or other wild animals or take fish from streams or lakes within the boundaries of such areas without the written consent of the local official of the United States having charge of the acquisition of such lands.

Any person, firm or corporation convicted of the violation of this section shall be guilty of a Class 3 misdemeanor.

The Department of ~~Environment and Natural Resources~~ Environmental Quality through its legally appointed forestry, fish and game wardens is hereby authorized and empowered to assist the county law-enforcement officers in the enforcement of this section."

**SECTION 14.30.(cc)** G.S. 14-415.11(c1) reads as rewritten:

"(c1) Any person who has a concealed handgun permit may carry a concealed handgun on the grounds or waters of a park within the State Parks System as defined in ~~G.S. 113-44.9~~ G.S. 143B-135.44."

**SECTION 14.30.(dd)** G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) of this section among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Clean Water Management Trust Fund

(CWMTF), which is established under G.S. 113A-253, and the Parks and Recreation Trust Fund, which is established under ~~G.S. 113-44.15~~, G.S. 143B-135.56, as follows:  
...."

**SECTION 14.30.(ee)** G.S. 20-125(b) reads as rewritten:

"(b) Every vehicle owned or operated by a police department or by the Department of Public Safety including the State Highway Patrol or by the Wildlife Resources Commission or the Division of Marine Fisheries, ~~Fisheries of the Department of Environmental Quality~~, or by the Division of Parks and Recreation of the Department of ~~Environment and Natural and Cultural~~ Resources, or by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, and used exclusively for law enforcement, firefighting, or other emergency response purposes, or by the Division of Emergency Management, or by a fire department, either municipal or rural, or by a fire patrol, whether such fire department or patrol be a paid organization or a voluntary association, vehicles used by an organ procurement organization or agency for the recovery and transportation of human tissues and organs for transplantation, and every ambulance or emergency medical service emergency support vehicle used for answering emergency calls, shall be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

The operators of all such vehicles so equipped are hereby authorized to use such equipment at all times while engaged in the performance of their duties and services, both within their respective corporate limits and beyond.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of any police department or of any fire department, whether the same be municipal or rural, paid or voluntary, county fire marshals, assistant fire marshals, transplant coordinators, and emergency management coordinators, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in the performance of their official or semiofficial duties or services either within or beyond their respective corporate limits.

And vehicles driven by law enforcement officers of the North Carolina Division of Motor Vehicles shall be equipped with a bell, siren, or exhaust whistle of a type approved by the Commissioner, and all vehicles owned and operated by the State Bureau of Investigation for the use of its agents and officers in the performance of their official duties may be equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles.

Every vehicle used or operated for law enforcement purposes by the sheriff or any salaried deputy sheriff or salaried rural policeman of any county, whether owned by the county or not, may be, but is not required to be, equipped with special lights, bells, sirens, horns or exhaust whistles of a type approved by the Commissioner of Motor Vehicles. Such special equipment shall not be operated or activated by any person except by a law enforcement officer while actively engaged in performing law enforcement duties.

In addition to the use of special equipment authorized and required by this subsection, the chief and assistant chiefs of each emergency rescue squad which is recognized or sponsored by any municipality or civil preparedness agency, are hereby authorized to use such special equipment on privately owned vehicles operated by them while actually engaged in their official or semiofficial duties or services either within or beyond the corporate limits of the municipality which recognizes or sponsors such organization."

**SECTION 14.30.(ff)** G.S. 20-130.1(b)(18) reads as rewritten:

"(b) The provisions of subsection (a) of this section do not apply to the following:

...

(18) A vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the

Department of ~~Environment and Natural~~ and Cultural Resources that is used for law enforcement, firefighting, or other emergency response purpose."

**SECTION 14.30.(gg)** G.S. 20-145 reads as rewritten:

**"§ 20-145. When speed limit not applicable.**

The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm, nor to public or private ambulances and rescue squad emergency service vehicles when traveling in emergencies, nor to vehicles operated by county fire marshals and civil preparedness coordinators when traveling in the performances of their duties, nor to any of the following when either operated by a law enforcement officer in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, when traveling in response to a fire alarm, or for other emergency response purposes: (i) a vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and Cultural Resources or (ii) a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others."

**SECTION 14.30.(hh)** G.S. 20-156(b) reads as rewritten:

"(b) The driver of a vehicle upon the highway shall yield the right-of-way to police and fire department vehicles and public and private ambulances, vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, and to rescue squad emergency service vehicles and vehicles operated by county fire marshals and civil preparedness coordinators, and to a vehicle operated by the Division of Marine Fisheries of the Department of Environmental Quality or the Division of Parks and Recreation of the Department of ~~Environment and Natural~~ and Cultural Resources when used for law enforcement, firefighting, or other emergency response purpose, and to a vehicle operated by the North Carolina Forest Service of the Department of Agriculture and Consumer Services when used for a law enforcement, firefighting, or other emergency response purpose, when the operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When appropriate warning signals are being given, as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a beam of steady or flashing red light. This provision shall not operate to relieve the driver of a police or fire department vehicle, or a vehicle owned or operated by the Department of Environment and Natural Resources, or the Department of Agriculture and Consumer Services, or public or private ambulance or vehicles used by an organ procurement organization or agency for the recovery or transportation of human tissues and organs for transplantation or a vehicle operated by a transplant coordinator who is an employee of an organ procurement organization or agency when the transplant coordinator is responding to a call to recover or transport human tissues or organs for transplantation, or rescue squad emergency service vehicle or county fire marshals or civil preparedness coordinators from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle or county fire marshal or civil preparedness coordinator from the consequence of any arbitrary exercise of such right-of-way."

**SECTION 14.30.(ii)** G.S. 20-157(a) reads as rewritten:

"(a) Upon the approach of any law enforcement or fire department vehicle or public or private ambulance or rescue squad emergency service vehicle, or a vehicle operated by the Division of Marine Fisheries, ~~Fisheries of the Department of Environmental Quality~~, or the Division of Parks and Recreation of the Department of ~~Environment and Natural and Cultural Resources~~, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services when traveling in response to a fire alarm or other emergency response purpose, giving warning signal by appropriate light and by audible bell, siren or exhaust whistle, audible under normal conditions from a distance not less than 1000 feet, the driver of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb, clear of any intersection of streets or highways, and shall stop and remain in such position unless otherwise directed by a law enforcement or traffic officer until the law enforcement or fire department vehicle, or the vehicle operated by the Division of Marine Fisheries, ~~Fisheries of the Department of Environmental Quality~~, or the Division of Parks and Recreation of the Department of ~~Environment and Natural and Cultural Resources~~, or the North Carolina Forest Service of the Department of Agriculture and Consumer Services, or the public or private ambulance or rescue squad emergency service vehicle shall have passed. Provided, however, this subsection shall not apply to vehicles traveling in the opposite direction of the vehicles herein enumerated when traveling on a four-lane limited access highway with a median divider dividing the highway for vehicles traveling in opposite directions, and provided further that the violation of this subsection shall be negligence per se. Violation of this subsection is a Class 2 misdemeanor."

**SECTION 14.30.(jj)** G.S. 66-58 reads as rewritten:

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

...  
(b) The provisions of subsection (a) of this section shall not apply to:

...  
(9) The Department of ~~Environment and Natural Resources~~, ~~except that the Department shall not construct, maintain, operate or lease a hotel or tourist inn in any park over which it has jurisdiction.~~Environmental Quality. The North Carolina Wildlife Resources Commission may sell wildlife memorabilia as a service to members of the public interested in wildlife conservation.

...  
(9b) The Department of Natural and Cultural Resources for the sale of food pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other tourism-related items and revenues from public and private special events, activities, and programming at historic sites and museums administered by the Department, provided that the resulting profits are used to support the operation of historic sites or ~~museums~~museums and provided further that the Department shall not construct, maintain, operate, or lease a hotel or tourist inn in any park over which it has jurisdiction.

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

...  
(2) The sale of learned journals, works of art, books or publications of the Department of Natural and Cultural Resources or other agencies, or the Supreme Court Reports or Session Laws of the General Assembly.

...  
(9b) The Department of Natural and Cultural Resources for the sale of food pursuant to G.S. 111-47.2 and the sale of books, crafts, gifts, and other tourism-related items and revenues from public and private special events,

activities, and programming at historic sites and museums administered by the Department, provided that the resulting profits are used to support the operation of historic sites or ~~museums~~museums and provided further that the Department shall not construct, maintain, operate, or lease a hotel or tourist inn in any park over which it has jurisdiction.

...."

**SECTION 14.30.(kk)** G.S. 74-50(b3) reads as rewritten:

"(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

- (1) Division of Air Quality, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (2) Division of Parks and Recreation, Department of ~~Environment and Natural and Cultural Resources~~.
- (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- (4) Division of Water Resources, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (6) Wildlife Resources Commission, Department of ~~Environment and Natural Resources~~Environmental Quality.
- (7) Office of Archives and History, Department of Cultural Resources.
- (8) United States Fish and Wildlife Service, United States Department of the Interior.
- (9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, ~~Department of Environment and Natural Resources~~; the Division of Marine Fisheries, ~~Department of Environment and Natural Resources~~; and the Division of Waste Management, Management of the Department of Environment and Natural Resources; Environmental Quality; and the Department of Transportation."

**SECTION 14.30.(ll)** G.S. 106-202.17(b) reads as rewritten:

"(b) The Scientific Committee shall consist of the Directors of The University of North Carolina at Chapel Hill Herbarium, the North Carolina State University Herbarium, the North Carolina Botanical Garden of The University of North Carolina at Chapel Hill, the North Carolina State Museum of Natural Sciences of the Department of Natural and Cultural Resources, and the North Carolina Natural Heritage Program of the Department of ~~Environment and Natural Resources~~Environmental Quality or their designees, a representative of the North Carolina Association of Nurserymen, Inc., appointed by the Commissioner, and a representative of a conservation organization, appointed by the Commissioner. Members shall serve for three-year terms and may succeed themselves."

**SECTION 14.30.(mm)** G.S. 106-803(a) reads as rewritten:

**"§ 106-803. Siting requirements for swine houses, lagoons, and land areas onto which waste is applied at swine farms.**

(a) A swine house or a lagoon that is a component of a swine farm shall be located:

- (1) At least 1,500 feet from any occupied residence.
- (2) At least 2,500 feet from any school; hospital; church; outdoor recreational facility; national park; State Park, as defined in ~~G.S. 113-44.9~~;

G.S. 143B-135.44; historic property acquired by the State pursuant to G.S. 121-9 or listed in the North Carolina Register of Historic Places pursuant to G.S. 121-4.1; or child care center, as defined in G.S. 110-86, that is licensed under Article 7 of Chapter 110 of the General Statutes.

(3) At least 500 feet from any property boundary.

(4) At least 500 feet from any well supplying water to a public water system, as defined in G.S. 130A-313.

(5) At least 500 feet from any other well that supplies water for human consumption. This subdivision does not apply to a well located on the same parcel or tract of land on which the swine house or lagoon is located and that supplies water only for use on that parcel or tract of land or for use on adjacent parcels or tracts of land all of which are under common ownership or control."

**SECTION 14.30.(nn)** G.S. 113-8 reads as rewritten:

**"§ 113-8. Powers and duties of the Department.**

The Department shall make investigations of the natural resources of the State, and take such measures as it may deem best suited to promote the conservation and development of such resources.

It shall have the protection of lands and water supplies; it shall also have the care of ~~State parks, and other~~ recreational areas now owned or to be acquired by the State, including the lakes referred to in G.S. 146-7.

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

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

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

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

**SECTION 14.30.(oo)** G.S. 113-28.1 reads as rewritten:

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

Upon application by either the Secretary of ~~Environment and Natural Resources~~, ~~Natural and Cultural Resources~~ or the Secretary of ~~Environmental Quality~~, the Governor is hereby authorized and empowered to commission as special peace officers such of the employees of the ~~Department of Environment and Natural Resources~~ Departments as the Secretary may designate for the purpose of enforcing the laws and rules enacted or adopted for the protection, preservation and government of State parks, lakes, reservations and other lands or waters under the control or supervision of the ~~Department of Environment and Natural Resources~~ respective Departments."

**SECTION 14.30.(pp)** G.S. 113-28.2 reads as rewritten:

**"§ 113-28.2. Powers of arrest.**

Any employee of either the Department of ~~Environment and Natural~~ and Cultural Resources or the Department of Environmental Quality commissioned as a special peace officer shall have the right to arrest with warrant any person violating any law or rule on or relating to the State parks, lakes, reservations and other lands or waters under the control or supervision of the ~~Department of Environment and Natural Resources,~~ employee's respective Department, and shall have the power to pursue and arrest without warrant any person violating in his presence any law or rule on or relating to said parks, lakes, reservations and other lands or waters under the control or supervision of the ~~Department of Environment and Natural Resources,~~ employee's respective Department."

