1999

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MINUTES

HOUSE COMMITTEE ON

ENVIRONMENT & NATURAL RESOURCES

1999-2000

CHAIRS

REPRESENTATIVE PRYOR GIBSON

REPRESENTATIVE NURHAM WARWICK

Committee Assistants

Carolyn Honeycutt
Shirlyn MacPherson

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

1999-2000



Rep. Pryor Gibson
Chair



Rep. Nurham Warwick
Chair



Rep. Leslie Cox
Vice Chair



Rep. Donald Bonner



Rep. John Brown



Rep. Billy Creech



Rep. Arlie Culp

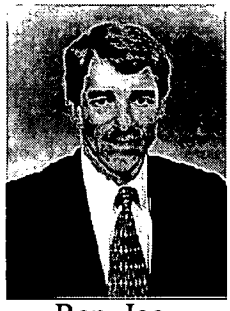


Rep. Leo Daughtry

Environment & Natural Resources 1999-2000
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Rep. Don Davis


Rep. Mitch Gillespie


Rep. Joe Hackney


Rep. Dewey Hill


Rep. Paul Luebke


Rep. Danny McComas


Rep. Eugene McCombs

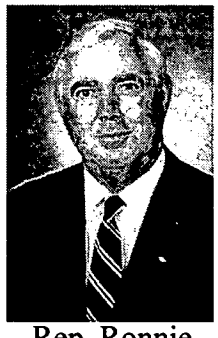

Rep. Marian McLawhorn


Rep. Edwin McMahan


Rep. Frank Mitchell


Rep. Jean Preston


Rep. Liston Ramsey


Rep. Ronnie Smith


Rep. Scott Thomas


Rep. Gregg Thompson


Rep. Joe Tolson


Rep. Russell Tucker


Rep. Alex Warner


Rep. Douglas Yongue

ATTENDANCE

House Committee on Environment & Natural Resources

(Name of Committee)

DATES	2/23	3/2	3/13	4/13	4/20	4/22	4/23	4/27	5/18	5/25	6/10	6/15	6/16	6/17	6/22
WARWICK, Nurham CHAIR	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
GIBSON, Pryor CHAIR	✓	✓	✓		✓	✓		✓		✓	✓	✓	✓	✓	✓
COX, Leslie VICE CHAIR	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
BONNER, Donald	✓	✓	✓		✓	✓	✓	✓		✓		✓	✓	✓	✓
BROWN, John	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓	AB	✓	✓
CREECH, Billy	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	AB	✓	
CULP, Arlie	✓	✓	✓		✓		✓		✓	✓		✓	✓	✓	✓
DAUGHTRY, Leo		✓		✓	✓			✓			EX	✓	✓	✓	
DAVIS, Don	✓	✓	✓	✓		✓	✓	✓		✓		✓	✓	✓	✓
GILLESPIE, Mitch	✓	✓	✓	✓	✓		✓			✓	✓	✓	✓	✓	✓
HACKNEY, Joe			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
HILL, Dewey	✓	✓			✓	✓	✓	✓	✓		✓	Excused		✓	
LUEBKE, Paul				✓	✓	✓				✓		✓	✓	✓	✓
MCCOMAS, Danny	✓	✓			✓	✓		✓		✓		✓	✓	✓	✓
MCCOMBS, Eugene	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓
MCLAWHORN, Marian	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓
MCMAHAN, Edwin	✓	✓	✓	✓	✓					✓	✓	✓	✓	AB	✓
MITCHELL, Frank	✓	✓	✓	✓	✓	✓		✓			✓	✓	✓	A	B
PRESTON, Jean	✓		✓	✓	✓					✓	✓	✓	✓	✓	✓
RAMSEY, Liston		✓	✓	✓	✓	✓	✓			EX CUSED	EX CUSED	EX CUSED	EX CUSED	EX AB	EX
SMITH, Ronnie	✓	✓	✓	✓	✓	✓	✓			✓		✓	✓	✓	✓
THOMAS, Scott	✓	a	✓	✓	✓		✓			✓		✓	✓	✓	✓
THOMPSON, Gregg	✓		✓	✓	✓				✓	✓		AB	AB		✓
TOLSON, Joe	✓	✓	✓		✓	✓	✓	✓			✓	✓	✓	✓	AB
TUCKER, Russell	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	AB	✓	
WARNER, Alex	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
YONGUE, Douglas	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

EX OFFICIO
Pete Cunningham
BUD BADDOUR
BEVERLY EARLE

Baddour ✓
Max Melton ✓ Non members
Jim Gulley

ATTENDANCE

House Committee on Environment & Natural Resources

(Name of Committee) Public Hearing

DATES	6/23	6/29	6/30	7/8		6/22									
WARWICK, Nurham CHAIR	✓	✓	✓	EX		Excused									
GIBSON, Pryor CHAIR	✓	✓	✓	✓		✓									
COX, Leslie VICE CHAIR	✓	✓	✓	✓		Excused									
BONNER, Donald		✓	✓	✓											
BROWN, John	✓	✓		✓											
CREECH, Billy	✓	✓	✓	✓											
CULP, Arlie	✓	✓		✓											
DAUGHTRY, Leo	EX	✓	EX			Excused									
DAVIS, Don	✓	✓													
GILLESPIE, Mitch	✓	✓				✓									
HACKNEY, Joe	✓	✓	✓			as									
HILL, Dewey	✓	✓		✓		Time									
LUEBKE, Paul	✓	✓	✓	✓											
MCCOMAS, Danny	✓	✓													
MCCOMBS, Eugene	✓	✓		✓		Same									
MCLAWHORN, Marian	✓	✓	✓	✓											
MCMAHAN, Edwin	✓	✓	✓	✓											
MITCHELL, Frank	✓	✓	✓	✓											
PRESTON, Jean	✓					✓									
RAMSEY, Liston	EX AB	EX	EX	EX		EX									
SMITH, Ronnie	✓	✓	✓			✓									
THOMAS, Scott	✓	✓	✓	✓		✓									
THOMPSON, Gregg	✓	✓	✓			Excused									
TOLSON, Joe	✓	✓	✓	✓											
TUCKER, Russell	✓	✓	✓	✓											
WARNER, Alex	✓	✓	✓	✓											
YONGUE, Douglas	✓	✓	✓												

