

GENERAL ASSEMBLY OF NORTH CAROLINA



**SPECIAL PROVISIONS
APPROPRIATIONS SUBCOMMITTEE ON NATURAL AND ECONOMIC
RESOURCES REPORT**

APRIL 19, 2011

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GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-AGRIC-H1

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 **TECHNICAL CORRECTION REGARDING COMMERCIAL FERTILIZER INSPECTION**
2 **FEE**

3 **SECTION #.** G.S. 106-671(b) reads as rewritten:

4 "(b) Reporting System. – Each manufacturer, importer, jobber, firm, corporation or
5 person who distributes commercial fertilizers in this State shall make application to the
6 Commissioner for a permit to report the tonnage of commercial fertilizer sold and shall pay to
7 the North Carolina Department of Agriculture and Consumer Services an inspection fee of
8 ~~twenty-five cents (25¢)~~ fifty cents (50¢) per ton. The Commissioner is authorized to require
9 each such distributor to keep such records as may be necessary to indicate accurately the
10 tonnage of commercial fertilizers sold in the State, and as are satisfactory to the Commissioner.
11 Such records shall be available to the Commissioner, or his duly authorized representative, at
12 any and all reasonable hours for the purpose of making such examination as is necessary to
13 verify the tonnage statement and the inspection fees paid. Each registrant shall report monthly
14 the tonnage sold to non-registrants on forms furnished by the Commissioner. Such reports shall
15 be made and inspection fees shall be due and payable monthly on the fifteenth of each month
16 covering the tonnage and kind of commercial fertilizers sold during the past month. If the
17 report is not filed and the inspection fee paid by the last day of the month it is due, the amount
18 due shall bear a penalty of ten percent (10%), which shall be added to the inspection fee due. If
19 the report is not filed and the inspection fee paid within 60 days of the date due, or if the report
20 or tonnage be false, the Commissioner may revoke the permit."

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Session 2011

**DRAFT
SPECIAL PROVISION**



2011-AGRIC-H4

**Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources**

Requested by: Representative

- 1 ***REPEAL BOARD OF AGRICULTURE REVIEW OF FEE SCHEDULES***
- 2 **SECTION #.** G.S. 106-6.1(b) is repealed.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

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SPECIAL PROVISION



2011-AGRIC-H3

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

FEES FOR OUT-OF-STATE SOIL TESTS AND EXPEDITED SOIL TESTS

SECTION #. G.S. 106-22 reads as rewritten:

"§ 106-22. Joint duties of Commissioner and Board.

The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture shall:

...

(17) Agronomic Testing. – Provide agronomic testing services and charge reasonable fees for plant ~~analysis and analysis~~, nematode ~~testing-testing~~, out-of-State soil testing, and expedited soil testing. The Board shall charge at least four dollars (\$4.00) for plant ~~analysis and analysis~~, at least two dollars (\$2.00) for nematode ~~testing-testing~~, at least five dollars (\$5.00) for out-of-State soil testing, and at least one hundred dollars (\$100.00) for expedited soil testing."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-AGRIC-H7

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

INCREASE FEES FOR PET SHOPS, AUCTIONS, KENNELS, AND DEALERS

SECTION #.(a) G.S. 19A-27 reads as rewritten:

"§ 19A-27. License required for operation of pet shop.

No person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license shall be for the fiscal year and the license fee shall be ~~fifty dollars (\$50.00)~~seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year."

SECTION #.(b) G.S. 19A-28 reads as rewritten:

"§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be ~~fifty dollars (\$50.00)~~seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year."

SECTION #.(c) G.S. 19A-29 reads as rewritten:

"§ 19A-29. License required for dealer.

No person shall be a dealer unless a license to deal shall have been granted by the Director to such person. Application for such license shall be in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be ~~fifty dollars (\$50.00)~~seventy-five dollars (\$75.00) for each license period or part thereof, beginning with the first day of the fiscal year."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-AGRIC-H6

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

INCREASE AGRICULTURAL LIMING MATERIALS TONNAGE FEES

SECTION #. G.S. 106-92.8 reads as rewritten:

"§ 106-92.8. Tonnage fees: reporting system.

For the purpose of defraying expenses connected with the registration, inspection and analysis of the materials coming under this Article, each manufacturer or registrant shall pay to the Department of Agriculture and Consumer Services tonnage fees in addition to registration fees as follows: for agricultural liming material, ~~ten cents (10¢)~~ fifty cents (50¢) per ton; for landplaster, ~~ten cents (10¢)~~ fifty cents (50¢) per ton; excepting that these fees shall not apply to materials which are sold to fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials when sold in packages of 10 pounds or less.

Any manufacturer, importer, jobber, firm, corporation or person who distributes materials coming under this Article in this State shall make application for a permit to report the materials sold and pay the tonnage fees as set forth in this section.

The Commissioner of Agriculture shall grant such permits on the following conditions: The applicant's agreement that he will keep such records as may be necessary to indicate accurately the tonnage of liming materials, etc., sold in the State and his agreement for the Commissioner or this authorized representative to examine such records to verify the tonnage statement. The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before the tenth day of October, January, April, and July of each year. The report and payment shall cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by the last day of the month in which it is due, or if the report be false, the amount due shall bear a penalty of ten percent (10%) which shall be added to the tonnage fees due. If the report is not filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit and cancel the registration."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-AGRIC-H5

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

INCREASE ANTIFREEZE DISTRIBUTION REGISTRATION FEE

SECTION #. G.S. 106-579.4 reads as rewritten:

"§ 106-579.4. Registrations.

On or before the first day of July of each year, and before any antifreeze may be distributed for the permit year beginning July 1, the manufacturer, packager, or person whose name appears on the label shall make application to the Commissioner on forms provided by the latter for registration for each brand of antifreeze which he desires to distribute. The application shall be accompanied by specimens or facsimiles of labeling for all container sizes to be distributed, when requested by the Commissioner; a license and inspection fee of ~~two hundred fifty dollars (\$250.00)~~ five hundred dollars (\$500.00) for each brand of antifreeze and a properly labeled sample of the antifreeze shall also be submitted at this time. The Commissioner may inspect, test, or analyze the antifreeze and review the labeling. If the antifreeze is not adulterated or misbranded, if it meets the standards established and promulgated by the Board, and if the said antifreeze is not such a type or kind that is in violation of this Article, the Commissioner shall thereafter issue a written license or permit authorizing the sale of such antifreeze in this State for the fiscal year in which the license or inspection fee is paid. If the antifreeze is adulterated or misbranded, if it fails to meet standards promulgated by the Board, or is in violation of this Article or regulations thereunder, the Commissioner shall refuse to register the antifreeze, and he shall return the application to the applicant, stating how the antifreeze or labeling is not in conformity. If the Commissioner shall, at a later date, find that a properly registered antifreeze product has been materially altered or adulterated, or a change has been made in the name, brand or trademark under which the antifreeze is sold, or that it violates the provisions of this Article, or that it violates regulations, definitions or standards duly promulgated by the Board, he shall notify the applicant that the license authorizing sale of the antifreeze is canceled. No antifreeze license shall be canceled unless the registrant shall have been given an opportunity to be heard before the Commissioner or his duly designated agent and to modify his application in order to comply with the requirements of this Article and regulations, definitions, and standards promulgated by the Board. All fees received by the Commissioner shall be placed in the Department of Agriculture and Consumer Services fund for the purpose of supporting the antifreeze enforcement and testing program."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-AGRIC-H2

Department of Agriculture and Consumer Services
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***RECLASSIFY THREE VACANT POSITIONS WITHIN DACS TO ANIMAL WELFARE***
2 ***PROGRAM***

3 **SECTION #.** The Department of Agriculture and Consumer Services shall
4 reclassify three vacant positions within the Department and shall fill these reclassified positions
5 in a timely manner in order to provide support for the Animal Welfare Program within the
6 Department.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-LAB-H1

Department of Labor
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *LABOR/REPEAL STATUTE REQUIRING BIENNIAL REVIEW OF FEES BY*
2 *DEPARTMENT*
3 **SECTION #.** G.S. 95-14.1 is repealed.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H2A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

LOCALS TO RETAIN LARGER LOCAL PORTION OF FOOD AND LODGING FEES

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

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school cafeterias, a fee of seventy-five dollars (\$75.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than ~~thirty three and one third percent (33 1/3%)~~ ten percent (10%) of the fees collected under this subsection may be used to support State health programs and activities."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-ENV-H3

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***REDUCE PORTION OF CERTIFICATE OF TITLE FEES CREDITED TO MERCURY
SWITCH REMOVAL ACCOUNT***

SECTION #. G.S. 20-85(a1) reads as rewritten:

"(a1) One dollar (\$1.00) of the fee imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents. An additional ~~one dollar (\$1.00)~~ fifty cents (\$.50) of the fee imposed for any transaction assessed a fee under subdivision (a)(1) of this section shall be credited to the Mercury Switch Removal Account in the Department of Environment and Natural Resources."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

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SPECIAL PROVISION



2011-ENV-H4D

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***ABOLISH, TRANSFER TO OTHER DEPARTMENTS, OR CONSOLIDATE WITHIN
DENR ALL ENVIRONMENTAL HEALTH PROGRAMS UNDER DENR***

SECTION #.(a) The Vector Control Program and the Tick Control Program within the Division of Environmental Health of the Department of Environment and Natural Resources are abolished.

SECTION #.(b) All functions, powers, duties, and obligations previously vested in the Grade "A" Milk Sanitation Program within the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Food and Drug Protection Division of the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

SECTION #.(c) All functions, powers, duties, and obligations previously vested in the Sleep Products Program within the Public Health Pest Management Section of the Division of Environmental Health of the Department of Environment and Natural Resources are transferred to and vested in the Department of Agriculture and Consumer Services by a Type I transfer, as defined in G.S. 143A-6.

SECTION #.(d) The following sections of the Division of Environmental Health that support programs implemented through local health departments and programs primarily focused on food safety and other public health concerns are, subject to subsection (b) of this section, transferred from the Department of Environment and Natural Resources to the Division of Public Health of the Department of Health and Human Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

- (1) Environmental Health Services Section.
- (2) On-Site Water Protection Section.
- (3) Radiation Protection Section.
- (4) Office of Education and Training.

SECTION #.(e) The Public Water Supply Section of the Division of Environmental Health of the Department of Environment and Natural Resources shall be transferred to the Division of Water Resources of the Department of Environment and Natural Resources with all the elements of a Type I transfer as defined by G.S. 143A-6.

SECTION #.(f) The Shellfish Sanitation and Recreational Water Quality Section of the Division of Environmental Health of the Department of Environment and Natural Resources shall be transferred to the Division of Marine Fisheries of the Department of Environment and Natural Resources with all the elements of a Type I transfer as defined by G.S. 143A-6.

SECTION #.(g) The Division of Environmental Health of the Department of Environment and Natural Resources is abolished, and the Public Health Pest Management Section of the Division of Environmental Health of the Department of Environment and Natural Resources is abolished.

1 **SECTION #.(h)** G.S. 143B-279.3(c)(3) is repealed.

2 **SECTION #.(i)** Part 1 of Article 12 of Chapter 130A of the General Statutes is
3 repealed.

4 **SECTION #.(j)** G.S. 143-300.8 reads as rewritten:

5 **"§ 143-300.8. Defense of local sanitarians.**

6 Any local health department sanitarian enforcing rules of the Commission for Public Health
7 ~~or of the Environmental Management Commission~~ under the supervision of the Department of
8 Environment and Natural Resources pursuant to G.S. 130A-4 shall be defended by the Attorney
9 General, subject to the provisions of G.S. 143-300.4, and shall be protected from liability in
10 accordance with the provisions of this Article in any civil or criminal action or proceeding
11 brought against the sanitarian in his official or individual capacity, or both, on account of an act
12 done or omission made in the scope and course of enforcing the rules of the Commission for
13 Public Health ~~or of the Environmental Management Commission~~. ~~Health.~~ The Department of
14 Environment and Natural Resources shall pay any judgment against the sanitarian, or any
15 settlement made on his behalf, subject to the provisions of G.S. 143-300.6."

16 **SECTION #.(k)** Part 9 of Article 8 of Chapter 130A of the General Statutes is
17 recodified as Article 28C of Chapter 106 of the General Statutes, to be entitled "Grade 'A' Milk
18 Sanitation"; G.S. 130A-274 is recodified as G.S. 106-266.30; G.S. 130A-275 is recodified as
19 G.S. 106-266.31; G.S. 130A-276 is recodified as G.S. 106-266.32; G.S. 130A-277 is recodified
20 as G.S. 106-266.33; G.S. 130A-278 is recodified as G.S. 106-266.34; and G.S. 130A-279 is
21 recodified as G.S. 106-266.35.

22 **SECTION #.(l)** G.S. 106-266.30, as recodified under subsection (k) of this section,
23 reads as rewritten:

24 **"§ 106-266.30. Definitions.**

25 The following definitions shall apply throughout this ~~Part~~Article:

- 26 (1) "Grade 'A' milk" means fluid milk and milk products which have been
27 produced, transported, handled, processed and distributed in accordance with
28 the provisions of the rules adopted by the ~~Commission~~Board of Agriculture.
29 (2) "Milk" means the lacteal secretion practically free from colostrum obtained
30 by the milking of one or more cows, goats, or other lactating animals."

31 **SECTION #.(m)** G.S. 106-266.31, as recodified under subsection (k) of this
32 section, reads as rewritten:

33 **"§ 106-266.31. ~~Commission~~Board to adopt rules.**

34 ~~Notwithstanding the provisions of G.S. 106-267 et seq., the Commission is authorized and~~
35 ~~directed to~~The Board of Agriculture shall adopt rules relating to the sanitary production,
36 transportation, processing and distribution of Grade "A" milk. The rules, in order to protect and
37 promote the public health, shall provide definitions and requirements for: (i) the sanitary
38 production and handling of milk on Grade "A" dairy farms; (ii) the sanitary transportation of
39 Grade "A" raw milk for processing; (iii) the sanitary processing of Grade "A" milk; (iv) the
40 sanitary handling and distribution of Grade "A" milk; (v) the requirements for the issuance,
41 suspension and revocation of permits; and (vi) the establishment of quality standards for Grade
42 "A" milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance
43 recommended by the U.S. Public Health Service/Food and Drug Administration as amended
44 effective January 1, 1982. The ~~Commission~~Board of Agriculture may adopt by reference the
45 U.S. Public Health Service/Food and Drug Administration 1978 Pasteurized Milk ~~Ordinance~~.
46 ~~and any amendment thereto~~Ordinance, as amended."

47 **SECTION #.(n)** G.S. 106-266.32, as recodified under subsection (k) of this
48 section, reads as rewritten:

49 **"§ 106-266.32. Permits required.**

1 No person shall produce, transport, process, or distribute Grade "A" milk without first
2 having obtained a valid permit from the ~~Department~~Department of Agriculture and Consumer
3 Services."

4 **SECTION #.(o)** G.S. 106-266.33, as recodified under subsection (k) of this
5 section, reads as rewritten:

6 **"§ 106-266.33. Duties of the Department.**

7 The Department of Agriculture and Consumer Services shall enforce the rules of the
8 ~~Commission~~Board of Agriculture governing Grade "A" milk by making sanitary inspections of
9 Grade "A" dairy farms, Grade "A" processing plants, Grade "A" milk haulers and Grade "A"
10 distributors; by determining the quality of Grade "A" milk; and by evaluating methods of
11 handling Grade "A" milk to insure compliance with the provisions of the rules of the
12 ~~Commission~~Board of Agriculture. The Department of Agriculture and Consumer Services
13 shall issue permits for the operation of Grade "A" dairy farms, processing plants and haulers in
14 accordance with the provisions of the rules of the ~~Commission~~Board of Agriculture and shall
15 suspend or revoke permits for violations in accordance with the rules."

16 **SECTION #.(p)** G.S. 106-266.34, as recodified under subsection (k) of this
17 section, reads as rewritten:

18 **"§ 106-266.34. Certain other authorities of Department of Agriculture and Consumer**
19 **Services not replaced.**

20 This ~~Part~~Article shall not repeal or limit the Department of Agriculture and Consumer
21 Services' authority to carry out labeling requirements, required butterfat testing, aflatoxin
22 testing, pesticide testing, other testing performed by the Department of Agriculture and
23 Consumer ~~Services~~Services, and any other function of the Department of Agriculture and
24 Consumer Services concerning Grade "A" milk ~~which~~under any other Article under this
25 Chapter that is not inconsistent with this Article."

26 **SECTION #.(q)** G.S. 106-266.35 as recodified under subsection (k) of this section,
27 reads as rewritten:

28 **"§ 106-266.35. Sale or dispensing of milk.**

29 Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to
30 consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed
31 only to a permitted milk hauler or to a processing facility at which the processing of milk is
32 permitted, graded, or regulated by a local, State, or federal agency. The ~~Commission~~Board of
33 Agriculture may adopt rules to provide exceptions for dispensing raw milk and raw milk
34 products for nonhuman consumption. Any raw milk or raw milk product dispensed as animal
35 feed shall include on its label the statement "NOT FOR HUMAN CONSUMPTION" in letters
36 at least one-half inch in height. Any raw milk or raw milk product dispensed as animal feed
37 shall also include on its label the statement "IT IS NOT LEGAL TO SELL RAW MILK FOR
38 HUMAN CONSUMPTION IN NORTH CAROLINA." "Sale" or "sold" shall mean any
39 transaction that involves the transfer or dispensing of milk and milk products or the right to
40 acquire milk and milk products through barter or contractual arrangement or in exchange for
41 any other form of compensation including, but not limited to, the sale of shares or interest in a
42 cow, goat, or other lactating animal or herd."

43 **SECTION #.(r)** G.S. 130A-21(b) is recodified as a new section G.S. 106-266.36 in
44 Article 28 of Chapter 106 of the General Statutes, as recodified by subsection (k) of this
45 section, to have the catchline "Milk embargo."

46 **SECTION #.(s)** G.S. 106-266.36, as recodified in subsection (r) of this section,
47 reads as rewritten:

48 **"§ 106-266.35. Milk embargo.**

1 If the ~~Secretary of Environment and Natural Resources~~ Commissioner of Agriculture or a
2 local health director has probable cause to believe that any milk designated as Grade "A" milk
3 is misbranded or does not satisfy the milk sanitation rules adopted pursuant to ~~G.S.~~
4 ~~130A-275, G.S. 106-266.31~~, the ~~Secretary of Environment and Natural Resources~~ Commissioner
5 of Agriculture or a local health director may detain or embargo the milk by affixing a tag to it
6 and warning all persons not to remove or dispose of the milk until permission for removal or
7 disposal is given by the official by whom the milk was detained or embargoed or by the court.
8 It shall be unlawful for any person to remove or dispose of the detained or embargoed milk
9 without that permission.

10 The official by whom the milk was detained or embargoed shall petition a judge of the
11 district or superior court in whose jurisdiction the milk is detained or embargoed for an order
12 for condemnation of the article. If the court finds that the milk is misbranded or that it does not
13 satisfy the milk sanitation rules adopted pursuant to ~~G.S. 130A-275, G.S. 106-266.31~~, either the
14 milk shall be destroyed under the supervision of the petitioner or the petitioner shall ensure that
15 the milk will not be used for human consumption as Grade "A" milk. All court costs and fees,
16 storage, expenses of carrying out the court's order and other expense shall be taxed against the
17 claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded
18 and will satisfy the milk sanitation rules adopted pursuant to ~~G.S. 130A-275, G.S. 106-266.31~~,
19 the court, after the payment of all costs, fees, and expenses and after the claimant posts an
20 adequate bond, may order that the milk be delivered to the claimant for proper labelling and
21 processing under the supervision of the petitioner. The bond shall be returned to the claimant
22 after the petitioner represents to the court either that the milk is no longer mislabelled or in
23 violation of the milk sanitation rules adopted pursuant to ~~G.S. 130A-275, G.S. 106-266.31~~, or
24 that the milk will not be used for human consumption, and that in either case the expenses of
25 supervision have been paid."

26 **SECTION #.(t)** G.S. 106-143 reads as rewritten:

27 **"§ 106-143. Article construed supplementary.**

28 Nothing in this Article shall be construed as in any way amending, abridging, or otherwise
29 affecting the validity of any law or ordinance relating to the Commission for Public Health or
30 the Department of Environment and Natural Resources or any local health department in their
31 sanitary work in connection with public and private water supplies, sewerage, meat, ~~milk, milk~~
32 ~~products, shellfish, finfish~~, or other foods, or food products, or the production, handling, or
33 processing of these items."

34 **SECTION #.(u)** Part 8 of Article 8 of Chapter 130A of the General Statutes is
35 recodified as Article 4H of Chapter 106 of the General Statutes, to be entitled "Bedding";
36 G.S. 130A-261 is recodified as G.S. 106-65.95; G.S. 130A-262 is recodified as G.S. 106-65.96;
37 G.S. 130A-263 is recodified as G.S. 106-65.97; G.S. 130A-264 is recodified as G.S. 106-65.98;
38 G.S. 130A-265 is recodified as G.S. 106-65.99; G.S. 130A-266 is recodified as
39 G.S. 106-65.100; G.S. 130A-267 is recodified as G.S. 106-65.101; G.S. 130A-268 is recodified
40 as G.S. 106-65.102; G.S. 130A-269 is recodified as G.S. 106-65.103; G.S. 130A-270 is
41 recodified as G.S. 106-65.104; G.S. 130A-271 is recodified as G.S. 106-65.105; G.S. 130A-272
42 is recodified as G.S. 106-65.106; and G.S. 130A-273 is recodified as G.S. 106-65.107.

43 **SECTION #.(v)** G.S. 106-65.95, as recodified under subsection (u) of this section,
44 reads as rewritten:

45 **"§ 106-65.95. Definitions.**

46 The following definitions shall apply throughout this ~~Part:~~ Article:

47"

48 **SECTION #.(w)** G.S. 106-65.96, as recodified under subsection (u) of this
49 section, reads as rewritten:

1 **"§ 106-65.96. Sanitizing.**

2 (a) No person shall sell any renovated bedding or secondhand bedding unless it is
3 sanitized in accordance with rules adopted by the ~~Commission~~Board of Agriculture.

4 (b) A sanitizing apparatus or process shall not be used for sanitizing bedding or material
5 required to be sanitized under this ~~Part~~Article until the apparatus is approved by the
6 ~~Department~~Department of Agriculture and Consumer Services.

7 (c) A person who sanitizes bedding shall attach to the bedding a yellow tag containing
8 information required by the rules of the ~~Commission~~Board of Agriculture.

9 (d) A person who sanitizes material or bedding for another person shall keep a complete
10 record of the kind of material and bedding which has been sanitized. The record shall be
11 subject to inspection by the ~~Department~~Department of Agriculture and Consumer Services.

12 (e) A person who receives used bedding for renovation or storage shall attach to the
13 bedding a tag on which is legibly written the date of receipt and the name and address of the
14 owner."

15 **SECTION #.(x)** G.S. 106-65.98, as recodified under subsection (u) of this section,
16 reads as rewritten:

17 **"§ 106-65.98. Storage of used materials.**

18 No establishment shall store any unsanitized previously used materials in the same room
19 with bedding or materials that are new or have been sanitized unless the new or sanitized
20 bedding or materials are completely segregated from the unsanitized materials in a manner
21 approved by the rules of the ~~Commission~~Board of Agriculture."

22 **SECTION #.(y)** G.S. 106-65.99, as recodified under subsection (u) of this section,
23 reads as rewritten:

24 **"§ 106-65.99. Tagging requirements.**

25 (a) A tag of durable material approved by the ~~Commission~~Board of Agriculture shall
26 be sewed securely to all bedding. The tag shall be at least two inches by three inches in size.

27 (b) The following shall be plainly stamped or printed upon the tag with ink in English:

28 (1) The name and kind of material or materials used to fill the bedding which
29 are listed in the order of their predominance;

30 (2) A registration number obtained from the ~~Department~~Department of
31 Agriculture and Consumer Services; and

32 (3) In letters at least one-eighth inch high the words "made of new material", if
33 the bedding contains no previously used material; or the words "made of
34 previously used materials", if the bedding contains any previously used
35 material; or the word "secondhand" on any bedding which has been used but
36 not remade.

37 (4) Repealed by Session Laws 1987, c. 456, s. 4.

38 (c) A white tag shall be used for manufactured bedding and a yellow tag for renovated
39 or sanitized bedding.

40 (d) The tag must be sewed to the outside covering before the filling material has been
41 inserted. No trade name, advertisement nor any other wording shall appear on the tag."

42 **SECTION #.(z)** G.S. 106-65.98, as recodified under subsection (u) of this section,
43 reads as rewritten:

44 **"§ 106-65.100. Altering tags prohibited.**

45 No person, other than one purchasing bedding for personal use or a representative of the
46 Department of Agriculture and Consumer Services shall remove, deface or alter the tag
47 required by this ~~Part~~Article."

48 **SECTION #.(aa)** G.S. 106-65.101, as recodified under subsection (u) of this
49 section, reads as rewritten:

1 **"§ 106-65.101. Selling regulated.**

2 (a) No person shall sell any bedding in this State (whether manufactured within or
3 without this State) which has not been manufactured, tagged, and labeled in the manner
4 required by this Part and which does not otherwise comply with the provisions of this
5 ~~Part~~Article.

6 (b) This ~~Part~~Article shall not apply to bedding sold by the owner and previous user
7 from the owner's home directly to a purchaser for the purchaser's own personal use unless the
8 bedding has been exposed to an infectious or communicable disease.

9 (c) Possession of any bedding in any store, warehouse, itinerant vendor's conveyance or
10 place of business, other than a private home, hotel or other place where these articles are
11 ordinarily used, shall constitute prima facie evidence that the item is possessed with intent to
12 sell. No secondhand bedding shall be possessed with intent to sell for a period exceeding 60
13 days unless it has been sanitized."

14 **SECTION #.(bb)** G.S. 106-65.102, as recodified under subsection (u) of this
15 section, reads as rewritten:

16 **"§ 106-65.102. Registration numbers.**

17 (a) All persons manufacturing or sanitizing bedding in this State or manufacturing
18 bedding to be sold in this State shall apply for a registration number on a form prescribed by
19 the ~~Secretary-Commissioner of Agriculture~~. Upon receipt of the completed application and
20 applicable fees, the Department of Agriculture and Consumer Services shall issue to the
21 applicant a certificate of registration showing the person's name and address, registration
22 number and other pertinent information required by the rules of the ~~Commission-Board of~~
23 Agriculture."

24 **SECTION #.(cc)** G.S. 106-65.103, as recodified under subsection (u) of this
25 section, reads as rewritten:

26 **"§ 106-65.103. Payment of fees; licenses.**

27 (c) The Department of Agriculture and Consumer Services shall administer and enforce
28 this ~~Part~~Article. A person who has done business in this State throughout the preceding
29 calendar year shall obtain a license by paying a fee to the Department of Agriculture and
30 Consumer Services in an amount determined by the total number of bedding units
31 manufactured, sold, or sanitized in this State by the applicant during the calendar year
32 immediately preceding, at the rate of five and two tenths cents (5.2¢) per bedding unit.
33 However, if this amount is less than fifty dollars (\$50.00), a minimum fee of fifty dollars
34 (\$50.00) shall be paid to the ~~Department~~Department of Agriculture and Consumer Services.

35 (d) A person who has not done business in this State throughout the preceding calendar
36 year shall obtain a license by paying an initial fee to the Department of Agriculture and
37 Consumer Services in the amount of seven hundred twenty dollars (\$720.00) for the first year
38 in which business is done in this State, prorated in accordance with the quarter of the calendar
39 year in which the person begins doing business. After submission of proof of business volume
40 in accordance with subsection (h) of this section for the part of the preceding calendar year in
41 which the person did business in this State, the Department of Agriculture and Consumer
42 Services shall determine the amount of fee for which the person is responsible for that time
43 period by using a rate of five and two tenths cents (5.2¢) for each bedding unit. However, if this
44 amount is less than fifty dollars (\$50.00), then the amount of the fee for which the person is
45 responsible shall be fifty dollars (\$50.00). If the person's initial payment is more than the
46 amount of the fee for which the person is responsible, the Department of Agriculture and
47 Consumer Services shall make a refund or adjustment to the cost of the fee due for the next
48 year in the amount of the difference. If the initial payment is less than the amount of the fee for

1 which the person is responsible, the person shall pay the difference to the
2 ~~Department.~~Department of Agriculture and Consumer Services.

3 (d1) Payments, refunds, and adjustments shall be made in accordance with rules adopted
4 by the ~~Commission.~~Board of Agriculture.