**SECTION 14.30.(qq)** G.S. 113-28.2A reads as rewritten:

**"§ 113-28.2A. Cooperation between law enforcement agencies.**

Special peace officers employed by either the Department of ~~Environment and Natural~~ and Cultural Resources or the Department of Environmental Quality are officers of a "law enforcement agency" for purposes of G.S. 160A-288, and ~~the each~~ Department shall have the same authority as a city or county governing body to approve cooperation between law enforcement agencies under that section."

**SECTION 14.30.(rr)** G.S. 113-28.4 reads as rewritten:

**"§ 113-28.4. Oaths required.**

Before any employee of either the Department of ~~Environment and Natural~~ and Cultural Resources or the Department of Environmental Quality commissioned as a special peace officer shall exercise any power of arrest under this ~~Article~~ he Article, the employee shall take the oaths required of public officers before an officer authorized to administer oaths."

**SECTION 14.30.(ss)** G.S. 113-307.1(a) reads as rewritten:

"(a) The consent of the General Assembly of North Carolina is hereby given to the making by the Congress of the United States, or under its authority, of all such rules and regulations as the federal government shall determine to be needful in respect to game animals, game and nongame birds, and fish on such lands in the western part of North Carolina as shall have been, or may hereafter be, purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled "An act to enable any state to cooperate with any other state or states, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purposes of conserving the navigability of navigable rivers" (36 Stat. 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereon.

Nothing in this subsection shall be construed as conveying the ownership of wildlife from the State of North Carolina or permit the trapping, hunting, or transportation of any game animals, game or nongame birds, or fish by any person, including any agency, department, or instrumentality of the United States or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any act of Congress, except in accordance with the provisions of this Subchapter and its implementing regulations. Provided, that the provisions of ~~G.S. 113-39~~ G.S. 143B-135.20 apply with respect to licenses.

Any person, including employees or agents of any department or instrumentality of the United States, violating the provisions of this subsection is guilty of a Class 1 misdemeanor."

**SECTION 14.30.(tt)** G.S. 120-306(a)(1)c. is repealed.

**SECTION 14.30.(uu)** G.S. 121-7.7(c) reads as rewritten:

"(c) Reports. – The Department of Natural and Cultural Resources must submit to the Joint Legislative Commission on Governmental Operations, the chairs of the House of Representatives and Appropriations Committee on Agriculture and Natural and Environmental Resources, the Chairs of the Senate Appropriations Subcommittees Committee on General Government, Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year a report on the Fund that includes the source and amounts of all funds credited

1 to the Fund and the purpose and amount of all expenditures from the Fund during the prior  
2 fiscal year."

3 **SECTION 14.30.(vv)** G.S. 121-21.1(c) reads as rewritten:

4 "(c) The Tryon Palace Commission shall submit to the Joint Legislative Commission on  
5 Governmental Operations, the House ~~and of Representatives Appropriations Committee on~~  
6 Agriculture and Natural and Economic Resources, the Senate Appropriations ~~Subcommittees~~  
7 Committee on General Government, Natural and Economic Resources, and the Fiscal Research  
8 Division by September 30 of each year a report on the Tryon Palace Historic Sites and Gardens  
9 Fund that shall include the source and amounts of all funds credited to the Fund and the  
10 purpose and amount of all expenditures from the Fund during the prior fiscal year."

11 **SECTION 14.30.(ww)** G.S. 136-44.12 reads as rewritten:

12 "**§ 136-44.12. Maintenance of roads and parking lots in areas administered by the**  
13 **Division of Parks and Recreation.**

14 The Department of Transportation shall maintain all roads and parking lots which are not  
15 part of the State Highway System, leading into and located within the boundaries of all areas  
16 administered by the Division of Parks and Recreation of the Department of ~~Environment and~~  
17 Natural and Cultural Resources.

18 All such roads and parking lots shall be planned, designed, and engineered through joint  
19 action between the Department of Transportation and the Division of Parks and Recreation of  
20 the Department of ~~Environment and~~ Natural and Cultural Resources. This joint action shall  
21 encompass all accepted park planning and design principles. Particular concern shall be given  
22 to traffic counts and vehicle weight, minimal cutting into or through any natural and scenic  
23 areas, width of shoulders, the cutting of natural growth along roadways, and the reduction of  
24 any potential use of roads or parking lots for any purpose other than by park users. All State  
25 park roads and parking lots shall conform to the standards regarding width and other roadway  
26 specifications as agreed upon by the Division of Parks and Recreation of the Department of  
27 ~~Environment and~~ Natural and Cultural Resources and the Department of Transportation.

28 The State park road systems may be closed to the public in accordance with approved park  
29 practices that control the use of State areas so as to protect these areas from overuse and abuse  
30 and provide for functional use of the park areas, or for any other purpose considered in the best  
31 interest of the public by the Division of Parks and Recreation of the Department of  
32 ~~Environment and~~ Natural and Cultural Resources.

33 Nothing herein shall be construed to include the transfer to the Department of  
34 Transportation the powers now vested in the Division of Parks and Recreation of the  
35 Department of ~~Environment and~~ Natural and Cultural Resources relating to the patrol and  
36 safeguarding of State park roads or State park parking lots."

37 **SECTION 14.30.(xx)** G.S. 143-116.8 reads as rewritten:

38 "**§ 143-116.8. Motor vehicle laws applicable to State parks and forests road system.**

39 (a) Except as otherwise provided in this section, all the provisions of Chapter 20 of the  
40 General Statutes relating to the use of highways and public vehicular areas of the State and the  
41 operation of vehicles thereon are made applicable to the State parks and forests road system.  
42 For the purposes of this section, the term "State parks and forests road system" shall mean the  
43 streets, alleys, roads, public vehicular areas and driveways of the State parks, State forests,  
44 State recreation areas, State lakes, and all other lands administered by the Department of  
45 ~~Environment and~~ Natural and Cultural Resources or the Department of Agriculture and  
46 Consumer Services. This term shall not be construed, however, to include streets that are a part  
47 of the State highway system. Any person violating any of the provisions of Chapter 20 of the  
48 General Statutes hereby made applicable in the State parks and forests road system shall, upon  
49 conviction, be punished in accordance with Chapter 20 of the General Statutes. Nothing herein  
50 contained shall be construed as in any way interfering with the ownership and control of the

State parks road system by the Department of ~~Environment and~~ Natural and Cultural Resources and the forests road system by the Department of Agriculture and Consumer Services.

(b) (1) It shall be unlawful for a person to operate a vehicle in the State parks road system at a speed in excess of twenty-five miles per hour (25 mph). When the Secretary of ~~Environment and~~ Natural and Cultural Resources determines that this speed is greater than reasonable and safe under the conditions found to exist in the State parks road system, the Secretary may establish a lower reasonable and safe speed limit. No speed limit established by the Secretary pursuant to this provision shall be effective until posted in the part of the system where the limit is intended to apply.

...

(c) The Secretary of ~~Environment and~~ Natural and Cultural Resources may, by rule, regulate parking and establish parking areas, and provide for the removal of illegally parked motor vehicles on the State parks road system, and the Commissioner of Agriculture may, by rule, regulate and establish parking areas and provide for the removal of illegally parked motor vehicles on the State forests road system. Any rule of the Secretary or the Commissioner shall be consistent with the provisions of G.S. 20-161, 20-161.1, and 20-162. Any removal of illegally parked motor vehicles shall be in compliance with Article 7A of Chapter 20 of the General Statutes.

(d) A violation of the rules issued by the Secretary of ~~Environment and~~ Natural and Cultural Resources or the Commissioner of Agriculture under subsection (c) of this section is an infraction pursuant to G.S. 20-162.1, and shall be punished as therein provided. These rules may be enforced by the Commissioner of Motor Vehicles, the Highway Patrol, forest law enforcement officers, or other law enforcement officers of the State, counties, cities or other municipalities having authority under Chapter 20 of the General Statutes to enforce laws or rules on travel or use or operation of vehicles or the use or protection of the highways of the State.

...

(f) Notwithstanding any other provision of this section, a person may petition the Department of ~~Environment and~~ Natural and Cultural Resources for a waiver authorizing the person to operate a vehicle in the State parks road system at a speed in excess of 25 miles per hour in connection with a special event. The Secretary may impose any conditions on a waiver that the Secretary determines to be necessary to protect public health, safety, welfare, and the natural resources of the State park. These conditions shall include a requirement that the person receiving the waiver execute an indemnification agreement with the Department and obtain general liability insurance in an amount not to exceed three million dollars (\$3,000,000) covering personal injury and property damage that may result from driving in excess of 25 miles per hour in the State parks road system subject to the conditions determined by the Secretary.

...."

**SECTION 14.30.(yy)** G.S. 143-129.8A(a) reads as rewritten:

"(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary purpose is the attraction of, interaction with, and education of the public regarding issues of global conservation, ecological preservation, and scientific exploration, and that purpose presents unique challenges requiring greater flexibility and faster responsiveness in meeting the needs of and creating the attractions for the Park. Accordingly, the Department of ~~Environment and~~ Natural and Cultural Resources may use the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law, to contract with a non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the contract directly results in the generation of revenue for the State of North Carolina or (ii) the

1 use of the acquired goods and services by the Park results in increased revenue or decreased  
2 expenditures for the State of North Carolina."

3 **SECTION 14.30.(zz)** G.S. 143-135.9(e) reads as rewritten:

4 "(e) North Carolina Zoological Park. – The acquisition of goods and services under a  
5 contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of  
6 ~~Environment and Natural and Cultural~~ Resources on behalf of the North Carolina Zoological  
7 Park may be conducted using the Best Value procurement method. For acquisitions which the  
8 procuring agency deems to be highly complex, the use of Government-Vendor partnership is  
9 authorized."

10 **SECTION 14.30.(aaa)** G.S. 143-215.31(e) reads as rewritten:

11 "(e) The minimum streamflow in the length of the stream affected by a dam to which  
12 subsections (c) and (d) of this section do not apply shall be established as provided in  
13 subsection (b) of this section. Subsections (c) and (d) of this section do not apply if the length  
14 of the stream affected:

- 15 (1) Receives a discharge of waste from a treatment works for which a permit is  
16 required under Part 1 of this Article; or
- 17 (2) Includes any part of a river or stream segment that:
  - 18 a. Is designated as a component of the State Natural and Scenic Rivers  
19 System by ~~G.S. 113A-35.1~~ G.S. 143B-135.152 or  
20 ~~G.S. 113A-35.2~~ G.S. 143B-135.154.
  - 21 b. Is designated as a component of the national Wild and Scenic Rivers  
22 System by 16 U.S.C. § 1273 and 1274."

23 **SECTION 14.30.(bbb)** G.S. 143-215.73F reads as rewritten:

24 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**  
25 **Fund.**

26 The Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund is  
27 established as a special revenue fund. The Fund consists of fees credited to it under G.S. 75A-3,  
28 75A-38, and 105-449.126. Revenue in the Fund may only be used to provide the State's share  
29 of the costs associated with any dredging project designed to keep shallow draft navigation  
30 channels located in State waters or waters of the state located within lakes navigable and safe,  
31 or for aquatic weed control projects in waters of the State located within lakes under Article 15  
32 of Chapter 113A of the General Statutes. Funding for aquatic weed control projects is limited to  
33 five hundred thousand dollars (\$500,000) in each fiscal year. Any project funded by revenue  
34 from the Fund must be cost-shared with non-State dollars on a one-to-one basis, provided that  
35 the cost-share for a lake located within a component of the State Parks System shall be  
36 provided by the Division of Parks and Recreation of the Department of ~~Environment and~~  
37 ~~Natural and Cultural~~ Resources. The Division of Parks and Recreation may use funds allocated  
38 to the State Parks System for capital projects under ~~G.S. 113-44.15~~ G.S. 143B-135.56 for the  
39 cost-share. For purposes of this section, "shallow draft navigation channel" means (i) a  
40 waterway connection with a maximum depth of 16 feet between the Atlantic Ocean and a bay  
41 or the Atlantic Intracoastal Waterway, (ii) a river entrance to the Atlantic Ocean through which  
42 tidal and other currents flow, or (iii) other interior coastal waterways. "Shallow draft navigation  
43 channel" includes the Atlantic Intracoastal Waterway and its side channels, Beaufort Harbor,  
44 Bogue Inlet, Carolina Beach Inlet, the channel from Back Sound to Lookout Back, channels  
45 connected to federal navigation channels, Lockwoods Folly River, Manteo/Shallowbag Bay,  
46 including Oregon Inlet, Masonboro Inlet, New River, New Topsail Inlet, Rodanthe, Rollinson,  
47 Shallotte River, Silver Lake Harbor, and the waterway connecting Pamlico Sound and Beaufort  
48 Harbor."