Andy Dedmon, non member ✓
Carl Allred, non-member ✓
Zeno Edwards, non-member ✓

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — HOUSE: ENVIRONMENT & NATURAL RESOURCES — Valid Through 3-SEP-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 215=	PRESTON	EXTEND CORE SOUND MORATORIUM	*H -RE-REF COM ON FINANCE	03-02-99	04-21-99
H 323=	HACKNEY	AMBIENT AIR QUALITY IMPROVEMENT	H -REF TO COM ON ENVIRON	03-04-99	
H 352=	MOSLEY	IMPROVE ENFORCEMENT OF LITTERING	H -REF TO COM ON ENVIRON	03-08-99	
H 571	REDWINE	BRUNSWICK MENHADEN RESTRICTIONS	HF-REPTD UNFAV	03-23-99	04-21-99
H 746=	BAKER	NEW RIVER STATE PARK/ACREAGE LIMIT	*S -REF TO COM ON AGRICUL&	03-31-99	04-21-99
H 978	NYE	DAMAGED PIERS/BOAT STALLS/WHITE LAKE	*R -CH. SL 99-0459	04-12-99	04-23-99
H1002	WARWICK	ENVIRONMENTAL IMPACT STUDY/FUNDS	*H -RE-REF COM ON ENVIRON	04-27-99	
H1008=	COX	SEDIMENTATION ACT/EXCAVATION	*R -CH. SL 99-0082	04-13-99	04-21-99
H1039	REDWINE	BEACH MANAGEMENT STRATEGY	*S -REF TO COM ON AGRICUL&	04-14-99	04-22-99
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	*R -CH. SL 99-0379	04-15-99	06-14-99
H1099	HACKNEY	SULFUR CONTENT LIMITS FOR GASOLINE	H -REF TO COM ON ENVIRON	04-15-99	
H1108	THOMAS	DENR BURNING PERMITS STUDY	H -RE-REF COM ON RULES	04-15-99	04-21-99
H1125	HACKNEY	CONFORM DEFINITION OF HAZ. SITE	R -CH. SL 99-0083	04-15-99	04-23-99
H1127=	SMITH	REVISE CERTAIN LODGING RULES	R -CH. SL 99-0077	04-21-99	04-23-99
H1128	SMITH	MORATORIUM ON DISCHARGING SYSTEMS	H -REF TO COM ON ENVIRON	04-15-99	
H1160=	HACKNEY	CLEAN WATER ACT OF 1999	*R -CH. SL 99-0329	04-15-99	04-23-99
H1183	WRIGHT	STATE AGENCIES COMPLY WITH CAMA	H -REF TO COM ON ENVIRON	04-15-99	
H1211	HACKNEY	IMPROVED ANIMAL WASTE TECHNOLOGY	H -REF TO COM ON ENVIRON	04-15-99	
H1218=	GIBSON	ENV. TECH. CORRECTIONS	S -REF TO COM ON AGRICUL&	04-15-99	04-21-99
H1232=	TUCKER	WETLANDS REIMBURSE/LOCAL TAX BASE	H -REF TO COM ON ENVIRON	04-15-99	
H1234	HUNTER	EXTEND MORATORIA/INACTIVE LAGOONS	H -REF TO COM ON ENVIRON	04-15-99	
H1241=	CREECH	PROTECT/RESTORE RIPARIAN BUFFERS	H -REF TO COM ON ENVIRON	04-15-99	
H1273=	LUEBKE	FEDERAL CMAQ FUNDS USE/PUB. TRANS.	H -RE-REF COM ON ENVIRON	06-10-99	
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	*S -REF TO COM ON AGRICUL&	04-29-99	06-23-99
S 249=	ALBERTSON	CORE SOUND MORATORIUM/CRAB LICENSE	*R -CH. SL 99-0209	03-29-99	04-21-99
S 710	ODOM	HUNTERSVILLE DEVELOPMENT	H -RE-REF COM ON LOCGOVI	04-28-99	05-19-99
S 777=	ALBERTSON	DRY-CLEANING PROGRAM AMENDS	S -RE-REF COM ON AGRICUL&	04-23-99	07-09-99
S 872=	FOXX	NEW RIVER STATE PARK/ACREAGE LIMIT	*R -CH. SL 99-0147	04-27-99	05-20-99
S 953	CLODFELTER	AMBIENT AIR QUALITY IMPROVEMENTS	*R -CH. SL 99-0328	04-28-99	06-30-99
S1047	ALBERTSON	PROTECT CERTAIN CULTCH PLANTING AREA	*R -CH. SL 99-0143	04-27-99	05-20-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium

HOUSE: ENVIRONMENT & NATURAL RESOURCES

Valid Through 3-SEP-1999

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S1048	ALBERTSON	AMEND FISHERY RESOURCE GRANT PROGRAM	*R -CH. SL 99-0162	04-27-99	05-20-99
S1049	ALBERTSON	NEUSE RIVER BUFFER AMENDS	*R -CH. SL 99-0448	05-27-99	07-08-99
S1127	HORTON	STATE NATURE AND HISTORIC PRESERVE	*R -CH. SL 99-0268	04-27-99	06-15-99
S1132=	ODOM	ENV. TECH. CORRECTIONS	H -REF TO COM ON ENVIRON	04-28-99	
S1139	HORTON	NATURE & HISTORIC PRESERVE	*R -CH. RES 99-18	04-27-99	06-15-99
S1159	PLYLER	LAND-USE/CONTAMINATED SITES	*R -CH. SL 99-0198	04-27-99	05-27-99
S1161	HAGAN	RIPARIAN BUFFER TAX EXEMPT	*H -RE-REF COM ON APPROP	04-28-99	07-08-99

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

HOUSE COMMITTEE ON
ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

February 23, 1999

- Introductions
  - Members of Committee
  - Staff
- Introduction of Speaker
  - Wayne McDevitt, Secretary, Department of Environment, and Natural Resources
  - Questions & Answers

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, February 23, 1999**

TIME: **12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

Secretary of Environment & Natural Resources, Wayne McDevitt, will speak to the committee. Members of his staff will be available for questions and comments.

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 p.m.** on **February 18, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Bonnie Trivette (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

FEBRUARY 23, 1999

MINUTES

The House Committee on Environment and Natural Resources met for the first time on Tuesday, February 23, 1999, in Room 643 of the Legislative Office Building at 12:00 p.m. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Dewey Hill, Danny McComas, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Ex-officio member, Representative Pete Cunningham, also attended.

Chair Warwick called the meeting to order at 12:10 p.m. He and the members of the Committee introduced themselves. Chairman Warwick recognized Mr. George Givens, Research Division, to introduce the staff, Jeff Hudson, Rick Zechini and Hannah Holm. Ms. Ferebe Stainback, Legislative Assistant to Vice Chair Cox, Committee Assistants, Carolyn Honeycutt and Bonnie Trivette, and Miss Kristen Hawley of Emerald Isle, House Page, were also introduced.

Chair Warwick expressed his expectations of the Committee and the responsibility of the members to work on behalf of business, industry, agriculture and local governments, as well as the people of North Carolina and future generations. He also stated it was the intent of the Committee that all issues be heard.

Chair Gibson stated the issues the Committee will address are of ultimate and tantamount importance, not only to the quantity and quality of life in North Carolina, but to people's perceptions. He reiterated that both the regulated and regulators will be heard.

Mr. Wayne McDevitt, Secretary of the North Carolina Department of Environment and Natural Resources (NCDENR), was recognized to speak. Secretary McDevitt introduced his staff members: Sherri Evans-Stanton; Michael Williamson; Bill Holmon; Dewey Botts; Dan McLawhorn; Don Reuter; Diane Long and Richard Rogers. Mr. Preston Pate, Director of Marine Fisheries, Ms. Anne Taylor, Director of Environmental Education and Mr. Preston Howard, resigning Director of the Division of Water Quality, were also introduced. Secretary McDevitt thanked Mr. Howard for his many years of service. (An organization chart of the Department is included in the minutes as Attachment 1.)

Secretary McDevitt next explained NCDENR's Working Strategic Plan (Attachment 2). He said a Customer Service Center would be opening within the next few weeks. Ms. Edith McKinney will serve as director of the center as well as the small business ombudsman. The Secretary thanked the legislators for their efforts in the past and explained that the Department is now working together better with other agencies and organizations. He said there are many issues in the state that need attention. Some of these are a clean water package, lagoon conversions, a clean air package and coastal area management.

Representative Gillespie asked about funds from the federal government that could be used for matching funds for the Clean Water Trust Fund. Secretary McDevitt said a joint partnership would be announced next week that would allow farmers and others to recoup some of the losses they will have in creating buffers. The state match is being provided by the state's Clear Water Trust Fund so there is not an appropriation.

Representative Preston asked if the Secretary could, at some point in time, provide a historical overview of MAMA and PAMA. Secretary McDevitt said the bills for both CAMA and MAMA were introduced during the 1974 session. He said he would look into the history.

Chair Gibson thanked the Secretary for speaking to the Committee. There being no further discussion, the meeting adjourned at 12:57 p.m.