5 (d2) Upon payment of the fees charged pursuant to subsections (c) and (d), or the first
6 installment thereof as provided by rules adopted by the ~~Commission.~~Board of Agriculture, the
7 Department of Agriculture and Consumer Services shall issue a license to the person. Licenses
8 shall be kept conspicuously posted in the place of business of the licensee at all times. The
9 ~~Secretary-Commissioner of Agriculture~~ may suspend a license for a maximum of six months
10 for two or more serious violations of this ~~Part~~Article or of the rules of the ~~Commission.~~Board
11 of Agriculture, within any 12-month period.

12 (e) A maximum fee of seven hundred fifty dollars (\$750.00) shall be charged for units
13 of bedding manufactured in this State but not sold in this State.

14 (f) For the sole purpose of computing fees for which a person is responsible, the
15 following definitions shall apply: One mattress is defined as one bedding unit; one upholstered
16 spring is defined as one bedding unit; one pad is defined as one bedding unit; one sleeping bag
17 is defined as one bedding unit; five comforters, pillows or decorative pillows are defined as one
18 bedding unit; and any other item is defined as one bedding unit.

19 (g) An application for license must be submitted on a form prescribed by the
20 ~~Secretary-Commissioner of Agriculture.~~ No license may be issued to a person unless the person
21 complies with the rules of the ~~Commission-Board of Agriculture~~ governing the granting of
22 licenses.

23 (h) The ~~Commission-Board of Agriculture~~ shall adopt rules for the proper enforcement
24 of this section. The rules shall include provisions governing the type and amount of proof
25 which must be submitted by the applicant to the Department of Agriculture and Consumer
26 Services in order to establish the number of bedding units that were, during the preceding
27 calendar year:

- 28 (1) Manufactured and sold in this State;
29 (2) Manufactured outside of this State and sold in this State; and
30 (3) Manufactured in this State but not sold in this State.

31 (i) The ~~Commission-Board of Agriculture~~ may provide in its rules for additional proof
32 of the number of bedding units sold during the preceding calendar year when it has reason to
33 believe that the proof submitted by the manufacturer is incomplete, misleading or incorrect."

34 **SECTION #.(dd)** G.S. 106-65.104, as recodified under subsection (u) of this
35 section, reads as rewritten:

36 "**§ 106-65.104. Bedding Law Account.**

37 The Bedding Law Account is established as a nonreverting account within the
38 ~~Department.~~Department of Agriculture and Consumer Services. All fees collected under this
39 ~~Part~~Article shall be credited to the Account and applied to the following costs:

- 40 (1) Salaries and expenses of inspectors and other employees who enforce this
41 Part.
42 (2) Expenses directly connected with the enforcement of this ~~Part,~~Article,
43 including attorney's fees, which are expressly authorized to be incurred by
44 the ~~Secretary-Commissioner of Agriculture~~ without authority from any other
45 source when in the ~~Secretary's opinion~~opinion of the Commissioner of
46 Agriculture it is advisable to employ an attorney to prosecute any persons."

47 **SECTION #.(ee)** G.S. 106-65.105, as recodified under subsection (u) of this
48 section, reads as rewritten:

1 **"§ 106-65.105. Enforcement by the ~~Department~~Department of Agriculture and**
2 **Consumer Services.**

3 (a) The Department Agriculture and Consumer Services shall enforce the provisions of
4 this ~~Part~~Article and the rules adopted by the ~~Commission~~Board of Agriculture.

5 (b) The ~~Secretary~~Commissioner of Agriculture may prohibit sale and place an "off
6 sale" tag on any bedding which is not made, sanitized, or tagged as required by this ~~Part~~Article
7 and the rules of the ~~Commission~~Board of Agriculture. The bedding shall not be sold or
8 otherwise removed until the violation is remedied and the ~~Secretary~~Commissioner of
9 Agriculture has reinspected it and removed the "off sale" tag.

10 (c) A person supplying material to a bedding manufacturer shall furnish an itemized
11 invoice of all furnished material. Each material entering into willowed or other mixtures shall
12 be shown on the invoice. The bedding manufacturer shall keep the invoice on file for one year
13 subject to inspection by the ~~Department~~Department Agriculture and Consumer Services.

14 (d) When the ~~Secretary~~Commissioner of Agriculture has reason to believe that bedding
15 is not tagged or filled as required by this ~~Part~~Article, the ~~Secretary~~Commissioner of
16 Agriculture shall have authority to open a seam of the bedding to examine the filling, and, if
17 unable after this examination to determine if the filling is of the kind stated on the tag, shall
18 have the authority to examine purchase or other records necessary to determine definitely the
19 kind of material used in the bedding. The ~~Secretary~~Commissioner of Agriculture shall have
20 authority to seize and hold for evidence any records and any bedding or bedding material which
21 in the ~~Secretary's opinion~~opinion of the Commissioner of Agriculture is made, possessed or
22 offered for sale in violation of this ~~Part~~Article or the rules of the ~~Commission~~Board of
23 Agriculture. The ~~Secretary~~Commissioner of Agriculture shall have authority to take a sample
24 of any bedding or bedding material for the purpose of examination or for evidence."

25 **SECTION #.(ff)** G.S. 106-65.106, as recodified under subsection (u) of this
26 section, reads as rewritten:

27 **"§ 106-65.106. Exemptions for blind persons and State institutions.**

28 (a) In cases where bedding is manufactured, sanitized or renovated in a plant or place of
29 business which has qualified as a nonprofit agency for the blind or severely handicapped under
30 P.L. 92-28, as amended, the responsible person shall satisfy the provisions of this ~~Part~~Article
31 and the rules of the ~~Commission~~Board of Agriculture. However, the responsible persons at
32 these plants or places of business shall not be required to pay fees in accordance with
33 ~~G.S. 130A-269~~G.S. 106-65.103.

34 (b) State institutions engaged in the manufacture, renovation or sanitizing of bedding
35 for their own use or that of another State institution are exempted from all provisions of this
36 ~~Part~~Article."

37 **SECTION #.(gg)** G.S. 106-65.107, as recodified under subsection (u) of this
38 section, reads as rewritten:

39 **"§ 106-65.107. Rules.**

40 The ~~Commission~~Board shall adopt rules required by this ~~Part~~Article in order to protect the
41 public health."

42 **SECTION #.(hh)** G.S. 90A-51 reads as rewritten:

43 **"§ 90A-51. Definitions.**

44 The words and phrases defined below shall when used in this Article have the following
45 meaning unless the context clearly indicates otherwise:

46 ...

47 (2a) "Environmental health practice" means the provision of environmental
48 health services, including administration, organization, management,
49 education, enforcement, and consultation regarding environmental health

1 services provided to or for the public. These services are offered to prevent
2 environmental hazards and promote and protect the health of the public in
3 the following areas: food, lodging, and institutional sanitation; on-site
4 wastewater treatment and disposal; ~~milk and dairy sanitation; shellfish~~
5 ~~sanitation; recreational water quality;~~ public swimming pool sanitation;
6 childhood lead poisoning prevention; well permitting and inspection; tattoo
7 parlor sanitation; and all other areas of environmental health requiring the
8 delegation of authority by the Division of Environmental Public Health of
9 the Department of Health and Human Services to State and local
10 environmental health professionals to enforce rules adopted by the
11 Commission for Public Health ~~or the Environmental Management~~
12 ~~Commission.~~Health. The definition also includes local environmental health
13 professionals enforcing rules of local boards of health for on-site wastewater
14 systems and wells.

15"

16 **SECTION #.(ii)** G.S. 90A-55(a) reads as rewritten:

17 "(a) Board Membership. – The Board shall consist of 12 members who shall serve
18 staggered terms: the Secretary of ~~Environment and Natural Resources,~~Health and Human
19 Services, or the Secretary's duly authorized representative, one public-spirited citizen, one
20 environmental sanitation educator from an accredited college or university, one local health
21 director, a representative of the Division of Environmental Public Health of the Department of
22 ~~Environment and Natural Resources,~~Health and Human Services, and seven practicing
23 environmental health specialists who qualify by education and experience for registration under
24 this Article, six of whom shall represent the Western, Piedmont, and Eastern Regions of the
25 State as described more specifically in the rules adopted by the Board."

26 **SECTION #.(jj)** G.S. 90A-55(c) reads as rewritten:

27 "(c) The Environmental Health Section of the North Carolina Public Health Association,
28 Inc., shall submit a recommended list of Board member candidates to the Governor for the
29 Governor's consideration in appointments, except for the two representatives of the Department
30 of ~~Environment and Natural Resources~~Health and Human Services recommended by the
31 Secretary of ~~Environment and Natural Resources~~Health and Human Services and the local
32 health director recommended by the North Carolina Local Health Directors Association."

33 **SECTION #.(kk)** G.S. 90A-71(4) reads as rewritten:

34 "(4) "Department" means the Department of ~~Environment and Natural~~
35 ~~Resources.~~Health and Human Services."

36 **SECTION #.(ll)** G.S. 90A-73(1)(3) reads as rewritten:

37 "(3) One member appointed by the Governor who is an employee of the Division
38 of Environmental Public Health of the Department to a term that expires on
39 1 July of years that follow by one year those years that are evenly divisible
40 by three."

41 **SECTION #.(mm)** G.S. 90A-81(b) reads as rewritten:

42 "(b) Arbitration. – The Board may establish a voluntary arbitration procedure to resolve
43 complaints concerning a certified contractor or inspector or any work performed by a certified
44 contractor or inspector, or conflicts involving any certified contractor or inspector and the
45 Division of Environmental Public Health of the Department or a local health department."

46 **SECTION #.(nn)** G.S. 130A-334(1a) reads as rewritten:

47 "(1a) "Department" means the Department of ~~Environment and Natural~~
48 ~~Resources.~~Health and Human Services."

49 **SECTION #.(oo)** G.S. 104E-5 reads as rewritten:

1 **"§ 104E-5. Definitions.**

2 Unless a different meaning is required by the context, the following terms as used in this
3 Chapter shall have the meanings hereinafter respectively ascribed to them:

4 ...

5 (6) "Department" means the ~~State Department of Environment and Natural~~
6 ~~Resources~~Department of Health and Human Services.

7 "

8 **SECTION #.(pp)** G.S. 104E-8(c) reads as rewritten:

9 "(c) The 10 ex officio members shall be appointed by the Governor, shall be members or
10 employees of the following State agencies or their successors, and shall serve at the Governor's
11 pleasure:

12 ...

13 (6) The Division of ~~Environmental~~Public Health of the Department.

14 "

15 **SECTION #.(qq)** G.S. 104E-9 reads as rewritten:

16 **"§ 104E-9. Powers and functions of Department of ~~Environment and Natural Resources.~~**
17 **Health and Human Services.**

18 (a) The Department of ~~Environment and Natural Resources~~ Health and Human Services
19 is authorized:

20 (b) The Division of ~~Environmental~~Public Health of the Department shall develop a
21 training program for tanning equipment operators that meets the training rules adopted by the
22 Commission. If the training program is provided by the Department, the Department may
23 charge each person trained a reasonable fee to recover the actual cost of the training program."

24 **SECTION #.(rr)** G.S. 106-307.2(b) reads as rewritten:

25 "(b) The State Veterinarian shall notify the State Health Director and the Director of the
26 Division of ~~Environmental~~Public Health in the Department of ~~Environment and Natural~~
27 ~~Resources~~Health and Human Services when the State Veterinarian receives a report indicating
28 an occurrence or potential outbreak of anthrax, arboviral infections, brucellosis, epidemic
29 typhus, hantavirus infections, murine typhus, plague, psittacosis, Q fever, hemorrhagic fever,
30 virus infections, and any other disease or condition transmissible to humans that the State
31 Veterinarian determines may have been caused by a terrorist act."

32 **SECTION #.(ss)** G.S. 120-70.33 reads as rewritten:

33 **"§ 120-70.33. Powers and duties.**

34 The Joint Select Committee shall have the following powers and duties:

35 ...

36 (3) To evaluate actions of the Radiation Protection Commission, the radiation
37 protection programs administered by the Division of ~~Environmental~~Public
38 Health of the Department of ~~Environment and Natural Resources~~,Health and
39 Human Services, and of any other board, commission, department, or agency
40 of the State or local government as such actions relate to low-level
41 radioactive waste management;

42 "

43 **SECTION #.(tt)** G.S. 130A-4(c) reads as rewritten:

44 "(c) The Secretary of Environment and Natural Resources shall administer and enforce
45 the provisions of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~Articles 9 and 10 of this
46 Chapter and the rules of the Commission."

47 **SECTION #.(uu)** G.S. 130A-12 reads as rewritten:

48 **"§ 130A-12. Confidentiality of records.**

1 All records containing privileged patient medical information, information protected under
2 45 Code of Federal Regulations Parts 160 and 164, and information collected under the
3 authority of Part 4 of Article 5 of this Chapter that are in the possession of the Department of
4 Health and Human ~~Services, the Department of Environment and Natural Resources, Services~~
5 or local health departments shall be confidential and shall not be public records pursuant to
6 G.S. 132-1. Information contained in the records may be disclosed only when disclosure is
7 authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143,
8 the information contained in the records may be disclosed for purposes of treatment, payment,
9 or health care operations. For purposes of this section, the terms "treatment," "payment," and
10 "health care operations" have the meanings given those terms in 45 Code of Federal
11 Regulations § 164.501."

12 **SECTION #.(vv)** G.S. 130A-17(b) reads as rewritten:

13 "(b) The Secretary of Environment and Natural Resources and a local health director
14 shall have the same rights enumerated in subsection (a) of this section to enforce the provisions
15 of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~ Articles 9 and 10 of this Chapter."

16 **SECTION #.(ww)** G.S. 130A-18(b) reads as rewritten:

17 "(b) The Secretary of Environment and Natural Resources and a local health director
18 shall have the same rights enumerated in subsection (a) of this section to enforce the provisions
19 of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~ Articles 9 and 10 of this Chapter."

20 **SECTION #.(xx)** G.S. 130A-19(b) reads as rewritten:

21 "(b) The Secretary of Environment and Natural Resources and a local health director
22 shall have the same rights enumerated in subsection (a) of this section to enforce the provisions
23 of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~ Articles 9 and 10 of this Chapter."

24 **SECTION #.(yy)** G.S. 130A-20(b) reads as rewritten:

25 "(b) The Secretary of Environment and Natural Resources and a local health director
26 shall have the same rights enumerated in subsection (a) of this section to enforce the provisions
27 of ~~Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12~~ Articles 9 and 10 of this Chapter."

28 **SECTION #.(zz)** G.S. 130A-21(a) reads as rewritten:

29 "(a) In addition to the authority of the Department of Agriculture and Consumer Services
30 pursuant to G.S. 106-125, the Secretary of ~~Environment and Natural Resources~~ or a local health
31 director has authority to exercise embargo authority concerning food or drink pursuant to
32 G.S. 106-125(a), (b) and (c) when the food or drink is in an establishment that is subject to
33 regulation by the Department of ~~Environment and Natural Resources~~ Health and Human
34 Services pursuant to this Chapter, that is subject to rules adopted by the Commission, or that is
35 the subject of an investigation pursuant to G.S. 130A-144; however, no such action shall be
36 taken in any establishment or part of an establishment that is under inspection or otherwise
37 regulated by the Department of Agriculture and Consumer Services or the United States
38 Department of Agriculture other than the part of the establishment that is subject to regulation
39 by the Department of ~~Environment and Natural Resources~~ Health and Human Services pursuant
40 to this Chapter. Any action under this section shall only be taken by, or after consultation with,
41 Department of ~~Environment and Natural Resources~~ Health and Human Services regional
42 environmental health specialists, or the Director of the Division of ~~Environmental Public~~
43 Health or the Director's designee, in programs regulating food and drink pursuant to this
44 Chapter or in programs regulating food and drink that are subject to rules adopted by the
45 Commission. Authority under this section shall not be delegated to individual environmental
46 health specialists in local health departments otherwise authorized and carrying out laws and
47 rules pursuant to G.S. 130A-4. When any action is taken pursuant to this section, the
48 Department of ~~Environment and Natural Resources~~ Health and Human Services or the local
49 health director shall immediately notify the Department of Agriculture and Consumer Services.

1 For the purposes of this subsection, all duties and procedures in G.S. 106-125 shall be carried
2 out by the Secretary of ~~the Department of Environment and Natural Resources~~Health and
3 Human Services or the local health director and shall not be required to be carried out by the
4 Department of Agriculture and Consumer Services. It shall be unlawful for any person to
5 remove or dispose of the food or drink by sale or otherwise without the permission of a
6 Department of ~~Environment and Natural Resources~~Health and Human Services regional
7 environmental health specialist, the Director of the Division of ~~Environmental~~Public Health or
8 the Director's designee, the local health director, or a duly authorized agent of the Department
9 of Agriculture and Consumer Services, or by the court in accordance with the provisions of
10 G.S. 106-125."

11 **SECTION #.(aaa)** G.S. 130A-21(d) reads as rewritten:

12 "(d) Nothing in this section is intended to limit the embargo authority of the Department
13 of Agriculture and Consumer Services. The Department of ~~Environment and Natural~~
14 ~~Resources~~Health and Human Services and the Department of Agriculture and Consumer
15 Services are authorized to enter agreements respecting the duties and responsibilities of each
16 agency in the exercise of their embargo authority."

17 **SECTION #.(bbb)** G.S. 130A-22(c) reads as rewritten:

18 "(c) The Secretary of ~~Environment and Natural Resources~~ may impose an administrative
19 penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the
20 Commission pursuant to Article 11 or any condition imposed upon a permit issued under
21 Article 11. An administrative penalty may not be imposed upon a person who establishes that
22 neither the site nor the system may be improved or a new system installed so as to comply with
23 Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate
24 violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a wastewater
25 collection, treatment and disposal system with a design daily flow of no more than 480 gallons
26 or in the case of any system serving a single one-family dwelling. The penalty shall not exceed
27 three hundred dollars (\$300.00) per day in the case of a wastewater collection, treatment and
28 disposal system with a design daily flow of more than 480 gallons which does not serve a
29 single one-family dwelling."

30 **SECTION #.(ccc)** G.S. 130A-23(e) reads as rewritten:

31 "(e) The Secretary of Environment and Natural Resources shall have all of the applicable
32 rights enumerated in this section to enforce the provisions of ~~Articles 8, 9, 10, 11, and~~
33 ~~12~~Articles 9 and 10 of this Chapter."

34 **SECTION #.(ddd)** G.S. 130A-34.1(a) reads as rewritten:

35 "(a) The Local Health Department Accreditation Board is established within the North
36 Carolina Institute for Public Health. The Board shall be composed of 17 members appointed by
37 the Secretary of the Department of Health and Human Services as follows:

- 38 (1) Four shall be county commissioners recommended by the North Carolina
39 Association of County Commissioners, and four shall be members of a local
40 board of health as recommended by the Association of North Carolina
41 Boards of Health.
- 42 (2) Three local health directors.
- 43 (3) ~~Two~~ Three staff members from the Division of Public Health, Department of
44 Health and Human Services.
- 45 (4) ~~One staff member from the Division of Environmental Health,~~
46 ~~recommended by the Secretary of Environment and Natural Resources.~~
- 47 (5) Three at large."

48 **SECTION #.(eee)** G.S. 130A-227(b) reads as rewritten:

49 "(b) The following definitions shall apply throughout this Article:

- (1) "Department" means the Department of ~~Environment and Natural Resources~~Health and Human Services.
- (2) "Secretary" means the Secretary of ~~Environment and Natural Resources~~Health and Human Services."

SECTION #.(fff) G.S. 159G-20 reads as rewritten:

"§ 159G-20. Definitions.

The following definitions apply in this Chapter:

- ...
- (4) ~~Division of Environmental Health. — The Division of Environmental Health of the Department of Environment and Natural Resources.~~
- (5) Division of Water Quality. — The Division of Water Quality of the Department of Environment and Natural Resources.
- (5a) Division of Water Resources. — The Division of Water Resources of the Department of Environment and Natural Resources.

...."

SECTION #.(ggg) G.S. 159G-23 reads as rewritten:

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

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Quality and the Division of ~~Environmental Health~~Water Resources must each establish a system of assigning points to applications based on the following criteria:

...."

SECTION #.(hhh) G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. — The Department must publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water Quality or the Division of ~~Environmental Health~~Water Resources. The report must be published by 1 November of each year and cover the preceding fiscal year. The Department must make the report available to the public and must give a copy of the report to the Environmental Review Commission and the Fiscal Research Division of the General Assembly."

SECTION #.(iii) G.S. 159G-30 reads as rewritten:

Water Infrastructure Loans and Grants Administered by Department.

§ 159G-30. Department's responsibility.

The Department, through the Division of Water Quality and the Division of ~~Environmental Health~~Water Resources, administers loans and grants made from the CWSRF, the DWSRF, the Wastewater Reserve, and the Drinking Water Reserve. The Division of Water Quality administers loans and grants from the CWSRF and the Wastewater Reserve. The Division of ~~Environmental Health~~Water Resources administers loans and grants from the DWSRF and the Drinking Water Reserve."

SECTION #.(jjj) G.S. 159G-37 reads as rewritten:

"§ 159G-37. Application to CWSRF, Wastewater Reserve, DWSRF, and Drinking Water Reserve.

An application for a loan or grant from the CWSRF or the Wastewater Reserve must be filed with the Division of Water Quality of the Department. An application for a loan or grant from the DWSRF or the Drinking Water Reserve must be filed with the Division of ~~Environmental Health~~Water Resources of the Department. An application must be submitted on a form prescribed by the Division and must contain the information required by the Division. An applicant must submit to the Division any additional information requested by the Division to enable the Division to make a determination on the application. An application that

1 does not contain information required on the application or requested by the Division is
2 incomplete and is not eligible for consideration. An applicant may submit an application in as
3 many categories as it is eligible for consideration under this Article."

4 **SECTION #.(kkk)** G.S. 159G-38(b) reads as rewritten:

5 "(b) Division Review. – If, after reviewing an application, the Division of Water Quality
6 or the Division of ~~Environmental Health~~Water Resources, as appropriate, determines that a
7 project requires an environmental assessment, the assessment must be submitted before the
8 Division continues its review of the application. If, after reviewing an environmental
9 assessment, the Division concludes that an environmental impact statement is required, the
10 Division may not continue its review of the application until a final environmental impact
11 statement has been completed and approved as provided in the North Carolina Environmental
12 Policy Act."

13 **SECTION #.(lll)** G.S. 159G-38(c) reads as rewritten:

14 "(c) Hearing. – The Division of Water Quality or the Division of ~~Environmental~~
15 ~~Health~~Water Resources, as appropriate, may hold a public hearing on an application for a loan
16 or grant under this Article if it determines that holding a hearing will serve the public interest.
17 An individual who is a resident of any county in which a proposed project is located may
18 submit a written request for a public hearing. The request must set forth each objection to the
19 proposed project or other reason for requesting a hearing and must include the name and
20 address of the individual making the request. The Division may consider all written objections
21 to the proposed project, any statement submitted with the hearing request, and any significant
22 adverse effects the proposed project may have on the environment. The Division's decision on
23 whether to hold a hearing is conclusive. The Division must keep all written requests for a
24 hearing on an application as part of the records pertaining to the application."

25 **SECTION #.(mmm)** G.S. 159G-39(a) reads as rewritten:

26 "(a) Point Assignment. – The Division of Water Quality or the Division of
27 ~~Environmental Health~~Water Resources, as appropriate, must review all applications filed for a
28 loan or grant under this Article for an application period. The Division must rank each
29 application in accordance with the points assigned to the evaluation criteria. The Division must
30 make a written determination of an application's rank and attach the determination to the
31 application. The Division's determination of rank is conclusive."

32 **SECTION #.(nnn)** G.S. 166A-6.1(b) reads as rewritten:

33 "(b) Every person, firm, corporation or municipality who is licensed to construct or who
34 is operating a fixed nuclear facility for the production of electricity shall pay to the Department
35 of Crime Control and Public Safety, for the use of the Division of ~~Environmental Health~~Water
36 Resources of the Department of Environment and Natural Resources, an annual fee of thirty-six
37 thousand dollars (\$36,000) for each fixed nuclear facility that is located within this State or that
38 has a Plume Exposure Pathway Emergency Planning Zone any part of which is located within
39 this State. This fee shall be applied only to the costs of planning and implementing emergency
40 response activities as required by the Federal Emergency Management Agency for the
41 operation of nuclear facilities. This fee is to be paid no later than July 31 of each year."

42 **SECTION #.(ooo)** Part 3 of Article 8 of Chapter 130A of the General Statutes is
43 repealed except G.S. 130A-230 is recodified as G.S. 113-221.2 in Article 17 of Chapter 113 of
44 the General Statutes.

45 **SECTION #.(ppp)** G.S. 113-221.2, as recodified in subsection (ooo) of this
46 section, reads as rewritten:

47 "**§ 113-221.2. ~~Commission to adopt rules; enforcement of rules.~~Additional rules to**
48 **establish sanitation requirements for scallops, shellfish, and crustacea.**

1 For the protection of the public health, the Marine Fisheries Commission shall adopt rules
2 establishing sanitation requirements for the harvesting, processing and handling of scallops,
3 ~~shellfish-shellfish~~, and crustacea of in-State origin. The rules of the Marine Fisheries
4 Commission may also regulate scallops, ~~shellfish-shellfish~~, and crustacea shipped into North
5 Carolina. The Department is authorized to enforce the rules and may issue and revoke permits
6 according to the rules."

7 **SECTION #.(qqq)** Part 3A of Article 8 of Chapter 130A of the General Statutes is
8 repealed except G.S. 130A-233.1 is recodified as G.S. 113-221.3 in Article 17 of Chapter 113
9 of the General Statutes.

10 **SECTION #.(rrr)** G.S. 113-221.3, as recodified in subsection (qqq) of this section,
11 reads as rewritten:

12 "**§ 113-221.3. Monitoring program for State coastal fishing and recreation waters;**
13 **~~development and implementation of program.~~ removal or destruction of**
14 **warning signs.**

15 (a) For the protection of the public health of swimmers and others who use the State's
16 coastal fishing waters for recreational activities, the Department shall develop and implement a
17 program to monitor the State's coastal fishing waters for contaminants. The monitoring
18 program shall cover all coastal fishing waters up to the point where those waters are classified
19 as inland fishing waters.

20 (b) The Marine Fisheries Commission shall adopt rules to provide for a water quality
21 monitoring program for the coastal recreation waters of the State and to allow the Department
22 to implement the federal Beaches Environmental Assessment and Coastal Health Act of 2000
23 (Pub. L. No. 106-284; 114 Stat. 870, 875; 33 U.S.C. §§ 1313, 1362). The rules shall address,
24 but are not limited to, definitions, surveys, sampling, action standards, and posting of
25 information on the water quality of coastal recreation waters.

26 (c) No person shall remove, destroy, damage, deface, mutilate, or otherwise interfere
27 with any sign posted by the Department pursuant to subsection (b) of this section. No person,
28 without just cause or excuse, shall have in his or her possession any sign posted by the
29 Department pursuant to subsection (b) of this section. Any person who violates this section is
30 guilty of a Class 2 misdemeanor.

31 (d) As used in this section, coastal recreation waters has the same meaning as in 33
32 U.S.C. § 1362.

33 **SECTION #.(sss)** G.S. 130A-21(c) is recodified as a new section G.S. 113-221.4
34 in Article 17 of Chapter 113 of the General Statutes to be entitled "Embargo."

35 **SECTION #.(ttt)** G.S. 113-221.4 as recodified in subsection (sss) of this section,
36 reads as rewritten:

37 "**§ 113-221.4. Embargo.**

38 (a) If the Secretary of Environment and Natural Resources or a local health director has
39 probable cause to believe that any scallops, ~~shellfish-shellfish~~, or crustacea is adulterated or
40 misbranded, the Secretary of Environment and Natural Resources or a local health director may
41 detain or embargo the article by affixing a tag to it and warning all persons not to remove or
42 dispose of the article until permission for removal or disposal is given by the official by whom
43 it was detained or embargoed or by the court. It shall be unlawful for any person to remove or
44 dispose of the detained or embargoed article without that permission.

45 (b) The official by whom the scallops, ~~shellfish-shellfish~~, or crustacea was detained or
46 embargoed shall petition a judge of the district or superior court in whose jurisdiction the
47 article is detained or embargoed for an order for condemnation of the article. If the court finds
48 that the article is adulterated or misbranded, that article shall be destroyed under the
49 supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed

1 against the claimant of the article. If, the article, by proper labelling can be properly branded,
2 the court, after the payment of all costs, fees, expenses, and an adequate bond, may order that
3 the article be delivered to the claimant for proper labelling under the supervision of the
4 petitioner. The bond shall be returned to the claimant after the petitioner represents to the court
5 that the article is no longer mislabelled and that the expenses of supervision have been paid."