49 **SECTION 14.30.(ccc)** G.S. 147-12(b) reads as rewritten:

50 "(b) The Department of Transportation, the Division of Adult Correction of the  
51 Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission,

the Division of Parks and Recreation in the Department of ~~Environment and Natural~~ Natural Resources, and the Division of Marine Fisheries in the Department of ~~Environment and Natural Resources~~ Environmental Quality shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate ~~Appropriations Subcommittees on Natural and Economic Resources~~ appropriations committees with jurisdiction over natural and economic resources."

**SECTION 14.30.(ddd)** The title of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"Article 2.

Department of Natural and Cultural Resources."

**SECTION 14.30.(eee)** The title of Article 7 of Chapter 143B of the General Statutes is rewritten to read:

"Article 7.

Department of Environmental Quality."

**SECTION 14.30.(fff)** G.S. 143B-50 reads as rewritten:

**"§ 143B-50. Duties of the Department.**

It shall be the duty of the Department to do the following:

(1) To provide the necessary management, development of policy and establishment and enforcement of standards for the furtherance of resources, services and programs involving the arts and the historical and cultural aspects of the lives of the citizens of North Carolina.

(2) To provide and keep a museum or collection of the natural history of the State and to maintain the North Carolina Biological Survey."

**SECTION 14.30.(ggg)** G.S. 143B-53 reads as rewritten:

**"§ 143B-53. Organization of the Department.**

(a) The Department of Cultural Resources shall be organized initially to include the Art Commission, the Art Museum Building Commission, the North Carolina Historical Commission, the Tryon Palace Commission, the U.S.S. North Carolina Battleship Commission, the Sir Walter Raleigh Commission, the Executive Mansion Fine Arts Committee, the American Revolution Bicentennial Committee, the North Carolina Awards Committee, the America's Four Hundredth Anniversary Committee, the North Carolina Arts Council, the Public Librarian Certification Commission, the State Library Commission, the North Carolina Symphony Society, Inc., and the Division of the State Library, the Division of Archives and History, the Division of the Arts, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

(b) The Department of Natural and Cultural Resources shall include the currently existing entities listed in subsection (a) of this section and the following additional entities:

(1) The Parks and Recreation Division.

(2) The State Parks System, including Mount Mitchell State Park.

(3) The North Carolina Aquariums Division.

(4) The North Carolina Zoological Park.

(5) The Museum of Natural Sciences.

(6) North Carolina Parks and Recreation Authority.

(7) North Carolina Trails Committee.

(8) North Carolina Zoological Park Council.

(9) Advisory Commission for North Carolina State Museum of Natural Sciences."

**SECTION 14.30.(hhh)** G.S. 143B-53.3(c) reads as rewritten:

"(c) Reports. – The Department of Natural and Cultural Resources shall submit a report by September 30 of each year to the Joint Legislative Commission on Governmental Operations, the chairs of the House of Representatives Appropriations Subcommittee Committee on General Government, Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on General Government and Information Technology, Natural and Economic Resources, and the Fiscal Research Division. This report shall include the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

**SECTION 14.30.(iii)** G.S. 143B-87.2(c) reads as rewritten:

"(c) Reports. – The Department shall submit a report to the Joint Legislative Commission on Governmental Operations, the House of Representatives Appropriations Subcommittee Committee on General Government, Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on General Government and Information Technology, Natural and Economic Resources, and the Fiscal Research Division by September 30 of each year that includes the source and amount of all funds credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

**SECTION 14.30.(jjj)** G.S. 143B-131.4 reads as rewritten:

**"§ 143B-131.4. Commission reports.**

The Commission shall submit a quarterly report to the Chairs of the House of Representatives Appropriations Subcommittee Committee on General Government and Agriculture and Natural and Economic Resources, the Chairs of the Senate Appropriations Committee on General Government and Information Technology Natural and Economic Resources, and to the Fiscal Research Division of the General Assembly. The report shall include:

- (1) A summary of actions taken by the Commission consistent with the powers and duties of the Commission set forth in G.S. 143B-131.2.
- (2) Recommendations for legislation and administrative action to promote and develop the Elizabeth II State Historic Site and Visitor Center.
- (3) An accounting of funds received and expended."

**SECTION 14.30.(kkk)** G.S. 143B-279.2(2a) is repealed.

**SECTION 14.30.(lll)** Subdivisions (9) and (12) of subsection (a) and subdivisions (17), (19), and (22) of subsection (b) of G.S. 143B-279.3 are repealed.

**SECTION 14.30.(mmm)** G.S. 143B-344.49 reads as rewritten:

**"§ 143B-344.49. Definitions.**

The following definitions apply to this Part:

- (1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.
- (2) Department. – The ~~Environment and Natural Resources~~Department of Environmental Quality.
- (3) Secretary. – The Secretary of the ~~Department of Environment and Natural Resources~~Environmental Quality.
- (4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.

(5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors."

**SECTION 14.30.(nnn)** G.S. 146-29.2(e) reads as rewritten:

"(e) Land in the State Parks System, as defined in ~~G.S. 113-449.9~~, G.S. 143B-135.44, may only be leased or conveyed for the purposes of this section upon the approval of the Secretary of ~~the Department of Environment and Natural and Cultural Resources~~. Lease or conveyance of land in the State Parks System for the purposes of this section shall comply with the requirements of ~~Articles 2 and 2C of Chapter 113-Parts 31 and 32 of Article 7 of Chapter 143B~~ of the General Statutes. When selecting a location for a communications tower or antenna in the State Parks System, the State shall choose a location that minimizes the visual impact on the surrounding landscape. No land acquired or developed using funds from the Federal Land and Water Conservation Fund shall be leased or conveyed for the purposes of this section."

#### **LIMITED AUTHORITY TO RECLASSIFY AND ELIMINATE CERTAIN POSITIONS**

**SECTION 14.30.(ooo)** Notwithstanding any other provision of law, subject to the approval of the Director of the Budget, the Office of State Budget and Management or the Secretary of the Department of Natural and Cultural Resources may reclassify or eliminate existing administrative positions that are not specifically addressed in this act as needed for the efficient operation of the Department.

#### **BUDGETARY TRANSITION PROVISIONS**

**SECTION 14.30.(ppp)** The Office of State Budget and Management shall ensure that future budget documents show the Department of Natural and Cultural Resources, as renamed and reorganized by this section, in the Natural and Economic Resources section of the budget.

**SECTION 14.30.(qqq)** The Department of Natural and Cultural Resources shall transfer to the Department of Environmental Quality any funds necessary to cover outstanding liabilities of the attractions, divisions, or entities transferred by this section that come due to the Department of Environmental Quality on or after August 1, 2016.

**SECTION 14.30.(rrr)** The Department of Environmental Quality shall transfer to the Department of Natural and Cultural Resources any funds remaining after covering outstanding liabilities of the attractions, divisions, or entities transferred by this section.

#### **REPORTING AND EFFECTIVE DATE**

**SECTION 14.30.(sss)** The Office of State Budget and Management, in consultation with the Department of Environment and Natural Resources and the Department of Cultural Resources, shall make the following reports on progress implementing this section to the Environmental Review Commission, the Senate and the House of Representatives appropriations committees with jurisdiction over natural and cultural resources, and the Fiscal Research Division:

(1) An interim report on or before October 1, 2015.

(2) A final report on or before January 15, 2016.

These reports shall include (i) the proposed new organization structure, including proposed movement of positions or funds between fund codes, and (ii) information about any reclassifications of positions or reductions in force pursuant to subsection (ooo) of this section, and may include any recommendations for changes to the statutes revised or recodified by this section.

**SECTION 14.30.(ttt)** Other than subsection (sss) of this section, this section becomes effective August 1, 2016. Any references in this act to any program, office, section,

division, council, or committee transferred under this section shall be construed to be consistent with the transfers under this section.

**STUDY FURTHER EFFICIENCIES IN ORGANIZATION OF DEPARTMENT OF  
NATURAL AND CULTURAL RESOURCES AND DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**SECTION 14.31.(a)** The Department of Cultural Resources, in consultation with the Department of Environment and Natural Resources and the Wildlife Resources Commission, shall study and report on the potential for efficiency, cost savings, and alignment of core mission and values that would be created from the transfer of the following agencies, divisions, or programs to the reorganized Department of Natural and Cultural Resources created by Section 14.30 of this act:

- (1) Albemarle-Pamlico National Estuary Partnership.
- (2) Coastal Reserves Program.
- (3) Office of Land and Water Stewardship.
- (4) All or a portion of the Office of Environmental Education and Public Affairs.
- (5) Division of Marine Fisheries.
- (6) Wildlife Resources Commission.

**SECTION 14.31.(b)** The Department shall report as required by subsection (a) of this section no later than April 1, 2016, to the chairs of the Senate Appropriations Committee on Natural and Economic Resources, the chairs of the House Appropriations Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division.

**NC MUSEUM OF NATURAL SCIENCES AT WHITEVILLE**

**SECTION 14.32.(a)** If the governing board of the City of Whiteville resolves by August 1, 2015, to accept ownership of the property used for the North Carolina Museum of Natural Sciences at Whiteville, then no later than November 1, 2015, the State of North Carolina shall convey to the City of Whiteville for consideration of one dollar (\$1.00), all its right, title, and interest in the property used for the North Carolina Museum of Natural Sciences at Whiteville allocated to the Department of Environment and Natural Resources.

**SECTION 14.32.(b)** The State of North Carolina shall convey the real property described in subsection (a) of this section without warranty. The State makes no representations or warranties concerning the title to the property, the boundaries of the property, the uses to which the property may be put, zoning, local ordinances, or any physical, environmental, health, and safety conditions relating to the property. All costs associated with the conveyance of the property shall be borne by the City of Whiteville.

**SECTION 14.32.(c)** The conveyance of the State's right, title, and interest in the North Carolina Museum of Natural Sciences at Whiteville shall be exempt from the provisions of Article 7 of Chapter 146 of the General Statutes. The conveyance shall comply with the provisions of Article 16 of Chapter 146 of the General Statutes; provided that the provisions of G.S. 146-74 shall not apply. The transaction shall be reported to the Fiscal Research Division within 30 days of the transaction being finalized.

**SECTION 14.32.(d)** If the governing board of the City of Whiteville does not resolve to accept ownership of the property used for the North Carolina Museum of Natural Sciences at Whiteville under this section or the conveyance does not occur by November 1, 2015, then:

- (1) The Department of Administration shall dispose of the property in accordance with Article 7 of Chapter 146 of the General Statutes, provided that the net proceeds of the disposition shall be deposited to the General Fund.

(2) The Department of Environment and Natural Resources shall close the North Carolina Museum of Natural Sciences at Whiteville no later than November 1, 2015, and shall eliminate all positions for the Museum no later than December 1, 2015. The Department of Environment and Natural Resources may use any funds available to the Department during the 2015-2016 fiscal year for any costs associated with operating and then closing the Museum and for supporting positions for the Museum until the Museum is sold, closed, or November 1, 2015, whichever date occurs earliest.

**SECTION 14.32.(e)** G.S. 143B-344.23, or any recodification of that statute, is repealed.

**SECTION 14.32.(f)** Subsection (e) of this section becomes effective November 1, 2015.

#### **TECHNICAL CORRECTION RELATING TO ROANOKE ISLAND COMMISSION LEGAL COUNSEL**

**SECTION 14.33.** G.S. 143B-131.7 is repealed.

### **PART XV. DEPARTMENT OF COMMERCE**

#### **EDPNC STATE BUDGET ACT EXEMPTION**

**SECTION 15.1.** G.S. 143B-431.01(b) reads as rewritten:

"(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. The contract entered into pursuant to this section between the Department and the Economic Development Partnership of North Carolina is exempt from Articles 3 and 3C of Chapter 143 of the General Statutes. ~~Statutes~~ and G.S. 143C-6-23. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

- (1) The obligation or commitment of funds under this Article, such as the One North Carolina Fund, the Job Development Investment Grant Program, the Industrial Development Fund, or the Job Maintenance and Capital Development Fund.
- (2) The Division of Employment Security, including the administration of unemployment insurance.
- (3) The functions set forth in G.S. 143B-431(a)(2).
- (4) The administration of funds or grants received from the federal government or its agencies."