Nurham O. Warwick
Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Carolyn Honeycutt, Committee Assistant

Shirley R. MacPherson for
Bonnie Trivette, Committee Assistant
Bonnie Trivette

North Carolina
Department of Environment and Natural Resources

Organization Chart - January 1999

SECRETARY
Wayne McDevitt

* Wildlife Resources Commission
* Clean Water Management Trust Fund
(details on back)

Public Affairs
Director
Don Reuter

Policy & Programs
Deputy Secretary
Sherri Evans-Stanton

Operations
Deputy Secretary
Michael Williamson

General Counsel
Daniel McLawhorn

Policy & Planning
Senior Analyst
Michael Shore

Governor's Mgmt.
Intern
Kristin Cozza

Legislative and Intergov. Affairs
Director
Richard Rogers

Environmental Protection
Asst. Secretary
William Holman

Natural Resources
Asst. Secretary
Dewey Botts

Admin. Services
Director
Lloyd Inman

Quality Improvement
Director
Vacant

Env. Protection
Deputy Asst.Secretary
Jimmy Carter

Regional Offices
- Asheville
- Fayetteville
- Mooresville
- Raleigh
- Washington
- Wilmington
- Winston-Salem

- **Air Quality** — Alan Klimek
- **Coastal Management** — Donna Moffitt
- **Environmental Health** — Linda Sewall
- **Land Resources** — Charles Gardner
- **Pollution Prevention and Environmental Assistance** — Gary Hunt
- **Radiation Protection** — Mel Fry
- **Waste Management** — Bill Meyer
- **Water Quality** — Preston Howard
- **Water Resources** — John Morris

- **Aquariums** — Rhett White
- **Environmental Educ.** — Anne Taylor
- **Forest Resources** — Stan Adams
- **Marine Fisheries** — Preston Pate
- **Museum of Natural Sciences** — Dr. Betsy Bennett
- **Parks & Recreation** — Dr. Phil McKnelly
- **Soil & Water Conservation** — (vacant)
- **Zoological Park** — Dr. David Jones

- **Budget, Planning & Analysis** — Jane Smith
- **Controller** — Rod Davis
- **Equal Employment Opportunity** — Sandra Washington
- **Purchase and Services** — Laird Davison
- **Information Tech. Services** — Bill Golden
- **Human Resources** — Harlan Frye

*** Wildlife Resources Commission:**

It is the state agency that manages, conserves, regulates and protects the wildlife resources and administers the boating safety program in the state. The Commission operates through a professional wildlife staff, directed by 17 Commissioners appointed by the Governor, Speaker of the House and President Pro Tem of the Senate.

*** Clean Water Management Trust Fund:**

The Fund is an independent, 18-member Board of Trustees that uses specific General Fund revenues to provide local governments, state agencies, and conservation non-profits with grants to help pay for projects that deal with water pollution problems. Its trustees are appointed by the Governor, Speaker of the House, and president Pro Tem of the Senate.

Senior Staff Roles and Responsibility
January 20, 1999

Michael Williamson, Deputy Secretary for Operations
Overview:

- This position has direct responsibility for the department's management process and, as the Senior Administrative Officer, is responsible for all of the administrative infrastructure support- e.g. Finance, Budget, Purchase and Services, Human Resources, and Information Technology. The purpose of this position is to improve the department's management process and decision making, as well as the overall effectiveness of how the department achieves its identified objectives. The position will provide counsel and advice to the Secretary and can act on behalf of the Secretary in official capacities.

Sherri Evans-Stanton, Deputy Secretary for Policy and Programs
Overview:

- This position has direct responsibility for the development and implementation of departmental priorities and policies. The purpose of this position is to oversee day-to-day programmatic duties of the department, coordinate and manage cross-divisional policy issues, as well as to provide oversight of the department's legislative strategy. This position is also responsible for interdepartmental policy and programmatic coordination and serves as the Senior Staff liaison with the Departments of Transportation, Commerce, Health and Human Services, and Agriculture. The position provides counsel and advice to the Secretary and can act on behalf of the Secretary in official capacities.

Dan McLawhorn, General Counsel
Overview:

- This position serves as legal advisor to the department on issues relating to environmental and natural resource programs, personnel, procurement, liability, legislative, and other legal issues. As a member of the Senior Staff, this position provides legal advice to the Secretary and the senior team for all policy matters which impact the department and serves as a legal advisor to the Governor's office on environmental matters. This position also serves as the chief legal strategist within the department, for lawsuits brought by and against the department and as the primary contact on legal strategy issues with the Attorney General's office. This position also oversees the departments rule making procedures.

Don Reuter, Director, Office of Public Affairs
Overview:

- This position has the primary responsibility for the department's communications processes and coordinates the agency's public outreach and response efforts. The position provides a liaison to the general public, media, other state, federal and local government agencies, and interest groups. As a member of the DENR senior leadership team, the position serves as special assistant to and reports directly to the secretary and participates in policy setting and decision making for the department. The primary purposes of this position is to improve public understanding of environmental and natural resources issues and to improve and coordinate agency communications. This position provides counsel and advice to the secretary and serves as chief spokesperson for DENR.

Bill Holman, Asst. Secretary for Environmental Protection
Overview:

- This position has direct line responsibilities for the nine environmental protection divisions in the department. The purpose of this position is to review and evaluate the goals, priorities, policies, budgets and operations of the environmental protection programs to ensure consistency with the department's mission and effective utilization of resources. This position recommends policy, develops programs, coordinates inter-divisional projects in the environmental protection areas, and provides leadership in developing solutions to complicated issues. As a member of the senior leadership team, this position represents the Secretary with a variety of constituencies, the legislature, and the general public on environmental protection issues.

Dewey Botts, Asst. Secretary for Natural Resources
Overview:

- This position has direct line responsibility for the eight natural resources divisions in the department. The purpose of this position is to review and evaluate the goals, priorities, policies, budgets and operations of the natural resources programs to ensure consistency with the department's mission and effective utilization of resources. This position recommends policy, develops programs, coordinates inter-divisional projects in the natural resource areas, and provides leadership in developing solutions to complicated issues. This position has significant educational/outreach component through the department's natural resource attractions and other programs. As a member of the senior leadership team, this position represents the Secretary with a variety of constituencies, the legislature, and the general public on natural resource issues.

Richard Rogers, Director of Legislative and Intergovernmental Affairs
Overview:

- This position develops and coordinates strategies and procedures aimed at encouraging positive General Assembly action on substantive legislation, budgetary needs and policy matters. This position serves as the department's liaison to the General Assembly, identifies sponsors for legislation, tracks bills throughout the legislative process, and is responsible for ensuring appropriate and effective representation of senior staff and divisions at legislative meetings. This position oversees the intergovernmental liaison activities with local governments as well as state and federal agencies; and manages and supervises the Office of Legislative and Intergovernmental Affairs staff. The purpose of this position is to provide an integrated departmental perspective on issues, policies, procedures and information through research, analysis, planning and issue development related to legislation, and the impact of programs and policies at the local level. This position serves as a member of the Senior Staff.

Jimmy Carter, Deputy Assistant Secretary for Environment
Oveview:

- This position serves as the Deputy to the Assistant Secretary for Environmental Protection and is responsible for the day-to-day administration of the Environmental Protection units. The Deputy shares responsibilities for staff development and performance management; planning meetings and delegating assignments; and setting priorities and goals. The Deputy is also responsible for analyzing the existing organization and in conjunction with Division Directors, designing strategies, goals, policies, procedures, measures, and guidelines to support the accomplishment of the Department's mission and vision and the Governor's "Agenda for Action". The Deputy will also work to improve customer service delivery and provide leadership to the Division Directors in developing practical solutions to customer needs and environmental decisions.

North Carolina Department of Environment and Natural Resources

Working Strategic Plan

External Version

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Clean Water *8*
Clean Air *8*
Stewardship of Natural Resources *9*
Sustainable Development *9*
Environmental Awareness / Outreach *10*
Organizational Excellence *10*

I. Introduction to DENR's Strategic Plan

By most indicators, North Carolina has improved the quality of its environment and natural resources over the last three decades. However, as North Carolina grows we cannot expect such positive trends to continue if we do not plan for the future. As the state's population grows, more development of land increases non-point pollution and sedimentation, more automobiles increase ozone and carbon monoxide pollution, and more people increase demand on wastewater treatment facilities and natural areas. Industry and roads, agriculture and hog farms also add to the environmental challenges faced by North Carolina.