6 **SECTION #.(uuu)** The Revisor of Statutes shall make the conforming statutory
7 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
8 correct any reference in the General Statutes to the statutes that are recodified by this section
9 and make any other conforming changes necessitated by this section.

10 **SECTION #.(vvv)** The transfers under this section become effective July 1, 2011,
11 and funds transferred shall be net of any changes enacted by this section. Any references in
12 this act to any program, office, section, division, or department that is transferred under this
13 section shall be construed to be consistent with the transfer under this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H5B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***REQUIRE DENR TO USE DWQ'S GROUNDWATER INVESTIGATION UNIT'S WELL
DRILLING SERVICES IN OTHER DENR DIVISIONS***

SECTION #.(a) The purposes of this section are (i) to assure that the Groundwater Investigation Unit well drilling staff are fully utilized by establishing a procedure whereby the Groundwater Investigation Unit may bid to contract to provide well drilling services to other divisions of the Department of Environment and Natural Resources and by providing funding support by these divisions for the Unit's costs and travel expenses and (ii) to reduce the need for the Department of Environment and Natural Resources to enter into contracts with private well drilling companies.

SECTION #.(b) During the 2011-2012 fiscal year and the 2012-2013 fiscal year, the Groundwater Investigation Unit of the Division of Water Quality of the Department of Environment and Natural Resources shall bid to contract to perform well drilling services for any division within the Department of Environment and Natural Resources that needs to have wells drilled to monitor groundwater, as part of remediating a contaminated site, or as part of any other division or program responsibility, except for a particular instance when this would be impracticable. The provisions of Article 3 of Chapter 143 of the General Statutes apply to any contract entered into under this section.

SECTION #.(c) The terms of any contract entered into under this section may include a provision whereby the division within the Department of Environment and Natural Resources that contracts for the well drilling services of the Groundwater Investigation Unit may use available receipts for the 2011-2012 fiscal year and for the 2012-2013 fiscal year, as applicable, for the costs of the Groundwater Investigation Unit well drilling staff that are incurred to perform the well drilling services under the contract.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H7

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

ADDITIONAL USES OF HAZARDOUS WASTE FEES

SECTION #. G.S. 130A-294.1(b) reads as rewritten:

"(b) Funds collected pursuant to this section shall be used for personnel and other resources necessary to:

- (1) Provide a high level of technical assistance and waste minimization effort for the hazardous waste management program;
- (2) Provide timely review of permit applications;
- (3) Insure that permit decisions are made on a sound technical basis and that permit decisions incorporate all conditions necessary to accomplish the purposes of this Part;
- (4) Improve monitoring and compliance of the hazardous waste management program;
- (5) Increase the frequency of inspections;
- (6) Provide chemical, biological, toxicological, and analytical support for the hazardous waste management program; and
- (7) Provide resources for emergency response to imminent hazards associated with the hazardous waste management program.
- (8) Implement and provide oversight of necessary response activities involving inactive hazardous substance or waste disposal sites.
- (9) Provide compliance and prevention activities within the solid waste program to ensure that hazardous waste is not disposed in solid waste management facilities."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H8B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

DENR CIVIL PENALTY ASSESSMENTS

SECTION #. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.16. Civil penalty assessments.

(a) The purpose of this section is to provide to the person receiving a notice of violation of an environmental statute or an environmental rule a greater opportunity to understand what corrective action is needed, receive technical assistance from the Department of Environment and Natural Resources, and to take the needed corrective action. It is also the purpose of this section to provide to the person receiving the notice of violation a greater opportunity for informally resolving matters involving any such violation.

(b) In order to fulfill the purpose set forth in subsection (a) of this section, the Department of Environment and Natural Resources shall, effective July 1, 2011, extend the period of time by 10 days between the time the violator is sent a notice of violation of an environmental statute or an environmental rule and the subsequent date the violator is sent an assessment of the civil penalty for the violation."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H10A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

WATER AND AIR QUALITY ACCOUNT REVERTS

SECTION #. G.S. 143-215.3A(a) reads as rewritten:

"(a) The Water and Air Quality Account is established as a ~~nonreverting~~ reverting 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."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H11

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***DIVERT SCRAP TIRE TAX PROCEEDS TO GENERAL FUND***

2 **SECTION #.** Notwithstanding the provisions of G.S. 105-187.19(b), effective for
3 taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit to the
4 General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the
5 Scrap Tire Disposal Account.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-ENV-H12

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***DIVERT WHITE GOODS TAX PROCEEDS TO GENERAL FUND***

2 **SECTION #.** Notwithstanding the provisions of G.S. 105-187.24, effective for
3 taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue shall credit to the
4 General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the
5 White Goods Management Account.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H19

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

- 1 ***REPEAL DENR REVIEW OF FEE SCHEDULES***
- 2 **SECTION #.** G.S. 143B-279.2(4) is repealed.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H1

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***NO NEW FEES FOR PARKING IN STATE PARKS***

2 **SECTION #.** Notwithstanding any provision to the contrary, the funds
3 appropriated to the Department of Environment and Natural Resources for State Parks for the
4 2011-2012 fiscal year and for the 2012-2013 fiscal year shall not be reduced or replaced with
5 fees for parking at State Parks, unless these fees were charged prior to the 2011-2012 fiscal
6 year. No fees shall be charged and no fees shall be collected for parking in a State Park during
7 the 2011-2012 fiscal year and for the 2012-2013 fiscal year, unless these fees were charged
8 prior to the 2011-2012 fiscal year.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H23

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *DIVERT PORTION OF DEED STAMP TAX REVENUE SOURCE FOR PARKS AND*
2 *RECREATION TRUST FUND*

3 **SECTION #.** Notwithstanding the provisions of G.S. 105-228.30(b) and G.S. 113-
4 44.15, effective for taxes levied during the 2011-2012 fiscal year, the Secretary of Revenue
5 shall credit the sum of eight million four hundred thirty-five thousand dollars (\$8,435,000) to
6 the General Fund of the net tax proceeds that G.S. 105-228.30(b) directs the Secretary to credit
7 to the Parks and Recreation Trust Fund.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H6D

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***PARKS AND RECREATION TRUST FUND; ALLOCATION OF DEED STAMP TAX
PROCEEDS CREDITED TO FUND***

SECTION #.(a) Notwithstanding the provisions of G.S. 113-44.15(b), effective for taxes levied during the 2011-2012 fiscal year, the net tax proceeds that are credited to the Parks and Recreation Trust Fund by the Secretary of Revenue pursuant to G.S. 105-228.30(b) shall be allocated as follows:

- (1) Six million dollars (\$6,000,000) shall be used for the operating expenses of the Division of Parks and Recreation of the Department of Environment and Natural Resources;
- (2) Up to eight million dollars (\$8,000,000) shall be used for the State Parks System for capital projects, repairs and renovations of park facilities, land acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes;
- (3) Up to four million two hundred thirty thousand dollars (\$4,230,000) shall be used for grants to local government units consistent with the match and other requirements set forth in G.S. 113-44.14(b)(2); and
- (4) Up to seven hundred five thousand dollars (\$705,000) shall be used for the Coastal and Estuarine Water Beach Access Program.

SECTION #.(b) Any funds that become available to the Parks and Recreation Trust Fund during the 2011-2012 fiscal year that are in excess of the funds allocated under subsection (a) of this section shall be used as provided in G.S. 113-44.15(b).

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H24A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *DIVERT PORTION OF DEED STAMP TAX REVENUE SOURCE FOR NATURAL*
2 *HERITAGE TRUST FUND*

3 **SECTION #.** Notwithstanding the provisions of G.S. 105-228.30(b) and
4 G.S. 113-77.9, effective for taxes levied during the 2011-2012 fiscal year, the Secretary of
5 Revenue shall credit the sum of eight million dollars (\$8,000,000) to the General Fund of the
6 net tax proceeds that G.S. 105-228.30(b) directs the Secretary to credit to the Natural Heritage
7 Trust Fund.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H7A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***NATURAL HERITAGE TRUST FUND USED FOR COSTS TO ADMINISTER PLANT
CONSERVATION PROGRAM/CONSERVATION PLANNING & COMMUNITY
AFFAIRS PROGRAM***

SECTION #. G.S. 113-77.9(c) reads as rewritten:

"(c) Other Purposes. – The Trustees may authorize expenditures from the Fund 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. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3. The Trustees shall authorize expenditures from the Fund not to exceed seventy five thousand dollars (\$75,000) to pay the cost of the Department of Agriculture and Consumer Services to administer the Plant Conservation Program. The Trustees shall authorize expenditures from the Fund not to exceed three hundred twenty-five thousand dollars (\$325,000) to pay the cost of supporting staff in the Office of Conservation Planning and Community Affairs of the Department of Environment and Natural Resources."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H2

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

*DIVISION OF MARINE FISHERIES TO USE DIVISION OF FOREST RESOURCES
MECHANICS FOR AIRCRAFT MAINTENANCE*

SECTION #.(a) The Division of Marine Fisheries of the Department of Environment and Natural Resources shall use mechanics employed by the Division of Forest Resources of the Department of Environment and Natural Resources for the purpose of performing aircraft maintenance for all aircraft of the Division of Marine Fisheries except for a particular instance when this would be impracticable.

SECTION #.(b) The Division of Forest Resources of the Department of Environment and Natural Resources shall perform aircraft maintenance using its mechanics for all aircraft of the Division of Marine Fisheries, except for a particular instance when this would be impracticable. The Division of Forest Resources shall develop a process to establish priorities for the aviation maintenance needs of all the aircraft in both the Division of Forest Resources and the Division of Marine Fisheries.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H18

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

OYSTER SANCTUARY PROGRAM SUPPORT

SECTION #. G.S. 113-175.1(c1) reads as rewritten:

"(c) The Marine Fisheries Commission and the Wildlife Resources Commission may authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income only to manage, protect, restore, develop, cultivate, conserve, and enhance the marine resources of the State. The Marine Fisheries Commission and the Wildlife Resources Commission are encouraged to consider supporting the Oyster Sanctuary Program managed by the Division of Marine Fisheries. The Marine Fisheries Commission and the Wildlife Resources Commission may not authorize the disbursement of the principal of the Marine Resources Fund and marine resources investment income to establish positions without specific authorization from the General Assembly. All proposals to the Marine Fisheries Commission and the Wildlife Resources Commission for the disbursement of funds from the Marine Resources Fund shall be made by and through the Fisheries Director. Expenditure of the assets of the Marine Resources Fund shall be made through the State budget accounts of the Division of Marine Fisheries in accordance with the provisions of the Executive Budget Act. The Marine Resources Fund is subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H10

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***MARINE FISHERIES INSPECTORS DELEGATED LAW ENFORCEMENT POWERS
BY NATIONAL MARINE FISHERIES SERVICE***

SECTION #. G.S. 113-134.1 reads as rewritten:

**"§ 113-134.1. Jurisdiction over marine fisheries resources in Atlantic ~~Ocean~~Ocean;
delegation of law enforcement powers from the National Marine Fisheries
Service.**

(a) The Marine Fisheries Commission is directed to exercise all regulatory authority over the conservation of marine fisheries resources in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources as now or hereafter defined. Marine fisheries inspectors may enforce these regulations and all other provisions of law applicable under the authority granted in this section in the same manner and with the same powers elsewhere granted them as enforcement officers.

(b) If authorized by the Fisheries Director or a designee of the Fisheries Director, a marine fisheries inspector may accept delegation of law enforcement powers from the National Marine Fisheries Service over matters within the jurisdiction of the Service. For purposes of this subsection, the office of marine fisheries inspector may be held concurrently with any other elected or appointed office, as authorized by G.S. 128-1.1 and Section 9 of Article VI of the North Carolina Constitution.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H13

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

END PILOT PROGRAM FOR ANNUAL INSPECTIONS OF CERTAIN ANIMAL OPERATIONS

SECTION #. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, Section 12.7(a) of S.L. 2005-276, Section 2 of S.L. 2007-536, and Section 1 of S.L. 2009-84, reads as rewritten:

"SECTION 1. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, Section 12.7(a) of S.L. 2005-276, and Section 2 of S.L. 2007-536, reads as rewritten:

'(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate ~~September 2011~~ June 30, 2011, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this ~~pilot~~ program. In addition, Brunswick County and Pender County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these four counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these four counties shall be located in an office in the county in which that person will be conducting inspections. As part of this ~~pilot~~ program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the four counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

GENERAL ASSEMBLY OF NORTH CAROLINA

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DRAFT
SPECIAL PROVISION



2011-NATRES-H14A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

END DSWC ROLE REGARDING ANIMAL WASTE MANAGEMENT SYSTEMS

SECTION #.(a) G.S. 143-215.10A reads as rewritten:

"§ 143-215.10A. Legislative findings and intent.

The General Assembly finds that animal operations provide significant economic and other benefits to this State. The growth of animal operations in recent years has increased the importance of good animal waste management practices to protect water quality. It is critical that the State balance growth with prudent environmental safeguards. It is the intention of the State to promote a cooperative and coordinated approach to animal waste management among the agencies of the State with a primary emphasis on technical assistance to farmers. To this end, the General Assembly intends to establish a permitting program for animal waste management systems that will protect water quality and promote innovative systems and practices while minimizing the regulatory burden. ~~Technical assistance, through operations reviews, will be provided by the Division of Soil and Water Conservation. Permitting, inspection,~~Inspection and enforcement will be ~~vested in~~ provided by the Division of Water Quality."

SECTION #.(b) G.S. 143-215.10D is repealed.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H9B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

**AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM/CONFORMING
CHANGES**

SECTION #.(a) Chapter 139 of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Agricultural Water Resources Assistance Program.

"§ 139-60. Agricultural Water Resources Assistance Program.

(a) Program Established. – The Agricultural Water Resources Assistance Program is established. The purpose of the Program shall be to assist farmers and landowners to do any one or more of the following:

- (1) Identify opportunities to increase water use efficiency, availability, and storage.
- (2) Implement best management practices to conserve and protect water resources.
- (3) Increase water use efficiency.
- (4) Increase water storage and availability for agricultural purposes.

(b) Program Administration. – The Agricultural Water Resources Assistance Program shall be implemented by the Soil and Water Conservation Commission through the soil and water conservation districts in the same manner as the Agriculture Cost Share Program for Nonpoint Source Pollution Control under Part 9 of Article 21 of Chapter 143 of the General Statutes. The Soil and Water Conservation Commission shall supervise and administer this Program as provided in this section and as provided in Part 9 of Article 21 of Chapter 143 of the General Statutes for the Agriculture Cost Share Program for Nonpoint Source Pollution Control. At least once each calendar year, the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources and the Commissioner of Agriculture shall meet with stakeholders for the purpose of advising the Soil and Water Conservation Commission on the development and administration of the Program, including the development of annual goals for the Program.

(c) Program Functions. – Under the Agricultural Water Resources Assistance Program, the Soil and Water Conservation Commission shall:

- (1) Within funds available for this Program, provide cost share funds subject to all of the following limitations and requirements:
 - a. Except as provided in G.S. 143-215.74(b)(9), State funding shall be limited to:
 1. Seventy-five percent (75%) of the average cost for each project with the assisted person providing twenty-five percent (25%) of the project cost, which may include in-kind support of the project.

1 2. A maximum of seventy-five thousand dollars (\$75,000) per year to
2 each applicant.
3 b. Applicants shall be limited to farmers who have an adjusted gross income
4 in each of the previous two years that is at or below two hundred fifty
5 thousand dollars (\$250,000), unless at least seventy-five percent (75%) of
6 this adjusted gross income is derived directly from farming, ranching, or
7 forestry operations.
8 c. The requirements and limitations under subdivisions (1), (2), (5), (7), and
9 (8) of subsection (b) of G.S. 143-215.74 do not apply. All other limitations
10 and requirements set out in Part 9 of Article 21 of Chapter 143 of the
11 General Statutes, as modified by this section, apply.
12 (2) Approve best management practices eligible for cost share under this Program.
13 (3) Establish criteria to allocate funds to local soil and water conservation districts.
14 (4) Develop a process for soliciting and reviewing applications and for selecting
15 farmers to participate in the Program.
16 (5) Investigate and pursue other funding sources to supplement State funds,
17 including federal, local, and private funding sources.
18 (6) Provide technical assistance to participating persons to assist with the projects
19 that are eligible for cost share funds under subsection (a) of this section and to
20 facilitate the timely transfer of technology among participating persons.
21 (7) Adopt temporary and permanent rules as necessary to implement this Program.
22 (d) Report. – No later than January 31 of each year, the Division of Soil and Water
23 Conservation of the Department of Environment and Natural Resources shall prepare a
24 comprehensive report on the implementation of subsections (a) through (c) of this section. The
25 report shall be submitted to the Environmental Review Commission as a part of the report
26 required by G.S. 143-215.74(e)."

27 **SECTION #.(b).** G.S. 14-234(d3) reads as rewritten:

28 "(d3) Subsection (a) of this section does not apply to an application for or the receipt of a
29 grant under the Agriculture Cost Share Program for Nonpoint Source Pollution Control created
30 pursuant to Part 9 of Article 21 of Chapter 143 of the General ~~Statutes~~ or Statutes, the
31 Community Conservation Assistance Program created pursuant to Part 11 of Article 21 of
32 Chapter 143 of the General ~~Statutes~~ Statutes, or the Agricultural Water Resources Assistance
33 Program created pursuant to Article 5 of Chapter 139 of the General Statutes by a member of
34 the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and
35 does not apply to a district supervisor of a soil and water conservation district if the
36 requirements of G.S. 139-8(b) are met."

37 **SECTION #.(c)** G.S. 139-4(d) reads as rewritten:

38 "(d) In addition to the duties and powers hereinafter conferred upon the Soil and Water
39 Conservation Commission, it shall have the following duties and powers:

40 ...

41 (9) To create, implement, and supervise the Agriculture Cost Share Program for
42 Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21 of Chapter 143 of
43 the General ~~Statutes~~ and Statutes, the Community Conservation Assistance Program created
44 pursuant to Part 11 of Article 21 of Chapter 143 of the General ~~Statutes~~ Statutes, and the
45 Agricultural Water Resources Assistance Program created pursuant to Article 5 of this Chapter.

46 (10) To review and approve or disapprove the application of a district
47 supervisor for a grant under the Agriculture Cost Share Program for Nonpoint Source Pollution
48 Control or Control, the Community Conservation Assistance Program Program, or the
49 Agricultural Water Resources Assistance Program as provided by G.S. 139-8(b)."

1 **SECTION #.(d)** G.S. 139-4(e) reads as rewritten:

2 "(e) A member of the Commission may apply for and receive a grant under
3 the Agriculture Cost Share Program for Nonpoint Source Pollution ~~Control and Control~~, the
4 Community Conservation Assistance ~~Program~~ Program, or the Agricultural Water Resources
5 Assistance Program if:

6 (1) The member does not vote on the application or attempt to influence the
7 outcome of any action on the application; and

8 (2) The application is approved by the Secretary of Environment and Natural
9 Resources."

10 **SECTION #.(e)** G.S. 139-8(b) reads as rewritten:

11 "(b) A district supervisor may apply for and receive a grant under the Agriculture Cost
12 Share Program for Nonpoint Source Pollution Control created pursuant to Part 9 of Article 21
13 of Chapter 143 of the General ~~Statutes or Statutes~~, the Community Conservation Assistance
14 Program created pursuant to Part 11 of Article 21 of Chapter 143 of the General ~~Statutes~~
15 Statutes, or the Agricultural Water Resources Assistance Program created pursuant to Article 5
16 of this Chapter if:

17 1. The district supervisor does not vote on the application or attempt to
18 influence the outcome of any action on the application; and

19 2. The application is approved by the Commission."

20 **SECTION #.(f)** The stakeholders that the Director of the Division of Soil and Water
21 Conservation of the Department of Environment and Natural Resources and the Commissioner
22 of Agriculture shall meet with, as required under G.S. 139-60, as enacted by subsection (a) of
23 this section, shall be the stakeholders involved in identifying and developing best management
24 practices for water conservation and water efficiency by agricultural water users pursuant to
25 S.L. 2010-149.

26 **SECTION #.(g)** The first report required by G.S. 139-60, as enacted by subsection
27 (a) of this section, shall be submitted to the Environmental Review Commission no later than
28 January 31, 2013.

29 **SECTION #.(h)** Of the funds available to the Department of Environment and
30 Natural Resources for Water Resource Projects, the sum of one million dollars (\$1,000,000)
31 shall be transferred to the Department of Environment and Natural Resources, Division of Soil
32 and Water Conservation, for the 2011-2012 fiscal year to implement the Agricultural Water
33 Resources Assistance Program established in Article 5 of Chapter 139 of the General Statutes,
34 as enacted by subsection (a) of this section. The Soil and Water Conservation Commission may
35 use up to fifteen percent (15%) of these funds for the costs of the Division of Soil and Water
36 Conservation and the costs of the Soil and Water Conservation Districts to provide engineering
37 assistance, to provide technical assistance, and to administer the Agricultural Water Resources
38 Assistance Program. Any of these funds that are not expended or encumbered as of June 30,
39 2012, shall not revert and shall remain available for purposes set forth in this subsection until
40 expended.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H4B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

OUTSOURCE GIFT SHOPS AT ZOO TO NC ZOOLOGICAL SOCIETY

SECTION #. The Department of Environment and Natural Resources shall enter into a contract with The North Carolina Zoological Society, Inc. only when the contract (i) provides that all gift shops located at the North Carolina Zoological Park are operated during the 2011-2012 fiscal year and the 2012-2013 fiscal year by for The North Carolina Zoological Society, Inc., and (ii) provides that The North Carolina Zoological Society, Inc. is required to credit at the end of each quarter any profits that result from operating these gift shops during the 2011-2012 fiscal year and the 2012-2013 fiscal year to the Special Zoo Fund created under G.S. 143B-336.1. The provisions of Article 3 and Article 8 of Chapter 143 of the General Statutes do not apply to any contract entered into under this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H17

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

ELIMINATE THE OFFICE OF ENVIRONMENTAL EDUCATION AND PUBLIC AFFAIRS; ESTABLISH THE OFFICE OF PUBLIC AFFAIRS

SECTION #.(a) The Office of Environmental Education and Public Affairs within the Department of Environment and Natural Resources is abolished. The Office of Public Affairs is established as a new office within the administrative area of the Department of Environment and Natural Resources. The Office of Public Affairs shall have all the functions, powers, duties, and obligations previously vested in the former Office of Public Affairs within the Department of Environment and Natural Resources prior to it being transferred to and consolidated within the Office of Environmental Education and Public Affairs under Section 13.1A of S.L. 2010-31.

SECTION #.(b) Part 4B of Article 7 of Chapter 143B of the General Statutes is repealed.

SECTION #.(c) The Revisor of Statutes shall make any other conforming statutory changes that are necessary to reflect the provisions of this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H20B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***TRANSFER FORESTRY DIVISION AND FORESTRY COUNCIL FROM DENR TO
DACS***

SECTION #.(a) The Division of Forest Resources is transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

SECTION #.(b) G.S. 143B-279.3(a) reads as rewritten:

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

...

(6) ~~Forest Resources Division, Department of Natural Resources and
Community Development.~~

...."

SECTION #.(c) Article 7 of Chapter 143A of the General Statutes is amended by adding a new section to read:

"§ 143A-65.1. Division of Forest Resources; transfer.

(a) The Division of Forest Resources is transferred from the Department of Environment and Natural Resources to the Department of Agriculture and Consumer Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

(b) The Department of Agriculture and Consumer Services shall have charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; it shall also have the care of State forests."

SECTION #.(d) All functions, powers, duties, and obligations previously vested in the Forestry Council are transferred from the Department of Environment and Natural Resources to and vested in the Department of Agriculture and Consumer Services by a Type II transfer, as defined in G.S. 143A-6.

SECTION #.(e) 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:

...

(13) ~~Forestry Council, Department of Natural Resources and Community
Development.~~

...."

SECTION #.(f) Part 12 of Article 7 of Chapter 143B of the General Statutes (G.S. 143B-308, 143B-309, and 143B-310) is recodified in Article 7 of Chapter 143A of the General Statutes as G.S. 143A-66.1, 143A-66.2, and 143A-66.3.

1 **SECTION #.(g)** G.S. 143A-66.1, as recodified in subsection (f) of this section,
2 reads as rewritten:

3 **"§ 143A-66.1. Forestry Council – creation; powers and duties.**

4 There is hereby created the Forestry Council of the Department of ~~Environment and Natural~~
5 ~~Resources~~Agriculture and Consumer Services. The Forestry Council shall have the following
6 functions and duties:

- 7 (1) To advise the ~~Secretary of Environment and Natural~~
8 ~~Resources~~Commissioner of Agriculture with respect to all matters
9 concerning the protection, management, and preservation of State-owned,
10 privately owned, and municipally owned forests in the State, including but
11 not limited to:
- 12 a. Profitable use of the State's forests consistent with the principles of
 - 13 sustained productivity.
 - 14 b. Best management practices, including those for protection of soil,
 - 15 water, wildlife, and wildlife habitat, to be used in managing the
 - 16 State's forests and their resources.
 - 17 c. Restoration of forest ecosystems and protection of rare and
 - 18 endangered species occurring in the State's private forests consistent
 - 19 with principles of private ownership of land.
- 20 (2) To maintain oversight of a continuous monitoring and planning process, to
- 21 provide a long-range, comprehensive plan for the use, management, and
- 22 sustainability of North Carolina's forest resources, and to report regularly on
- 23 progress made toward meeting the objectives of the plan.
- 24 (3) To provide a forum for the identification, discussion, and development of
- 25 recommendations for the resolution of conflicts in the management of North
- 26 Carolina's forests.
- 27 (4) To undertake any other studies, make any reports, and advise the ~~Secretary~~
28 ~~of Environment and Natural Resources~~Commissioner of Agriculture on any
29 matter as the ~~Secretary~~Commissioner may direct."

30 **SECTION #.(h)** G.S. 143A-66.2, as recodified in subsection (f) of this section,
31 reads as rewritten:

32 **"§ 143A-66.2. Forestry Council – members; chairperson; selection; removal;**
33 **compensation; quorum.**

34 (a) The Forestry Advisory Council of the Department of ~~Environment and Natural~~
35 ~~Resources~~Agriculture and Consumer Services shall consist of 18 members appointed as
36 follows:

- 37 (1) Three persons who are registered foresters and who represent the primary
- 38 forest products industry, one each from the Mountains, Piedmont and
- 39 Coastal Plain.
- 40 (2) One person who represents the secondary wood-using industry.
- 41 (3) One person who represents the logging industry.
- 42 (4) Four persons who are nonindustrial woodland owners actively involved in
- 43 forest management, one of whom has agricultural interests, and at least one
- 44 each from the Mountains, Piedmont, and Coastal Plain.
- 45 (5) Three persons who are members of statewide environmental or wildlife
- 46 conservation organizations.
- 47 (6) One consulting forester.
- 48 (7) Two persons who are forest scientists with knowledge of the functioning and
- 49 management of forest ecosystems.

- (8) One person who represents a banking institution that manages forestland.
(9) One person with expertise in urban forestry.
(10) One person with active experience in city and regional planning.

...
(h) All clerical and other services required by the Council, including the support required to carry out studies it is requested to make, shall be supplied by the ~~Secretary of Environment and Natural Resources~~ Commissioner of Agriculture."

SECTION #.(i) G.S. 106-22 is amended by adding two new subdivisions to read:

"(18) Forests. – Have charge of forest maintenance, forest fire protection, reforestation, and the protection of the forests.

(19) State Forests. – Have charge of all State forests and measures for forest fire prevention."

SECTION #.(j) 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 ~~charge of the work of forest maintenance, forest fire prevention, reforestation, and the protection of lands and water supplies by the preservation of forests; supplies;~~ it shall also have the care of State forests and 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 #.(k) G.S. 113-22 is repealed.

SECTION #.(l) G.S. 106-22 is amended by adding three new subdivisions to read:

"(18) Forests. – Have charge of forest maintenance, forest fire protection, reforestation, and the protection of the forests.

(19) State Forests. – Have charge of all State forests and measures for forest fire prevention.

(20) Property for State Forests. – Acquire real and personal property as desirable and necessary for the performance of the duties and functions of the Department under subdivision (19) of this section and pay for the property out of any funds appropriated for the Department or available

1 unappropriated revenues of the Department, when such acquisition is
2 approved by the Governor and Council of State. The title to any real estate
3 acquired under this subdivision shall be in the name of the State of North
4 Carolina for the use and benefit of the Department."

5 **SECTION #.(m)** The title of Subchapter II of Chapter 113 of the General Statutes
6 reads as rewritten:

7 **"SUBCHAPTER II. STATE FORESTS AND PARKS."**

8 **SECTION #.(n)** Article 2 of Chapter 113 of the General Statutes reads as rewritten:

9 "Article 2.