#### **COMMERCE STUDY TIME SPENT ADMINISTERING PROGRAMS SUPPORTED BY FEDERAL FUNDS**

**SECTION 15.3.(a)** The Department of Commerce shall study the amount of time all persons in General Fund-supported positions spend performing duties related to the operation and administration of programs that receive federal funds, including the Division of Employment Security and the Division of Workforce Solutions, to determine whether some or all of the costs related to the performance of these duties should be supported by federal

indirect cost receipts and, therefore, should be paid for with federal funds instead of General Fund appropriations.

**SECTION 15.3.(b)** No later than March 1, 2016, the Department of Commerce shall report the findings of the study required under subsection (a) of this section to the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.

## **DEPARTMENT OF COMMERCE/CONFORMING STATUTORY CHANGES**

**SECTION 15.4.(a)** G.S. 20-81.12 reads as rewritten:

**"§ 20-81.12. Collegiate insignia plates and certain other special plates.**

...  
(b124) Travel and Tourism. – The Division must receive 300 or more applications for the "Travel and Tourism" plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of "Travel and Tourism" plates to the ~~Division of Tourism, Film, and Sports Development~~ Department of Commerce to be used for programs in support of travel and tourism in North Carolina.

...."

**SECTION 15.4.(b)** G.S. 143B-434.2 reads as rewritten:

**"§ 143B-434.2. Travel and Tourism Policy Act.**

...  
(d) The Department of Commerce, and the ~~Division of Tourism, Film, and Sports Development~~ within that Department, nonprofit corporation with whom the Department contracts pursuant to G.S. 143B-431.01(b) to promote and market tourism, shall implement the policies set forth in this section. The ~~Division of Tourism, Film, and Sports Development~~ nonprofit corporation shall make an annual report to the General Assembly regarding the status of the travel and tourism industry in North Carolina; the report shall be submitted to the General Assembly by October 15 of each year beginning ~~October 15, 2011~~ October 15, 2015. The duties and responsibilities of the ~~Department of Commerce through the Division of Tourism, Film, and Sports Development~~ nonprofit corporation shall be to:

- (1) Organize and coordinate programs designed to promote tourism within the State and to the State from other states and foreign countries.
- (2) Measure and forecast tourist volume, receipts, and impact, both social and economic.
- (3) Develop a comprehensive plan to promote tourism to the State.
- (4) Encourage the development of the State's tourism infrastructure, facilities, services, and attractions.
- (5) Cooperate with neighboring states and the federal government to promote tourism to the State from other countries.
- (6) Develop opportunities for professional education and training in the tourism industry.
- (7) Provide advice and technical assistance to local public and private tourism organizations in promoting tourism to the State.
- (8) Encourage cooperation between State agencies and private individuals and organizations to advance the State's tourist interests and seek the views of these agencies and the private sector in the development of State tourism programs and policies.
- (9) Give leadership to all concerned with tourism in the State.

- (10) Perform other functions necessary to the orderly growth and development of tourism.
- (11) Develop informational materials for visitors which, among other things, shall:
- a. Describe the State's travel and tourism resources and the State's history, economy, political institutions, cultural resources, outdoor recreational facilities, and principal festivals.
  - b. Urge visitors to protect endangered species, natural resources, archaeological artifacts, and cultural treasures.
  - c. Instill the ethic of stewardship of the State's natural resources.
- (12) Foster an understanding among State residents and civil servants of the economic importance of hospitality and tourism to the State.
- (13) Work with local businesses, including banks and hotels, with educational institutions, and with the United States Travel and Tourism Administration, to provide special services for international visitors, such as currency exchange facilities.
- (14) Encourage the reduction of architectural and other barriers which impede travel by physically handicapped persons."

**SECTION 15.4.(c)** G.S. 143B-472.35 reads as rewritten:

**"§ 143B-472.35. Establishment of fund; use of funds; application for grants; disbursal; repayment; inspections; rules; reports.**

...  
(a2) Definitions. – For purposes of this section, the following definitions shall apply:

- ...  
(9) Main Street Center. – The agency within the North Carolina Department of ~~Commerce, Office of Urban Development, Commerce~~ which receives applications and makes decisions with respect to Main Street Solutions Fund grant applications from eligible local governments.

...."

**SECTION 15.4.(d)** The Department of Commerce shall, in accordance with Article 2A of Chapter 150B of the General Statutes, amend its rules to reflect the division name changes provided for in this section.

**SECTION 15.4.(e)** The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

## **NER BLOCK GRANTS/2016 AND 2017 PROGRAM YEARS**

**SECTION 15.5.(a)** Appropriations from federal block grant funds are made for the fiscal years ending June 30, 2016, and June 30, 2017, according to the following schedule:

### **COMMUNITY DEVELOPMENT BLOCK GRANT**

01. State Administration	\$ 1,037,500
02. Economic Development	15,737,500
03. Infrastructure	26,725,000

### **TOTAL COMMUNITY DEVELOPMENT**

<b>BLOCK GRANT – 2016 Program Year</b>	<b>\$ 43,500,000</b>
<b>2017 Program Year</b>	<b>\$ 43,500,000</b>

1           **SECTION 15.5.(b)** Decreases in Federal Fund Availability. – If federal funds are  
2 reduced below the amounts specified in this section after the effective date of this act, then  
3 every program in each of these federal block grants shall be reduced by the same percentage as  
4 the reduction in federal funds.

5           **SECTION 15.5.(c)** Increases in Federal Fund Availability. – Any block grant  
6 funds appropriated by the Congress of the United States in addition to the funds specified in  
7 this section shall be expended as follows: each program category under the Community  
8 Development Block Grant shall be increased by the same percentage as the increase in federal  
9 funds.

10           **SECTION 15.5.(d)** Limitations on Community Development Block Grant Funds. –  
11 Of the funds appropriated in this section for the Community Development Block Grant, the  
12 following shall be allocated in each category for each program year: up to one million  
13 thirty-seven thousand five hundred dollars (\$1,037,500) may be used for State Administration;  
14 up to fifteen million seven hundred thirty-seven thousand five hundred dollars (\$15,737,500)  
15 may be used for Economic Development; and up to twenty-six million seven hundred  
16 twenty-five thousand dollars (\$26,725,000) may be used for Infrastructure. If federal block  
17 grant funds are reduced or increased by the Congress of the United States after the effective  
18 date of this act, then these reductions or increases shall be allocated in accordance with  
19 subsection (b) or (c) of this section, as applicable.

20           **SECTION 15.5.(e)** The Department of Commerce shall consult with the Joint  
21 Legislative Commission on Governmental Operations prior to reallocating Community  
22 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever  
23 the Director of the Budget finds that:

- 24           (1) A reallocation is required because of an emergency that poses an imminent  
25 threat to public health or public safety, the Director of the Budget may  
26 authorize the reallocation without consulting the Commission. The  
27 Department of Commerce shall report to the Commission on the reallocation  
28 no later than 30 days after it was authorized and shall identify in the report  
29 the emergency, the type of action taken, and how it was related to the  
30 emergency.
- 31           (2) The State will lose federal block grant funds or receive less federal block  
32 grant funds in the next fiscal year unless a reallocation is made, the  
33 Department of Commerce shall provide a written report to the Commission  
34 on the proposed reallocation and shall identify the reason that failure to take  
35 action will result in the loss of federal funds. If the Commission does not  
36 hear the issue within 30 days of receipt of the report, the Department may  
37 take the action without consulting the Commission.

38           **SECTION 15.5.(f)** By September 1, 2015, and September 1, 2016, the Department  
39 of Commerce shall report to the Joint Legislative Commission on Governmental Operations  
40 and the Fiscal Research Division on the use of Community Development Block Grant Funds  
41 appropriated in the prior fiscal year. The report shall include the following:

- 42           (1) A discussion of each of the categories of funding and how the categories  
43 were selected, including information on how a determination was made that  
44 there was a statewide need in each of the categories.
- 45           (2) Information on the number of applications that were received in each  
46 category and the total dollar amount requested in each category.
- 47           (3) A list of grantees, including the grantee's name, county, category under  
48 which the grant was funded, the amount awarded, and a narrative description  
49 of the project.

50           **SECTION 15.5.(g)** For purposes of this section, eligible activities under the  
51 category of Infrastructure in subsection (a) of this section shall be defined as provided in the

1 HUD State Administered Community Development Block Grant definition of the term  
2 "infrastructure". Notwithstanding the provisions of subsection (e) of this section, funds  
3 allocated to the Infrastructure category in subsection (a) of this section shall not be reallocated  
4 to any other category.  
5

6 **USE OF DEOBLIGATED COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**  
7 **AND SURPLUS FEDERAL ADMINISTRATIVE FUNDS**

8 **SECTION 15.6.(a)** Throughout each year, deobligated funds arise in the various  
9 funding categories and program years of the Community Development Block Grant (CDBG)  
10 program as a result of (i) projects coming in under budget, (ii) projects being cancelled, or (iii)  
11 projects being required to repay funds. Surplus federal administrative funds in the CDBG  
12 program may vary from year-to-year based upon the amount of State-appropriated funds  
13 allocated and the amount of eligible in-kind funds identified.

14 **SECTION 15.6.(b)** To allow the Department of Commerce and the Department of  
15 Environment and Natural Resources to quickly deploy deobligated CDBG funds and surplus  
16 federal administrative funds as they are identified throughout the program year, the following  
17 shall apply to the use of deobligated CDBG funds and surplus federal administrative funds:

- 18 (1) The Department of Commerce may use the sum of five million nine hundred  
19 eight thousand four hundred ninety-seven dollars (\$5,908,497) in  
20 deobligated CDBG funds as follows:
  - 21 a. Four million nine hundred eight thousand four hundred ninety-seven  
22 dollars (\$4,908,497) for:
    - 23 1. Providing public services and public facilities. The category  
24 of public services includes providing substance abuse  
25 services and employment services, including job training for  
26 veterans in high unemployment areas in the State.
    - 27 2. If House Bill 108, 2015 Regular Session, becomes law,  
28 providing up to one million dollars (\$1,000,000) in the  
29 2016-2017 fiscal year to be used to fund a loan fund for site,  
30 infrastructure, and building development. Program income  
31 generated from awards made from the loan fund shall be  
32 captured in the existing CDBG revolving loan fund.
  - 33 b. Five hundred thousand dollars (\$500,000) for existing CDBG  
34 programs that encounter cost overruns.
  - 35 c. Five hundred thousand dollars (\$500,000) for providing training and  
36 guidance to local governments relative to the CDBG program, its  
37 management, and administration requirements.
- 38 (2) All deobligated CDBG funds remaining after the provisions of subdivision  
39 (1) of this subsection have been met and all surplus federal administrative  
40 funds shall be divided equally between the Department of Commerce and  
41 the Department of Environment and Natural Resources and shall be used as  
42 provided in subdivisions (3) and (4) of this subsection.
- 43 (3) The Department of Commerce may use the funds provided for in subdivision  
44 (2) of this subsection for the following:
  - 45 a. To issue grants in the CDBG economic development program  
46 category.
  - 47 b. For providing training and guidance to local governments relative to  
48 the CDBG program, its management, and administrative  
49 requirements.

- (4) The Department of Environment and Natural Resources may use the funds provided for in subdivision (2) of this subsection to issue grants in the CDBG infrastructure program category.

## **RURAL INFRASTRUCTURE AUTHORITY/ECONOMIC DEVELOPMENT GRANTS & LOANS**

**SECTION 15.6A.** G.S. 143B-472.127 reads as rewritten:

### **"§ 143B-472.127. Programs administered.**

(a) The Rural Economic Development Division shall be responsible for administering the program whereby economic development grants or loans are awarded by the Rural Infrastructure Authority as provided in G.S. 143B-472.128 to local government units. The Rural Infrastructure Authority shall, in awarding economic development grants or loans under the provisions of this subsection, give priority to (i) local government units of the counties that have one of the 80 highest rankings under G.S. 143B-437.08 after the adjustment of that section, section and (ii) local government units located in a rural census tract in a development tier three area. For purposes of this section, the term "rural census tract" means a census tract having a population density of less than 500 people per square mile according to the most recent decennial federal census. The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. The funds available for grants or loans under this program may be used as follows:

- (1) To construct critical water and wastewater facilities or to provide other infrastructure needs, including, but not limited to, natural gas, broadband, and rail to sites where these facilities will generate private job-creating investment. The grants under this subdivision shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local government units ~~located in either (i) a development tier one or tier two area or (ii) a rural census tract in a development tier three area that will productively reuse or demolish buildings and properties or construct or expand rural health care facilities, with priority given to towns or communities with populations of less than 5,000. The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. For purposes of this section, the term "rural census tract" means a census tract having a population density of less than 500 people per square mile according to the most recent decennial federal census.~~

...."