The Department of Environment and Natural Resources believes that economic prosperity and a healthy environment can reinforce each other if we plan for the continued growth of North Carolina. The Department recognizes that it cannot address every problem. It cannot be everything to everyone. However, as the state's population increases faster than the Department's budget, it is more important than ever to use our limited resources in the most strategic ways possible.

In the past, DENR has, for the most part, dealt with environmental problems in a narrow program-by-program manner. Now, we are creating strategies to address environmental problems in a holistic manner. The quality of air, land, and water are inextricably linked, and thus DENR's strategic plan is based on integration and teamwork.

Planning is a time-intensive process. However, quality planning creates efficiency and focus. It reduces the fuel so that the fires of working in a state agency are avoided or at least burn less furiously. The better the Department plans, the more it targets preventing pollution before it is created and raising environmental awareness. Those efforts, in the end, are cheaper than mitigating pollution or natural resource damage that has already occurred.

The strategic planning process has been like building an airplane while it is being flown. DENR can never say that the airplane is entirely complete. With this strategic plan, DENR commits to a process of continuous and systematic improvement.

II. Process

DENR's strategic planning process is captured in the flow chart on the following page.

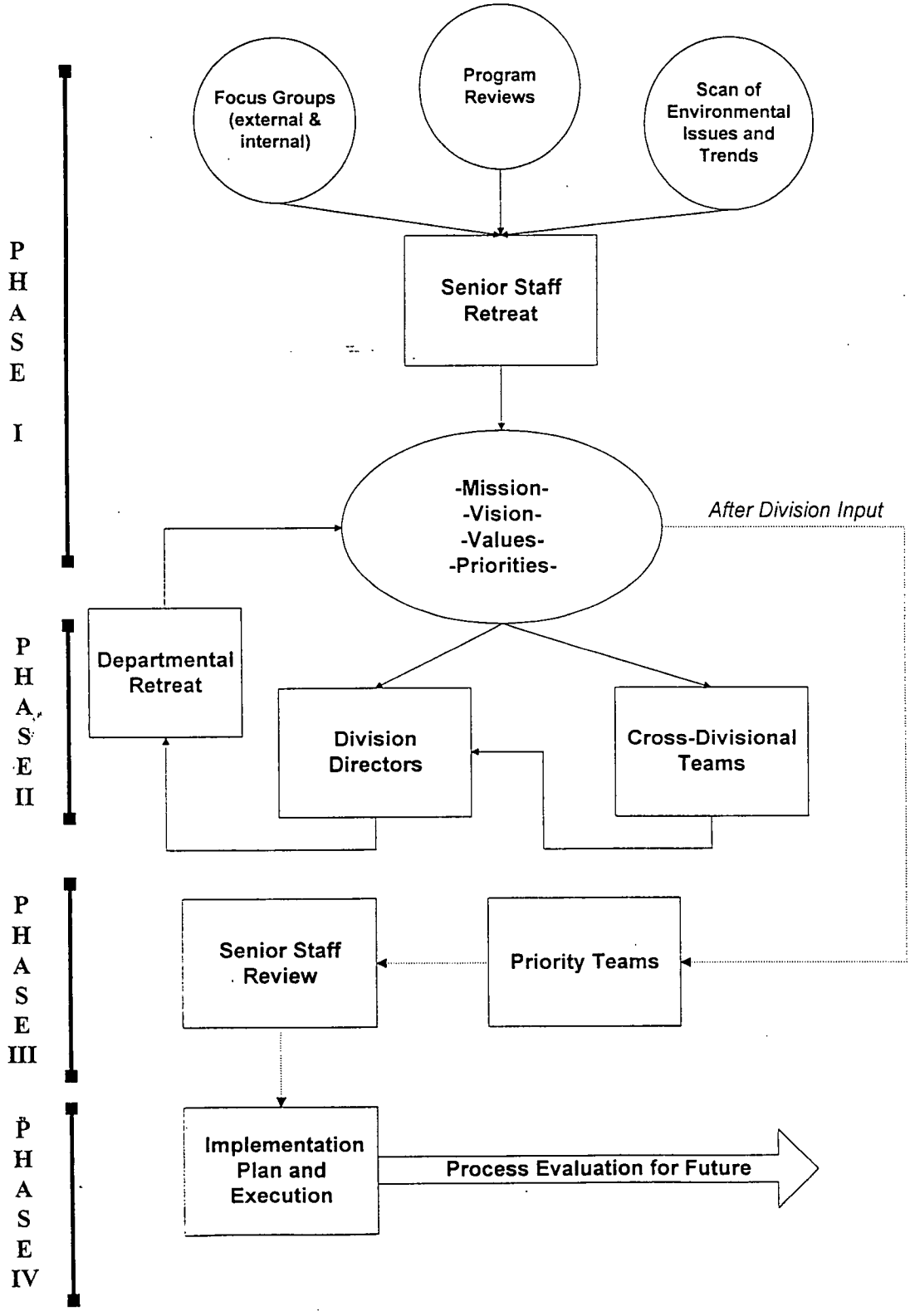
Phase I: Vision *(September – October, 1997)*
Senior leadership gathered information from both internal and external sources. Program reviews were held to give senior leadership an opportunity to meet with each division to learn their perspective of both issues and processes. During the same time period, a series of focus groups were held (business interests, environmentalists, local governments, agricultural interests, and DENR central and regional office staff) to gather feedback on the department's activities and identify opportunities for improvement. Also, a review of environmental issues and trends was conducted. All of this information was used by Senior Staff to develop a mission, a vision, values, and six priority areas (see pages 4 – 5.)

Phase II. Initial Teams *(November - December, 1997)*
Teams were created for each of the six priority areas. Teams consisted of people from all levels and all divisions in the Department. The teams met for a month, commented on the mission, vision, and values, and drafted a broad set of objectives for each priority. Senior Staff and Division Directors met at a day-long retreat to finalized the Mission, Vision, and Values and agree on the priority objectives.

Phase III. Target Teams *(January – April, 1998)*
Phase III was the most intensive in the planning process. New teams were assembled and trained to develop specific targets and measures. Teams met as many as eight times. Some teams created subcommittees, some teams held day-long meetings. In the end, the teams presented Senior Staff with 138 possible targets. The leaders from each of the teams organized a list of targets for Senior Staff review.

Phase IV. Senior Staff Review, Implementation Plans, and Implementation *(May – September, 1998)*
Senior Staff reviewed and evaluated the team targets, and narrowed the list to one to two targets per priority area. Senior Staff champions were chosen for each target. Champions will create Implementation Plans for each target. The champions will work with appropriate divisions to develop Implementation Plans including measures, and implement the target.

DENR Strategic Planning Process



MISSION

North Carolina Department of Environment and Natural Resources

To provide leadership, education and advocacy for the responsible stewardship of North Carolina's environment and natural resources.

VISION

North Carolina Department of Environment and Natural Resources

North Carolina's abundant natural resources, healthy environment, and vibrant economy make it the best place to live, work, and visit.

VALUES

Values are a code of organizational conduct. They indicate the way we work and deal with others. They guide our actions and must cause all employees to continuously be true to them. The Department of Environment and Natural Resources is committed to demonstrating these values in our daily actions to accomplish our mission and achieve our vision.

Trust	We will demonstrate openness, honesty and integrity in all our actions.
Recognition	We will respect and recognize individual as well as team contributions; support employees reaching their full potential and value in a diverse work place.
Communication	We will communicate clearly and effectively, and exchange ideas freely with our customers and throughout DENR.
Accountability	We will take responsibility for what we do and not do.
Innovation	We will encourage new ideas and solutions at all levels to carry out DENR's mission.
Teamwork/ Partnerships	We will work cooperatively to reach common goals.
Customer Focus	We will provide quality services and products to our customers while treating each person with dignity and respect.
Commitment	We will show allegiance to our mission and to each other.
Excellence	We will deliver services of the highest quality, showing initiative and a commitment to quality.
Work Ethic	We will honor our role as public servants by demonstrating hard work and productivity in the public trust.