10 Acquisition and Control of State Forests and Parks."

11 **"§ 113-29. Policy and plan to be inaugurated by Department of Environment and Natural**
12 **Resources. Definitions.**

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

16 (b) ~~The Department of Environment and Natural Resources shall inaugurate the~~
17 ~~following policy and plan looking to the cooperation with private and public forest owners in~~
18 ~~this State insofar as funds may be available through legislative appropriation, gifts of money or~~
19 ~~land, or such cooperation with landowners and public agencies as may be available:~~

- 20 (1) ~~The extension of the forest fire prevention organization to all counties in the~~
21 ~~State needing such protection.~~
22 (2) ~~To cooperate with federal and other public agencies in the restoration of~~
23 ~~forest growth on land unwisely cleared and subsequently neglected.~~
24 (3) ~~To furnish trained and experienced experts in forest management, to inspect~~
25 ~~private forestlands and to advise with forest landowners with a view to the~~
26 ~~general observance of recognized and practical rules of growing, cutting and~~
27 ~~marketing timber. The services of such trained experts of the Department~~
28 ~~must naturally be restricted to those landowners who agree to carry out so~~
29 ~~far as possible the recommendations of said Department.~~
30 (4) ~~To prepare and distribute printed and other material for the use of teachers~~
31 ~~and club leaders and to provide instruction to schools and clubs and other~~
32 ~~groups of citizens in order to train the younger generation in the principles of~~
33 ~~wise use of our forest resources.~~
34 (5) ~~To acquire small areas of suitable land in the different regions of the State on~~
35 ~~which to establish small, model forests which shall be developed and used~~
36 ~~by the said Department as State demonstration forests for experiment and~~
37 ~~demonstration in forest management.~~

38 **"§ 113-29.1. Growing of timber on unused State lands authorized.**

39 ~~The Department of Administration may allocate to the Department, for management as a~~
40 ~~State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any~~
41 ~~other lands title to which is vested in the State or in any State agency or institution, where such~~
42 ~~lands are not being otherwise used and are not suitable for cultivation. Lands under the~~
43 ~~supervision of the Wildlife Resources Commission and designated and in use as wildlife~~
44 ~~management areas, refuges, or fishing access areas and lands used as research stations shall not~~
45 ~~be subject to the provisions of this section. The Department shall plant timber producing trees~~
46 ~~on all lands allocated to it for that purpose by the Department of Administration. The Secretary~~
47 ~~may contract with the appropriate prison authorities for the furnishing, upon such conditions as~~
48 ~~may be agreed upon from time to time between such prison authorities and the Secretary, of~~

1 ~~prison labor for use in the planting, cutting, and removal of timber from State forests which are~~
2 ~~under the management of the Department.~~

3 ~~**§ 113-30. Use of lands acquired by counties through tax foreclosures as demonstration**~~
4 ~~**forests.**~~

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

9 ~~**§ 113-31. Procedure for acquisition of delinquent tax lands from counties.**~~

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

21 ~~**§ 113-32. Purchase of lands for use as demonstration forests.**~~

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

28 ~~**§ 113-33. Forest management appropriation.**~~

29 ~~Necessary funds for carrying out the provisions of G.S. 113-29 and 113-30 to 113-33 shall~~
30 ~~be set up in the regular budget as an item entitled "forest management."~~

31 ~~**"§ 113-34. Power to acquire lands as State forests, parks, and other recreational areas;**~~
32 ~~**donations or leases by United States; leases for recreational purposes.**~~

33 ~~(a) The Governor may, upon recommendation of the Department, accept gifts of land to~~
34 ~~the State to be held, protected, and administered by the Department as State forests, and to be~~
35 ~~used so as to demonstrate the practical utility of timber culture and water conservation, and as~~
36 ~~refuges for game. The gifts of land must be absolute except in cases where the mineral interest~~
37 ~~on the land has previously been sold. The Department may purchase lands in the name of the~~
38 ~~State, suitable chiefly for the production of timber, as State forests, for experimental,~~
39 ~~demonstration, educational, park, and protection purposes, using for these purposes any special~~
40 ~~appropriations or funds available. The Department may acquire by condemnation under the~~
41 ~~provisions of Chapter 40A of the General Statutes, areas of land in different sections of the~~
42 ~~State that may in the opinion of the Department be necessary for the purpose of establishing or~~
43 ~~developing State forests, State parks, and other areas and developments essential to the~~
44 ~~effective operation of the State forestry and State park activities under its charge.~~
45 ~~Condemnation proceedings shall be instituted and prosecuted in the name of the State, and any~~
46 ~~property so acquired shall be administered, developed, and used for experiment and~~
47 ~~demonstration in forest management, for public recreation, recreation and for other purposes~~
48 ~~authorized or required by law. Before any action or proceeding under this section can be~~
49 ~~exercised, the approval of the Governor and Council of State shall be obtained and filed with~~

1 the clerk of the superior court in the county or counties where the property is located. The
2 Attorney General shall ensure that all deeds to the State for land acquired under this section are
3 properly executed before the gift is accepted or payment of the purchase money is made.

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

15 (c) The Department, with the approval of the Governor and Council of State, may enter
16 into leases of lands and waters for State parks, State lakes, and recreational purposes.

17 (d), (e) Repealed by Session Laws 2003-284, s. 35.1(a), effective July 1, 2003.

18 (f) The authority granted to the Department under this section is in addition to any
19 authority granted to the Department under any other provision of law.

20 **§ 113-34.1. Power to acquire conservation lands not included in the State Parks System.**

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

30 **§ 113-35. ~~State timber may be sold by Department; forest nurseries; control~~Control over**
31 **State parks; operation of public service facilities; concessions to private**
32 **concerns; authority to charge fees and adopt rules.**

33 (a) ~~Timber and other products of State forests may be sold, cut, and removed under~~
34 ~~rules of the Department. The Department may establish and operate forest tree nurseries and~~
35 ~~forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards~~
36 ~~may be sold to landowners of the State for purposes of forestation under rules adopted by the~~
37 ~~Department. When the Secretary determines that a surplus of seedlings or seed exists, this~~
38 ~~surplus may be sold, and the sale shall be in conformity with the following priority of sale:~~
39 ~~first, to agencies of the federal government for planting in the State of North Carolina; second,~~
40 ~~to commercial nurseries and nurserymen within this State; and third, without distinction, to~~
41 ~~federal agencies, to other states, and to recognized research organizations for planting either~~
42 ~~within or outside of this State. The Department shall make reasonable rules governing the use~~
43 ~~by the public of State forests, State parks, State lakes, game refuges, and public shooting~~
44 ~~groundsparks and State lakes~~ under its charge. These rules shall be posted in conspicuous
45 places on and adjacent to the properties of the State and at the courthouse of the county or
46 counties in which the properties are located. A violation of these rules is punishable as a Class
47 3 misdemeanor.

48 (a1) The Department may adopt rules under which the Secretary may issue a special-use
49 permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions.

1 The rules shall require that experts supervise the use of pyrotechnics and that written
2 authorization for the use of pyrotechnics be obtained from the board of commissioners of the
3 county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may
4 impose any conditions on a permit that the Secretary determines to be necessary to protect
5 public health, safety, and welfare. These conditions shall include a requirement that the
6 permittee execute an indemnification agreement with the Department and obtain general
7 liability insurance covering personal injury and property damage that may result from the use
8 of pyrotechnics with policy limits determined by the Secretary.

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

- 14 (1) The erection, maintenance, and use of docks, piers, and any other structures
15 permitted in or on State lakes under rules adopted by the Department.
- 16 (2) ~~Hunting privileges on State forests and fishing~~ Fishing privileges in State
17 ~~forests, State parks, parks~~ and State lakes, provided that these privileges shall
18 be extended only to holders of State hunting and fishing licenses who
19 comply with all State game and fish laws.
- 20 (3) Vehicle access for off-road driving at the beach at Fort Fisher State
21 Recreation Area.
- 22 (4) The erection, maintenance, and use of a marina at Carolina Beach.

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

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

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

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

39 **~~§ 113-36. Applications of proceeds from sale of products.~~**

40 (a) ~~Application of Proceeds Generally. Except as provided in this section, all money~~
41 ~~received from the sale of wood, timber, minerals, or other products from the State forests shall~~
42 ~~be paid into the State treasury and to the credit of the Department; and such money shall be~~
43 ~~expended in carrying out the purposes of this Article and of forestry in general, under the~~
44 ~~direction of the Secretary.~~

45 (b) ~~Tree Cone and Seed Purchase Fund. A percentage of the money obtained from the~~
46 ~~sale of seedlings and remaining unobligated at the end of a fiscal year, shall be placed in a~~
47 ~~special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and~~
48 ~~direction of the Secretary. The percentage of the sales placed in the fund shall not exceed ten~~
49 ~~percent (10%). At the beginning of each fiscal year, the Secretary shall select the percentage for~~

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

5 (c) ~~Forest Seedling Nursery Program Fund.~~ The Forest Seedling Nursery Program
6 Fund is created within the Department of Environment and Natural Resources, Division of
7 Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this
8 section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in
9 G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund
10 appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of
11 any fiscal year shall not revert. The Department may use this Fund only to develop, improve,
12 repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

13 (d) ~~Bladen Lakes State Forest Fund.~~ The Bladen Lakes State Forest Fund is created
14 within the Department of Environment and Natural Resources, Division of Forest Resources, as
15 a special revenue fund. This Fund shall consist of receipts from the sale of forest products from
16 Bladen Lakes State Forest as authorized in G.S. 113-35 and any gifts, bequests, or grants for
17 the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any
18 balance remaining in this Fund at the end of any fiscal year shall not revert. The Department
19 may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in
20 the Bladen Lakes State Forest.

21 **§ 113-37. Legislative authority necessary for payment.**

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

25 **§ 113-38. Distribution of funds from sale of forestlands.**

26 All funds paid by the National Forest Commission, by authority of act of Congress,
27 approved May 23, 1908 (35 Stat., 260), for the Counties of Avery, Buncombe, Burke, Craven,
28 Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga,
29 and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be
30 placed in the account of the general county funds: Provided, however, that in Buncombe
31 County said funds shall be entirely for the use and benefit of the school district or districts in
32 which said national forestlands shall be located.

33 All funds which may hereafter come into the hands of the State Treasurer from like sources
34 shall be likewise distributed.

35 **§ 113-39. License fees for hunting and fishing on government-owned property unaffected.**

36 No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act,
37 shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for
38 license for hunting and fishing on any government-owned land or in any government-owned
39 stream in North Carolina including the license for county, State or nonresident hunters or
40 fishermen; or upon any lands or in any streams hereafter acquired by the federal government
41 within the boundaries of the State of North Carolina. The lands and streams within the
42 boundaries of the Great Smoky Mountains National Park to be excepted from this section.

43 **§ 113-40. Donations of property for forestry or park purposes; agreements with federal**
44 **government or agencies for acquisition.**

45 The Department is hereby authorized and empowered to accept gifts, donations or
46 contributions of land suitable for forestry or park purposes and to enter into agreements with
47 the federal government or other agencies for acquiring by lease, purchase or otherwise such
48 lands as in the judgment of the Department are desirable for State forests or State parks.

1 **§ 113-41. Expenditure of funds for development, etc.; disposition of products from lands;**
2 **rules.**

3 When lands are acquired or leased under G.S. 113-40, the Department is hereby authorized
4 to make expenditures from any funds not otherwise obligated, for the management,
5 development and utilization of such areas; to sell or otherwise dispose of products from such
6 lands, and to make such rules as may be necessary to carry out the purposes of G.S. 113-40 to
7 113-44.

8 **§ 113-42. Disposition of revenues received from lands acquired.**

9 All revenues derived from lands now owned or later acquired under the provisions of
10 G.S. 113-40 to 113-44 shall be set aside for the use of the Department in acquisition,
11 management, development and use of such lands until all obligations incurred have been paid
12 in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of
13 such lands shall be applicable for such purposes as the General Assembly may prescribe, and
14 fifty percent (50%) shall be paid into the school fund to be used in the county or counties in
15 which lands are located.

16 **§ 113-43. State not obligated for debts created hereunder.**

17 Obligations for the acquisition of land incurred by the Department under the authority of
18 G.S. 113-40 to 113-44 shall be paid solely and exclusively from revenues derived from such
19 lands and shall not impose any liability upon the general credit and taxing power of the State.

20 **"§ 113-44. Disposition of lands acquired.**

21 The Department shall have full power and authority to sell, exchange or lease lands under
22 its jurisdiction when in its judgment it is advantageous to the State to do so in the highest
23 orderly development and management of ~~State forests and~~ State parks: Provided, however, said
24 sale, lease or exchange shall not be contrary to the terms of any contract which it has entered
25 into."

26 **SECTION #.(o)** Chapter 106 of the General Statutes is amended by adding a new
27 Article to read:

28 **" ARTICLE 71.**

29 **"Acquisition and Control of State Forests.**

30 **"§ 106-840. Policy and plan to be inaugurated by Department of Agriculture and**
31 **Consumer Services.**

32 (a) In this Article, unless the context requires otherwise, "Department" means the
33 Department of Agriculture and Consumer Services and Commissioner means Commissioner of
34 Agriculture.

35 (b) The Department shall inaugurate the following policy and plan looking to the
36 cooperation with private and public forest owners in this State insofar as funds may be
37 available through legislative appropriation, gifts of money or land, or such cooperation with
38 landowners and public agencies as may be available:

- 39 (1) The extension of the forest fire prevention organization to all counties in the
40 State needing such protection.
41 (2) To cooperate with federal and other public agencies in the restoration of
42 forest growth on land unwisely cleared and subsequently neglected.
43 (3) To furnish trained and experienced experts in forest management, to inspect
44 private forestlands and to advise with forest landowners with a view to the
45 general observance of recognized and practical rules of growing, cutting and
46 marketing timber. The services of such trained experts of the Department
47 must naturally be restricted to those landowners who agree to carry out so
48 far as possible the recommendations of said Department.

(4) To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.

(5) To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department as State demonstration forests for experiment and demonstration in forest management.

"§ 106-841. Growing of timber on unused State lands authorized.

The Department of Administration may allocate to the Department, for management as a State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any other lands title to which is vested in the State or in any State agency or institution, where such lands are not being otherwise used and are not suitable for cultivation. Lands under the supervision of the Wildlife Resources Commission and designated and in use as wildlife management areas, refuges, or fishing access areas and lands used as research stations shall not be subject to the provisions of this section. The Department shall plant timber-producing trees on all lands allocated to it for that purpose by the Department of Administration. The Commissioner may contract with the appropriate prison authorities for the furnishing, upon such conditions as may be agreed upon from time to time between such prison authorities and the Commissioner, of prison labor for use in the planting, cutting, and removal of timber from State forests which are under the management of the Department.

"§ 106-842. Use of lands acquired by counties through tax foreclosures as demonstration forests.

The boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department title to such tax-delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the Commissioner may be suitable for the purposes named in subdivision (5) of subsection (b) of G.S. 106-840.

"§ 106-843. Procedure for acquisition of delinquent tax lands from counties.

In the carrying out of the provisions of G.S. 106-842, the several boards of county commissioners shall furnish forthwith on written request of the Department a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list the Commissioner shall have the lands examined and if any one or more of these properties is in his judgment suitable for the purposes set forth in G.S. 106-842, request shall be made to the county commissioners for the acquisition of such land by the Department at a price not to exceed the actual amount of taxes due without penalties. On receipt of this request the county commissioners shall make permanent transfer of such tract or tracts of land to the Department through fee-simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the Department as above outlined.

"§ 106-844. Purchase of lands for use as demonstration forests.

Where no suitable tax-delinquent lands are available and in the judgment of the Department the establishment of a demonstration forest is advisable, the Department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in G.S. 106-840 to 106-845 shall allow the Department to acquire land under the right of eminent domain.

"§ 106-845. Forest management appropriation.

Necessary funds for carrying out the provisions of G.S. 106-840 and 106-842 to 106-845 shall be set up in the regular budget as an item entitled "forest management."

1 **"§ 106-846. Power to acquire lands as State forests and other recreational areas;**
2 **donations or leases by United States; leases for recreational purposes.**

3 (a) The Governor may, upon recommendation of the Department, accept gifts of land to
4 the State to be held, protected, and administered by the Department as State forests, and to be
5 used so as to demonstrate the practical utility of timber culture and water conservation, and as
6 refuges for game. The gifts of land must be absolute except in cases where the mineral interest
7 on the land has previously been sold. The Department may purchase lands in the name of the
8 State, suitable chiefly for the production of timber, as State forests, for experimental,
9 demonstration, educational, park, and protection purposes, using for these purposes any special
10 appropriations or funds available. The Department may acquire by condemnation under the
11 provisions of Chapter 40A of the General Statutes, areas of land in different sections of the
12 State that may in the opinion of the Department be necessary for the purpose of establishing or
13 developing State forests and other areas and developments essential to the effective operation
14 of the State forestry activities under its charge. Condemnation proceedings shall be instituted
15 and prosecuted in the name of the State, and any property so acquired shall be administered,
16 developed, and used for experiment and demonstration in forest management, for public
17 recreation, and for other purposes authorized or required by law. Before any action or
18 proceeding under this section can be exercised, the approval of the Governor and Council of
19 State shall be obtained and filed with the clerk of the superior court in the county or counties
20 where the property is located. The Attorney General shall ensure that all deeds to the State for
21 land acquired under this section are properly executed before the gift is accepted or payment of
22 the purchase money is made.

23 (b) The Department may accept as gifts to the State any forest and submarginal
24 farmland acquired by the federal government that is suitable for the purpose of creating and
25 maintaining State forests, game refuges, public shooting grounds, and other recreational areas
26 or to enter into longtime leases with the federal government for the areas and administer them
27 with funds secured from their administration in the best interest of longtime public use,
28 supplemented by any appropriations made by the General Assembly. The Department may
29 segregate revenue derived from State hunting and fishing licenses, use permits, and
30 concessions, and other proper revenue secured through the administration of State forests, game
31 refuges, public shooting grounds, and other recreational areas to be deposited in the State
32 treasury to the credit of the Department to be used for the administration of these areas.

33 (c) The authority granted to the Department under this section is in addition to any
34 authority granted to the Department under any other provision of law.

35 **"§ 106-847. State timber may be sold by Department; forest nurseries; operation of**
36 **public service facilities; concessions to private concerns; authority to charge**
37 **fees and adopt rules.**

38 (a) Timber and other products of State forests may be sold, cut, and removed under
39 rules of the Department. The Department may establish and operate forest tree nurseries and
40 forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards
41 may be sold to landowners of the State for purposes of forestation under rules adopted by the
42 Department. When the Commissioner determines that a surplus of seedlings or seed exists, this
43 surplus may be sold, and the sale shall be in conformity with the following priority of sale:
44 first, to agencies of the federal government for planting in the State of North Carolina; second,
45 to commercial nurseries and nurserymen within this State; and third, without distinction, to
46 federal agencies, to other states, and to recognized research organizations for planting either
47 within or outside of this State. The Department shall make reasonable rules governing the use
48 by the public of State forests, game refuges, and public shooting grounds under its charge.
49 These rules shall be posted in conspicuous places on and adjacent to the properties of the State

1 and at the courthouse of the county or counties in which the properties are located. A violation
2 of these rules is punishable as a Class 3 misdemeanor.

3 (b) The Department may construct, operate, and maintain within the State forests and
4 other areas under its charge suitable public service facilities and conveniences, and may charge
5 and collect reasonable fees for the use of these facilities and conveniences. The Department
6 may also charge and collect reasonable fees for hunting privileges on State forests and fishing
7 privileges in State forests, provided that these privileges shall be extended only to holders of
8 State hunting and fishing licenses who comply with all State game and fish laws.

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

15 (d) The authority granted to the Department under this section is in addition to any
16 authority granted to the Department under any other provision of law.

17 **"§ 106-848. Applications of proceeds from sale of products.**

18 (a) Application of Proceeds Generally. – Except as provided in this section, all money
19 received from the sale of wood, timber, minerals, or other products from the State forests shall
20 be paid into the State treasury and to the credit of the Department; and such money shall be
21 expended in carrying out the purposes of this Article and of forestry in general, under the
22 direction of the Commissioner.

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

32 (c) Forest Seedling Nursery Program Fund. – The Forest Seedling Nursery Program
33 Fund is created within the Department of Environment and Natural Resources, Division of
34 Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this
35 section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in
36 G.S. 106-847 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund
37 appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of
38 any fiscal year shall not revert. The Department may use this Fund only to develop, improve,
39 repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

40 (d) Bladen Lakes State Forest Fund. – The Bladen Lakes State Forest Fund is created
41 within the Department of Environment and Natural Resources, Division of Forest Resources, as
42 a special revenue fund. This Fund shall consist of receipts from the sale of forest products from
43 Bladen Lakes State Forest as authorized in G.S. 106-847 and any gifts, bequests, or grants for
44 the benefit of this Fund. No General Fund appropriations shall be credited to this Fund. Any
45 balance remaining in this Fund at the end of any fiscal year shall not revert. The Department
46 may use this Fund only to develop, improve, repair, maintain, operate, or otherwise invest in
47 the Bladen Lakes State Forest.

48 **"§ 106-849. Legislative authority necessary for payment.**

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

4 **"§ 106-850. Distribution of funds from sale of forestlands.**

5 All funds paid by the National Forest Commission, by authority of act of Congress,
6 approved May 23, 1908 (35 Stat., 260), for the Counties of Avery, Buncombe, Burke, Craven,
7 Haywood, Henderson, Hyde, Jackson, Macon, Montgomery, Swain, Transylvania, Watauga,
8 and Yancey, shall be paid to the proper county officers, and said funds shall, when received, be
9 placed in the account of the general county funds: Provided, however, that in Buncombe
10 County said funds shall be entirely for the use and benefit of the school district or districts in
11 which said national forestlands shall be located.

12 All funds which may hereafter come into the hands of the State Treasurer from like sources
13 shall be likewise distributed.

14 **"§ 106-851. License fees for hunting and fishing on government-owned property**
15 **unaffected.**

16 No wording in G.S. 113-307.1(a), or any other North Carolina statute or law, or special act,
17 shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for
18 license for hunting and fishing on any government-owned land or in any government-owned
19 stream in North Carolina including the license for county, State or nonresident hunters or
20 fishermen; or upon any lands or in any streams hereafter acquired by the federal government
21 within the boundaries of the State of North Carolina. The lands and streams within the
22 boundaries of the Great Smoky Mountains National Park to be excepted from this section.

23 **"§ 106-852. Donations of property for forestry or park purposes; agreements with federal**
24 **government or agencies for acquisition.**

25 The Department is hereby authorized and empowered to accept gifts, donations or
26 contributions of land suitable for forestry or park purposes and to enter into agreements with
27 the federal government or other agencies for acquiring by lease, purchase or otherwise such
28 lands as in the judgment of the Department are desirable for State forests.

29 **"§ 106-853. Expenditure of funds for development, etc.; disposition of products from**
30 **lands; rules.**

31 When lands are acquired or leased under G.S. 106-852, the Department is hereby
32 authorized to make expenditures from any funds not otherwise obligated, for the management,
33 development and utilization of such areas; to sell or otherwise dispose of products from such
34 lands, and to make such rules as may be necessary to carry out the purposes of G.S. 106-852 to
35 106-856.

36 **"§ 106-854. Disposition of revenues received from lands acquired.**

37 All revenues derived from lands now owned or later acquired under the provisions of
38 G.S. 106-852 to 106-856 shall be set aside for the use of the Department in acquisition,
39 management, development and use of such lands until all obligations incurred have been paid
40 in full. Thereafter, fifty percent (50%) of all net profits accruing from the administration of
41 such lands shall be applicable for such purposes as the General Assembly may prescribe, and
42 fifty percent (50%) shall be paid into the school fund to be used in the county or counties in
43 which lands are located.

44 **"§ 106-855. State not obligated for debts created hereunder.**

45 Obligations for the acquisition of land incurred by the Department under the authority of
46 G.S. 106-852 to 106-856 shall be paid solely and exclusively from revenues derived from such
47 lands and shall not impose any liability upon the general credit and taxing power of the State.

48 **"§ 106-856. Disposition of lands acquired.**

1 The Department shall have full power and authority to sell, exchange or lease lands under
2 its jurisdiction when in its judgment it is advantageous to the State to do so in the highest
3 orderly development and management of State forests and State parks: Provided, however, said
4 sale, lease or exchange shall not be contrary to the terms of any contract which it has entered
5 into."

6 **SECTION #.(p)** Article 4 of Chapter 113 of the General Statutes (G.S. 113-51,
7 G.S. 113-52, G.S. 113-53.1, G.S. 113-54, G.S. 113-55, G.S. 113-55.1, G.S. 113-55.2, G.S. 113-
8 56, G.S. 113-56.1, G.S. 113-57, G.S. 113-58, G.S. 113-59, G.S. 113-60, G.S. 113-60.1, G.S.
9 113-60.2, and G.S. 113-60.3) is recodified as a new Article 72 of Chapter 106 of the General
10 Statutes, G.S. 106-860 through G.S. 106-875.

11 **SECTION #.(q)** Article 72 of Chapter 106 of the General Statutes, as recodified
12 under subsection (p) of this section, reads as rewritten:

13 "Article 72.

14 "Protection and Development of Forests; Fire Control.

15 **"§ 106-860. Powers of Department of ~~Environment and Natural Resources~~.Agriculture**
16 **and Consumer Services.**

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

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

23 (1) "Commissioner" means the Commissioner of Agriculture.

24 ~~(1)(2)~~ "Department" means the Department of ~~Environment and Natural~~
25 ~~Resources.~~Agriculture and Consumer Services.

26 ~~(2)~~ "Secretary" means the ~~Secretary of Environment and Natural Resources.~~

27 **"§ 106-861. Forest rangers.**

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

32 **§ 106-862. Forest laws defined.**

33 The forest laws consist of:

34 (1) G.S. 14-136 to G.S. 14-140;

35 (2) Articles ~~2, 4, 4A, 4C, and 6A~~71 through 79 of this Chapter;

36 (3) G.S. 77-13 and G.S. 77-14;

37 (4) Other statutes enacted for the protection of forests and woodlands from fire,
38 insects, or disease and concerning obstruction of streams and ditches in
39 forests and woodlands; and

40 (5) Regulations and ordinances adopted under the authority of the above
41 statutes.

42 **§ 106-863. Duties of forest rangers; payment of expenses by State and counties.**

43 Forest rangers shall have charge of measures for controlling forest fires, protection of
44 forests from pests and diseases, and the development and improvement of the forests for
45 maximum production of forest products; shall post along highways and in other conspicuous
46 places copies of the forest fire laws and warnings against fires, which shall be supplied by the
47 ~~Secretary;Commissioner;~~ shall patrol and man lookout towers and other points during dry and
48 dangerous seasons under the direction of the ~~Secretary;Commissioner;~~ and shall perform such
49 other acts and duties as shall be considered necessary by the ~~Secretary-Commissioner~~ in the

1 protection, development and improvement of the forested area of each of the counties within
2 the State. No county may be held liable for any part of the expenses thus incurred unless
3 specifically authorized by the board of county commissioners under prior written agreement
4 with the ~~Secretary-Commissioner~~; appropriations for meeting the county's share of such
5 expenses so authorized by the board of county commissioners shall be provided annually in the
6 county budget. For each county in which financial participation by the county is authorized, the
7 ~~Secretary-Commissioner~~ shall keep or cause to be kept an itemized account of all expenses thus
8 incurred and shall send such accounts periodically to the board of county commissioners of said
9 county; upon approval by the board of the correctness of such accounts, the county
10 commissioners shall issue or cause to be issued a warrant on the county treasury for the
11 payment of the county's share of such expenditures, said payment to be made within one month
12 after receipt of such statement from the ~~Secretary-Commissioner~~. Appropriations made by a
13 county for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this Chapter
14 in the cooperative forest protection, development and improvement work are not to replace
15 State and federal funds which may be available to the ~~Secretary-Commissioner~~ for the work in
16 said county, but are to serve as a supplement thereto. Funds appropriated to the Department for
17 a fiscal year for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this
18 Chapter shall not be expended in a county unless that county shall contribute at least
19 twenty-five percent (25%) of the total cost of the forestry program.

20 **"§ 106-864. Powers of forest rangers to prevent and extinguish fires; authority to issue**
21 **citations and warning tickets.**

22 (a) Forest rangers shall prevent and extinguish forest fires and shall have control and
23 direction of all persons and equipment while engaged in the extinguishing of forest fires.
24 During a season of drought, the ~~Secretary-Commissioner~~ or his designate may establish a fire
25 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest
26 ranger shall attend forthwith and use all necessary means to confine and extinguish such fire.
27 The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and
28 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors
29 and other property needed for such purposes; any person so summoned and who is physically
30 able who refuses or neglects to assist or to allow the use of equipment and such other property
31 required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to
32 a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No
33 action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned
34 by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or
35 deputy forest ranger.