## **FUNDS TO CERTAIN COUNTIES FOR APPALACHIAN REGIONAL COMMISSION MATCH**

**SECTION 15.8.(a)** Of the funds appropriated in this act to the Department of Commerce for the Rural Grant Program Expansion for the 2015-2016 fiscal year, the sum of two hundred fifty-three thousand nine hundred fifty-six dollars (\$253,956) in nonrecurring funds shall be allocated to the following counties to be used for the Appalachian Regional Commission match requirement:

- |     |            |          |
|-----|------------|----------|
| (1) | Cherokee   | \$63,606 |
| (2) | Graham     | 103,450  |
| (3) | Rutherford | 43,450   |
| (4) | Swain      | 43,450.  |

**SECTION 15.8.(b)** The match funds provided for in subsection (a) of this section shall be used for infrastructure projects only.

**MAIN STREET SOLUTIONS FUND ALLOCATION**

**SECTION 15.8A.** Of the funds appropriated by this act to the Department of Commerce for the Main Street Solutions Fund for the 2015-2016 fiscal year, the Department shall allocate one million dollars (\$1,000,000) in nonrecurring funds for the 2015-2016 fiscal year for a downtown revitalization project that will stimulate economic growth along the main street corridor of a municipality meeting all of the following:

- (1) The municipality had a population, as of July 2013, of not fewer than 105,000 and not in excess of 110,000.
- (2) The municipality is located, in whole or in part, in a county that moved from a development tier three area status to development tier two area status in the annual ranking performed by the Department of Commerce pursuant to G.S. 143B-437.08 for the 2015 calendar year.
- (3) The municipality provides no less than one dollar forty-three cents (\$1.43) for every one dollar (\$1.00) allocated from the Fund.

**WANCHESE MARINE INDUSTRIAL PARK**

**SECTION 15.8B.(a)** The Department of Commerce shall transfer the cash balance remaining in fund code 14600-1561 on June 30, 2015, to an enterprise fund created for the North Carolina Marine Industrial Park. Thereafter, the enterprise fund shall be used for the operations, maintenance, repair, and capital improvements of the Wanchese Marine Industrial Park.

**SECTION 15.8B.(b)** This section becomes effective June 30, 2015.

**MODIFY ECONOMIC DEVELOPMENT GRANT REPORT**

**SECTION 15.10.(a)** G.S. 143B-437.07 reads as rewritten:

**"§ 143B-437.07. Economic development grant reporting.**

(a) Report. – The Department of Commerce must publish on or before October 1 of each year the information required by this subsection, itemized by business entity, for each business or joint private venture to which the State has, in whole or in part, granted one or more economic development incentives during the ~~previous fiscal year~~ relevant time period. The relevant time period ends June 30 preceding the publication date of this subsection and begins (i) for incentives not awarded under Part 2G of this Article with the 2007 calendar year and (ii) for incentives awarded under Part 2G of this Article with the 2002 calendar year. The information in the report must include all of the following:

- ...
- (3) The name, mailing address, telephone number, and Web site of the business recipient, or recipients if a joint venture, and the physical location of the site receiving the incentive. If the physical location of the site is undecided, then the name of the county in which the site will be located. The information regarding the physical location must indicate whether the physical location is a new or expanded facility.
  - (3a) A determination of whether the award is to a business that is new to the State or an expansion of an existing business within the State.

...."

**SECTION 15.10.(b)** This section is effective for reports published for fiscal years beginning on or after July 1, 2015.

**WORKFORCE DEVELOPMENT BOARDS/CHANGES TO CONFORM WITH FEDERAL LAW**

**SECTION 15.11.(a)** G.S. 143B-438.10 reads as rewritten:

**"§ 143B-438.10. ~~Commission on Workforce Development.~~ NCWorks Commission.**

(a) ~~Creation and Duties.~~ – There is created within the Department of Commerce the ~~North Carolina Commission on Workforce Development.~~ NCWorks Commission (hereinafter "Commission"). The Commission shall have the following powers and duties:

...

(9) To serve as the State's Workforce Investment Board for purposes of the federal ~~Workforce Investment Act of 1998.~~ Workforce Innovation and Opportunity Act.

...

(13) To develop performance accountability measures for local workforce development boards consistent with the requirements of section 116 of the Workforce Innovation and Opportunity Act and to recommend to the Governor sanctions against local workforce development boards that fail to meet the performance accountability measures.

(14) To develop fiscal control and fund accounting procedures for local workforce development boards consistent with the requirements of section 184 of the Workforce Innovation and Opportunity Act and to recommend to the Governor sanctions against local workforce development boards that fail to meet the fiscal control and fund accounting procedures.

(b) ~~Membership; Terms.~~ Effective January 1, 2013, the Membership. – The Commission ~~on Workforce Development~~ shall consist of ~~25~~ 33 members appointed as follows:

(1) By virtue of their offices, the following ~~department and agency heads or their respective designees~~ persons, or their designees, shall serve on the Commission: ~~the~~

a. The Governor.

b. The Secretary of the Department of Administration, ~~the Administration.~~

c. The Secretary of the Department of Commerce.

d. The Secretary of the Department of Health and Human Services, ~~the Services.~~

e. The Superintendent of Public Instruction, ~~the Instruction.~~

f. The President of the Community Colleges System Office, ~~the Commissioner of the Department of Labor, and the Secretary of the Department of Commerce Office.~~

g. The President of The University of North Carolina system.

(2) ~~The~~ Pursuant to the provisions of section 101 of the Workforce Innovation and Opportunity Act, the Governor shall appoint ~~49~~ 26 members as follows:

a. ~~Two~~ Seventeen members representing ~~public, postsecondary, and vocational education~~ business and industry in the State.

b. ~~One~~ Seven members representing ~~community-based organizations~~ the workforce in the State.

c. ~~Three~~ members representing labor. One member representing local elected city officials in the State.

d. ~~Thirteen~~ members representing business and industry. One member representing local elected county officials in the State.

(3) ~~The terms of the members appointed by the Governor shall be for four years.~~

(b1) Terms. – The persons listed in subdivision (1) of subsection (b) of this section shall serve on the Commission while they hold their respective offices. The terms of the members appointed by the Governor pursuant to subdivision (2) of subsection (b) of this section shall be for four years, except as provided in this subsection. The terms shall be staggered and shall begin on August 1 and expire on July 31. Upon the expiration of the term of each member in subdivision (2) of subsection (b) of this section, the Governor shall fill the vacancy by

reappointing the member or appointing another person of like qualification to serve a four-year term. If a vacancy occurs for any reason other than the expiration of the member's term, the Governor shall appoint a person of like qualification to serve for the remainder of the unexpired term.

In order to provide for staggered terms, six persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section and three persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on July 31, 2019. Five persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section, and one person appointed to the position designated in sub-subdivision c. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on July 31, 2017. Six persons appointed to the positions designated in sub-subdivision a. of subdivision (2) of subsection (b) of this section, two persons appointed to the positions designated in sub-subdivision b. of subdivision (2) of subsection (b) of this section, and one person appointed to the position designated in sub-subdivision d. of subdivision (2) of subsection (b) of this section shall be appointed for initial terms ending on July 31, 2016.

...."

**SECTION 15.11.(b)** The terms of office of the Commissioner of the Department of Labor and the 19 public members appointed by the Governor and currently serving on the North Carolina Commission on Workforce Development shall expire on July 31, 2015.

**SECTION 15.11.(c)** G.S. 143B-438.11 reads as rewritten:

**"§ 143B-438.11. Local Workforce Development Boards.**

(a) Duties. – Local Workforce Development Boards shall have the following powers and duties:

...

(7) To serve as the Workforce Investment Board for the designated substate area for the purpose of the federal Workforce ~~Investment Act of 1998~~ Innovation and Opportunity Act.

(7a) To designate through a competitive selection process, by no later than July 1, 2014, the providers of adult and dislocated worker services authorized in the Workforce ~~Investment Act of 1998~~ Innovation and Opportunity Act.

(8) To provide the appropriate guidance and information to Workforce ~~Investment–Innovation and Opportunity Act~~ consumers to ensure that they are prepared and positioned to make informed choices in selecting a training provider. Each local Workforce Development Board shall ensure that consumer choice is properly maintained in the one-stop centers and that consumers are provided the full array of public and private training provider information.

...

(10) To comply with the performance accountability measures established by the NCWorks Commission pursuant to section 116 of the Workforce Innovation and Opportunity Act.

(11) To comply with the fiscal control and fund accounting procedures established by the NCWorks Commission pursuant to Section 184 of the Workforce Innovation and Opportunity Act.

(b) Members. – Members of local Workforce Development Boards shall be appointed by local elected officials in accordance with criteria established by the Governor and with provisions of the federal Workforce ~~Investment–Innovation and Opportunity Act~~. The local Workforce Development Boards shall have a majority of business members and shall also

include representation of workforce and education providers, labor organizations, community-based organizations, and economic development boards as determined by local elected officials. The Chairs of the local Workforce Development Boards shall be selected from among the business members.

(c) Assistance. – ~~The North Carolina Commission on Workforce Development~~ NCWorks Commission and the Department of Commerce shall provide programmatic, technical, and other assistance to any local Workforce Development Board that realigns its service area with the boundaries of a local regional council of governments established pursuant to G.S. 160A-470."

**SECTION 15.11.(d)** G.S. 96-32 reads as rewritten:

**"§ 96-32. Common follow-up information management system created.**

...  
(d) The LEAD shall do the following:

(1) Collaborate with the ~~Commission on Workforce Development~~ NCWorks Commission to develop common performance measures across workforce programs in the Department of Commerce, the Department of Health and Human Services, the Community Colleges System Office, the Department of Administration, and the Department of Public Instruction that can be tracked through the CFS in order to assess and report on workforce development program performance.

...."

**SECTION 15.11.(e)** G.S. 143B-157 reads as rewritten:

**"§ 143B-157. Commission for the Blind – creation, powers and duties.**

There is recreated the Commission for the Blind of the Department of Health and Human Services with the power and duty to adopt rules governing the conduct of the State's rehabilitative programs for the blind that are necessary to carry out the provisions and purposes of this Article.

...

(3e) The Commission shall coordinate with other councils within the State, including the statewide Independent Living Council established under section 705 of the federal Rehabilitation Act, 29 U.S.C. § 720, et seq., the advisory panel established under section 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(A)(12), the Council on Developmental Disabilities described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, the State Mental Health Planning Council established pursuant to section 1916(e) of the Public Health Service Act, 42 U.S.C. § 300x-4(e), and the ~~Commission on Workforce Development~~ NCWorks Commission;

...."

**SECTION 15.11.(f)** G.S. 143B-158 reads as rewritten:

**"§ 143B-158. Commission for the Blind.**

(a) The Commission for the Blind of the Department of Health and Human Services shall consist of 19 members as follows:

...

(12) One representative of the ~~Commission on Workforce Development~~ NCWorks Commission.

...."

**SECTION 15.11.(g)** G.S. 143B-438.12 reads as rewritten:

**"§ 143B-438.12. Federal Program Administration.**

(a) Federal Workforce ~~Investment~~ Innovation and Opportunity Act. – In accordance with the federal Workforce ~~Investment~~ Innovation and Opportunity Act, the ~~Commission on~~

~~Workforce Development NCWorks Commission shall develop a Five Year Strategic Plan~~  
~~Four-Year Unified State Plan~~ to be submitted to the U.S. Secretary of Labor. The ~~Strategic Plan~~  
~~Unified State Plan~~ shall describe the ~~workforce development activities to be undertaken in the~~  
~~State to implement the federal Workforce Investment Act and how special populations shall be~~  
~~served.~~ State's strategic vision and goals for preparing an educated and skilled workforce as  
required in section 102 of the federal Workforce Innovation and Opportunity Act.

(b) Other Workforce Grant Applications. – The ~~Commission on Workforce~~  
~~Development NCWorks Commission~~ may submit grant applications for workforce  
development initiatives and may manage the initiatives and demonstration projects."

**SECTION 15.11.(h)** G.S. 143B-438.13 reads as rewritten:

**"§ 143B-438.13. Employment and Training Grant Program.**

(a) Employment and Training Grant Program. – There is established in the Department  
of Commerce, Division of ~~Employment and Training, Workforce Solutions~~, an Employment  
and Training Grant Program. Grant funds shall be allocated to local Workforce Development  
Boards for the purposes of enabling recipient agencies to implement local employment and  
training programs in accordance with existing resources, local needs, local goals, and selected  
training occupations. The State program of workforce performance standards shall be used to  
measure grant program outcomes.