1500 copies of this public document were printed at a cost of $34.00 or $.02 per copy

DENR List of Consensus Priorities and Objectives

Clean Water

"We will restore and protect the quality of North Carolina's waters"

Clean Air

"We will be very active to assure clean air and improved visibility for all North Carolinians"

Stewardship of Natural Resources

"We will preserve, conserve, restore, and manage our natural resources and promote their responsible use now and in the future"

Sustainable Development

"We will provide leadership and endorse a healthy environment in a prosperous economy for present and future generations of North Carolinians"

Environmental Awareness/Outreach

"We will foster a statewide environmental ethic through community outreach and partnerships, education and hands-on learning experiences"

Organizational Excellence

"We will be a model of excellence in public service by emphasizing continuous improvement in communication, teamwork, customer focus and measurable results"

IV. Glossary

Priority: One of six areas of strategic focus for the Department.

Objective: A sub-category of the priority. Each priority has several objectives.

Target: Specific goals that can be measured. Each objective may have several targets.

Priority Target: The highest priority targets chosen to be included in the DENR strategic plan.

Champion: The Senior Staff person who is responsible to implement and achieve a priority target.

Strategic Teams: The teams created to draft targets for each of the six priorities.

V. Priority Targets

Characteristics

Under the six priority areas, DENR has identified ten priority targets. The ten targets will guide DENR for the remainder of the current administration and perhaps beyond. All divisions should be engaged in at least one of the targets.

The priority strategic targets share several characteristics:

- Meeting the target will significantly move North Carolina forward in the priority area.
- They are cross-divisional.
- They are as SMART as feasible. SMART stands for:
  - Specific
  - Measurable
  - Aggressive but attainable
  - Results-oriented
  - Time-Bound

  Some strategic team targets have been modified to make them more SMART.

Commitments

DENR makes the following commitments regarding the priority strategic targets:

Senior Staff champion. The crosscutting nature of the priority targets requires the dedication of Senior Staff to move the target forward, and thus the effort to implement each priority target will be led by a Senior Staff champion. The expectations of the champion are that he / she will:

- provide active leadership
- demonstrate consistent involvement
- own the process
- be responsible for outcomes
- make the target a top priority in his / her work schedule

Implementation Plan. An Implementation Plan for each top priority will be developed by the Senior Staff champion.

Measures. All targets are crafted to be measurable so that DENR can evaluate success, make decisions based on data, and continually improve efforts to reach the target.

Implementation. The champion will work with appropriate divisions to implement the priority target. The champion may assemble an interdivisional team as needed to meet the priority target.

Tracking / accountability system. The champion will report quarterly to the rest of Senior Staff on the progress being made to meet the priority target. Tracking will consist of a review of the following:

- Progress on action items
- Measures. If feasible, measure should be graphed over time. Possible measures are listed under each priority target (pages 8 – 14), and final measures will be chosen by the champion.

Expansion budget. These targets will receive special consideration by Senior Staff in the expansion budget cycle.

Division responsibility. All divisions will work to infuse appropriate priority targets into their work plans. They will work with appropriate champions to implement actions and measure progress.

Additional Targets

There are multiple targets developed by the priority teams that are not included in this strategic plan. Many of them are being accomplished by the divisions, but are not highlighted in the strategic plan. Other targets will be stepping-stones to meet the targets emphasized in the strategic plan. Champions are encouraged to review the master list of team targets to see if they offer insight to achieve the priority target. Finally, the Department cannot do everything, so many targets identified will not be accomplished at this time.

Clean Water

We will restore and protect the quality of North Carolina's waters

Target 1: Increase surface waters that meet their designated use by 20% from 1994 to 2004

Champions: Henry Lancaster / Jimmy Carter

Target 2: Protect the quality of ground water to achieve the goal that 100% of ground water used for drinking water meets health based standards by 2008

Champions: Henry Lancaster/Jimmy Carter

Clean Air

We will aggressively work to assure clean air and improved visibility for all North Carolinians

Target 3: Ensure that all North Carolinians breathe air that meets the new health-based standard for ozone

Champions: Bill Holman / Jimmy Carter

Target 4: Improve visibility in the Southern Applachian Mountains by one deciview by 2008

Champions: Bill Holman / Jimmy Carter

Stewardship of Natural Resources

We will preserve, conserve, restore, and manage our natural resources and promote their responsible use now and in the future

Target 5: Develop a set of natural resource indicators and a tracking process by 2000 that can be used for proactive management of our natural resources

Champions: Sherri Evans-Stanton / Kristin Cozza

Sustainable Development

We will provide leadership to ensure that a healthy environment and prosperous economy reinforce each other for present and future generations of North Carolinians

Target 6: Develop a policy for evaluating and mitigating the cumulative and secondary impacts of projects by the year 2000

Champions: Dan McLawhorn / Michael Shore

Target 7: Provide leadership for an interdepartmental team to develop a "Smart Growth" strategy for North Carolina by April 1999

Champions: Wayne McDevitt / Michael Shore

Environmental Awareness / Outreach

We will foster a statewide environmental ethic through community outreach and partnerships, education, and hands-on learning experiences

Target 8: Increase participation in environmental awareness and education opportunities offered by DENR by 20% from 1998 to 2002 in order to raise the level of environmental understanding of the public

Champions: Sherri Evans-Stanton / Kristin Cozza

Organizational Excellence

We will be a model of excellence in public service by emphasizing continuous improvement in communication, teamwork, customer focus, and measurable results

Target 9: Create a data management system by 2004 that coordinates information across programs and makes key environmental and performance data easily accessible to decision makers and the public

Champions: Michael Williamson / Doug Lewis

Target 10: Reinvent DENR to work better, cost less, and get results that people care about.

Champion: Michael Williamson

VISITOR REGISTRATION SHEET

House Committee on Environment & Natural Resources **02/23/99**

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY AND ADDRESS
KELLI KUKURA	DUPONT
JIM KUSZAJ	NCEI
Doug Lassiter	NC Septic Tank Assoc
[illegible]	Agr. Alliance & N.C.
[illegible]	DENR – EE
[illegible]	The Capital Group
Natalie English	NC Agribusiness Council
Jo-Ann Coe	F3
Sherol Bamen	NC Petroleum Council.
Charles Case	Hunton + William
Charlie Dietl	NC Outdoor Adv. Assoc.
Steve Woodson	NC Farm Bureau Federation
[illegible]	[illegible] P.A.
[illegible]	DENR
Amy Fullbright	Hunton & Williams
Kim Hibbard	NC League of Municipalities
[illegible]	NC Forestry Assoc
Carl Williams	NCMBA
Dan McLawhorn	DENR
Preston Pate	Div Marine Fisheries
Dan White	EDF
David Knight	NC Sierra Club, NC Wildlife Fed
Sheri Evans-Strap	DENR
Molly Diggins	NC Sierra Club
Laura Bellis	DENR
Michael Williamson	DENR
Preston Howard	DWQ

VISITOR REGISTRATION SHEET

House Committee on Environment & Natural Resources **02/23/99**

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY AND ADDRESS
Dewey Booth	DENR
Don Reuter	DENR
Diane Long	DENR
Terry Hendrick	NC Pork Council
George Everett	Duke Energy
Beau Mills	Governor's Office
Beth Anne Mumford	N.C. Pork Council

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, March 2, 1999**

TIME: **12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

Air quality issues affecting North Carolina will be discussed.

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **2:30 p.m.** on **February 25, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Bonnie Trivette (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

March 2, 1999

Call to Order

Approval of Minutes

Introduction of Speakers

- Mr. Bill Holman, Assistant Secretary for Environmental Protection, DENR
- Ms. Janet D'Ignazio, Chief Planning and Environmental Officer, DOT
- Mr. Alan Klimek, Director of the Division of Air Quality, DENR

Adjournment

HOUSE COMMITTEE ON ENVIRONMENT AND

March 2, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, March 2, 1999, in Room 544 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Dewey Hill, Danny McComas, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Ronnie Smith, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue.