36 (b) Forest rangers are authorized to issue and serve citations under the terms of G.S.
37 15A-302 and warning tickets under the terms of ~~G.S. 113-55.2~~ G.S. 106-866 for offenses under
38 the forest laws. This subsection may not be interpreted to confer the power of arrest on forest
39 rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2.

40 **"§ 106-865. Powers of forest law-enforcement officers.**

41 The ~~Secretary-Commissioner~~ is authorized to appoint as many forest law-enforcement
42 officers as he deems necessary to carry out the forest law-enforcement responsibilities of the
43 Department. Forest law-enforcement officers shall have all the powers and the duties of a
44 forest ranger enumerated in ~~G.S. 113-54 and 113-55~~ G.S. 106-863 and G.S. 106-864. Forest
45 law-enforcement officers shall, in addition to their other duties, have the powers of peace
46 officers to enforce the forest laws. Any forest law-enforcement officer may arrest, without
47 warrant, any person or persons committing any crime in his presence or whom such officer has
48 probable cause for believing has committed a crime in his presence and bring such person or
49 persons forthwith before a district court or other officer having jurisdiction. Forest

1 law-enforcement officers shall also have authority to obtain and serve warrants including
2 warrants for violation of any duly promulgated rule of the Department.

3 **"§ 106-866. Warning tickets for violations of the forest laws.**

4 (a) To encourage the cooperation of the public in achieving the objectives of the forest
5 laws, the ~~Secretary-Commissioner~~ may provide for the issuance of warning tickets instead of
6 the initiation of criminal prosecution by forest rangers and forest law-enforcement officers.
7 Issuance of the warning tickets shall be in accordance with criteria administratively
8 promulgated by the ~~Secretary-Commissioner~~ within the requirements of this section. These
9 criteria are exempt from Article 2A of Chapter 150B of the General Statutes.

10 (b) No warning ticket may be issued unless all of the following conditions are met:

- 11 (1) The forest ranger or the forest law-enforcement officer must be convinced
12 that the offense was not committed intentionally.
- 13 (2) The offense is not one, or a type of offense, for which the ~~Secretary~~
14 ~~Commissioner~~ has prohibited the issuance of warning tickets.
- 15 (3) At the time of the violation it was not reasonably foreseeable that the
16 conduct of the offender could result in any significant destruction of forests
17 or woodlands or constitute a hazard to the public.

18 (c) A warning ticket may not be issued if the offender has previously been charged
19 with, or issued a warning ticket for, the same or a similar offense within the preceding three
20 years. A list of persons who have been issued warning tickets under this section within the
21 preceding three years shall be maintained and periodically updated by the
22 ~~Secretary-Commissioner~~.

23 (d) This section does not entitle any person who has committed an offense to the right
24 to be issued a warning ticket, and the issuance of a warning ticket does not prohibit the later
25 initiation of criminal prosecution for the same offense for which the warning ticket was issued.

26 **"§ 106-867. Compensation of forest rangers.**

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

38 **"§ 106-868. Overtime compensation for forest fire fighting.**

39 The Department shall, within funds appropriated to the Department, provide overtime
40 compensation to the professional employees of the Division of Forest Resources involved in
41 fighting forest fires.

42 **"§ 106-869. Woodland defined.**

43 For the purposes of this Article, woodland is taken to include all forest areas, both timber
44 and cutover land, and all second-growth stands on areas that have at one time been cultivated.

45 **"§ 106-870. Misdemeanor to destroy posted forestry notice.**

46 Any person who shall maliciously or willfully destroy, deface, remove, or disfigure any
47 sign, poster, or warning notice, posted by order of the ~~Secretary-Commissioner~~, under the
48 provisions of this Article, or any other act which may be passed for the purpose of protecting
49 and developing the forests in this State, shall be guilty of a Class 3 misdemeanor.

1 **"§ 106-871. Cooperation between counties and State in forest protection and**
2 **development.**

3 The board of county commissioners of any county is hereby authorized and empowered to
4 cooperate with the Department in the protection, reforestation, and promotion of forest
5 management of their own forests within their respective counties, and to appropriate and pay
6 out of the funds under their control such amount as is provided in ~~G.S. 113-54~~ G.S. 106-863.

7 **"§ 106-872. Instructions on forest preservation and development.**

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

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

24 **"§ 106-873. Authority of Governor to close forests and woodlands to hunting, fishing and**
25 **trapping.**

26 During periods of protracted drought or when other hazardous fire conditions threaten
27 forest and water resources and appear to require extraordinary precautions, the Governor of the
28 State, upon the joint recommendation of the ~~Secretary-Commissioner~~ and the Executive
29 Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

- 30 (1) Close any or all of the woodlands and inland waters of the State to hunting,
31 fishing and trapping for the period of the emergency.
32 (2) Forbid for the period of the emergency the building of campfires and the
33 burning of brush, grass or other debris within 500 feet of any woodland in
34 any county, counties, or parts thereof.
35 (3) Close for the period of the emergency any or all of the woodlands of the
36 State to such other persons and activities as he deems proper under the
37 circumstances, except to the owners or tenants of such property and their
38 agents and employees, or persons holding written permission from any
39 owner or his recognized agent to enter thereon for any lawful purpose other
40 than hunting, fishing or trapping.

41 **"§ 106-874. Publication of proclamation; annulment thereof.**

42 Such proclamation shall become effective 24 hours after certified time of issue, and shall be
43 published in such newspapers and posted in such places and in such manner as the Governor
44 may direct. It shall be annulled in the same manner by another proclamation by the Governor
45 when he is satisfied, upon joint recommendation of the ~~Secretary-Commissioner~~ and the
46 Executive Director of the North Carolina Wildlife Resources Commission, that the period of
47 the emergency has passed.

48 **"§ 106-875. Violation of proclamation a misdemeanor.**

1 Any person, firm or corporation who enters upon any woodlands or inland waters of the
2 State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush,
3 grass or other debris within 500 feet of any woodland, after a proclamation has been issued by
4 the Governor forbidding such activities, or who violates any other provisions of the Governor's
5 proclamation with regard to permissible activities in closed woodlands shall be guilty of a Class
6 1 misdemeanor."

7 **SECTION #.(r)** Article 4A of Chapter 113 of the General Statutes (G.S. 113-60.4,
8 G.S. 113-60.5, G.S. 113-60.6, G.S. 113-60.7, G.S. 113-60.8, G.S. 113-60.9, G.S. 113-60.10) is
9 recodified as a new Article 73 of Chapter 106 of the General Statutes, G.S. 106-880 through
10 G.S. 106-886.

11 **SECTION #.(s)** Article 73 of Chapter 106 of the General Statutes, as recodified
12 under subsection (r) of this section, reads as rewritten:

13 "Article 73.

14 Protection of Forest Against Insect Infestation and Disease.

15 **"§ 106-880. Purpose and intent.**

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

21 (b) In this Article, unless the context requires otherwise, the expression "Department"
22 means the Department of ~~Environment and Natural Resources~~; "~~Secretary~~" Agriculture and
23 Consumer Services, and "Commissioner" means the ~~Secretary of Environment and Natural~~
24 ~~Resources~~ Commissioner of Agriculture.

25 **"§ 106-881. Authority of the Department.**

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

31 **"§ 106-882. Definitions.**

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

- 33 (1) "Control zone" means an area of potential or actual infestation or infection,
34 boundaries of which are fixed and clearly described in a manner to definitely
35 identify the zone.
- 36 (2) "Forestland" means land on which forest trees occur.
- 37 (3) "Forest trees" means only those trees which are a part and constitute a stand
38 of potential immature or mature commercial timber trees, provided that the
39 term "forest trees" shall be deemed to include shade trees of any species
40 around houses, along highways, and within cities and towns, if the same
41 constitute insect and disease menaces to nearby timber trees or timber
42 stands.
- 43 (4) "Infection" means attack by any disease affecting forest trees which is
44 declared by the ~~Secretary-Commissioner~~ to be dangerously injurious thereto.
- 45 (5) "Infestation" means attack by means of any insect, which is by the ~~Secretary~~
46 Commissioner declared to be dangerously injurious to forest trees.

47 **"§ 106-883. Action against insects and diseases.**

48 Whenever the ~~Secretary-Commissioner~~, or his agent, determines that there exists an
49 infestation of forest insect pests or an infection of forest tree diseases, injurious or potentially

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

9 **"§ 106-884. Authority of ~~Secretary-Commissioner~~ and his agents to go upon private land**
10 **within control zones.**

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

22 **"§ 106-885. Cooperative agreements.**

23 In order to more effectively carry out the purposes of this Article, the Department is ~~hereby~~
24 authorized to enter into cooperative agreement with the federal government and other public
25 and private agencies, and with the owners of forestland.

26 **"§ 106-886. Annulment of control zone.**

27 Whenever the ~~Secretary-Commissioner~~ determines that the forest insect or disease control
28 work within a designated control zone is no longer necessary or feasible, then the ~~Secretary~~
29 ~~Commissioner~~ shall declare the zone of infestation or infection no longer pertinent to the
30 purposes of this Article and such zone will then no longer be recognized."

31 **SECTION #.(t)** Article 4B of Chapter 113 of the General Statutes (G.S. 113-
32 60.11, G.S. 113-60.12, G.S. 113-60.13, G.S. 113-60.14, and G.S. 113-60.15) is recodified as a
33 new Article 74 of Chapter 106 of the General Statutes, G.S. 106-890 through G.S. 106-894.

34 **SECTION #.(u)** G.S. 106-893, as recodified in subsection (t) of this section, reads
35 as rewritten:

36 **"§ 106-893. Compact Administrator; North Carolina members of advisory committee.**

37 The ~~Secretary of Environment and Natural Resources~~Commissioner of Agriculture is
38 hereby designated as Compact Administrator for this State and shall consult with like officials
39 of the other member states and shall implement cooperation between such states in forest fire
40 prevention and control.

41 At some time before the adjournment of each regular session of the General Assembly, the
42 Governor shall choose one person from the membership of the House of Representatives, and
43 shall choose one person from the membership of the Senate, who shall serve on the advisory
44 committee of the Southeastern Interstate Forest Fire Protection Compact as provided for in
45 Article III of said Compact. At the time of the selection of the House and Senate members of
46 such advisory committee, the Governor shall choose one alternate member from the House of
47 Representatives and one from the Senate who shall serve on such advisory committee in case of
48 the death, absence or disability of the regular members so chosen."

1 **SECTION #.(v)** G.S. 106-894, as recodified in subsection (t) of this section, reads
2 as rewritten:

3 **"§ 106-894. Agreements with noncompact states.**

4 The Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services
5 is hereby authorized to enter into written agreements with the State forest fire control agency of
6 any other state or any province of Canada which is party to a regional forest fire protection
7 compact. The provisions of any written agreement entered into pursuant to this Article shall be
8 substantially in the form of the authority heretofore granted under the provisions of this Article,
9 Southeastern Interstate Forest Fire Protection Compact."

10 **SECTION #.(w)** Article 4C of Chapter 113 of the General Statutes (G.S. 113-
11 60.21, G.S. 113-60.22, G.S. 113-60.23, G.S. 113-60.24, G.S. 113-60.25, G.S. 113-60.26,
12 G.S.113-60.27, G.S. 113-60.28, G.S. 113-60.29, G.S. 113-60.30, and G.S. 113-60.31) is
13 recodified as a new Article 75 of Chapter 106 of the General Statutes, G.S. 106-900 through
14 G.S. 106-910.

15 **SECTION #.(x)** Article 75 of Chapter 106 of the General Statutes, as recodified by
16 subsection (w) of this section, reads as rewritten:

17 "Article 75.

18 Regulation of Open Fires.

19 **"§ 106-900. Purpose and findings.**

20 The purpose of this Article is to regulate certain open burning in order to protect the public
21 from the hazards of forest fires and air pollution and to adapt such regulation to the needs and
22 circumstances of the different areas of North Carolina. The General Assembly finds that open
23 burning in proximity to woodlands must be regulated in all counties to protect against forest
24 fires and air pollution. The General Assembly further finds that in certain counties a high
25 percentage of the land area contains organic soils or forest types which may pose greater
26 problems of forest fire and air pollution controls, and that in counties in which a great amount
27 of land-clearing operations is taking place on these organic soils or these forest types,
28 additional control of open burning is required. The counties subject to the need for additional
29 control are classified as high hazard counties for purpose of this Article.

30 **"§ 106-901. Definitions.**

31 As used in this Article:

32 (1) "Department" means the Department of ~~Environment and Natural~~
33 ~~Resources~~Agriculture and Consumer Services.

34 (2) "Forest ranger" means the county forest ranger or deputy forest ranger
35 designated under ~~G.S. 113-52~~G.S. 106-861.

36 (3) "Person" means any individual, firm, partnership, corporation, association,
37 public or private institution, political subdivision, or government agency.

38 (4) "Woodland" means woodland as defined in ~~G.S. 113-57~~G.S. 106-869."

39 **"§ 106-902. High hazard counties; permits required; standards.**

40 (a) The provisions of this section apply only to the counties of Beaufort, Bladen,
41 Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones,
42 Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as
43 high hazard counties in accordance with ~~G.S. 113-60.21~~G.S. 106-900.

44 (b) It is unlawful for any person to willfully start or cause to be started any fire in any
45 woodland under the protection of the Department or within 500 feet of any such woodland
46 without first having obtained a permit from the Department. Permits for starting fires may be
47 obtained from forest rangers or other agents authorized by the county forest ranger to issue
48 such permits in the county in which the fire is to be started. Such permits shall be issued by the

1 ranger or other agent unless permits for the area in question have been prohibited or cancelled
2 in accordance with ~~G.S. 113-60.25 or 113-60.27~~ G.S. 106-904 or G.S. 106-906.

3 (c) It is unlawful for any person to willfully burn any debris, stumps, brush or other
4 flammable materials resulting from ground clearing activities and involving more than five
5 contiguous acres, regardless of the proximity of the burning to woodland and on which such
6 materials are placed in piles or windrows without first having obtained a special permit from
7 the Department. Areas less than five acres in size will require a regular permit in accordance
8 with ~~G.S. 113-60.23(b)~~ G.S. 106-902(b).

9 (1) Prevailing winds at the time of ignition must be away from any city, town,
10 development, major highway, or other populated area, the ambient air of
11 which may be significantly affected by smoke, fly ash, or other air
12 contaminants from the burning.

13 (2) The location of the burning must be at least 1,000 feet from any dwelling or
14 structure located in a predominately residential area other than a dwelling or
15 structure located on the property on which the burning is conducted unless
16 permission is granted by the occupants.

17 (3) The amount of dirt or organic soil on or in the material to be burned must be
18 minimized and the material arranged in a way suitable to facilitate rapid
19 burning.

20 (4) Burning may not be initiated when it is determined by a forest ranger, based
21 on information supplied by a competent authority that stagnant air conditions
22 or inversions exist or that such conditions may occur during the duration of
23 the burn.

24 (5) Heavy oils, asphaltic material, or items containing natural or synthetic
25 rubber may not be used to ignite the material to be burned or to promote the
26 burning of such material.

27 (6) Initial burning may be commenced only between the hours of 9:00 A.M. and
28 3:00 P.M. and no combustible material may be added to the fire between
29 3:00 P.M. on one day and 9:00 A.M. on the following day, except that when
30 favorable meteorological conditions exist, any forest ranger authorized to
31 issue the permit may authorize in writing a deviation from the restrictions.

32 **"§ 106-903. Open burning in non-high hazard counties; permits required; standards.**

33 (a) The provisions of this section apply only to the counties not designated as high
34 hazard counties in ~~G.S. 113-60.23(a)~~ G.S. 106-902(a).

35 (b) It shall be unlawful for any person to start or cause to be started any fire or ignite
36 any material in any woodland under the protection of the Department or within 500 feet of any
37 such woodland during the hours starting at midnight and ending at 4:00 P.M. without first
38 obtaining a permit from the Department. Permits may be obtained from forest rangers or other
39 agents authorized by the forest ranger to issue such permits in the county in which the fire is to
40 be started. Such permits shall be issued by the ranger or other agent unless permits for the area
41 in question have been prohibited or cancelled under ~~G.S. 113-60.25 or 113-60.27~~ G.S. 106-904
42 or G.S. 106-906.

43 **"§ 106-904. Open burning prohibited statewide.**

44 During periods of hazardous forest fire conditions or during air pollution episodes declared
45 pursuant to Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~ Commissioner is
46 authorized to prohibit all open burning regardless of whether a permit is required under ~~G.S.~~
47 ~~113-60.23 or 113-60.24~~ G.S. 106-902 or G.S. 106-903. The ~~secretary~~ Commissioner shall issue
48 a press release containing relevant details of the prohibition to news media serving the area
49 affected.

1 **"§ 106-905. Permit conditions.**

2 Permits issued under this Article shall be issued in the name of the person undertaking the
3 burning and shall specify the specific area in which the burning is to occur, the type and
4 amount of material to be burned, the duration of the permit, and such other factors as are
5 necessary to identify the burning which is allowed under the permit.

6 **"§ 106-906. Permit suspension and cancellation.**

7 Upon a determination that hazardous forest fire conditions exist the ~~secretary~~
8 Commissioner is authorized to cancel any permit issued under this Article and suspend the
9 issuance of any new permits. Upon a determination by the Environmental Management
10 Commission or its agent that open burning permitted under this Article is causing significant
11 contravention of ambient air quality standards or that an air pollution episode exists pursuant to
12 Article 21B of Chapter 143 of the General Statutes, the ~~secretary~~ Commissioner shall cancel
13 any permits issued under authority of this Article and shall suspend the issuance of any new
14 permits.

15 **"§ 106-907. Control of existing fires.**

16 (a) If a fire is set without a permit required by ~~G.S. 113-60.23, 113-60.24 or~~
17 ~~113-60.25~~ G.S. 106-902, G.S. 106-903, or G.S. 106-904, and is set in an area in which permits
18 are prohibited or cancelled at the time the fire is set, the person responsible for setting the fire
19 or causing the fire to be set shall immediately extinguish the fire or take such other action as
20 directed by any forest ranger authorized to issue permits under ~~G.S. 113-60.23(e)~~ G.S. 106-
21 902(c). In the event that the person responsible does not immediately undertake efforts to
22 extinguish the fire or take such other action as directed by the forest ranger, the Department
23 may enter the property and take reasonable steps to extinguish or control the fire and the person
24 responsible for setting the fire shall reimburse the Department for the expenses incurred by the
25 Department. A showing that a fire is associated with land-clearing activities is prima facie
26 evidence that the person undertaking the land clearing is responsible for setting the fire or
27 causing the fire to be set.

28 (b) If a fire requiring a permit under ~~G.S. 113-60.23(e)~~ G.S. 106-902(c) is set without a
29 permit and a forest ranger authorized to issue such permits determines that a permit would not
30 have been issued for the fire at the time it was set, the person responsible for setting the fire or
31 causing the fire to be set shall immediately take such action as the forest ranger directs to
32 extinguish or control the fire. In the event the person responsible does not immediately
33 undertake efforts to extinguish the fire or take such other action as directed by the forest ranger,
34 the Department may enter the property and take reasonable steps to extinguish or control the
35 fire and the person responsible for setting the fire shall reimburse the Department for the
36 expenses incurred by the Department. A showing that a fire is associated with land-clearing
37 activities is prima facie evidence that the person undertaking the land clearing is responsible
38 for setting the fire or causing the fire to be set.

39 (c) If a fire is set in accordance with a permit but the burning is taking place contrary to
40 the conditions of the permit, any forest ranger with authority to issue permits in the area in
41 question may order the permittee in writing to undertake the steps necessary to comply with the
42 conditions of his permit. If the permittee is not making a reasonable effort to comply with the
43 order, the forest ranger may enter the property and take reasonable steps to extinguish or
44 control the fire and the permittee shall reimburse the Department for the expenses incurred by
45 the Department.

46 **"§ 106-908. Penalties.**

47 Any person violating the provisions of this Article or of any permit issued under the
48 authority of this Article shall be guilty of a Class 3 misdemeanor. The penalties imposed by
49 this section shall be separate and apart and not in lieu of any civil or criminal penalties which

1 may be imposed by G.S. 143-215.114A or G.S. 143-215.114B. The penalties imposed are also
2 in addition to any liability the violator incurs as a result of actions taken by the Department
3 under ~~G.S. 113-60.28~~. G.S. 106-907.

4 **"§ 106-909. Effect on other laws.**

5 This Article shall not be construed as affecting or abridging the lawful authority of local
6 governments to pass ordinances relating to open burning within their boundaries. Nothing in
7 this Article shall relieve any person from compliance with the provisions of Article 21B of
8 Chapter 143 of the General Statutes and regulations adopted thereunder. In the event that
9 permits are required for open burning associated with land clearing under the authority of
10 Article 21B of Chapter 143 of the General Statutes, the authority to issue such permits shall be
11 delegated to forest rangers who are authorized to issue permits under ~~G.S. 113-60.23(e)~~. G.S.
12 106-902(c).

13 **"§ 106-910. Exempt fires; no permit fees.**

14 (a) This Article shall not apply to any fires started, or caused to be started, within 100
15 feet of an occupied dwelling house if such fire shall be confined (i) within an enclosure from
16 which burning material may not escape or (ii) within a protected area upon which a watch is
17 being maintained and which is provided with adequate fire protection equipment.

18 (b) No charge shall be made for the granting of any permit required by this Article."

19 **SECTION #.(y)** Article 4D of Chapter 113 of the General Statutes (G.S. 113-
20 60.32 and G.S. 113-60.33) is recodified as a new Article 76 of Chapter 106 of the General
21 Statutes, G.S. 106-911 and G.S. 106-912.

22 **SECTION #.(z)** Article 76 of Chapter 106 of the General Statutes, as recodified by
23 subsection (y) of this section, reads as rewritten:

24 "Article 76.

25 Fire Fighters on Standby Duty.

26 **"§ 106-911. Definitions.**

27 As used in this Article:

28 (1) "Fire fighter" means an employee of the Division of Forest Resources of the
29 Department of ~~Environment and Natural Resources~~ Agriculture and
30 Consumer Services who engages in fire suppression duties.

31 (2) "Fire suppression duties" means involvement in on-site fire suppression,
32 participation in Project Fire Team while it is mobilized, Operations Room
33 duty during on-going fires or when required by high readiness plans, mop-up
34 activities to secure fire sites, scouting and detecting forest fires, performance
35 of standby duty, and any other activity that directly contributes to the
36 detection, response to, and control of fires.

37 **"§ 106-912. Standby duty.**

38 (a) Standby duty is time during which a fire fighter is required to remain within 25
39 miles of his duty station and be available to return to the duty station on call. The Department
40 of Agriculture and Consumer Services shall provide each fire fighter on standby duty with an
41 electronic paging device that makes the wearer accessible to his duty station.

42 (b) Notwithstanding subsection (a) of this section, for at least two out of 14 consecutive
43 days that a fire fighter is on duty, the Department of ~~Environment and Natural~~
44 ~~Resources~~ Agriculture and Consumer Services shall permit the fire fighter to be more than 25
45 miles from his duty station so long as the fire fighter gives the Department of ~~Environment and~~
46 ~~Natural Resources~~ Agriculture and Consumer Services a telephone number where he can be
47 reached; each month, the days the fire fighter is permitted to be more than 25 miles from his
48 duty station shall include one full weekend. On the days the fire fighter is permitted to be more

1 than 25 miles from his duty station, the Department of ~~Environment and Natural Resources~~
2 ~~Agriculture and Consumer Services~~ may call him only when there is a bona fide emergency."

3 **SECTION #.(aa)** Article 4E of Chapter 113 of the General Statutes (G.S. 113-
4 60.40, G.S. 113-60.41, G.S. 113-60.42, G.S. 113-60.43, G.S. 113-60.44, and G.S. 113-60.45) is
5 recodified as a new Article 77 of Chapter 106 of the General Statutes, G.S. 106-920 through
6 G.S. 106-925.

7 **SECTION #.(bb)** Article 77 of Chapter 106 of the General Statutes, as recodified
8 by subsection (aa) of this section, reads as rewritten:

9 "Article 77.

10 North Carolina Prescribed Burning Act.

11 **"§ 106-920. Legislative findings.**

12 The General Assembly finds that prescribed burning of forestlands is a management tool
13 that is beneficial to North Carolina's public safety, forest and wildlife resources, environment,
14 and economy. The General Assembly finds that the following are benefits that result from
15 prescribed burning of forestlands:

- 16 (1) Prescribed burning reduces the naturally occurring buildup of vegetative
17 fuels on forestlands, thereby reducing the risk and severity of wildfires and
18 lessening the loss of life and property.
- 19 (2) The State's ever-increasing population is resulting in urban development
20 directly adjacent to fire-prone forestlands, referred to as a woodland-urban
21 interface area. The use of prescribed burning in these woodland-urban
22 interface areas substantially reduces the risk of wildfires that cause damage.
- 23 (3) Many of North Carolina's natural ecosystems require periodic fire for their
24 survival. Prescribed burning is essential to the perpetuation, restoration, and
25 management of many plant and animal communities. Prescribed burning
26 benefits game, nongame, and endangered wildlife species by increasing the
27 growth and yield of plants that provide forage and an area for escape and
28 brooding and that satisfy other habitat needs.
- 29 (4) Forestlands are economic, biological, and aesthetic resources of statewide
30 significance. In addition to reducing the frequency and severity of
31 wildfires, prescribed burning of forestlands helps to prepare sites for
32 replanting and natural seeding, to control insects and diseases, and to
33 increase productivity.
- 34 (5) Prescribed burning enhances the resources on public use lands, such as State
35 and national forests, wildlife refuges, nature preserves, and game lands.
36 Prescribed burning enhances private lands that are managed for wildlife
37 refuges, nature preserves, and game lands. Prescribed burning enhances
38 private lands that are managed for wildlife, recreation, and other purposes.

39 As North Carolina's population grows, pressures resulting from liability issues and smoke
40 complaints discourage or limit prescribed burning so that these numerous benefits to
41 forestlands often are not attainable. By recognizing the benefits of prescribed burning and by
42 adopting requirements governing prescribed burning, the General Assembly helps to educate
43 the public, avoid misunderstandings, and reduce complaints about this valuable management
44 tool.

45 **"§ 106-921. Definitions.**

46 As used in this Article:

- 47 (1) "Certified prescribed burner" means an individual who has successfully
48 completed a certification program approved by the Division of Forest

Resources of the Department of ~~Environment and Natural Resources~~. Agriculture and Consumer Services.

(2) "Prescribed burning" means the planned and controlled application of fire to naturally occurring vegetative fuels under safe weather and safe environmental and other conditions, while following appropriate precautionary measures that will confine the fire to a predetermined area and accomplish the intended management objectives.

(3) "Prescription" means a written plan prepared by a certified prescribed burner for starting, controlling, and extinguishing a prescribed burning.

"106-922. Immunity from liability.

(a) Any prescribed burning conducted in compliance with ~~G.S. 113-60.43~~ G.S. 106-923 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with ~~G.S. 113-60.43~~ G.S. 106-923 shall not be liable in any civil action for any damage or injury caused by or resulting from smoke.

(c) Notwithstanding subsections (a) and (b), this section does not apply when a nuisance or damage results from a negligently or improperly conducted prescribed burning.

"§ 106-923. Prescribed burning.

(a) Prior to conducting a prescribed burning, the landowner shall obtain a prescription for the prescribed burning prepared by a certified prescribed burner and filed with the Division of Forest Resources, Department of ~~Environment and Natural Resources~~. Agriculture and Consumer Services. A copy of the prescription shall be provided to the landowner. A copy of this prescription shall be in the possession of the responsible burner on site throughout the duration of the prescribed burning. The prescription shall include:

- (1) The landowner's name and address.
- (2) A description of the area to be burned.
- (3) A map of the area to be burned.
- (4) An estimate in tons of the fuel located on the area.
- (5) The objectives of the prescribed burning.
- (6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.
- (7) The name of the certified prescribed burner responsible for conducting the prescribed burning.
- (8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning.
- (9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses to avoid effects on health and property.

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout the period of the burning. A landowner may conduct a prescribed burning without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 4C of this Chapter from the Division of Forest Resources, Department of ~~Environment and Natural Resources~~. Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of

1 the prescribed burning. The prescribed burning shall be conducted in compliance with all the
2 following:

- 3 (1) The terms and conditions of the open-burning permit under ~~Article~~
4 Article 75 of this Chapter.
- 5 (2) The State's air pollution control statutes under Article 21 and Article 21B of
6 Chapter 143 of the General Statutes and any rules adopted pursuant to these
7 statutes.
- 8 (3) Any applicable local ordinances relating to open burning.
- 9 (4) The voluntary smoke management guidelines adopted by the Division of
10 Forest Resources, Department of ~~Environment and Natural~~
11 ~~Resources~~, Agriculture and Consumer Services.
- 12 (5) Any rules adopted by the Division of Forest Resources, Department of
13 ~~Environment and Natural Resources~~, Agriculture and Consumer Services, to
14 implement this Article.