(b) Use of Grant Funds. – Local agencies may use funds received under this section for  
the purpose of providing services, such as training, education, placement, and supportive  
services. Local agencies may use grant funds to provide services only to individuals who are (i)  
18 years of age or older and meet the federal Workforce ~~Investment Innovation and~~  
~~Opportunity Act~~, title I adult eligibility definitions, or meet the federal Workforce ~~Investment~~  
~~Innovation and Opportunity Act~~, title I dislocated worker eligibility definitions, or (ii)  
incumbent workers with annual family incomes at or below two hundred percent (200%) of  
poverty guidelines established by the federal Department of Health and Human Services.

(c) Allocation of Grants. – The Department of Commerce may reserve and allocate up  
to ten percent (10%) of the funds available to the Employment and Training Grant Program for  
State and local administrative costs to implement the Program. The Division of ~~Employment~~  
~~and Training, Workforce Solutions~~ shall allocate employment and training grant funds to local  
Workforce Development Boards serving federal Workforce ~~Investment Innovation and~~  
~~Opportunity Act~~ local workforce ~~investment development~~ areas based on the following  
formula:

- (1) One-half of the funds shall be allocated on the basis of the relative share of  
the local workforce ~~investment development~~ area's share of federal  
Workforce ~~Investment Innovation and Opportunity Act~~, title I adult funds as  
compared to the total of all local areas adult shares under the federal  
Workforce ~~Investment Innovation and Opportunity Act~~, title I.
- (2) One-half of the funds shall be allocated on the basis of the relative share of  
the local workforce ~~investment development~~ area's share of federal  
Workforce ~~Investment Innovation and Opportunity Act~~, title I dislocated  
worker funds as compared to the total of all local areas dislocated worker  
shares under the federal Workforce ~~Investment Innovation and Opportunity~~  
Act, title I.
- (3) Local workforce ~~investment development~~ area adult and dislocated shares  
shall be calculated using the current year's allocations to local areas under  
the federal Workforce ~~Investment Innovation and Opportunity Act~~, title I.

(d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

(e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the  
Employment and Training Grant Program that are not expended at the end of the fiscal year

shall not revert to the General Fund, but shall remain available to the Department for the purposes established in this section."

**SECTION 15.11.(i)** G.S. 143B-438.14 reads as rewritten:

**"§ 143B-438.14. "No Adult Left Behind" Initiative.**

(a) ~~The Commission on Workforce Development~~, NCWorks Commission, acting as the lead agency, with the cooperation of other participating agencies, including the Department of Labor, the Department of Commerce, the Employment Security Commission, the North Carolina Community College System, The University of North Carolina, and the North Carolina Independent Colleges and Universities shall initiate the "No Adult Left Behind" Initiative (Initiative) geared toward achievement of major statewide workforce development goals. The Initiative may also include community-based nonprofit organizations that provide services or assistance in the areas of worker training, workforce development, and transitioning North Carolinians between industries in the current global labor market.

(b) The first goal of the Initiative is to increase dramatically to forty percent (40%) the percentage of North Carolinians who earn associate degrees, other two-year educational credentials, and baccalaureate degrees. Specific fields of study may be selected for the most intense efforts. ~~The Commission on Workforce Development~~ NCWorks Commission shall, as the lead agency along with the North Carolina Community College System and The University of North Carolina as key cooperating institutions, do all of the following:

...

(c) ~~The Commission on Workforce Development~~ NCWorks Commission and the other lead participating institutions may enter into contracts with other qualified organizations, especially community-based nonprofits, to carry out components of the Initiative set forth in subsection (b) of this section.

(d) ~~The Commission on Workforce Development~~ NCWorks Commission shall submit to the Governor and to the General Assembly by May 1, 2012, and annually thereafter, details of its implementation of this section that shall include at least the following:

...."

**SECTION 15.11.(j)** The Revisor of Statutes may conform names and titles changed by this section, and may correct statutory references as required by this section, throughout the General Statutes. In making the changes authorized by this section, the Revisor may also adjust subject and verb agreement and the placement of conjunctions.

**REPEAL STATUTES AUTHORIZING TRADE JOBS FOR SUCCESS/INITIATIVE ENDED JUNE 30, 2013**

**SECTION 15.12.** Part 3C of Article 10 of Chapter 143B of the General Statutes is repealed.

**REPEAL APPRENTICESHIP FEE**

**SECTION 15.13.** G.S. 94-12 is repealed.

**INDUSTRIAL COMMISSION ADOPT DRUG FORMULARY**

**SECTION 15.13A.(a)** G.S. 97-26 reads as rewritten:

**"§ 97-26. Fees allowed for medical treatment; drug formulary; reimbursement of medical fees; malpractice of physician.**

(a) Medical Compensation Fee Schedule. – The Commission shall ~~adopt by rule~~ adopt, by rule, a schedule of maximum fees for medical compensation and shall periodically review the schedule and make revisions.

The fees adopted by the Commission in its schedule shall be adequate to ensure that (i) injured workers are provided the standard of services and care intended by this Chapter, (ii)

1 providers are reimbursed reasonable fees for providing these services, and (iii) medical costs  
2 are adequately contained.

3 The Commission may consider any and all reimbursement systems and plans in establishing  
4 its fee schedule, including, but not limited to, the State Health Plan for Teachers and State  
5 Employees (hereinafter, "State Plan"), Blue Cross and Blue Shield, and any other private or  
6 governmental plans. The Commission may also consider any and all reimbursement  
7 methodologies, including, but not limited to, the use of current procedural terminology ("CPT")  
8 codes, diagnostic-related groupings ("DRGs"), per diem rates, capitated payments, and  
9 resource-based relative-value system ("RBRVS") payments. The Commission may consider  
10 statewide fee averages, geographical and community variations in provider costs, and any other  
11 factors affecting provider costs.

12 (a1) Drug Schedule. – The Commission shall adopt, by rule, a nationally recognized  
13 drug formulary that approves certain prescription drugs, prescribed over-the-counter drugs, and  
14 professional pharmaceutical services for the treatment of a compensable injury or occupational  
15 disease. All medications and pharmaceutical services prescribed and provided in accordance  
16 with the Commission's drug formulary rules shall, for purposes of this Article, be presumed to  
17 be reasonably required to effect a cure, give relief, or lessen the period of disability resulting  
18 from a compensable injury or occupational disease. The Commission shall ensure that the  
19 formulary rules remain up-to-date and in accordance with the adopted drug formulary. The  
20 drug formulary rules shall allow an injured employee the option to purchase a nonformulary  
21 medication rather than a formulary medication. The injured employee shall be responsible for  
22 paying the difference between the cost of the nonformulary medication and the cost of the  
23 formulary medication, unless an agreement by the parties provides otherwise.

24 (a2) Independent Review. – The Commission shall, by rule, provide for the independent  
25 review of claims in which the authorized health care provider or authorized pharmacy has  
26 determined that a deviation from the adopted drug formulary is reasonably required to effect a  
27 cure, give relief, or lessen the period of disability resulting from a compensable injury or  
28 occupational disease. The Commission shall also adopt rules regarding procedures and  
29 minimum qualifications for the approval of independent review organizations by the  
30 Commission for purposes of this section and for the selection of independent review  
31 organizations to conduct reviews of specified cases. Claimants and employers or carriers may  
32 appeal the determination of an independent review organization pursuant to G.S. 97-25(f)(2) or  
33 G.S. 97-83. The Commission shall establish fees related to processing requests for review by  
34 independent review organizations and shall set a schedule of fees that may be charged to the  
35 parties by the independent review organization conducting the review.

36 (b) Hospital Fees. – Each hospital subject to the provisions of this section shall be  
37 reimbursed the amount provided for in this section unless it has agreed under contract with the  
38 insurer, managed care organization, employer (or other payor obligated to reimburse for  
39 inpatient hospital services rendered under this Chapter) to accept a different amount or  
40 reimbursement methodology.

41 The explanation of the fee schedule change that is published pursuant to  
42 G.S. 150B-21.2(c)(2) shall include a summary of the data and calculations on which the fee  
43 schedule rate is based.

44 A hospital's itemized charges on the UB-92 claim form for workers' compensation services  
45 shall be the same as itemized charges for like services for all other payers.

46 (c) Maximum Reimbursement for Providers Under Subsection (a). – Each health care  
47 provider subject to the provisions of subsection (a) of this section shall be reimbursed the  
48 amount specified under the fee schedule unless the provider has agreed under contract with the  
49 insurer or managed care organization to accept a different amount or reimbursement  
50 methodology. In any instance in which neither the fee schedule nor a contractual fee applies,  
51 the maximum reimbursement to which a provider under subsection (a) is entitled under this

Article is the usual, customary, and reasonable charge for the service or treatment rendered. In no event shall a provider under subsection (a) charge more than its usual fee for the service or treatment rendered.

(c1) Drug and Pharmacy Reimbursement Limits. – Nothing contained in subsection (a1) or (a2) of this section shall be construed to permit any act in conflict with the provisions of G.S. 97-26.2 governing reimbursement for prescription drugs, prescribed over-the-counter drugs, and professional pharmaceutical services.

(d) Information to Commission. – Each health care provider seeking reimbursement for medical compensation under this Article shall provide the Commission information requested by the Commission for the development of fee schedules and the determination of appropriate reimbursement.

(e) When Charges/Bills Submitted. – Health care providers shall submit charges to the insurer or managed care organization within 30 days of treatment, within 30 days after the end of the month during which multiple treatments were provided, or within such other reasonable period of time as allowed by the Commission. ~~If an insurer or managed care organization disputes a portion of a health care provider's bill, it shall pay the uncontested portion of the bill and shall resolve disputes regarding the balance of the charges in accordance with this Article or its contractual arrangement.~~

(f) Repeating Diagnostic Tests. – A health care provider shall not authorize a diagnostic test previously conducted by another provider, unless the health care provider has reasonable grounds to believe a change in patient condition may have occurred or the quality of the prior test is doubted. The Commission may adopt rules establishing reasonable requirements for reports and records to be made available to other health care providers to prevent unnecessary duplication of tests and examinations. A health care provider that violates this subsection shall not be reimbursed for the costs associated with administering or analyzing the test.

(g) Direct Reimbursement. – ~~The Commission may adopt rules to allow insurers and Insurers, managed care organizations to organizations, and employers shall review and reimburse charges adjudicate bills~~ for medical compensation without submitting the charges bills to the Commission for review and approval.

(g1) Administrative Simplification. – The applicable administrative standards for code sets, identifiers, formats, and electronic transactions to be used in processing electronic medical bills under this Article shall comply with 45 C.F.R. § 162. The Commission shall adopt rules to require electronic medical billing and payment processes, to standardize the necessary medical documentation for billing adjudication, to provide for effective ~~dates and compliance, dates and~~ reasonable sanctions for noncompliance, and for further implementation of this subsection.

(h) Malpractice. – The employer shall not be liable in damages for malpractice by a ~~physician or surgeon~~ health care provider furnished by him pursuant to the provisions of this section, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident, and shall be compensated for as such.

(i) Resolution of Dispute. – If an insurer or managed care organization disputes a portion of a health care provider's bill, it shall pay the uncontested portion of the bill and shall resolve disputes regarding the balance of the charges in accordance with this Article or its contractual arrangement. The employee or health care provider may apply to the Commission by motion or for a hearing to resolve any dispute regarding the payment of charges for medical compensation in accordance with this Article. The Commission may adopt rules for purposes of resolving medical fee disputes."

**SECTION 15.13A.(b)** The Industrial Commission shall adopt temporary and permanent rules for the implementation of this section. Rules adopted pursuant to this section shall not be subject to G.S. 150B-19.1(e), 150B-19.1(f), and 150B-21.4.

**SECTION 15.13A.(c)** This section is effective when this act becomes law.

**INDUSTRIAL COMMISSION/REIMBURSEMENT FOR PRESCRIPTION DRUGS  
AND PROFESSIONAL PHARMACEUTICAL SERVICES**

**SECTION 15.13B.(a)** G.S. 97-26.2 reads as rewritten:

**"§ 97-26.2. Reimbursement for prescription ~~drugs—drugs, prescribed over-the-counter~~  
~~drugs, and professional pharmaceutical services.~~**

(a) The reimbursement amount for prescription ~~drugs—drugs, prescribed~~  
~~over-the-counter drugs,~~ and professional pharmaceutical services shall be limited to the lesser  
of ninety-five percent (95%) of the average wholesale price (AWP) of the product, calculated  
on a per unit basis, as of the date of ~~dispensing—dispensing~~ or the reimbursement amount  
provided for in an agreement between the dispensing health care provider and the payor  
employer or workers' compensation insurance carrier.