Chair Gibson called the meeting to order at 12:04 p.m. He asked that the February 23, 1999 meeting minutes be approved. Representative Liston Ramsey moved and the Committee unanimously approved.

Representative Gibson introduced Mr. Bill Holman, Assistant Secretary for Department of Environment and Natural Resources (DENR), Ms. Janet D'Ignazio, Chief Planning and Environmental Office, Department Of Transportation, and Mr. Alan Klimek, Director of the Division of Air Quality, DENR, to discuss air quality issues and how they affect North Carolina. He emphasized that it was one of the most technical and difficult issues facing this legislative body. He requested that all future presenters furnish the Committee with an alphabetized list of acronyms.

Mr. Holman praised past General Assembles for their conscientious attention to environmental issues. There is a serious ozone and air quality problem in our State. DENR has been working closely with DOT on these issues.

Ms. D'Ignazio said that transportation's impact on the quality of life for the citizens of North Carolina is very important to DOT. Air quality impacts the ozone because North Carolina is a very high growth state with high vehicle miles traveled. As DENR identifies issues, the DOT works very closely with them to "partner" for good solutions for both the quality of life and the transportation system in North Carolina. She said the two agencies work closely to address the ozone problems of the State.

At this point, Ms. Shirlyn MacPherson, Representative Gibson's new Legislative Assistant was introduced. Bonnie Trivette will be taking a permanent position with Fiscal Research.

Mr. Klimek referred to the handout (Attachment 1) and used an overhead projector as he discussed the challenges the State faces concerning the ozone layer. He explained that ozone is a strong oxidizer and a lung irritant, and particularly affecting the young and the elderly. It can trigger asthma attacks; however healthy people out-of-doors can be affected. Most importantly, there is no concentration below which health effects are not present. There are precursor pollutants: VOCs (Volatile Organic Compounds) and NOx (Nitrogen Oxides from Combustion) with the presence of sunlight, warm days, and stagnant winds—June, July, August—hot summer days produce high readings of ozone. VOCs come from industrial processes—cars, trucks, and natural sources. Focus on NOx (any kind of combustion sources) is the area that they concentrate.

What is the status of ozone in North Carolina? We are now in attainment—meeting the Federal standard. EPA recently came out with an 8-hour standard to replace the 1-hour standard. During the future, DENR will be developing strategies to meet this new EPA standard. The State is in complete attainment for the l-hour standard including the Charlotte, Triad, and Triangle areas. On the average, there are 30-50 days where the State does not meet the standard and 3 out of the 4 urbanized cite do not meet the standards. Thus emphasizing the importance of addressing this issue. By July 18, 1999, the Governor will submit to EPA his recommendations of non-attainment (not meeting) ozone levels. By mid 2000, public meetings will be held for public input in order to conform to the standards by 2003.

Chairman Warwick asked what was being done to meet some of the standards in the last few years. Mr. Klimek said that, on the Federal level, cleaner cars have helped, but growth has overtaken the clean car issue. Reed vapor and car emissions regulations have helped. Forty percent of emissions come from factories; 40% come from cars. Removing the NOx from factory emissions is a priority as well as time sensitive incentives (summer), expanded mass transit, using cleaner fuel, and changing the work commute and living patterns. SIP (State Implementation Plan) puts EPA regulations concerning the impact of North Carolina air quality on the northeast. Compliance on acid rain is being addressed to help our natural resources and park areas.

Chairman Warwick adjourned the meeting at 12:45 p.m.

Nurham O Warwick

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson

Shirlyn MacPherson, Committee Assistant

Attachment 1

OZONE in NORTH CAROLINA and the REQUIRED SOLUTION

Briefing for the North Carolina General Assembly -

Senate Agriculture / Environment / Natural Resources Committee and

House Environment and Natural Resources Committee

What is Ozone and Why is it a Problem?

- *O_3 - Strong Oxidizer and Lung Irritant*
- *Affects the Young and Elderly the Most - Triggers Asthma Attacks*
- *Healthy Exercising Adults and Outdoor Workers Also Affected*
- *No Concentration Below which Health Effects are not Present*

How and When is Ozone Formed?

- *Formed in the Atmosphere*
  - *Photochemically*
  - *Precursor Pollutants*
    - *VOC - Volatile Organic Compounds*
    - *NOx - Nitrogen Oxides from Combustion*
  - *Summer Season - Generally on Hot Days*
  - *Sunny Days*
  - *Low Winds / Stagnant Air*

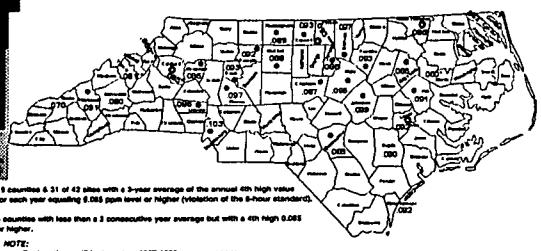
What are the Sources of the Precursor Pollutants?

- **VOC**
  - Industrial Processes
  - Industrial, Commercial and Domestic Solvents
  - Motor Vehicles - Cars, Trucks and Equipment
  - Petroleum Marking
- **NOx**
  - Motor Vehicles, Equipment and Stationary Engines
  - Utility Boilers
  - Industrial boilers

What is the Status of Ozone in North Carolina?

- **Old 1-Hour Ozone Standard**
  - Full Attainment Across the State
  - Designated Attainment by EPA
  - Standard Revoked for All of North Carolina
- **New 8-Hour Ozone Standard**
  - Much More Stringent than Revoked Standard
  - Many areas of North Carolina Violate New Standard
  - Areas yet to be Designated as Non- attainment

North Carolina Counties with 8-Hour Ozone Violations 1996-1998



15 counties & 31 of 42 sites with a 3-year average of the annual 4th high value for each year equaling 0.085 ppm level or higher (violation of the 8-hour standard).

4 counties with less than a 3 consecutive year average but with a 4th high 0.085 or higher.

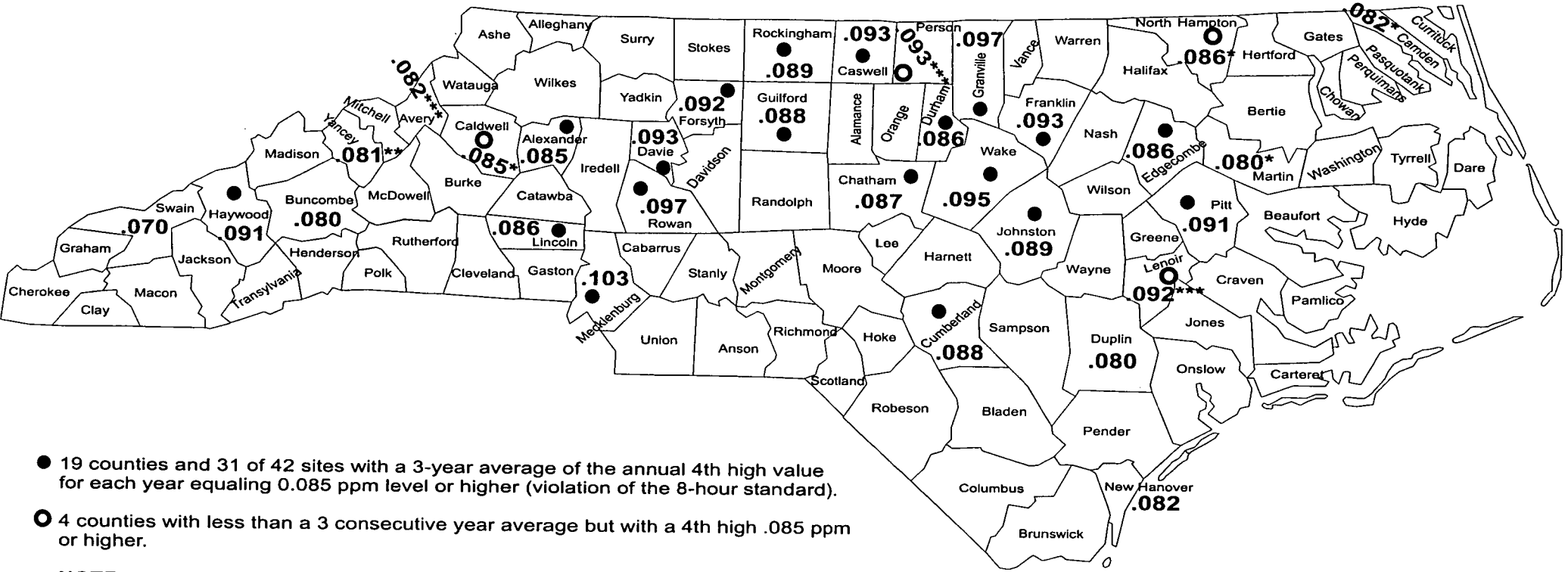
NOTE:
- -Designations will be based on 1997-1999 ozone seasons
- - Additional counties may be involved in emission reduction strategies
- -Nonattainment designations may not follow county boundaries