15 **"§ 106-924. Adoption of rules.**

16 The Division of Forest Resources, Department of ~~Environment and Natural~~
17 ~~Resources~~, Agriculture and Consumer Services, may adopt rules that govern prescribed burning
18 under this Article.

19 **"§ 106-925. Exemption.**

20 This Article does not apply when the ~~Secretary of Environment and Natural~~
21 ~~Resources~~ Commissioner of Agriculture has cancelled burning permits pursuant to ~~G.S.~~
22 ~~113-60.27~~ G.S. 106-906 or prohibited all open burning pursuant to ~~G.S. 113-60.25~~ G.S. 106-
23 904"

24 **SECTION #.(cc)** Article 5 of Chapter 113 of the General Statutes (G.S. 113-61,
25 G.S. 113-62, G.S. 113-63, G.S. 113-64, G.S. 113-65, G.S. 113-66, G.S. 67, G.S. 113-68, G.S.
26 113-69, G.S. 113-70, G.S. 113-71, G.S. 113-72, G.S. 113-73, G.S. 113-74, G.S. 113-75, G.S.
27 113-76, and G.S. 13-77) is recodified as a new Article 78 of Chapter 106 of the General
28 Statutes, G.S. 106-930 through G.S. 106-946.

29 **SECTION #.(dd)** Article 78 of Chapter 106 of the General Statutes, as recodified
30 by subsection (cc) of this section, reads as rewritten:

31 "Article 78.

32 Corporations for Protection and Development of Forests.

33 **"§ 106-930. Private limited dividend corporations may be formed.**

34 (a) In this Article, unless the context requires otherwise, "Department" means the
35 Department of ~~Environment and Natural Resources~~; and "Secretary" Agriculture and Consumer
36 Services, and "Commissioner" means the ~~Secretary of Environment and Natural~~
37 ~~Resources~~ Commissioner of Agriculture.

38 (b) Three or more persons, who associate themselves by an agreement in writing for the
39 purpose, may become a private limited dividend corporation to finance and carry out projects
40 for the protection and development of forests and for such other related purposes as the
41 Secretary shall approve, subject to all the duties, restrictions and liabilities, and possessing all
42 the rights, powers, and privileges, of corporations organized under the general corporation laws
43 of the State of North Carolina, except where such provisions are in conflict with this Article.

44 **"§ 106-931. Manner of organizing.**

45 A corporation formed under this Article shall be organized and incorporated in the manner
46 provided for organization of corporations under the general corporation laws of the State of
47 North Carolina, except where such provisions are in conflict with this Article. The certificate
48 of organization of any such corporation shall contain a statement that it is organized under the
49 provisions of this Article and that it consents to be and shall be at all times subject to the rules

1 and supervision of the Secretary, and shall set forth as or among its purposes the protection and
2 development of forests and the purchase, acquisition, sale, conveyance and other dealing in the
3 same and the products therefrom, subject to the rules from time to time imposed by the
4 Secretary.

5 **"§ 106-932. Directors.**

6 There shall not be less than three directors, one of whom shall always be a person
7 designated by the Secretary, which one need not be a stockholder.

8 **"§ 106-933. Duties of supervision by ~~Secretary of Environment and Natural~~
9 ~~Resources~~ Commissioner.**

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

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

32 **"§ 106-934. Powers of ~~Secretary~~ Commissioner.**

33 The ~~Secretary~~ Commissioner may:

- 34 (1) Examine at any time all books, contracts, records, documents and papers of
35 any such corporation.
- 36 (2) In his discretion prescribe uniform methods and forms of keeping accounts,
37 records and books to be observed by such corporation, and prescribe by
38 order accounts in which particular outlays and receipts are to be entered,
39 charged or credited. The ~~Secretary~~ Commissioner shall not, however, have
40 authority to require any revaluation of the real property or other fixed assets
41 of such corporations, but he shall allow proper charges for the depletion of
42 timber due to cutting or destruction.
- 43 (3) Enforce the provisions of this Article, a rule implementing this Article, or an
44 order issued under this Article by filing a petition for a writ of mandamus or
45 application for an injunction in the superior court of the county in which the
46 respondent corporation has its principal place of business. The final
47 judgment in any such proceeding shall either dismiss the proceeding or
48 direct that a writ of mandamus or an injunction, or both, issue as prayed for

1 in the petition or in such modified or other form as the court may determine
2 will afford appropriate relief.

3 **"§ 106-935. Provision for appeal by corporations to Governor.**

4 If any corporation organized under this Article is dissatisfied with or aggrieved at any rule
5 or order imposed upon it by the ~~Secretary, Commissioner,~~ or any valuation or appraisal of any
6 of its property made by the ~~Secretary, Commissioner,~~ or any failure of or refusal by the
7 ~~Secretary-Commissioner~~ to approve of or consent to any action which it can take only with
8 such approval or consent, it may appeal to the Governor by filing with him a claim of appeal
9 upon which the decision of the Governor shall be final. Such determination, if other than a
10 dismissal of the appeal, shall be set forth by the Governor in a written mandate to the
11 ~~Secretary, Commissioner,~~ who shall abide thereby and take such actions as the same may direct.

12 **"§ 106-936. Limitations as to dividends.**

13 The shares of stock of corporations organized under this Article shall have a par value and,
14 except as provided in ~~G.S. 113-69~~G.S. 106-938 in respect to distributions in kind upon
15 dissolution, no dividend shall be paid thereon at a rate in excess of six per centum (6%) per
16 annum on stock having a preference as to dividends, or eight per centum (8%) per annum on
17 stock not having a preference as to dividends, except that any such dividends may be
18 cumulative without interest.

19 **"§ 106-937. Issuance of securities restricted.**

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

25 **"§ 106-938. Limitation on bounties to stockholders.**

26 Stockholders shall at no time receive or accept from any such corporation in repayment of
27 their investment in its stock any sums in excess of the par value of the stock together with
28 cumulative dividends at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 except that nothing in
29 this section contained shall be construed to prohibit the distribution of the assets of such
30 corporation in kind to its stockholders upon dissolution thereof.

31 **"§ 106-939. Earnings above dividend requirements payable to State.**

32 Any earnings of such corporation in excess of the amounts necessary to pay dividends to
33 stockholders at the rate set forth in ~~G.S. 113-67~~G.S. 106-936 shall be paid over to the State of
34 North Carolina prior to the dissolution of such corporation. Net income or net losses
35 (determined in such manner as the ~~Secretary-Commissioner~~ shall consider properly to show
36 such income or losses) from the sale of the capital assets of such corporation, whether such sale
37 be upon dissolution or otherwise, shall be considered in determining the earnings of such
38 corporation for the purposes of this section. In determining such earnings unrealized
39 appreciation or depreciation of real estate or other fixed assets shall not be considered.

40 **"§ 106-940. Dissolution of corporation.**

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

46 **"§ 106-941. Cutting and sale of timber.**

47 Any such corporation may cut and sell the timber on its land or permit the cutting thereof,
48 but all such cuttings shall be in accordance with the rules, restrictions and limitations imposed
49 by the ~~Secretary, Commissioner,~~ who shall impose such rules, restrictions and limitations with

1 respect thereto as may reasonably conform to the accepted custom and usage of good forestry
2 and forest economy, taking into consideration the situation, nature and condition of the tract so
3 cut or to be cut, and the financial needs of such corporation from time to time.

4 **"§ 106-942. Corporation may not sell or convey without consent of**
5 **Secretary, Commissioner, or pay higher interest rate than 6%.**

6 No such corporation ~~shall~~ shall do any of the following:

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

18 **"§ 106-943. Power to borrow money limited.**

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

27 **"§ 106-944. ~~Secretary-Commissioner~~ to approve development of forests.**

28 No project for the protection and development of forests proposed by any such corporation
29 shall be undertaken without the approval of the ~~Secretary, Commissioner~~, and such approval
30 shall not be given unless:

- 31 (1) The ~~Secretary-Commissioner~~ shall have received a statement duly executed
32 and acknowledged on behalf of the corporation proposing such project, in
33 such adequate detail as the ~~Secretary-Commissioner~~ shall require of the
34 activities to be included in the project, such statement to set forth the
35 proposals as to
36 a. Fire prevention and protection,
37 b. Protection against insects and tree diseases,
38 c. Protection against damage by livestock and game,
39 d. Means, methods and rate of, and restrictions upon, cutting and other
40 utilization of the forests, and
41 e. Planting and spacing of trees.
- 42 (2) There shall be submitted to the ~~Secretary-Commissioner~~ a financial plan
43 satisfactory to him setting forth in detail the amount of money needed to
44 carry out the entire project, and how such sums are to be allocated, with
45 adequate assurances to the ~~Secretary-Commissioner~~ as to where such funds
46 are to be secured.
- 47 (3) The ~~Secretary-Commissioner~~ shall be satisfied that the project gives
48 reasonable assurance of the operation of the forests involved on a

sustained-yield basis except insofar as the ~~Secretary-Commissioner~~ shall consider the same impracticable.

- (4) The corporation proposing such project shall agree that the project shall at all times be subject to the supervision and inspection of the ~~Secretary-Commissioner~~, and that it will at all times comply with such rules concerning the project as the ~~Secretary-Commissioner~~ shall from time to time impose.

"§ 106-945. Application of corporate income.

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

"§ 106-946. Reorganization of corporations.

Reorganization of corporations organized under this Article shall be subject to the supervision of the ~~Secretary-Commissioner~~ and no such reorganization shall be had without the authorization of the ~~Secretary-Commissioner~~."

SECTION #.(ee) Article 6A of Chapter 113 of the General Statutes (G.S. 113-81.1, G.S. 113-81.2, and G.S. 113-81.3) is recodified as a new Article 79 of Chapter 106 of the General Statutes, G.S. 106-950 through G.S. 106-952.

SECTION #.(ff) Article 79 of Chapter 106 of the General Statutes, as recodified by subsection (ee) of this section, reads as rewritten:

"Article 79.

Forestry Services and Advice for Owners and Operators of Forestland.

"§ 106-950. Authority to render scientific forestry services.

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

(1) "Commissioner" means the Commissioner of Agriculture.

~~(1)(2)~~ "Department" means the Department of Environment and Natural Resources.

~~(2)~~ "Secretary" means the Secretary of Environment and Natural Resources.

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

"§ 106-951. Services under direction of ~~Secretary-Commissioner~~; compensation; when services without charge.

1 (a) The administration of the provisions of this Article shall be under the direction of
2 the ~~Secretary-Commissioner~~. The ~~Secretary-Commissioner~~, or his authorized agent, upon
3 receipt of a request from a forest landowner or operator for technical forestry assistance or
4 service, may designate forest trees for removal for lumber, veneer, poles, piling, pulpwood,
5 cordwood, ties, or other forest products by blazing, spotting with paint or otherwise designating
6 in an approved manner; he may measure or estimate the commercial volume contained in the
7 trees designated; he may furnish the landowner or operator with a statement of the volume of
8 the trees so designated and estimated; he may assist in finding a suitable market for the
9 products so designated, and he may offer general forestry advice concerning the management
10 of the forest.

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

16 (c) In those cases where the ~~Secretary-Commissioner~~ deems it desirable to so designate
17 and measure or estimate trees without charge, such services shall be given for the purpose of
18 encouraging the use of approved scientific forestry principles on the private or other forestlands
19 within the State, and to establish practical demonstrations of said principles.

20 **"§ 106-952. Deposit of receipts with State treasury.**

21 All moneys paid to the ~~Secretary-Commissioner~~ for services rendered under the provisions
22 of this Article shall be deposited into the State treasury to the credit of the Department."

23 **SECTION #.(gg)** Article 11 of Chapter 113A of the General Statutes (G.S. 113A-
24 176, G.S. 113A-177, G.S. 113A-178, G.S. 113A-179, G.S. 113A-180, G.S. 113A-180.1, G.S.
25 113A-181, G.S. 113A-182, and G.S. 113A-183) is recodified as a new Article 80 of Chapter
26 106 of the General Statutes, G.S. 106-955 through G.S. 106-963.

27 **SECTION #.(hh)** Article 80 of Chapter 106 of the General Statutes, as recodified
28 by subsection (gg) of this section, reads as rewritten:

29 "Article 80.

30 Forest Development Act.

31 **"§ 106-955. Title.**

32 This Article shall be known as the "Forest Development Act."

33 **"§ 106-956. Statement of purpose.**

34 (a) The General Assembly finds that:

- 35 (1) It is in the public interest of the State to encourage the development of the
36 State's forest resources and the protection and improvement of the forest
37 environment.
- 38 (2) Unfavorable environmental impacts, particularly the rapid loss of forest land
39 to urban development, are occurring as a result of population growth. It is in
40 the State's interest that corrective action be developed now to offset forest
41 land losses in the future.
- 42 (3) Regeneration of potentially productive forest land is a high-priority problem
43 requiring prompt attention and action. Private forest land will become more
44 important to meet the needs of the State's population.
- 45 (4) Growing demands on forests and related land resources cannot be met by
46 intensive management of public and industrial forest lands alone.

47 (b) The purpose of this Article is to direct the ~~Secretary-Commissioner of Agriculture~~ to
48 implement a forest development program to:

- (1) Provide financial assistance to eligible landowners to increase the productivity of the privately owned forests of the State through the application of forest renewal practices and other practices that improve tree growth and overall forest health.
- (2) Insure that forest operations in the State are conducted in a manner designed to protect the soil, air, and water resources, including but not limited to streams, lakes and estuaries through actions of landowners on lands for which assistance is sought under provisions in this Article.
- (3) Implement a program of voluntary landowner participation through the use of a forest development fund to meet the above goals.
- (c) It is the intent of the General Assembly that in implementing the program under this Article, the ~~Secretary-Commissioner~~ will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms and individuals furnishing services and materials needed in the application of practices included in the forest development program.
- "§ 106-957. Definitions.**
- As used in this Article:
- (1) "Approved forest management plan" means the forest management plan submitted by the eligible landowner and approved by the ~~Secretary-Commissioner~~. Such plan shall include forest management practices to insure both maximum forest productivity and environmental protection of the lands to be treated under the management plan.
- (2) "Approved practices" mean those silvicultural practices approved by the Secretary for the purpose of commercially growing timber through the establishment of forest stands, of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber, or of insuring maximum growth potential of forest stands to commercial production levels. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, cultivation of established young growth of desirable trees for silvicultural purposes, and improvement of immature forest stands for silvicultural purposes. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection.
- (2a) "Commissioner" means the Commissioner of Agriculture.
- (3) "Department" means the Department of ~~Environment and Natural Resources~~. Agriculture and Consumer Services.
- (3a) "Eligible land" means land owned by an eligible landowner.
- (4) "Eligible landowner" means a private individual, group, association or corporation owning land suitable for forestry purposes. Where forest land is owned jointly by more than one individual, group, association or corporation, as tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purpose of this Article, as one eligible landowner and entitled to receive cost-sharing payments as provided herein only once during each fiscal year.
- (5) Recodified as § 113A-178(3a).

- (6) "Forest development assessment" means an assessment on primary forest products from timber severed in North Carolina for the funding of the provisions of this Article, as authorized by the General Assembly.
- (7) "Forest development cost-sharing payment" means financial assistance to partially cover the costs of implementing approved practices in such amounts as the ~~Secretary-Commissioner~~ shall determine, subject to the limitations of this Article.
- (8) "Forest development fund" means the Forest Development Fund created by ~~G.S. 113A-183~~G.S. 106-963.
- (8a) "Maintain" means to retain the reforested area as forestland for a 10-year period and to comply with the provisions in the approved forest management plan.
- (9) ~~"Secretary" means the Secretary of Environment and Natural Resources.~~

"§ 106-958. Powers and duties.

(a) The ~~Secretary-Commissioner~~ shall have the powers and duties to administer the provisions of this Article.

(b) The Department shall serve as the disbursing agency for funds to be expended from and deposited to the credit of the Forest Development Fund.

(c) Subject to the limitations set forth in ~~G.S. 113A-183(d)~~G.S. 106-963(d), the ~~Secretary-Commissioner~~ is authorized to employ administrative, clerical and field personnel to support the program created by this Article and to compensate such employees from the Forest Development Fund for services rendered in direct support of the program.

(d) The ~~Secretary-Commissioner~~ is authorized to purchase equipment for the implementation of this program from the Forest Development Fund subject to the limitations of ~~G.S. 113A-183(e)~~G.S. 106-963(e). All equipment purchased with these funds will be assigned to and used only for the forest development program, except for emergency use in forest fire suppression and other activities relating to the protection of life or property. The Forest Development Fund will be reimbursed from other program funds for equipment costs incurred during such emergency use.

"§ 106-959. Administration of cost sharing.

The ~~Secretary-Commissioner~~ shall have authority to administer the cost sharing provisions of this Article, including but not limited to the following:

- (1) Prescribe the manner and requirements of making application for cost sharing funds.
- (2) Identify those approved forestry practices as defined in ~~G.S. 113A-178(2)~~G.S. 106-957(2) which shall be approved for cost sharing under the provisions of this Article.
- (3) Review periodically the cost of forest development practices and establish allowable ranges for cost sharing purposes for approved practices under varying conditions throughout the State.
- (4) Determine, prior to approving forest development cost sharing payments to any landowner, that all proposed practices are appropriate and are comparable in cost to the prevailing cost of those practices in the general area in which the land is located. Should the ~~Secretary-Commissioner~~ determine that the submitted cost of any practice is excessive, he shall approve forest development cost sharing payments based upon an allowable cost established under ~~G.S. 113A-180(3)~~G.S. 106-959(3).
- (5) Determine, prior to approving forest development cost sharing payments, that an approved forest management plan as defined in ~~G.S.~~

1 ~~113A-178(1)~~G.S. 106-957(1) for the eligible land has been filed with the
2 ~~Secretary-Commissioner~~ and that the landowner has indicated in writing his
3 intent to comply with the terms of such management plan.

4 (6) Determine, prior to approving forest development cost sharing payments,
5 that the approved practices for which payment is requested have been
6 completed in a satisfactory manner, conform to the approved forest
7 management plan submitted under ~~G.S. 113A-180(5)~~,G.S. 106-959(5), and
8 otherwise meet the requirements of this Article.

9 (7) Disburse from the Forest Development Fund to eligible landowners cost
10 sharing payments for satisfactory completion of practices provided for by
11 this Article and the ~~Secretary-Commissioner~~ shall, insofar as is practicable,
12 disburse the funds from the State's appropriation on a matching basis with
13 the funds generated by the Primary Forest Product Assessment.

14 **"§ 106-960. Cost-share agreements.**

15 (a) In order to receive forest development cost-share payments, an eligible landowner
16 shall enter into a written agreement with the Department describing the eligible land, setting
17 forth the approved practices implemented for the area and covered by the approved forest
18 management plan, and agreeing to maintain those practices for a 10-year period.

19 (b) In the absence of Vis major or Act of God or other factors beyond the landowner's
20 control, a landowner who fails to maintain the practice or practices for a 10-year period in
21 accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund
22 all cost-sharing funds received for that area.

23 (c) If the landowner voluntarily relinquishes control or title to the land on which the
24 approved practices have been established, the landowner shall:

- 25 (1) Obtain a written statement, or a form approved by the Department, from the
26 new owner or transferee in which the new owner or transferee agrees to
27 maintain the approved practices for the remainder of the 10-year period; or
28 (2) Repay to the Fund all cost-sharing funds received for implementing the
29 approved practices on the land.

30 If a written statement is obtained from the new owner or transferee, the original landowner will
31 no longer be responsible for maintaining the approved practices or repaying the cost-sharing
32 funds. The responsibility for maintaining those practices for the remainder of the 10 years shall
33 devolve to the new owner or transferee.

34 **"§ 106-961. Limitation of payments.**

35 (a) An eligible landowner may receive forest development cost sharing payments for
36 satisfactory completion of approved practices as determined by the ~~Secretary-Commissioner~~,
37 except that the ~~Secretary-Commissioner~~ shall approve no assistance in an amount exceeding the
38 lesser of (i) a sum equal to sixty percent (60%) of the landowner's actual per acre cost incurred
39 in implementing the approved practice or (ii) a sum equal to sixty percent (60%) of the
40 prevailing per acre cost as determined by the ~~Secretary-Commissioner~~ under ~~G.S.~~
41 ~~113A-180(3)~~G.S. 106-959(3) for implementing that approved practice.

42 (b) The maximum amount of forest development cost sharing funds allowed to any
43 landowner in one fiscal year will be the amount required to complete all approved practices on
44 100 acres of land at the prevailing cost sharing rate established under ~~G.S. 113A-181(a)~~G.S.
45 ~~106-961(a)~~.

46 (c) Eligible landowners may not use State cost sharing funds if funds from any federal
47 cost sharing program are used on the same acreage for forestry practices during the same fiscal
48 year.

49 **"§ 106-962. Participation by government political subdivisions.**

1 No governmental agency, federal, State or local, will be eligible for forest development
2 payments under the provision of this Article.

3 **"§ 106-963. Forest Development Fund.**

4 (a) The Forest Development Fund is created in the Department of ~~Environment and~~
5 ~~Natural Resources~~ as a special fund. Revenue in the Fund does not revert at the end of a fiscal
6 year, and interest and other investment income earned by the Fund accrues to it. The Fund is
7 created to provide revenue to implement this Article. The Fund consists of the following
8 revenue:

9 (1) Assessments on primary forest products collected under ~~Article 12 of~~
10 ~~Chapter 113A~~ Article 81 of Chapter 106 of the General Statutes.

11 (2) General Fund appropriations.

12 (3) Gifts and grants made to the Fund.

13 (d) In any fiscal year, no more than five percent (5%) of the available funds generated
14 by the Primary Forest Product Processor Assessment Act may be used for program support
15 under the provisions of ~~G.S. 113A-179(e)~~ G.S. 106-958(c).

16 (e) Funds used for the purchase of equipment under the provisions of ~~G.S. 113A-179(d)~~
17 G.S. 106-958(d) shall be limited to appropriations from the General Fund to the Forest
18 Development Fund designated specifically for equipment purchase."

19 **SECTION #.(ii)** Article 12 of Chapter 113A of the General Statutes (G.S. 113A-
20 189, G.S. 113A-190, G.S. 113A-191, G.S. 113A-192, G.S. 113A-193, G.S. 113A-194, G.S.
21 113A-195, and G.S. 113A-196) is recodified as a new Article 81 of Chapter 106 of the General
22 Statutes, G.S. 106-965 through G.S. 106-972.

23 **SECTION #.(jj)** Article 81 of Chapter 106 of the General Statutes, as recodified
24 by subsection (ii) of this section, reads as rewritten:

25 "Article 81.

26 Primary Forest Product Assessment Act.

27 **"§ 106-965. Short title.**

28 This Article shall be known as the Primary Forest Product Assessment Act.

29 **"§ 106-966. Statement of purpose.**

30 (a) The purpose of this Article is to create an assessment on primary forest products
31 processed from North Carolina timber to provide a source of funds to finance the forestry
32 operations provided for in the Forest Development Act of 1977.

33 (b) All assessments levied under the provisions of this Article shall be used only for the
34 purposes specified in ~~G.S. 113A-193(e)~~ G.S. 106-969(c) and in the Forest Development
35 ~~Act~~ Act, Article 11 of this Chapter.

36 **"§ 106-967. Definitions.**

37 The following words, terms and phrases hereinafter used for the purpose of this Article are
38 defined as follows:

39 (1) "Primary forest product" shall include those products of the tree after it is
40 severed from the stump and cut to its first roundwood product for further
41 conversion. These products include but are not limited to whole trees for
42 chipping, whole tree logs, sawlogs, pulpwood, veneer bolts, and posts, poles
43 and piling.

44 (2) "Processor" shall mean the individual, group, association, or corporation that
45 procures primary forest products at their initial point of concentration for
46 conversion to secondary products or for shipment to others for such
47 conversion.

48 (3) "Forest Development Fund" shall mean the special fund established by ~~the~~
49 ~~Forest Development Act of 1977~~ G.S. 106-963.

- (4) For the purpose of this Article, the following are not considered "primary forest products":
- a. Christmas trees and associated greens;
 - b. Material harvested from an individual's own land and used on said land for the construction of fences, buildings or other personal use developments;
 - c. Fuel wood harvested for personal use or use in individual homes.

"§ 106-968. Operation of assessment system.

(a) The General Assembly hereby levies an assessment on all primary forest products harvested from lands within the State of North Carolina.

(b) This assessment shall be at the rates as established in ~~G.S. 113A-194(b)~~ G.S. 106-970(b) and the proceeds of such assessment shall be deposited in the Forest Development Fund.

"§ 106-969. Duties of Secretaries.

(a) The Secretary, Department of Revenue, shall:

- (1) Develop the necessary administrative procedures to collect the assessment;
- (2) Collect the assessment from the primary forest product processors;
- (3) Deposit funds collected from the assessment in the Forest Development Fund;
- (4) Audit the records of processors to determine compliance with the provisions of this Article.

(b) ~~The Secretary of Environment and Natural Resources~~ Commissioner of Agriculture shall:

- (1) Provide to the Secretary, Department of Revenue, lists of processors subject to the assessment;
- (2) Advise the Secretary, Department of Revenue, of the appropriate methods to convert measurements of primary forest products by other systems to those authorized in this Article;
- (3) Establish in November prior to those sessions in which the General Assembly considers the State budget, the estimated total assessment that will be collectible in the next budget period and so inform the General Assembly;
- (4) Within 30 days of certification of the State budget, notify the Secretary, Department of Revenue, of the need to collect the assessment for those years covered by the approved budget.
- (5) By January 15 of each odd-numbered year, report to the General Assembly on the number of acres reforested, type of owners assisted, geographic distribution of funds, the amount of funds encumbered and other matters. The report shall include the information by forestry district and statewide and shall be for the two fiscal years prior to the date of the report.

(c) The Secretary of Revenue shall be reimbursed for those actual expenditures incurred as a cost of collecting the assessment for the Forest Development Fund. This amount shall be transferred from the Forest Development Fund in equal increments at the end of each quarter of the fiscal year to the Department of Revenue. This amount shall not exceed five percent (5%) of the total assessments collected on primary forest products during the preceding fiscal year.

"§ 106-970. Assessment rates.

(a) The assessment rates shall be based on the following standards:

- (1) For primary forest products customarily measured in board feet, the "International 1/4 Inch Log Rule" or equivalent will be used;
- (2) For primary forest products customarily measured in cords, the standard cord of 128 cubic feet or equivalent will be used;

- 1 (3) For any other type of forest product separated from the soil, the ~~Secretary of~~
2 ~~Environment and Natural Resources~~Commissioner of Agriculture shall
3 determine a fair unit assessment rate, based on the cubic foot volume of one
4 thousand foot board measure, International 1/4 Inch Log Rule or one
5 standard cord, 128 cubic feet.
- 6 (b) The assessment levied on primary forest products shall be at the following rates:
- 7 (1) Fifty cents (50¢) per thousand board feet for softwood sawtimber, veneer
8 logs and bolts, and all other softwood products normally measured in board
9 feet;
- 10 (2) Forty cents (40¢) per thousand board feet for hardwood and bald cypress
11 sawtimber, veneer, and all other hardwood and bald cypress products
12 normally measured in board feet;
- 13 (3) Twenty cents (20¢) per cord for softwood pulpwood and other softwood
14 products normally measured in cords;
- 15 (4) Twelve cents (12¢) per cord for hardwood pulpwood and other hardwood
16 and bald cypress products normally measured in cords;
- 17 (5) All material harvested within North Carolina for shipment outside the State
18 for primary processing will be assessed at a percentage of the invoice value.
19 This percentage will be established to yield rates equal to those if the
20 material were processed within the State.

21 **"§ 106-971. Collection of assessment.**

- 22 (a) The assessment shall be levied against the processor of the primary forest product.
- 23 (b) The assessment shall be submitted on a quarterly basis of the State's fiscal year due
24 and payable the last day of the month following the end of each quarter.
- 25 (c) The assessment shall be remitted to the Secretary, Department of Revenue, by check
26 or money order, with such production reports as may be required by said Secretary.
- 27 (d) The processor shall maintain for a period of three fiscal years and make available to
28 the Secretary, Department of Revenue, such production records necessary to verify proper
29 reporting and payment of revenue due the Forest Development Fund.
- 30 (e) The production reports of the various processors shall be used only for assessment
31 purposes. Production information will not be made a part of the public record on an individual
32 processor basis.
- 33 (f) Any official or employee of the State who discloses information obtained from a
34 production report, except as may be necessary for administration and collection of the
35 assessment, or in the performance of official duties, or in administration or judicial proceedings
36 related to the levy or collection of the assessment, shall be guilty of a Class 3 misdemeanor
37 punishable only by a fine not to exceed fifty dollars (\$50.00).