(b) All of the following shall apply to the reimbursement for prescription drugs and  
professional pharmaceutical services:

- (1) A health care provider seeking reimbursement for ~~drugs dispensed by a~~  
~~physician—health care provider—dispensed prescription drugs, prescribed~~  
~~over-the-counter drugs, and pharmaceutical services~~ shall include the  
original manufacturer's National Drug Code (NDC) number, as assigned by  
the United States Food and Drug Administration, on ~~the bills and reports~~  
~~required by this section, any billing documents or invoices issued.~~
- (2) In no event may a ~~physician—health care provider~~ receive reimbursement in  
excess of ninety-five percent (95%) of the AWP of the drugs dispensed by a  
~~physician, health care provider,~~ as determined by reference to the original  
manufacturer's NDC number.
- (3) A repackaged NDC number may not be individually used on any billing  
documents or invoices issued, and will not be considered the original  
manufacturer's NDC number. A repackaged NDC number may only appear  
in conjunction with the manufacturer's NDC number. If a health care  
provider seeking reimbursement for drugs dispensed by a ~~physician—health~~  
~~care provider~~ does not include the original manufacturer's NDC number on  
~~the bills and reports required by this section, any billing documents or~~  
~~invoices issued,~~ reimbursement shall be limited to one hundred percent  
(100%) of the AWP of the least expensive clinically equivalent drug,  
calculated on a per unit basis.
- (4) No outpatient health care provider, other than a licensed pharmacy, may  
receive reimbursement for a Schedule II controlled substance, as defined in  
G.S. 90-90, ~~or a~~ Schedule III controlled substance, as defined in G.S. 90-91,  
a Schedule IV controlled substance, as defined in G.S. 90-92, or a Schedule  
V controlled substance, as defined in G.S. 90-93, dispensed in excess of an  
initial five-day supply, commencing upon the employee's initial treatment  
following injury. Reimbursement under this subdivision shall be made for  
the five-day supply at the rates provided in this section.
- (5) For purposes of this section, the term "clinically equivalent" means a drug  
has chemical equivalents which, when administered in the same amounts,  
will provide essentially the same therapeutic effect as measured by the  
control of a symptom or disease."

**SECTION 15.13B.(b)** This section becomes effective September 1, 2015.

**INDUSTRIAL COMMISSION/USE OF IT FUNDS**

**SECTION 15.14.** In each year of the 2015-2017 fiscal biennium, the Industrial  
Commission, in consultation with the State Chief Information Officer, may use available funds

in Budget Code 24611 (Fund 2200) to maintain its Consolidated Case Management System, including, but not limited to, covering the costs of related service contracts and information technology personnel.

#### **UTILITIES COMMISSION/PUBLIC STAFF REALIGN CERTIFIED BUDGET WITH ANTICIPATED AGENCY REQUIREMENTS**

**SECTION 15.15.(a)** No later than November 1, 2015, the Utilities Commission and Public Staff, in conjunction with the Department of Commerce and the Office of State Budget and Management, shall realign the certified budget for the following funds for each year of the 2015-2017 fiscal biennium to reflect the anticipated spending requirements for the Utilities Commission and Public Staff for each year of the 2015-2017 biennium:

Budget Code	Fund	Description
54600	5211	Utilities – Commission Staff
54600	5217	Utilities – Gas Pipelines
54600	5218	PUC Capacity Grant – ARRA
54600	5221	Utilities – Public Staff
64605	6431	Utility and Public Staff.

**SECTION 15.15.(b)** In realigning the certified budget for the funds described in subsection (a) of this section, the Utilities Commission and Public Staff shall prioritize eliminating unnecessary vacant positions and making line-item modifications that reflect anticipated agency requirements. The Utilities Commission and Public Staff shall not expend any funds unless they are appropriated in this act for fiscal year 2015-2016 and fiscal year 2016-2017.

#### **SET REGULATORY FEE FOR UTILITIES COMMISSION**

**SECTION 15.16.(a)** G.S. 62-302(a) reads as rewritten:

"(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the ~~public~~ public and to maintain a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-half of the cost of operating the Commission and the Public Staff as reflected in the certified budget for the previous fiscal year.

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

**SECTION 15.16.(b)** Subdivisions 14.19(e1)(4), (5), (6), and (10) of S.L. 2009-451 are repealed.

**SECTION 15.16.(c)** G.S. 62-302, as amended by subsection (a) of this section, reads as rewritten:

"(a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of regulating public utilities is a burden incident to the privilege of operating as a public utility. Therefore, for the purpose of defraying the cost of regulating public utilities, every public utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in

addition to all other fees and taxes, as provided in this section. The fees collected shall be used only to pay the expenses of the Commission and the Public Staff in regulating public utilities in the interest of the public and to maintain a reasonable margin for a reserve fund. The amount of the reserve may not exceed one-half of the cost of operating the Commission and the Public Staff as reflected in the certified budget for the previous fiscal year.

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

(b) Public Utility Rate. –

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

(2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:

<u>Noncompetitive jurisdictional revenues</u>	<u>0.148%</u>
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<u>Subsection (h) competitive jurisdictional revenues</u>	<u>0.06%</u>
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<u>Subsection (m) competitive jurisdictional revenues</u>	<u>0.05%</u>
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~~For noncompetitive jurisdictional revenues as defined in sub-subdivision (4)a. of this subsection, the public utility regulatory fee for each fiscal year is the greater of (i) a percentage rate, established by the General Assembly, of each public utility's noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and twenty five cents (\$6.25) each quarter. For subsection (h) competitive jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection, and subsection (m) competitive jurisdictional revenues as defined in sub-subdivision (4)c. of this subsection, the public utility regulatory fee for each fiscal year is a percentage rate established by the General Assembly of each public utility's competitive jurisdictional revenues for each quarter.~~

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

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

(3) In the first half of each calendar year, the Commission shall review the estimated cost of operating the Commission and the Public Staff for the next fiscal year, including a reasonable margin for the reserve fund allowed under

1 this section. In making this determination, the Commission shall consider all  
2 relevant factors that may affect the cost of operating the Commission or the  
3 Public Staff or a possible unanticipated change in competitive and  
4 noncompetitive jurisdictional revenues. If the estimated receipts provided for  
5 under this section are less than the estimated cost of operating the  
6 Commission and the Public Staff for the next fiscal year, including the  
7 reasonable margin for the reserve fund, then ~~If the Commission, the Public~~  
8 ~~Staff, or both experience a revenue shortfall, the Commission shall may~~  
9 ~~implement a temporary increase the public utility regulatory fee surcharge on~~  
10 ~~noncompetitive jurisdictional revenues effective for the next fiscal year to~~  
11 ~~avert the deficiency that would otherwise occur.~~ In no event may the total  
12 percentage rate of the public utility regulatory fee on noncompetitive  
13 jurisdictional revenues plus any surcharge established by the Commission  
14 exceed twenty five hundredths percent (0.25%), seventeen and one-half  
15 hundredths of one percent (0.175%). If the estimated receipts provided for  
16 under this section are more than the estimated cost of operating the  
17 Commission and the Public Staff for the next fiscal year, including the  
18 reasonable margin for the reserve fund, then the Commission shall decrease  
19 the public utility regulatory fee on noncompetitive jurisdictional revenues  
20 effective for the next fiscal year.

21 (4) As used in this section:

- 22 a. "Noncompetitive jurisdictional revenues" means all revenues derived  
23 or realized from intrastate tariffs, rates, and charges approved or  
24 allowed by the Commission or collected pursuant to Commission  
25 order or rule, but not including tap-on fees or any other form of  
26 contributions in aid of construction.
- 27 b. "Subsection (h) competitive jurisdictional revenues" means all  
28 revenues derived from retail services provided by local exchange  
29 companies and competing local providers that have elected to operate  
30 under G.S. 62-133.5(h).
- 31 c. "Subsection (m) competitive jurisdictional revenues" means all  
32 revenues derived from retail services provided by local exchange  
33 companies and competing local providers that have elected to operate  
34 under G.S. 62-133.5(m).

35 (b1) Electric Membership Corporation Rate. – The electric membership corporation  
36 regulatory fee for each fiscal year ~~shall be a dollar amount as established by the General~~  
37 ~~Assembly by law is two hundred thousand dollars (\$200,000).~~

38 ~~When the Commission prepares its budget request for the upcoming fiscal year, the~~  
39 ~~Commission shall propose the amount of the electric membership corporation regulatory fee.~~  
40 ~~For fiscal years beginning in an odd numbered year, the proposed amount shall be included in~~  
41 ~~the budget message the Governor submits to the General Assembly pursuant to G.S. 143C-3-5.~~  
42 ~~For fiscal years beginning in an even numbered year, the proposed amount shall be included in~~  
43 ~~a special budget message the Governor shall submit to the General Assembly.~~

44 ~~The amount of the electric membership corporation regulatory fee proposed by the~~  
45 ~~Commission may not exceed the amount necessary to defray the estimated cost of the~~  
46 ~~operations of the Commission and the Public Staff for the regulation of the electric membership~~  
47 ~~corporations in the upcoming fiscal year, including a reasonable margin for a reserve fund. The~~  
48 ~~amount of the reserve may not exceed the estimated cost of the Commission and the Public~~  
49 ~~Staff for the regulation of the electric membership corporations for the upcoming fiscal year.~~

50 ...

(e) ~~Recovery of fee increase.~~Fee Changes. – If a utility's regulatory fee obligation is ~~increased, changed,~~ the Commission shall either adjust the utility's rates to reflect the change ~~allow for the recovery of the increased fee obligation,~~ or approve the utility's request for an accounting order allowing deferral of the ~~increase change~~ in the fee obligation."

**SECTION 15.16.(d)** G.S. 62-302(b)(2), as amended by subsection (c) of this section, reads as rewritten:

"(2) Unless adjusted under subdivision (3) of this subsection, the public utility fee is a percentage of a utility's jurisdictional revenues as follows:

Noncompetitive jurisdictional revenues	0.148%
Subsection (h) competitive jurisdictional revenues	<del>0.06%</del> <u>0.04%</u>
Subsection (m) competitive jurisdictional revenues	<del>0.05%</del> <u>0.02%</u> "

**SECTION 15.16.(e)** Subsection (c) of this section is effective July 1, 2015, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2015. Subsection (d) of this section is effective July 1, 2016, and applies to jurisdictional revenues earned in each quarter that begins on or after July 1, 2016. The remainder of this section is effective on the date this section becomes law.

## UTILITY COMMISSION FEES AND CHARGES

**SECTION 15.16A.(a)** The Utilities Commission and Public Staff shall jointly review all fees and charges provided for in G.S. 62-300 to determine (i) whether the fees and charges are sufficient to cover the costs of processing the applications and filings required by G.S. 62-300 and (ii) whether new categories should be established to impose fees or charges on persons or entities who make applications or filings to the Utilities Commission but are not expressly included in any of the current categories listed in G.S. 62-300. The review may also include any other relevant matters related to fees and charges for applications and filings made to the Utilities Commission.

**SECTION 15.16A.(b)** By April 1, 2016, the Utilities Commission and Public Staff shall report their findings, including any recommendations on amending the fees and charges for applications and filings under G.S. 62-300, to the Joint Legislative Commission on Energy Policy, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division.

## MUNICIPAL SERVICE DISTRICTS/CONTRACTS & REFERENDUM AUTHORITY

**SECTION 15.16B.(a)** G.S. 160A-536 reads as rewritten:

"§ 160A-536. Purposes for which districts may be established.

...

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this ~~paragraph~~ subsection shall (i) specify the purposes for which city moneys are to be ~~used and shall be used,~~ (ii) require specific approval by the city council for all expenditures of moneys pursuant to the contract, and (iii) require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period.

...."

**SECTION 15.16B.(b)** G.S. 160A-541 reads as rewritten:

"§ 160A-541. Abolition of service ~~districts~~ districts by city council.

Upon finding that there is no longer a need for a particular service district, the city council may by resolution abolish that district. The council shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the

hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the council."

**SECTION 15.16B.(c)** Article 23 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

**"§ 160A-541.1. Abolition of service districts by referendum.**

(a) A petition seeking the abolition of any service district established under G.S. 160A-536 shall be filed with the city clerk, who shall immediately forward the petition to the county board of elections that conducts elections for the city. The petition shall bear the signatures equal in number to at least fifteen percent (15%) of the registered voters of the service district, as shown by the registration records of the last preceding general municipal election, each voter's residence address, and each voter's date of birth.