*Based on calendar years 1996, 1997 and 1998, which are not suitable for attainment determination (nonconsecutive years).
**Based on calendar years 1996, 1998 and 1997.
***Based on calendar year 1998 alone, which is not sufficient for attainment determination.

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North Carolina Counties with 8-Hour Ozone Violations 1996-1998



- ● 19 counties and 31 of 42 sites with a 3-year average of the annual 4th high value for each year equaling 0.085 ppm level or higher (violation of the 8-hour standard).
- O 4 counties with less than a 3 consecutive year average but with a 4th high .085 ppm or higher.

NOTE:

- *Designations will be based on 1997-1999 ozone seasons*
- *Additional counties may be involved in emission reduction strategies*
- *Nonattainment designations may not follow county boundaries*

* Based on calendar years 1995, 1997 and 1998, which are not suitable for attainment determination (nonconsecutive years).
** Based on calendar years 1995, 1996 and 1997.
*** Based on calendar year 1998 alone, which is not sufficient for attainment determination.

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Not To Scale
02/18/99 (PL)

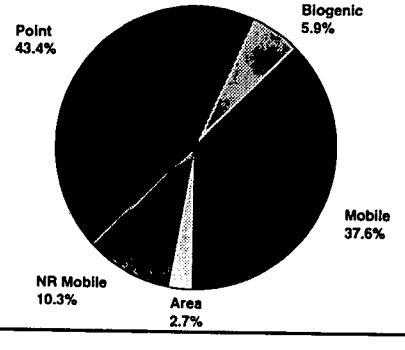
Process and Timeline For Designations

- *Public Meetings - April 1999*
- *Meetings with Public Officials - April 1999*
  - *Elected Officials*
  - *League of Municipalities*
  - *Association of County Commissioners*
  - *MPOs / Transportation Officials*
  - *Other Groups*
- *Recommendations to Governor - June 1999*
- *Governor Submits Recommendations to EPA By July 18, 1999*

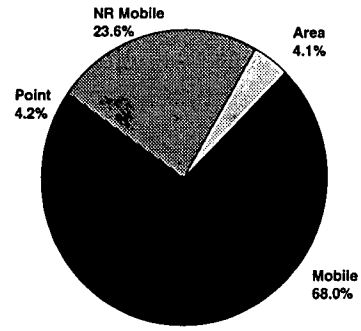
Timeline for Ozone Strategy

- *Analytical work - Ongoing to Mid 2000*
- *Stakeholder involvement / Public Meetings - Mid 2000 to Mid 2001*
- *Formal Rule Development Starts - Mid 2001*
- *Final Adoption by EMC with Legislative Review - by Mid 2003*
- *Governor Submits to EPA - by July 18, 2003*

1990 North Carolina NOx Emissions



Mecklenburg County NOx Emission Sources (1990 Emissions Inventory)



What kind of Strategies will be required in N.C.?

- *Ozone - NOx Primarily, VOC?*
  - *Cars: I/M, Fuels, Other?*
  - *Combustion Sources*

What is SIP of the Future? -Mix of Approaches

- *All Sectors - All Opportunities*
- *Traditional:*
  - *Specific limits*
- *Incentives*
- *Episodic*
- *Voluntary*
- *Technology Forcing*
- *Relying on Future - "Black Box"*

Possible Long Term Initiatives For N.C. to Improve Air Quality

- *New and Expanded Use of Transit*
- *Incentive Programs to Use Cars Less*
- *Incentives for Large Scale Use of Cleaner Alternative Fuels*
- *Incentives to Change - Work Commute - Living Patterns*

EPA's NOx SIP Call -

- *<u>Will Not</u> Solve North Carolina's Ozone Problem!*
  - *Does Not Address Mobile Source Emissions of NOx*
- *North Carolina Sources Do Not Significantly Impact the Northeast, Chicago or Atlanta*
- *Some of the NOx SIP Call Sources Must be Controlled for North Carolina (and Perhaps Virginia and South Carolina) to Meet the New 8-Hour Ozone Standard*

North Carolina's Alternative to the SIP Call

- *Phase I*
  - *Controls on 5 of the Largest Utilities*
- *Phase II*
  - *Additional Stationary Source Controls*
  - *Mobile Source Strategy:*
    - *Transit 2001*
    - *Low Sulfur Gasoline*
    - *Strengthened/Expanded I/M*
    - *Ozone Awareness*
    - *Incentive for Early NOx Reduction*

VISITOR REGISTRATION SHEET

House Committee on Environment & Natural Resources **03/02/99**

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY AND ADDRESS
Natalie English	NC Agribusiness Council
Lu-Ann Cole	FFF
Stuart Dixon	NCNG
Mary H. Odom	NC CARE
Dan McClanahan	DENR
Barbara Gillespie	
Mark Deason	The Capital Group
George Everett	Duke Energy
Tommy Stevens	DWQ
John McAlister	Duke Energy
JIM KUSZAJ	NCEI
Gary Harris	NCPMA
Patty Hymes	NCPMA
[illegible]	DENR

Cancelled

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources will meet** as follows:

DAY & DATE: **Tuesday, March 16, 1999**

TIME: **12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

NEUSE RIVER BUFFER STAKE HOLDERS REPORT

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **March 11, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

Cancelled

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources will meet** as follows:

DAY & DATE: **Tuesday, March 9, 1999**

TIME: **12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **March 4, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Bonnie Trivette (Committee Assistants)

1999

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

March 23, 1999

Call to Order

Neuse River Basin Stake Holders Report

Introduction of Speakers:

- **Coleen Sullins, Division of Water Quality, DENR**
- **Paul Wilms, North Carolina Home Builders Association**
- **Marion Smith, Neuse River Foundation**

Announcements & Adjournment

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Committee Minutes

Tuesday, March 23, 1999

Present: Chairs Warwick and Gibson, V-Chair Cox, Representatives Bonner, Brown Creech, Culp, Daughtry, Davis, Gillespie, Hackney, Hill, Luebke, McCombs, McComas, McLawhorn, McMahan, Mitchell, Preston, Smith, Thomas, Thompson, Tolson, Tucker, Warner, and Yongue.

Chair Pryor Gibson called the meeting to order at 12:00 Noon. He complimented the Neuse River Basin Stake Holders report and added that it has set president on some of the things that have done in the state in regards to water shed issues, water quality issues and property rights and he complimented the folks who had the courage, fortitude and foresight to come up with these compromises.