38 **"§ 106-972. Enforcement of collection.**

39 The Secretary of Revenue shall enforce collection of the primary forest product assessment
40 in accordance with the remedies and procedures contained in Article 9 of Chapter 105 of the
41 General Statutes."

42 **SECTION #.(kk) G.S. 1-339.17(c1)** reads as rewritten:

43 "(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given
44 in writing, not less than 21 days before the date on which bids are opened, to a reasonable
45 number of prospective timber buyers, which in all cases shall include the timber buyers listed in
46 the office of the Division of Forest Resources of the Department of Agriculture and Consumer
47 Services for the county or counties in which the timber to be sold is located."

48 **SECTION #.(ll) G.S. 20-81.12(b35)** reads as rewritten:

1 "(b35) First in Forestry. – The Division must receive 300 or more applications for the First
2 in Forestry plate before the plate may be developed. The Division shall transfer quarterly
3 one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the
4 sale of the First in Forestry plates to the Division of Forest Resources of the Department of
5 Agriculture and Consumer Services for a State forests and forestry education program and shall
6 transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account
7 derived from the sale of the First in Forestry plates to the Forest Education and Conservation
8 Foundation for their programs."

9 **SECTION #.(mm)** G.S. 97-2(2) reads as rewritten:

10 "(2) Employee. – The term "employee" means every person engaged in an
11 employment under any appointment or contract of hire or apprenticeship,
12 express or implied, oral or written, including aliens, and also minors,
13 whether lawfully or unlawfully employed, but excluding persons whose
14 employment is both casual and not in the course of the trade, business,
15 profession, or occupation of his employer, and as relating to those so
16 employed by the State, the term "employee" shall include all officers and
17 employees of the State, including such as are elected by the people, or by the
18 General Assembly, or appointed by the Governor to serve on a per diem,
19 part-time or fee basis, either with or without the confirmation of the Senate;
20 as relating to municipal corporations and political subdivisions of the State,
21 the term "employee" shall include all officers and employees thereof,
22 including such as are elected by the people. The term "employee" shall
23 include members of the North Carolina National Guard while on State active
24 duty under orders of the Governor and members of the North Carolina State
25 Defense Militia while on State active duty under orders of the Governor. The
26 term "employee" shall include deputy sheriffs and all persons acting in the
27 capacity of deputy sheriffs, whether appointed by the sheriff or by the
28 governing body of the county and whether serving on a fee basis or on a
29 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
30 part-time basis, and including deputy sheriffs appointed to serve in an
31 emergency, but as to those so appointed, only during the continuation of the
32 emergency. The sheriff shall furnish to the board of county commissioners a
33 complete list of all deputy sheriffs named or appointed by him immediately
34 after their appointment and notify the board of commissioners of any
35 changes made therein promptly after such changes are made. Any reference
36 to an employee who has been injured shall, when the employee is dead,
37 include also his legal representative, dependents, and other persons to whom
38 compensation may be payable: Provided, further, that any employee, as
39 herein defined, of a municipality, county, or of the State of North Carolina,
40 while engaged in the discharge of his official duty outside the jurisdictional
41 or territorial limits of the municipality, county, or the State of North Carolina
42 and while acting pursuant to authorization or instruction from any superior
43 officer, shall have the same rights under this Article as if such duty or
44 activity were performed within the territorial boundary limits of his
45 employer.

46 ...

47 "Employee" shall include an authorized pickup firefighter of the Division
48 of Forest Resources of the Department of ~~Environment and Natural~~
49 ~~Resources~~ Agriculture and Consumer Services when that individual is

engaged in emergency fire suppression activities for the Division of Forest Resources. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

...."

SECTION #.(nn) G.S. 105-259(b)(41) reads as rewritten:

"(41) To furnish the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services pertinent contact and financial information concerning companies that are involved in the primary processing of timber products so that the Secretary of Environment and Natural Resources is able to comply with G.S. 113A-193 under the Primary Forest Product Assessment Act."

SECTION #.(oo) G.S. 105-277.7(a)(2) reads as rewritten:

"(2) A representative of the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services, designated by the Director of that Division."

SECTION #.(pp) G.S. 105-296(j) reads as rewritten:

"(j) The assessor must annually review at least one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor must review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The period of the review process is based on the average of the preceding three years' data. The assessor may request assistance from the Farm Service Agency, the Cooperative Extension Service, the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services, or other similar organizations.

...."

SECTION #.(qq) G.S. 106-202.14(b)(3) reads as rewritten:

"(3) The Division of Forest Resources, Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services;"

SECTION #.(rr) G.S. 113-291.10(a)(3) reads as rewritten:

"(3) The Director of the Division of Forest Resources of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services, or a designee;"

SECTION #.(ss) G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the North Carolina Department of Correction; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Department of Juvenile Justice and Delinquency Prevention and full-time, permanent part-time, and temporary detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the ~~North Carolina~~ Division of Forest Resources, Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services during the time they are actively engaged in fire-fighting activities; and shall mean all full-time

1 employees of the North Carolina Department of Insurance during the time they are actively
2 engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad
3 workers, and during the time they are engaged in activities as members of the State Emergency
4 Response Team, when the Team has been activated; and shall mean all otherwise eligible
5 persons who, while actively engaged as firefighters or rescue squad workers, are acting in the
6 capacity of a fire or rescue instructor outside their own department or squad. The term "rescue
7 squad worker" shall mean a person who is dedicated to the purpose of alleviating human
8 suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by
9 providing the proper and efficient care or emergency medical services. In addition, this person
10 must belong to an organized rescue squad which is eligible for membership in the North
11 Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of
12 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the
13 North Carolina Association of Rescue Squads, Inc., must file a roster of those members
14 meeting the above requirements with the State Treasurer on or about January 1 of each year,
15 and this roster must be certified to by the secretary of said association. In addition, the term
16 "rescue squad worker" shall mean a member of an ambulance service certified by the
17 Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the
18 General Statutes. The Department of Health and Human Services shall furnish a list of
19 ambulance service members to the State Treasurer on or about January 1 of each year. The term
20 "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil
21 Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The
22 term "fireman" shall also mean county fire marshals when engaged in the performance of their
23 county duties. The term "rescue squad worker" shall also mean county emergency services
24 coordinators when engaged in the performance of their county duties."

25 **SECTION #.(tt)** G.S. 143-166.7 reads as rewritten:

26 **"§ 143-166.7. Applicability of Article.**

27 The provisions of this Article shall apply and be in full force and effect with respect to any
28 law-enforcement officer, fireman, rescue squad worker or senior Civil Air Patrol member killed
29 in the line of duty on or after May 13, 1975. The provisions of this Article shall apply with
30 respect to full-time, permanent part-time and temporary employees of ~~North Carolina Division~~
31 ~~of Forest Resources, Department of Environment and Natural Resources, Agriculture and~~
32 ~~Consumer Services,~~ killed in line of duty on or after July 1, 1975. The provisions of this Article
33 shall apply to county fire marshals and emergency services coordinators killed in the line of
34 duty on and after July 1, 1988."

35 **SECTION #.(uu)** G.S. 143-214.25A(a) reads as rewritten:

36 "(a) The Division of Water Quality of the Department shall develop a program to train
37 and certify individuals to determine the presence of surface waters that would require the
38 application of rules adopted by the Commission for the protection of riparian buffers. The
39 Division may train and certify employees of the Division as determined by the Director of the
40 Division of Water Quality; employees of units of local government to whom responsibility for
41 the implementation and enforcement of the riparian buffer protection rules is delegated
42 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General
43 Statutes who are employees of the Division of Forest Resources of the Department of
44 Agriculture and Consumer Services as determined by the Director of the Division of Forest
45 Resources. The Director of the Division of Water Quality may review the determinations made
46 by individuals who are certified pursuant to this section, may override a determination made by
47 an individual certified under this section, and, if the Director of the Division of Water Quality
48 determines that an individual is failing to make correct determinations, revoke the certification
49 of that individual."

1 **SECTION #.(vv)** G.S. 143-215.74M(d)(11) reads as rewritten:
2 "(11) The Director of the Division of Forest Resources of the Department of
3 Agriculture and Consumer Services or the Director's designee."
4 **SECTION #.(ww)** G.S. 166A-18 reads as rewritten:
5 **"§ 166A-18. Division of Forest Resources designated as emergency response agency.**
6 The Division of Forest Resources of the Department of ~~Environment and Natural~~
7 ~~Resources~~Agriculture and Consumer Services is designated an emergency response agency of
8 the State of North Carolina for purposes of:
9 (1) Supporting the Division of Emergency Management of the Department of
10 Crime Control and Public Safety in responding to all-risk incidents.
11 (2) Receipt of any applicable State or federal funding.
12 (3) Training of other State and local agencies in disaster and emergency
13 management.
14 (4) Any other disaster and emergency response roles for which the Division has
15 special training or qualifications."
16 **SECTION #.(xx)** The Revisor of Statutes shall make the conforming statutory
17 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
18 correct any reference in the General Statutes to the statutes that are recodified by this section
19 and make any other conforming changes necessitated by this section.
20 **SECTION #.(yy)** The transfers under this section become effective July 1, 2011,
21 and funds transferred shall be net of any changes enacted by this section.
22 **SECTION #.(zz)** Any references in this act to the Division of Forest Resources of
23 the Department of Environment and Natural Resources shall be construed to refer to the
24 Division of Forest Resources of the Department of Agriculture and Consumer Services. Any
25 references in this act to the Forestry Council of the Department of Environment and Natural
26 Resources shall be construed to refer to the Forestry Council of the Department of Agriculture
27 and Consumer Services.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H22B

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

CLEAN WATER MANAGEMENT TRUST FUND

SECTION #.(a) G.S. 113A-253.1 is repealed.

SECTION #.(b) G.S. 113A-253(a) reads as rewritten:

"(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue fund. The Fund receives revenue from the following sources and may receive revenue from other sources:

(1) Annual ~~appropriations under G.S. 143-15.3B.~~ appropriations.

(2) Scenic River special registration plates under G.S. 20-81.12."

SECTION #.(c) The funds appropriated in this act to the Clean Water Management Trust Fund shall be allocated as follows:

(1) Notwithstanding the provisions of G.S. 113A-253(d), the sum of three million dollars (\$3,000,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for the costs of administering the Clean Water Management Trust Fund, including costs to support the Board of Trustees of the Clean Water Management Trust Fund and its staff, the operating costs of the Board of Trustees of the Clean Water Management Trust Fund and its staff, and the costs of making debt payments to retire debt as provided under G.S. 113A-253(c);

(2) Notwithstanding the provisions of G.S. 113A-253(c) and G.S. 113A-254, the sum of one million dollars (\$1,000,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for the costs of providing buffers around military bases; and

(3) The sum of six million dollars (\$6,000,000) shall be used for the 2011-2012 fiscal year and for the 2012-2013 fiscal year for the costs for wastewater projects, water quality restoration projects, and stormwater projects consistent with the provisions of Article 18 of Chapter 113A of the General Statutes.

SECTION #.(d) The funds allocated under subdivision (1) and subdivision (3) of subsection (c) of this section shall not be used for land acquisition. Notwithstanding the provisions of G.S. 113A-253(c) and G.S. 113A-254, the funds allocated under subdivision (2) of subsection (c) of this section may be used for land acquisition.

SECTION #.(e) Any funds that become available to the Clean Water Management Trust Fund during the 2011-2012 fiscal year and the 2012-2013 fiscal year that are in excess of the funds allocated under subsection (c) of this section for that fiscal year shall be used as provided in subdivision (1) and subdivision (3) of subsection (c) of this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

DRAFT
SPECIAL PROVISION



2011-NATRES-H12E

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *NEW FUNDING SOURCE FOR WILDLIFE RESOURCE COMMISSION OPERATING*
2 *BUDGET*

3 **SECTION #.(a)** G.S. 105-164.44B is repealed.

4 **SECTION #.(b)** The Office of State Budget and Management, the State Controller,
5 and the Wildlife Resources Commission shall jointly effectuate, beginning with the Wildlife
6 Resources Commission's operating budget for the 2011-2012 fiscal year, the transition from the
7 Wildlife Resources Commission receiving sales tax proceeds to fund its operating budget to the
8 Wildlife Resources Commission receiving an appropriation of eighteen million five hundred
9 thousand dollars (\$18,500,000) from the General Fund to fund its operating budget.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

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SPECIAL PROVISION



2011-NATRES-H5

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *ANNUAL REPORT TO GOV OPS ON WILDLIFE RESOURCES FUND*
2 *EXPENDITURES*

3 SECTION #.(a) G.S. 143-250 reads as rewritten:

4 "§ 143-250. Wildlife Resources Fund.

5 All moneys in the game and fish fund or any similar State fund when this Article becomes
6 effective shall be credited forthwith to a special fund in the office of the State Treasurer, and
7 the State Treasurer shall deposit all such moneys in said special fund, which shall be known as
8 the Wildlife Resources Fund.

9 All unexpended appropriations made to the Department of Conservation and Development,
10 the Board of Conservation and Development, the Division of Game and Inland Fisheries or to
11 any other State agency for any purpose pertaining to wildlife and wildlife resources shall also
12 be transferred to the Wildlife Resources Fund.

13 Except as otherwise specifically provided by law, all moneys derived from hunting, fishing,
14 trapping, and related license fees, exclusive of commercial fishing license fees, including the
15 income received and accruing from the investment of license revenues, and all funds thereafter
16 received from whatever sources shall be deposited to the credit of the Wildlife Resources Fund
17 and made available to the Commission until expended subject to the provisions of this Article.
18 License revenues include the proceeds from the sale of hunting, fishing, trapping, and related
19 licenses, from the sale, lease, rental, or other granting of rights to real or personal property
20 acquired or produced with license revenues, and from federal aid project reimbursements to the
21 extent that license revenues originally funded the project for which the reimbursement is being
22 made. For purposes of this section, real property includes lands, buildings, minerals, energy
23 resources, timber, grazing rights, and animal products. Personal property includes equipment,
24 vehicles, machines, tools, and annual crops. The Wildlife Resources Fund herein created shall
25 be subject to the provisions of the State Budget Act, Chapter 143C of the General Statutes of
26 North Carolina as amended, and the provisions of the General Statutes of North Carolina as
27 amended, and the provisions of the Personnel Act, Chapter 143, Article 2 of the General
28 Statutes of North Carolina as amended.

29 All moneys credited to the Wildlife Resources Fund shall be made available to carry out the
30 intent and purposes of this Article in accordance with plans approved by the North Carolina
31 Wildlife Resources Commission, and all such funds are hereby appropriated, reserved, set aside
32 and made available until expended, for the enforcement and administration of this Article,
33 Chapter 75A, Article 1, and Chapter 113, Subchapter IV of the General Statutes of North
34 Carolina. ~~The No later than October 1 of each year, the Wildlife Resources Commission shall~~
35 ~~report to the Joint Legislative Commission on Governmental Operations before expending from~~
36 ~~the Wildlife Resources Fund more than the amount authorized in the budget enacted by the~~
37 ~~General Assembly for the fiscal period on the expenditures from the Wildlife Resources Fund~~

1 during the fiscal year that ended the previous July 1 of that year and on the planned
2 expenditures for the current fiscal year.

3 In the event any uncertainty should arise as to the funds to be turned over to the North
4 Carolina Wildlife Resources Commission the Governor shall have full power and authority to
5 determine the matter and his recommendation shall be final and binding to all parties
6 concerned."

7 **SECTION #.(b)** The first report required under G.S. 143-250, as amended by
8 subsection (a) of this section, is due no later than October 1, 2011.

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2011-COMM-H3

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

NER BLOCK GRANTS

SECTION #.(a) Appropriations from federal block grant funds are made for fiscal year ending June 30, 2012, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	\$ 1,000,000
02.	State Technical Assistance	450,000
03.	Scattered Site Housing	8,000,000
04.	Economic Development	7,210,000
05.	Small Business/Entrepreneurship	3,000,000
06.	NC Catalyst	5,000,000
07.	Infrastructure	19,740,000
08.	Capacity Building	600,000

TOTAL COMMUNITY DEVELOPMENT

BLOCK GRANT – 2012 Program Year \$ 45,000,000

SECTION #.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION #.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION #.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State Administration; up to four hundred fifty thousand dollars

1 (\$450,000) may be used for State Technical Assistance; up to eight million dollars
2 (\$8,000,000) may be used for Scattered Site Housing; up to seven million two hundred ten
3 thousand dollars (\$7,210,000) may be used for Economic Development; up to three million
4 dollars (\$3,000,000) may be used for Small Business/Entrepreneurship; up to five million
5 dollars (\$5,000,000) shall be used for NC Catalyst; up to nineteen million seven hundred forty
6 dollars (\$19,740,000) may be used for Infrastructure; up to six hundred thousand dollars
7 (\$600,000) may be used for Capacity Building. If federal block grant funds are reduced or
8 increased by the Congress of the United States after the effective date of this act, then these
9 reductions or increases shall be allocated in accordance with subsection (b) or (c) of this
10 section, as applicable.

11 **SECTION #.(e)** The Department of Commerce shall consult with the Joint
12 Legislative Commission on Governmental Operations prior to reallocating Community
13 Development Block Grant Funds. Notwithstanding the provisions of this subsection, whenever
14 the Director of the Budget finds that:

- 15 (1) A reallocation is required because of an emergency that poses an imminent
16 threat to public health or public safety, the Director of the Budget may
17 authorize the reallocation without consulting the Commission. The
18 Department of Commerce shall report to the Commission on the reallocation
19 no later than 30 days after it was authorized and shall identify in the report
20 the emergency, the type of action taken, and how it was related to the
21 emergency.
- 22 (2) The State will lose federal block grant funds or receive less federal block
23 grant funds in the next fiscal year unless a reallocation is made, the
24 Department of Commerce shall provide a written report to the Commission
25 on the proposed reallocation and shall identify the reason that failure to take
26 action will result in the loss of federal funds. If the Commission does not
27 hear the issue within 30 days of receipt of the report, the Department may
28 take the action without consulting the Commission.

29 **SECTION #.(f)** By September 1, 2011, the Division of Community Assistance,
30 Department of Commerce, shall report to the Joint Legislative Commission on Governmental
31 Operations and the Fiscal Research Division on the use of Community Development Block
32 Grant Funds appropriated in the prior fiscal year. The report shall include the following:

- 33 (1) A discussion of each of the categories of funding and how the categories
34 were selected, including information on how a determination was made that
35 there was a State-wide need in each of the categories.
- 36 (2) Information on the number of applications that were received in each
37 category and the total dollar amount requested in each category.
- 38 (3) A list of grantees including the grantee's name, county, category under
39 which the grant was funded, the amount awarded, and a narrative description
40 of the project.
41

GENERAL ASSEMBLY OF NORTH CAROLINA

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2011-COMM-H4A

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

ONE NORTH CAROLINA FUND

SECTION #. (a) Of the funds appropriated in this act to the One North Carolina Fund for the 2011-2012 fiscal year, the Department of Commerce may use up to two hundred fifty thousand dollars (\$250,000) to cover its expenses in administering the One North Carolina Fund and other economic development incentive grant programs during the 2011-2012 fiscal year. The Department of Commerce shall not use more than two hundred fifty thousand dollars (\$250,000) for administrative costs in any one fiscal year.

SECTION #. (b) Of the funds appropriated in this act to the One North Carolina Fund for the 2011-2012 fiscal year, the Department of Commerce may use up to two hundred fifty thousand dollars (\$250,000) to create and maintain an electronic database as provided in subsection (c) of this section.

SECTION #.(c) Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2L. Monitor and Assess Job Creation.

"§ 143B-433.1. Department of Commerce – Public database of job creation, retention, and wage information.

(a) Database. – The Department of Commerce shall create and maintain an electronic database available to the general public on the Internet that contains data on each business or joint private venture that the State, in whole or in part, has granted any discretionary economic development incentive after January 1, 2005, but not to include any project while under development or during competition with another state or nation.

(b) For the purposes of this Part, "economic incentives" includes, but is not limited to, any incentive provided through any of the following sources, or any successor to any of these sources:

(1) The Job Development Investment Grant.

(2) The One North Carolina Fund.

(c) The Department of Commerce shall update the database quarterly. The public Internet interface to the database must allow the user to search and prepare custom reports through an interactive menu and through a full text search engine. At a minimum, the data must contain all of the following:

(1) A unique project identification number and a unique descriptor or title.

(2) The date of the award agreement.

(3) The name, mailing address, telephone number, and Web site of the business recipient, or recipients if a joint venture, and the physical location (or the county if undecided) of the site receiving the incentive.

(4) The name and title of at least two State officials or employees who may provide further information.

- (5) The Department of Commerce tier designation of the county of physical location on the date awarded.
- (6) The North American Industry Classification System six digit code and NAICS category of business receiving the incentive.
- (7) Text of any letter or public announcement of the incentive by the Governor or Department of Commerce.
- (8) The sources and dollar value of State incentives by program name.
- (9) The sources and dollar value of local government funds provided by any locality and the nature of local funding including, but not limited to, cash; fee-waivers; in-kind services; and donation of land, buildings, or other assets.
- (10) The intended use of the incentive by any category or categories to which State law restricts or limits uses of incentive funds or, if not restricted, the intended purpose.
- (11) The competing states or nations vying for the business receiving the incentive.
- (12) A table identifying the number of created or retained job goals and the calendar date for achievement of job goals, and the actual jobs created or retained by those calendar dates.
- (13) The average wage goal for the group of new full-time jobs being created or retained, the average wage actually obtained, and how actual wage amounts are documented.
- (14) The projected cost per job created or retained, including State and local funds.
- (15) An abstract or executive summary describing the findings of any fiscal impact analysis of the incentive on direct and any indirect tax collections compared to the State and local investment in the venture.
- (16) An abstract or executive summary describing the findings of any economic analysis describing the impact of the incentive on North Carolina Gross Domestic Product.
- (17) Any clawbacks or refunds received and any amounts owed but uncollected from the recipient.

"§ 143B-433.2. Department of Commerce – Internet posting of summaries of incentive grants; format.

In addition to the public database required by G.S. 143B-433.1, beginning January 1, 2012, and updated monthly thereafter, the Department of Commerce shall post on the Department's Internet Web site a summary of all discretionary incentive grants depicted in graphical dashboard format, as follows:

- (1) Total number of projects completed or terminated since January 1, 2005, not meeting, within five percent (5%), and number above five percent (5%) of jobs created or jobs retained goals and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.
- (2) Total number of projects completed or terminated since January 1, 2005, not meeting, within five percent (5%), and number above five percent (5%) of average wage goals and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter.
- (3) Total State funds and total local funds invested in completed or terminated projects since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and annually thereafter;

- 1 (4) Total jobs retained and jobs created from completed or terminated projects
2 since January 1, 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010,
3 and 2011 and annually thereafter.
- 4 (5) Total cost and cost per job created and per job retained including total State
5 funds and local funds or contributions resulting from projects completed or
6 terminated since January 1, 2005, and by year for 2005, 2006, 2007, 2008,
7 2009, 2010, and 2011 and annually thereafter.
- 8 (6) Total clawbacks or refunds received and any amounts owed but uncollected
9 from the recipient from projects completed or terminated since January 1,
10 2005, and by year for 2005, 2006, 2007, 2008, 2009, 2010, and 2011 and
11 annually thereafter.
- 12 (7) Total number and percentage of active grants made to ventures achieving the
13 following percentages of the scheduled job creation or retained goal:
- 14 a. Greater than or equal to one hundred percent (100%).
15 b. From seventy-five percent (75%) to ninety-nine percent (99%).
16 c. From fifty percent (50%) to seventy-four percent (74%).
17 d. From one percent (1%) to forty-nine percent (49%).
18 e. Zero percent (0%).
- 19 (8) Total number and percentage of active grants made to ventures achieving the
20 following percentages of the average wage goal.
- 21 a. Greater than or equal to one hundred percent (100%).
22 b. From seventy-five percent (75%) to ninety-nine percent (99%).
23 c. From fifty percent (50%) to seventy-four percent (74%).
24 d. From one percent (1%) to forty-nine percent (49%).
25 e. Zero percent (0%).

26 **"§ 143B-433.3. Reports.**

27 (a) By January 1, 2012, then quarterly thereafter, the Department of Commerce
28 shall report in writing to the Joint Legislative Commission on Governmental Operations, the
29 Program Evaluation Division, and the Fiscal Research Division on the information required by
30 G.S. 143B-433.1(c).

31 (b) By October 1, 2011, and then quarterly thereafter, the Department of Commerce
32 shall report to the General Assembly on any favorable or unfavorable trends in the achievement
33 of job creation, retention, and wage goals and on any action taken on grantees where clawbacks
34 are in force and actions planned.

35 (c) Reference by the Department of Commerce to any existing report where any
36 required information is available but prepared for a different purpose or reference to
37 information on file or available upon request will not satisfy requirements of this Part."
38

GENERAL ASSEMBLY OF NORTH CAROLINA

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2011-COMM-H10

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

STATUS OF TRAVEL AND TOURISM INDUSTRY IN NC/ANNUAL REPORT

SECTION #. G.S. 143B-434.2(d) reads as rewritten:

"(d) The Department of Commerce, and the Division of Tourism, Film, and Sports Development within that Department, shall implement the policies set forth in this section. The Division of Tourism, Film, and Sports Development 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 ~~January 15~~October 15 of each year beginning ~~January 15, 1992~~October 15, 2011. The duties and responsibilities of the Department of Commerce through the Division of Tourism, Film, and Sports Development shall be to:

...."

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-COMM-H14

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

EMPLOYMENT SECURITY COMMISSION FUNDS

SECTION #.(a) Funds from the Employment Security Commission Reserve Fund shall be available to the Employment Security Commission of North Carolina to use as collateral to secure federal funds and to pay the administrative costs associated with the collection of the Employment Security Commission Reserve Fund surcharge. The total administrative costs paid with funds from the Reserve in the 2011-2012 fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).

SECTION #.(b) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina the sum of twenty million dollars (\$20,000,000) for the 2011-2012 fiscal year to be used for the following purposes:

- (1) Nineteen million five hundred thousand dollars (\$19,500,000) for the operation and support of local Employment Security Commission offices.
- (2) Two hundred thousand dollars (\$200,000) to operate the system that tracks former participants in State education and training programs.
- (3) Three hundred thousand dollars (\$300,000) to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs.

SECTION #.(c) There is appropriated from the Employment Security Commission Reserve Fund to the Employment Security Commission of North Carolina an amount not to exceed one million dollars (\$1,000,000) for the 2011-2012 fiscal year to fund State initiatives not currently funded through federal grants.

SECTION #.(d) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of one million dollars (\$1,000,000) for the 2011-2012 fiscal year to fund 'Opportunity NC,' which provides work based training opportunities to recipients of unemployment insurance benefits. Opportunity NC must meet all of the following factors:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to what would be given in a vocational school or academic educational instruction.
- (2) The training is for the benefit of the trainee.
- (3) The trainees do not displace regular employees, but work under their close observation.
- (4) The employer who provides the training derives no immediate advantage from the activities of the trainees and, on occasion, the employer's operations may actually be impeded.

- 1 (5) The trainees are not necessarily entitled to a job at the conclusion of the
2 training period.
3 (6) The employer and the trainees understand that the trainees are not entitled
4 to wages for the time spent in training.

5 **SECTION #.(e)** Of the funds credited to and held in the State of North Carolina's
6 account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States
7 pursuant to and in accordance with section 903 of the Social Security Act and pursuant to Title
8 II of P.L. 111-5, the Assistance for Unemployed Workers and Struggling Families Act, the
9 Employment Security Commission of North Carolina may expend the sum of two hundred five
10 million sixty-three thousand five hundred fifty-two dollars (\$205,063,552) as follows: (i) one
11 hundred million dollars (\$100,000,000) shall be used to design and build the integrated
12 unemployment insurance benefit and tax accounting system; and (ii) the remaining funds shall
13 be used for the operation of the unemployment insurance program."

GENERAL ASSEMBLY OF NORTH CAROLINA

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2011-COMM-H12

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 *TRANSFER EMPLOYMENT SECURITY COMMISSION TO DEPARTMENT OF*
2 *COMMERCE*

3 **SECTION #.** The statutory authority, powers, duties, functions, records, personnel,
4 property, and unexpended balances of appropriations, allocations, or other funds of the
5 Employment Security Commission are transferred to the Department of Commerce with all of
6 the elements of a Type I transfer as defined by G.S. 143A-6.