(b) The county board of elections shall verify the petition signatures. If a sufficient petition is submitted, the county board of elections shall certify its sufficiency to the city council, and the city council shall adopt a resolution setting the date for the referendum. The city council shall notify the county board of elections of the date set for the referendum and shall provide the board with a legible map and clear written description of the affected service district. The referendum may be called only if there are no outstanding general obligation bonds of the service district. No referendum shall be held in a service district in which there are no voters.

(c) The county board of elections shall cause legal notice of the election to be published. The notice shall include the general statement of the referendum. The referendum shall be conducted, returned, and the results declared as in other municipal elections in the city. Only registered voters of the affected service district shall be allowed to vote on the referendum. The city shall reimburse the county board of elections for the cost incurred in conducting the election, as required by G.S. 163-284.

(d) The referendum of the proposed abolition of more than one service district may be submitted at the same election, but, as to the proposed abolition of each service district, there shall be an entirely separate ballot question.

(e) The ballots used in a referendum shall submit the following proposition:

"[ ] FOR [ ] AGAINST

The abolition of (name of the service district)."

(f) If a majority of the votes cast are in favor of abolishing the service district, the abolition of the service district shall take effect at the end of the fiscal year immediately following the date the county board of elections certifies the results of the election, and the city council shall thereafter have no authority to levy a tax under G.S. 160A-542 within the abolished service district. If a majority of the votes cast are against abolishing the service district, the service district shall remain in effect until amended or abolished as provided for in this Article."

**SECTION 15.16B.(d)** This section is effective when this act becomes law.

**GRASSROOTS SCIENCE PROGRAM**

**SECTION 15.18.(a)** Of the funds appropriated in this act to the Department of Commerce for State-Aid, the sum of two million two hundred fifty thousand dollars (\$2,250,000) is allocated as grants-in-aid for the 2015-2016 fiscal year:

	2015-2016
Aurora Fossil Museum	\$60,526
Cape Fear Museum	\$60,488
Carolina Raptor Center	\$60,483
Catawba Science Center	\$93,328
Colburn Earth Science Museum, Inc.	\$58,640

1	Core Sound Waterfowl Museum	\$59,430
2	Cowan Museum of History and Science	\$58,514
3	Dan Nicholas Park (Rowan County)	\$58,000
4	Discovery Place	\$94,939
5	Discovery Place KIDS (Rockingham)	\$58,000
6	Eastern NC Regional Science Center	\$59,637
7	Fascinate-U	\$65,792
8	Granville County Museum Commission,	
9	Inc. – Harris Gallery	\$61,068
10	Greensboro Children's Museum	\$79,322
11	Greensboro Science Center	\$115,410
12	Hands On! – A Child's Gallery	\$58,534
13	Highlands Nature Center	\$62,887
14	Imagination Station	\$65,349
15	The Iredell Museums, Inc.	\$58,360
16	Kidsenses	\$64,967
17	Marbles Kids Museum	\$70,582
18	Museum of Coastal Carolina	\$59,117
19	North Carolina Estuarium	\$62,359
20	North Carolina Museum of Life	
21	and Science	\$77,040
22	Pisgah Astronomical Research Institute	\$83,281
23	Port Discover: Northeastern	
24	North Carolina's Center for	
25	Hands-On Science, Inc.	\$60,248
26	Rocky Mount Children's Museum	\$67,464
27	Schiele Museum of Natural History	
28	and Planetarium, Inc.	\$107,868
29	Sci Works Science Center and	
30	Environmental Park of Forsyth County	\$61,943
31	Sylvan Heights Waterfowl Park	
32	and Eco-Center	\$68,981
33	The Rankin Museum, Inc.	\$58,000
34	Western North Carolina Nature Center	\$59,893
35	Wilmington Children's Museum	\$59,550
36	<b>Total</b>	<b>\$2,250,000.</b>

**SECTION 15.18.(b)** No later than March 1, 2016, the Department of Commerce shall report to the Fiscal Research Division all of the following information for each museum that receives funds under this section:

- (1) For museums that operate on a fiscal year, the actual operating budget for the 2014-2015 fiscal year. For museums that operate on a calendar year, the actual operating budget for the 2014 calendar year.
- (2) The proposed operating budget for the 2015-2016 fiscal year.
- (3) The total attendance at the museum during the 2015 calendar year.

**SECTION 15.18.(c)** As a condition for qualifying to receive funding under this section, all of the following documentation shall, no later than November 1, 2015, be submitted for each museum under this section to the Department of Commerce for the fiscal year that most recently ended and only those costs that are properly documented under this subsection are allowed by the Department in calculating the distribution of funds under this section:

- (1) Each museum under this section shall submit its IRS (Internal Revenue Service) Form 990 to show its annual operating expenses, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report.
- (2) Each friends association of a museum under this section shall submit its IRS Form 990 to show its reported expenses for the museum, its annual report, and a reconciliation that explains any differences between expenses as shown on the IRS Form 990 and the annual report, unless the association does not have both an IRS Form 990 and an annual report available; in which case, it shall submit either an IRS Form 990 or an annual report.
- (3) The chief financial officer of each county or municipal government that provides funds for the benefit of the museum shall submit a detailed signed statement of documented costs spent for the benefit of the museum that includes documentation of the name, address, title, and telephone number of the person making the assertion that the museum receives funds from the county or municipality for the benefit of the museum.
- (4) The chief financial officer of each county or municipal government or each friends association that provides indirect or allocable costs that are not directly charged to a museum under this section but that benefit the museum shall submit in the form of a detailed statement enumerating each cost by type and amount that is verified by the financial officer responsible for the completion of the documentation and that includes the name, address, title, and telephone number of the person making the assertion that the county, municipality, or association provides indirect or allocable costs to the museum.

**SECTION 15.18.(d)** As used in subsection (c) of this section, "friends association" means a nonprofit corporation established for the purpose of supporting and assisting a museum that receives funding under this section.

**SECTION 15.18.(e)** Each museum listed in subsection (a) of this section shall do the following:

- (1) By September 1, 2015, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the museum's annual audited financial statement within 30 days of issuance of the statement.

#### **GRASSROOTS SCIENCE PROGRAM/COMPETITIVE GRANT PROGRAM**

**SECTION 15.18A.(a)** Effective July 1, 2016, the Grassroots Science Program within the Department of Commerce is transferred to the North Carolina State Museum of Natural Sciences in the Department of Natural and Cultural Resources, as enacted by Section 14.30 of this act.

**SECTION 15.18A.(b)** Part 40 of Article 2 of Chapter 143B of the General Statutes, as enacted by Section 14.30 of this act, is amended by adding a new section to read as follows:

**"§ 143B-135.227. Grassroots science competitive grant program.**

**(a) The North Carolina State Museum of Natural Sciences (hereinafter "Museum of Natural Sciences") shall administer the Grassroots Science Program as a competitive grant program. Any museum in the State may apply for a grant under the program, including a museum that has received a grant-in-aid as a grassroots science museum in prior fiscal years,**

but grant funds shall be awarded only if the museum meets the criteria established in subsection (c) of this section. No museum shall be guaranteed a grant under the competitive grant program.

(b) For each fiscal year, the Museum of Natural Sciences shall reserve seven hundred fifty thousand dollars (\$750,000) for the purpose of awarding grants to museums located in development tier one counties and six hundred thousand dollars (\$600,000) for museums located in development tier two counties. The development tier designation of a county shall be determined as provided in G.S. 143B-437.08. If, after the initial awarding of grants to all museum applicants who meet the eligibility criteria provided for in subsection (c) of this section, there are funds remaining in any development tier category, the Museum of Natural Sciences may reallocate those funds to another development tier category. The maximum amount of each grant awarded in each fiscal year shall be (i) seventy-five thousand dollars (\$75,000) for a museum in a development tier one county; (ii) sixty thousand dollars (\$60,000) for a museum in a development tier two county; and (iii) fifty thousand (\$50,000) for a museum in a development tier three county.

(c) To be eligible to receive a grant under the competitive grant program, a museum shall demonstrate:

- (1) That it is a science center or museum or a children's museum that is physically located in the State.
- (2) That it has been open, operating, and exhibiting science or Science, Technology, Engineering, and Math (STEM) education objects to the general public at least 120 days of each year for the past two or more years.
- (3) That it is a nonprofit organization that is exempt from federal income taxes pursuant to section 501(c)(3) of the Internal Revenue Code.
- (4) That it has on its staff at least one full-time professional person.
- (5) That its governing body has adopted a mission statement that includes language that shows the museum has a concentration on science or STEM education and that the adopted mission statement has been in effect for the past two or more years.

(d) The Museum of Natural Sciences shall, in awarding grants under this section, give priority to museums that:

- (1) When compared to other museum applicants:
  - a. Are located in counties that are more economically distressed according to the annual rankings prepared by the Department of Commerce pursuant to G.S. 143B-437.08(c).
  - b. Generate a larger portion of their operating funds from non-State revenue.
  - c. Have a higher attendance to population ratio.
- (2) Partner with other museums in the State to share exhibits, programs, or other activities.
- (3) Are not located in close proximity to other science or STEM education museums."

**SECTION 15.18A.(c)** Subsection (b) of this section is effective July 1, 2016.

**SECTION 15.18A.(d)** By March 1, 2016, the Museum of Natural Sciences shall submit guidelines for the submission of applications and the awarding of grants for the competitive grant program provided for in subsection (b) of this section to the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources and the Senate Appropriations Committee on Natural and Economic Resources and the Fiscal Research Division.

## COMMERCE NONPROFITS/REPORTING REQUIREMENTS

SECTION 15.19. High Point Furniture Market Authority shall do the following:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources.
- (2) Provide to the Fiscal Research Division a copy of the Authority's annual audited financial statement within 30 days of issuance of the statement.

**CREATE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON NATURAL AND ECONOMIC RESOURCES**

SECTION 15.24.(a) Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 36.

"Joint Legislative Oversight Committee on Natural and Economic Resources.

**"§ 120-310. Creation and membership of Joint Legislative Oversight Committee on Natural and Economic Resources.**

(a) The Joint Legislative Oversight Committee on Natural and Economic Resources is established. The Committee consists of 12 members as follows:

- (1) Six members of the Senate appointed by the President Pro Tempore of the Senate. At least three of the members shall be members of the Senate appropriations committee that has jurisdiction over the agencies set out in G.S. 120-296(a)(1).
- (2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives. At least three of the members shall be members of the House of Representatives appropriations committee that has jurisdiction over the agencies set out in G.S. 120-296(a)(1).

(b) Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

(c) A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

**"§ 120-311. Purpose and powers of Committee.**

(a) The Joint Legislative Oversight Committee on Natural and Economic Resources shall examine on a continuing basis the services provided by the departments and agencies set out in this subsection in order to make ongoing recommendations to the General Assembly on ways to improve the effectiveness, efficiency, and quality of State government services. The Committee has the following powers and duties:

- (1) Study the programs, organization, operations, and policies of the following agencies:
  - a. Department of Agriculture and Consumer Services.
  - b. Department of Environmental Quality.
  - c. Department of Natural and Cultural Resources.
  - d. Wildlife Resources Commission.
  - e. Department of Labor.
  - f. Department of Commerce.
  - g. Any other agency under the jurisdiction of the Senate and House of Representatives appropriations committees on agriculture, natural, or economic resources.

- (2) Review compliance of budget actions directed by the General Assembly.
- (3) Monitor expenditures, deviations, and changes made by the agencies set out in subdivision (1) of subsection (a) of this section to the certified budget.
- (4) Review policy changes as directed by law.
- (5) Receive presentations of reports from agencies directed in the law, including audits, studies, and other reports.
- (6) Review any issues that arise during the interim period between sessions of the General Assembly and provide a venue for any of these issues to be heard in a public setting.
- (7) Monitor the quality of services provided by cultural, natural, and economic resources agencies to other agencies and the public.
- (8) Identify opportunities for cultural, natural, and economic resources agencies to coordinate and collaborate to eliminate duplicative functions.
- (9) Have presentations and reports on any other matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make reports to the General Assembly. A report to the General Assembly may contain legislation needed to implement a recommendation of the Committee.

**"§ 120-312. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Oversight Committee on Natural and Economic Resources. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is five members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee.

(d) The Committee cochairs may establish subcommittees for the purpose of examining issues relating to services provided by particular divisions within the State's cultural, natural, and economic resources departments.

**"§ 120-313. Reports to Committee.**

Whenever a department, office, or agency set out in subdivision (1) of subsection (a) of G.S. 120-296 is required by law to report to the General Assembly or to any of its permanent committees or subcommittees on matters affecting the services the department or agency provides, the department or agency shall transmit a copy of the report to the cochairs of the Joint Legislative Oversight Committee on Natural and Economic Resources."

**SECTION 15.24.(b)** This section is effective August 1, 2015.