GENERAL ASSEMBLY OF NORTH CAROLINA

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2011-COMM-H13

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

***TRANSFER STATE PORTS AUTHORITY FROM DEPARTMENT OF COMMERCE TO
DEPARTMENT OF TRANSPORTATION***

SECTION #.(a) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the North Carolina State Ports Authority are transferred to the Department of Transportation with all of the elements of a Type I transfer as defined by G.S. 143A-6. The North Carolina State Ports Authority shall use the State's budgeting, accounting, and human resources systems, and shall comply with laws and policies related to submitting budget requests to the Office of State Budget and Management.

SECTION #.(b) Part 10 of Article 10 of Chapter 143B of the General Statutes is recodified as Article 20 of Chapter 136 of the General Statutes, G.S. 136-260 through G.S. 136-275.

SECTION #.(c) G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

- (26) The North Carolina State Ports Authority, as established by ~~G.S. 143B-452~~,
G.S. 136-260.

...."

SECTION #.(d) G.S. 143-166.13 reads as rewritten:

"§ 143-166.13. Persons entitled to benefits under Article.

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

...

- (15) North Carolina Ports Authority Police, Department of
~~Commerce;Transportation;~~

...."

SECTION #.(e) G.S. 143B-431 reads as rewritten:

"§ 143B-431. Department of Commerce – functions.

(a) The functions of the Department of Commerce, except as otherwise expressly provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall include:

- (1) All of the executive functions of the State in relation to economic development including by way of enumeration and not of limitation, the expansion and recruitment of environmentally sound industry, labor force development, the promotion of and assistance in the orderly development of North Carolina counties and communities, the promotion and growth of the

- 1 travel and tourism industries, ~~the development of our State's ports, and~~
2 energy resource management and energy policy development;
- 3 (2) All functions, powers, duties and obligations heretofore vested in an agency
4 enumerated in Article 15 of Chapter 143A, to wit:
- 5 a. The State Board of Alcoholic Control,
6 b. The North Carolina Utilities Commission,
7 c. The Employment Security Commission,
8 d. The North Carolina Industrial Commission,
9 e. State Banking Commission and the Commissioner of Banks,
10 f. Savings Institutions Division,
11 g. Repealed by Session Laws 2001-193, s. 10, effective July 1, 2001.
12 h. Credit Union Commission,
13 i. Repealed by Session Laws 2004-199, s. 27(c), effective August 17,
14 2004.
15 j. The North Carolina Mutual Burial Association Commission,
16 k. The North Carolina Rural Electrification Authority,
17 ~~l. The North Carolina State Ports Authority,~~
18 all of which enumerated agencies are hereby expressly transferred by a Type
19 II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted
20 Department of Commerce; and
- 21 (3) All other functions, powers, duties and obligations as are conferred by this
22 Chapter, delegated or assigned by the Governor and conferred by the
23 Constitution and laws of this State. Any agency transferred to the
24 Department of Commerce by a Type II transfer, as defined by G.S. 143A-6,
25 shall have the authority to employ, direct and supervise professional and
26 technical personnel, and such agencies shall not be accountable to the
27 Secretary of Commerce in their exercise of quasi-judicial powers authorized
28 by statute, notwithstanding any other provisions of this Chapter, ~~provided~~
29 ~~that the authority of the North Carolina State Ports Authority to employ,~~
30 ~~direct and supervise personnel shall be as provided in Part 10 of this~~
31 ~~Article.~~ Chapter.

32"

33 **SECTION #.(f)** G.S. 143B-433 reads as rewritten:

34 **"§ 143B-433. Department of Commerce – organization.**

35 The Department of Commerce shall be organized to include:

- 36 (1) The following agencies:
- 37 a. The North Carolina Alcoholic Beverage Control Commission.
38 b. The North Carolina Utilities Commission.
39 c. The Employment Security Commission.
40 d. The North Carolina Industrial Commission.
41 e. State Banking Commission.
42 f. Savings Institutions Division.
43 g. Repealed by Session Laws 2001-193, s. 11, effective July 1, 2001.
44 h. Credit Union Commission.
45 i. Repealed by Session Laws 2004-199, s. 27(d), effective August 17,
46 2004.
47 j. The North Carolina Mutual Burial Association Commission.
48 k. North Carolina Cemetery Commission.
49 l. The North Carolina Rural Electrification Authority.

- m. Repealed by Session Laws 1985, c. 757, s. 179(d).
- n. North Carolina Science and Technology Research Center.
- ~~o. The North Carolina State Ports Authority.~~
- p. Repealed by Session Laws 2010-180, s. 7(f), effective August 2, 2010.
- q. Economic Development Board.
- r. Labor Force Development Council.
- s., t. Repealed by Session Laws 2000, c. 140, s. 76(j), effective September 30, 2000.
- u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
- v. Repealed by Session Laws 1993, c. 321, s. 313b.
-"

SECTION #.(g) G.S. 143B-346 reads as rewritten:

"§ 143B-346. Department of Transportation – purpose and functions.

The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The Department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the Department shall enforce the laws of this State relating to transportation safety assigned to the Department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities ~~Commission, the State Ports Authority, Commission~~ and the Commissioners of Navigation and Pilotage as provided for by Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of Transportation and the Department of Motor Vehicles on July 1, 1977."

SECTION #.(h) G.S. 143B-452, recodified as G.S. 136-260 in subsection (b) of this section, reads as rewritten:

"§ 136-260. Creation of Authority – membership; appointment, terms and vacancies; officers; meetings and quorum; compensation.

(a) The North Carolina State Ports Authority is hereby created. It shall be governed by a board composed of nine members and hereby designated as the Authority. Effective July 1, 1983, it shall be governed by a board composed of 11 members and hereby designated as the Authority. The General Assembly suggests and recommends that no person be appointed to the Authority who is domiciled in the district of the North Carolina House of Representatives or the North Carolina Senate in which a State port is located. The Governor shall appoint seven members to the Authority, and the General Assembly shall appoint two members of the Authority. Effective July 1, 1983, the Authority shall consist of seven persons appointed by the Governor, and four persons appointed by the General Assembly. Effective July 1, 1989, the Governor shall appoint six members to the Authority, in addition to the Secretary of Commerce, who shall serve as a voting member of the Authority by virtue of his office. The Secretary of ~~Commerce~~ Transportation shall fill the first vacancy occurring after ~~July 1, 1989~~ July 1, 2011, in a position on the Authority over which the Governor has appointive power.

...."

SECTION #.(i) G.S. 146-65 reads as rewritten:

"§ 146-65. Exemptions from Chapter.

1 This Chapter does not apply to any of the following:

2 (1) The acquisition of highway rights-of-way, borrow pits, or other interests or
3 estates in land acquired for the same or similar purposes, or to the
4 disposition thereof, by the Board of Transportation or the North Carolina
5 Turnpike Authority.

6 (2) The North Carolina State Ports Authority in exercising its powers under ~~G.S.~~
7 ~~143B-452 through G.S. 143B-467.~~ G.S. 136-260 through G.S. 136-275."

8 **SECTION #.(j)** G.S. 150B-1(d) reads as rewritten:

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

11 ...

12 (11) The North Carolina State Ports Authority with respect to fees established
13 pursuant to ~~G.S. 143B-454(a)(11).~~ G.S. 136-262(a)(11).

14"

15 **SECTION #.(k)** The Revisor of Statutes shall make any other conforming
16 statutory changes that are necessary to reflect the transfer under subsection (a) of this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

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DRAFT
SPECIAL PROVISION



2011-COMM-H6

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

STUDY COSTS OF SERVICES PROVIDED BY DEPARTMENT OF COMMERCE TO AGENCIES IN THE DEPARTMENT OF COMMERCE

SECTION #.(a) In consultation with the Fiscal Research Division, the Department of Commerce and the ABC Commission, State Banking Commission, Credit Union Division, Cemetery Commission, Utilities Commission, Utilities Commission Public Staff, and the Rural Electrification Authority shall study the following: (i) the types of services provided by the Department of Commerce to each of the agencies during each fiscal year; and (ii) formulas or methods to be used to determine the costs of the services, including the advantages and disadvantages of each formula or method. The Department of Commerce and each of the agencies shall prepare a joint recommendation as to which formula or method to determine the costs of the services should be used. In addition, the Department of Commerce and each of the agencies shall develop a memorandum of understanding that details the services to be provided by the Department of Commerce during each fiscal year.

SECTION #.(b) By May 1, 2012, the Department of Commerce shall report the results of the study, including formula or method recommendations, required under subsection (a) of this section to the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division. By May 1, 2012, the Department of Commerce shall also submit a copy of each memorandum of understanding required under subsection (a) of this section to the Fiscal Research Division.

GENERAL ASSEMBLY OF NORTH CAROLINA

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2011-COMM-H1

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***INDUSTRIAL COMMISSION FEES/COMPUTER SYSTEM REPLACEMENT***

2 **SECTION #.** The North Carolina Industrial Commission may retain the additional
3 revenue generated as a result of an increase in the fee charged to parties for the filing of
4 compromised settlements. These funds shall be used for the purpose of replacing existing
5 computer hardware and software used for the operations of the Commission. These funds may
6 also be used to prepare any assessment of hardware and software needs prior to purchase and to
7 develop and administer the needed databases and new Electronic Case Management System,
8 including the establishment of two time-limited positions for application development and
9 support and mainframe migration. The Commission may not retain any fees under this section
10 unless they are in excess of the former two hundred dollar (\$200.00) fee charged by the
11 Commission for filing a compromised settlement.

GENERAL ASSEMBLY OF NORTH CAROLINA

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SPECIAL PROVISION



2011-COMM-H2

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

1 ***SET REGULATORY FEE FOR UTILITIES COMMISSION***

2 **SECTION #.(a)** The percentage rate to be used in calculating the public utility
3 regulatory fee under G.S. 62-302(b)(2) is twelve one-hundredths of one percent (0.12%) for
4 each public utility's North Carolina jurisdictional revenues earned during each quarter that
5 begins on or after July 1, 2011.

6 **SECTION #.(b)** The electric membership corporation regulatory fee imposed
7 under G.S. 62-302(b1) for the 2011-2012 fiscal year is two hundred thousand dollars
8 (\$200,000).

9 **SECTION #.(c)** This section becomes effective July 1, 2011.

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SPECIAL PROVISION



2011-COMM-H5

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

STATE-AID REPORTING REQUIREMENTS

SECTION #.(a) The North Carolina Association of Community Development Corporations, North Carolina Institute of Minority Economic Development, Inc., FFA Foundation, Ag in the Classroom, Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., Councils of Government, e-NC Authority, High Point Market Authority, and Partnership for the Sounds, Inc., 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 organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION #.(b) Remaining allotments after September 1 shall not be released to any nonprofit organization that does not satisfy the reporting requirements provided in subsection (a) of this section.

SECTION #.(c) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of an entity named in subsection (a) of this section.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

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SPECIAL PROVISION



2011-NATRES-H8A

Environment and Natural Resources
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

GRASSROOTS SCIENCE PROGRAM

SECTION #.(a) The Grassroots Science Program within the Department of Environment and Natural Resources is transferred to the Department of Commerce.

SECTION #.(b) Of the funds appropriated in this act to the Department of Commerce for State Aid, the sum of two million five hundred fifty-eight thousand seven hundred eighty-five dollars (\$2,558,785) for the 2011-2012 fiscal year and the sum of two million five hundred fifty-eight thousand seven hundred eighty-five dollars (\$2,558,785) for the 2012-2013 fiscal year is allocated as grants-in-aid for each fiscal year as follows:

	2011-2012	2012-2013
Aurora Fossil Museum	\$45,000	\$45,000
Cape Fear Museum	\$115,900	\$115,900
Carolina Raptor Center	\$80,750	\$80,750
Catawba Science Center	\$105,355	\$105,355
Colburn Earth Science Museum, Inc.	\$53,660	\$53,660
Core Sound Waterfowl Museum	\$45,000	\$45,000
Discovery Place	\$477,140	\$477,140
Eastern NC Regional Science Center	\$45,000	\$45,000
Fascinate-U	\$58,360	\$58,360
Granville County Museum Commission, Inc.—Harris Gallery	\$45,000	\$45,000
Greensboro Children's Museum	\$97,235	\$97,235
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$112,015	\$112,015
Highlands Nature Center	\$57,065	\$57,065
Imagination Station	\$61,930	\$61,930
The Iredell Museums, Inc.	\$45,000	\$45,000
Kidsenses	\$58,510	\$58,510
Museum of Coastal Carolina	\$56,165	\$56,165
The Natural Science Center of Greensboro, Inc.	\$134,145	\$134,145
North Carolina Museum of Life and Science	\$273,405	\$273,405
Pisgah Astronomical Research Institute	\$45,000	\$45,000
Port Discover: Northeastern North Carolina's Center for Hands-On Science, Inc.	\$45,000	\$45,000

1	Rocky Mount Children's Museum	\$52,015	\$52,015
2	Schiele Museum of Natural History		
3	and Planetarium, Inc.	\$165,235	\$165,235
4	Sci Works Science Center and		
5	Environmental Park of Forsyth County	\$105,455	\$105,455
6	Sylvan Heights Waterfowl Park		
7	and Eco-Center	\$45,000	\$45,000
8	Western North Carolina Nature Center	\$81,255	\$81,255
9	Wilmington Children's Museum	\$53,190	\$53,190
10			
11	Total	\$2,558,785	\$2,558,785

12 **SECTION #.(c)** No later than March 1, 2012, the Department of Commerce shall
13 report to the Fiscal Research Division all of the following information for each museum that
14 receives funds under this section:

- 15 (1) The actual operating budget for the 2010-2011 fiscal year.
- 16 (2) The proposed operating budget for the 2011-2012 fiscal year.
- 17 (3) The total attendance at the museum during the 2011 calendar year.

18 **SECTION #.(d)** No later than March 1, 2013, the Department of Commerce shall
19 report to the Fiscal Research Division all of the following information for each museum that
20 receives funds under this section:

- 21 (1) The actual operating budget for the 2011-2012 fiscal year.
- 22 (2) The proposed operating budget for the 2012-2013 fiscal year.
- 23 (3) The total attendance at the museum during the 2012 calendar year.

24 **SECTION #.(e)** As a condition for qualifying to receive funding under this section,
25 all of the following documentation shall, no later than November 1 of each year of the
26 2011-2013 fiscal biennium, be submitted for each museum under this section to the Department
27 of Commerce for fiscal years ending between July 1, 2009, and June 30, 2010, and only those
28 costs that are properly documented under this subsection are allowed by the Department in
29 calculating the distribution of funds under this section:

- 30 (1) Each museum under this section shall submit its IRS (Internal Revenue
31 Service) Form 990 to show its annual operating expenses, its annual report,
32 and a reconciliation that explains any differences between expenses as
33 shown on the IRS Form 990 and the annual report.
- 34 (2) Each friends association of a museum under this section shall submit its IRS
35 Form 990 to show its reported expenses for the museum, its annual report,
36 and a reconciliation that explains any differences between expenses as
37 shown on the IRS Form 990 and the annual report, unless the association
38 does not have both an IRS Form 990 and an annual report available; in
39 which case, it shall submit either an IRS Form 990 or an annual report.
- 40 (3) The chief financial officer of each county or municipal government that
41 provides funds for the benefit of the museum shall submit a detailed signed
42 statement of documented costs spent for the benefit of the museum that
43 includes documentation of the name, address, title, and telephone number of
44 the person making the assertion that the museum receives funds from the
45 county or municipality for the benefit of the museum.
- 46 (4) The chief financial officer of each county or municipal government or each
47 friends association that provides indirect or allocable costs that are not
48 directly charged to a museum under this section but that benefit the museum
49 shall submit in the form of a detailed statement enumerating each cost by

1 type and amount that is verified by the financial officer responsible for the
2 completion of the documentation and that includes the name, address, title,
3 and telephone number of the person making the assertion that the county,
4 municipality, or association provides indirect or allocable costs to the
5 museum.

6 **SECTION #.(f)** As used in subsection (e) of this section, "friends association"
7 means a nonprofit corporation established for the purpose of supporting and assisting a
8 museum that receives funding under this section.

9 **SECTION #.(g)** No more than one hundred twenty thousand dollars (\$120,000) in
10 State funds shall be used for the annual salary of any one employee of an entity named in
11 subsection (a) of this section.

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SPECIAL PROVISION



2011-COMM-H7

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

**WAKE FOREST INSTITUTE FOR REGENERATIVE MEDICINE/ PROFIT SHARING
WITH STATE**

SECTION #.(a) Prior to receiving any General Fund disbursements for the 2011-2013 biennium, the Wake Forest Institute for Regenerative Medicine (hereinafter "Institute") must enter into a memorandum of understanding with the Attorney General's Office in which the Institute commits to do all of the following:

- (1) Work with the Attorney General's Office to craft a legal agreement that specifies the manner in which any profits from investments made with State funds shall be shared with the State. Included in the agreement shall be language which provides that: (i) the Institute will give the State an equitable share of any revenues received from patents, royalties, licensing agreements, or other ancillary revenues which might be generated; and (ii) the Institute shall return to the State all of the funds provided by the State to the Institute within a reasonable period of time. For purposes of this section, the terms "equitable share" and "reasonable period of time" shall be as determined by the Attorney General's Office and the Institute.
- (2) Negotiate the terms of the legal agreement in good faith.
- (3) Submit the proposed legal agreement to the Joint Legislative Commission on Governmental Operations for review by January 15, 2012.
- (4) Execute the legal agreement no later than 30 days after it is presented to the Joint Legislative Commission on Governmental Operations.

SECTION #.(b) If the Institute fails to execute the legal agreement as provided in subdivision (a)(4) of this section, all disbursements to the Institute shall be suspended until the legal agreement has been executed.

SECTION #.(c) The Attorney General's Office shall consult with the Fiscal Research Division in crafting the memorandum of understanding and the legal agreement described in subsection (a) of this section.

SECTION #.(d) The Institute shall submit a copy of the memorandum of understanding described in subsection (a) of this section to the Fiscal Research Division and the Department of Commerce prior to receiving any General Fund disbursements for the 2011-2013 biennium, and shall submit a copy of the proposed legal agreement described in subsection (a) of this section to the Fiscal Research Division by January 15, 2012.

SECTION #.(e) The Institute shall comply with the following reporting requirements:

- (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,

1 and accomplishments, and prior State fiscal year itemized expenditures and
2 fund sources.
3 (2) Provide to the Fiscal Research Division a copy of the Institute's annual
4 audited financial statement within 30 days of issuance of the statement.
5 **SECTION #.(f)** Remaining allotments after September 1 shall not be released to
6 the Institute if it does not satisfy the reporting requirements provided in subsection (e) of this
7 section.
8 **SECTION #.(g)** No more than one hundred twenty thousand dollars (\$120,000) in
9 State funds shall be used for the annual salary of any one employee of the Institute.

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2011-COMM-H15

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

COUNCIL OF GOVERNMENT FUNDS

SECTION #.(a) Of the funds appropriated in this act to the Department of Commerce, the sum of three hundred forty-three thousand one hundred eighty-seven dollars (\$343,187) for the 2011-2012 fiscal year and the sum of three hundred forty-three thousand one hundred eighty-seven dollars (\$343,187) for the 2012-2013 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to twenty-five thousand dollars (\$25,000) for the 2011-2012 and the 2012-2013 fiscal years.

SECTION #.(b) A regional council of government may use funds allocated to it by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION #.(c) Funds allocated by this section shall be paid by electronic transfer in two equal installments each fiscal year. Upon receipt of the report required by subsection (e) of this section, the first installment shall be paid no later than September 15 of each year.

SECTION #.(d) Funds allocated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION #.(e) By September 1 of each year, and more frequently as requested, each council of government or lead regional organization shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the General Assembly on prior State fiscal year program activities, objectives, and accomplishments, and prior State fiscal year itemized expenditures and fund sources. Each council of government or lead regional organization shall provide to the Fiscal Research Division of the General Assembly a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

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2011-COMM-H16

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS ALLOCATIONS

SECTION #.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Partnership, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, North Carolina's Eastern Region Economic Development Partnership, and Carolinas Partnership, Inc.

SECTION #.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's development factor by the sum of the development factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "development factor" means a county's development factor as calculated under G.S. 143B-437.08; and
- (2) Next, the Department shall subtract from funds allocated to the North Carolina's Eastern Region Economic Development Partnership the sum of one hundred seventy-four thousand eight hundred ninety dollars (\$174,890) in the 2011-2012 fiscal year, which sum represents: (i) the total interest earnings in the prior fiscal year on the estimated balance of the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and (ii) the total interest earnings in the prior fiscal year on loans made from the seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and
- (3) Next, the Department shall redistribute the sum of one hundred seventy-four thousand eight hundred ninety dollars (\$174,890) in the 2011-2012 fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the development factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

1 **SECTION #.(c)** No more than one hundred twenty thousand dollars (\$120,000) in
2 State funds shall be used for the annual salary of any one employee of a regional economic
3 development commission.
4 **SECTION #.(d)** The General Assembly finds that successful economic
5 development requires the collaboration of the State, regions of the State, counties, and
6 municipalities. Therefore, the regional economic development commissions are encouraged to
7 seek supplemental funding from their county and municipal partners to continue and enhance
8 their efforts to attract and retain business in the State.

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2011-COMM-H17

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

BIOFUELS CENTER OF NORTH CAROLINA

SECTION #.(a) Of the funds appropriated in this act to the Biofuels Center of North Carolina (Center), the sum of four million five hundred thousand dollars (\$4,500,000) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

	2011-2012	2012-2013
General Administration	\$1,010,197	\$1,010,197
Administration – Projects & Program Delivery	\$732,113	\$732,113
Communications & Public Information	\$143,100	\$143,100
Grant Program	\$1,613,790	\$1,613,790
Targeted Projects & Accelerated Initiatives	\$1,000,800	\$1,000,800

SECTION #.(b) The Center shall comply with the following reporting requirements:

- (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 Center's annual audited financial statement within 30 days of issuance of the statement.

SECTION #.(c) Remaining allotments after September 1 shall not be released to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this section.

SECTION #.(d) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of the Center.

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2011-COMM-H18

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

NORTH CAROLINA BIOTECHNOLOGY CENTER

SECTION #.(a) Of the funds appropriated in this act to the North Carolina Biotechnology Center (Center), the sum of seventeen million five hundred fifty-one thousand seven hundred ten dollars (\$17,551,710) for each fiscal year in the 2011-2013 biennium shall be allocated as follows:

	2011-2012	2012-2013
Center Administration, Professional and Technical Assistance, & Oversight	\$2,411,289	\$2,411,289
Science & Technology Development	\$4,095,000	\$4,095,000
Centers of Innovation	\$2,972,700	\$2,972,700
Business and Technology Development	\$2,880,000	\$2,880,000
Education and Training	\$1,413,000	\$1,413,000
Ag Biotech Initiative	\$1,642,221	\$1,642,221
Economic and Industrial Development	\$1,035,000	\$1,035,000
Regional Offices and Statewide Development	\$1,102,500	\$1,102,500

SECTION #.(b) The Center shall comply with the following reporting requirements:

- (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 Center's annual audited financial statement within 30 days of issuance of the statement.

SECTION #.(c) Remaining allotments after September 1 shall not be released to the Center if it does not satisfy the reporting requirements provided in subsection (b) of this section.

SECTION #.(d) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of the Center.

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2011-COMM-H8

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION #.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of three million three hundred eighty-four thousand five hundred ninety-eight dollars (\$3,384,598) for each year in the 2011-2013 biennium shall be allocated as follows:

	2011-2012	2012-2013
Center Administration, Technical Assistance, & Oversight	\$1,229,830	\$1,229,830
Research and Demonstration Grants	\$277,780	\$277,780
Institute for Rural Entrepreneurship	\$108,205	\$108,205
Community Development Grants	\$797,360	\$797,360
Microenterprise Loan Program	\$146,965	\$146,965
Water/Sewer/Business Development Matching Grants	\$662,958	\$662,958
Statewide Water/Sewer Database	\$ 75,098	\$ 75,098
Agricultural Advancement Consortium	\$ 86,402	\$ 86,402

SECTION #.(b) Funds allocated in subsection (a) of this section for community development grants shall support development projects and activities within the State's communities. Any new or previously funded community development corporation, as that term is defined in subsection (c) of this section, is eligible to apply for community development grant funds. However, no community development grant funds shall be released to a community development corporation unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

SECTION #.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods and Tier 1 counties through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing,

1 and jobs designed to produce positive cash flow and curb blight in the
2 targeted community.

3 **SECTION #.(d)** The Rural Center shall provide a report containing detailed
4 budget, personnel, and salary information to the Office of State Budget and Management in the
5 same manner as State departments and agencies in preparation for biennium budget requests.

6 **SECTION #.(e)** In awarding grants under this section, the Rural Center shall give
7 preference to a resident company. For purposes of this section, the term "resident company"
8 means a company that has paid unemployment taxes or income taxes in this State and whose
9 principal place of business is located in this State. An application for a project that serves an
10 economically distressed area shall have priority over a project that does not. A grant to assist
11 with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

12 **SECTION #.(f)** By September 1 of each year, and more frequently as requested,
13 the Rural Center shall report to the Joint Legislative Commission on Governmental Operations
14 and the Fiscal Research Division on prior State fiscal year program activities, objectives, and
15 accomplishments and prior State fiscal year itemized expenditures and fund sources.

16 **SECTION #.(g)** No more than one hundred twenty thousand dollars (\$120,000) in
17 State funds shall be used for the annual salary of any one employee of the Rural Center.

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2011-COMM-H9

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

RURAL ECONOMIC DEVELOPMENT CENTER/INFRASTRUCTURE PROGRAM

SECTION #.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of fifteen million five hundred eighty-eight thousand seven hundred seventy dollars (\$15,588,770) for each year in the 2011-2013 biennium shall be allocated as follows:

- (1) To continue the North Carolina Infrastructure Program. The purpose of the Program is to provide grants to local governments to construct critical water and wastewater facilities and to provide other infrastructure needs, including technology needs, to sites where these facilities will generate private job-creating investment. The grants under this Program shall not be subject to the provisions of G.S. 143-355.4.
- (2) To provide matching grants or loans to local governments in distressed areas that will productively reuse vacant buildings and properties, with priority given to towns or communities with populations of less than 5,000.
- (3) To provide grants and technical assistance to reinvigorate the economies of towns with populations of less than 7,500, and to invest in economic innovation that stimulates business and job growth in distressed areas.
- (4) Recipients of grant funds appropriated under this section shall contribute a cash match for the grant that is equivalent to at least five percent (5%) of the grant amount. The cash match shall come from local resources and may not be derived from other state or federal grant funds or from funds provided by the Rural Center.

SECTION #.(b) In awarding grants under this section, the Rural Center shall give preference to a resident company. For purposes of this section, the term "resident company" means a company that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. An application for a project that serves an economically distressed area shall have priority over a project that does not. A grant to assist with water infrastructure needs is not subject to the provisions of G.S. 143-355.4.

SECTION #.(c) During each year of the 2011-2013 biennium, the Rural Center may use up to three hundred ten thousand eight hundred eighty-eight dollars (\$310,888) of the funds appropriated in this act to cover its expenses in administering the North Carolina Economic Infrastructure Program.

SECTION #.(d) By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division concerning the progress of the North Carolina Economic Infrastructure Program in the prior State fiscal year.

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2011-COMM-H11

Department of Commerce/Economic Development
Appropriations Subcommittee on Natural and Economic Resources

Requested by: Representative

OPPORTUNITIES INDUSTRIALIZATION CENTERS FUNDS

SECTION #.(a) Of the funds appropriated in this act to the North Carolina Rural Economic Development Center, Inc. (Rural Center), the sum of two hundred seventy-one thousand three hundred twenty dollars (\$271,320) for each year in the 2011-2013 biennium shall be equally distributed among the certified Opportunities Industrialization Centers (OI Centers).

SECTION #.(b) By September 1 of each year, and more frequently as requested, the Rural Center shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on OI Centers receiving funds pursuant to subsection (a) of this section. The report shall include data for each OI Center on all itemized expenditures and all fund sources for the prior State fiscal year. The report shall also contain a written narrative on prior fiscal year program activities, objectives, and accomplishments that were funded with funds appropriated in subsection (a) of this section.

SECTION #.(c) The Rural Center shall ensure that each OI Center complies with the audit and reporting requirements prescribed by G.S. 143C-6-232 and Section 09 North Carolina Administrative Code 03M.0101.

SECTION #.(d) No funds appropriated under this act shall be released to an OI Center listed in subsection (a) of this section if the OI Center has any overdue tax debts, as that term is defined in G.S. 105-243.1, at the federal or State level.