Chair Gibson called on Coleen Sullins of the Division of Water Quality of the Department of Environment and Natural Resources, to speak on the Neuse River Basin Stake Holders Report. Ms. Sullins gave an overview of where they have been and where they stand at the present. She then reported on the Neuse Buffer Committee that was set up by House Bill 1402 of the 1998 Session. This Committee was set up to evaluate the Neuse Buffer rule that were pass by the Environmental Management Commission. The purpose of the rule is to prevent additional nitrogen in the basin and where possible reduce the amounts. As results of the concerns of the parties that were impacted by the rule, H 1402 required that a stakeholders committee be formed to evaluate the rule and make a recommendations back to the Environmental Management Commission on changes to the rule to make it more easy to implement and more equitable, also, report back to the Environmental Review Committee for additional legislation if necessary. Ms. Sullins reported on what was going on in the Water Quality Division of DENR on the Neuse Buffer Implementation. They held training sessions last Spring and around 400 persons attended those sessions. Raleigh Regional Office, Washington Regional Office and Central Office has visited over 350 sites since the rule took effect and they have taken about 40 phone calls per week. There have been 8 variances to the rules that have been brought before the Commission and all those variances have been allowed enabling the developing activity to occur. The Stake Holders Committee process that has been set up due to H 1402 has been an excellent process for us and all the participation by the members has been good. Members of the Committee represent a broad range of interest including the development community, local government interest, conservation groups, and state agencies. We held a total of 14 meetings starting in October and last meeting held in February of 1999. A draft report has been prepared and circulated to the members. They have returned their comments back to DENR and they are in the process of compiling these comments and getting the final report out to the EMC for their April meeting. It will be presented to the Water Quality Committee of the EMC on April 7. The draft report should be finalized by April 9th. The

Committee went out into the field to see discuss the new rule and also brought in a series of experts from academia to discuss certain issues such as mapping considerations, how the existing steam maps were created by the Natural Resource Conservation Service and the National Geology Service, stream definition, buffer widths and water management. They also looked at other programs; the CAMA and experts talk about litigation. After several deliberations, the Committee agreed to have some advisory groups report back on stream definition and also consult with the Forestry Technical Advisory Committee on forestry harvesting issues. The Stream Advisory Committee visited over 30 sites in the Piedmont and Coastal areas as part of their deliberations. The directions that the Committee has established on stream definition is that they established a mapping process that is laid out in H 1402 and that is the U. S. Geology Service topographic maps and the county soil survey maps and then water on either of these maps are subject to the buffer requirements unless their is a field determination that exists on the ground. That field determination can be made by the Water Quality Division or the designated local government. Waters that appear on the ground but not on the maps are not subject to the rule. A better way of mapping is being recommended and will require funding. Broader range of litigation than recommended in H 1402 has been recommended and would be helpful in the implementation of the rule. Another recommendation made was to be able to expand beyond a buffer. A delegation process was set up to allow a volunteer delegation to local governments that would require some additional legislative language and that is in the process of being developed. A near consensus was reached on buffer widths that would apply to all streams. A 2-zone system with a 30 foot along the creek and a 20 foot outer zone but the committee decided to allow clearing and grading in that outer zone region. It would only be in certain instances. Details of all this is in the draft report. There are other recommendations in the report and they hope to have all of this completed by March 29. She added that overall the process of the committee has been successful and she very much appreciates the input and the amount of time each member of the committee has contributed. Ms. Sullins added that she things changes recommended by the committee would make the rule easier to implement. The committee hopes to go to the full EMC with their recommendation in May. The legislative recommendations will be forthcoming after May.

Chair Warwick ask for simple definition of intermittent stream and perennial stream. Intermittent stream mean a well defined channel that exists for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The perennial stream is a channel that has water year-round during a year of normal rainfall when the equctic bed is located below the water table part of the year. Ground water is the primary source for the perennial stream but also has runoff.

George Givens then asked went needed legislation would be ready and how would it fit in with the deadline dates for introducing legislation. She stated that report will be ready by March 29th and they will get a copy to the committee without EMC action on this. George Givens then stated that it could be introduced as an appropriation matter and buys a little more time, but would probably not be before EMC review and action.

Chair Gibson recognized the next speaker as Paul Wilms, Director of Regulatory Affairs of the North Carolina homebuilders Association. Mr. Wilms thanked the Committee for allowing him to speak and DENR for all the competent help they gave the Stake Holders Committee making it possible to accomplish so much in a short period of time. He stated

that there was very intense debate during their meetings and he really felt as though they really needed more time to do their work. Their time was crunched because of the long session in 1998 and had to start their meeting for session ended. He feels as though they did accomplish doing away alloy of ambiguity in pass procedures. He said they were able to agreed to use both USGA topographic maps and the Soil Conservation maps and included a way to exempt those stream if proven don't exist but show on these maps. He feels as though they increase the flexibility of the rule by including rules for mitigation for unavoidable loss of buffers for utility crossing, road crossing, bridges and for necessary activity that have to occur and other exempted uses. He mentioned there would be legislation needed and also appropriation. The appropriation would fund a development of a hydrologic map of North Carolina. This map would be more accurate. It would cost about 4 to 5 million dollars and 5 years to complete. He believes that the process can be used in deciding other rules for improvement in the environment in the future.

Chair Gibson next recognized Marion Smith of the Neuse River Foundation. Ms. Smith brought out that there were stakeholder such as Environmental Consultants on the panel that were very objective and brought some very helpful input and expertise to the process. In times of differences of all sides of the issues that came up during the meetings of the stakeholders, it helped to have those neutral persons that help bring it all together. She also thinks the hydrologic mapping, that will be proposed for funding to the General Assembly, is very important in future improvement of the environment. She feel that it could be done in phases beginning at the Neuse River Basin and gradually carried across the State. This would help with the funding. This would not only help with water quality but also help with water quantity improvement procedures, as this has become more and more important across the State. This would help in managing water in our State in the 21st Century. Rep. Yongue asked what would be involved in developing these hydrologic maps. Cartographic has become a very sophisticated science. They will use aerial photography, infrared and other computer-enhanced processes are out there now to make maps very accurate. One thing recognized was that topographic change with time and weather (wet year and dry year), and man-made changes in the land.

Chair Gibson asked when having the stakeholders meeting how was did you address handling the average landowner/farmer that would be affected by the new rule. They had persons representing farming interest and very knowledge of past rules that have been adopted and will be applied to those interest. Existing land uses are grandfathered.

The pages for the day were introduced: Alexia Whittiker and Serita Motley from Wake County. Former Senator James Speed was also recognized as a visitor to the committee. The next meeting will be on April 1, 1999. The meeting was then adjourned.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Legislative Assistant

AGENDA

House Committee on
Environment and Natural Resources

April 13, 1999

Call to Order .....Chair Warwick

Bills to be Discussed:

- **S 249 Extend Core Sound Moratorium**

- **H 571 Brunswick Menhaden Restrictions**

Announcements & Adjournment ..... Chair Warwick

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

April 13, 1999

Committee Minutes

The House Committee on Environment and Natural Resources met Tuesday, April 13, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representative Nurham Warwick presided at the meeting. Chair Gibson and Vice-Chair Cox were in attendance along with the following members: Donald Bonner, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Paul Luke, Eugene McCombs, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Jean Preston, Liston Ramsey, Ronnie Smith, Scott Thomas, Russell Tucker, Alex Warner, Douglas Yongue.

Chair Warwick called the meeting to order 12:05 p.m. The Chair stated that until the number of bills assigned to our committee increases, we will probably only meet once a week,

Chair Warwick then call on Representative David Redwine to explain his bill (H 571), the first bill on the agenda. He explained his bill as an act to make it unlawful to take Menhaden or Atlantic Thread Herring with purse seine nets within one and one-half nautical miles of the shoreline of Brunswick County from May 1 through September 30 of each year. He further stated that it only effects Brunswick County not other parts of the state. The suggested law in not in the books for any other area but it is in practice by rule that was made by the Marine Fisheries Commission for the Northeastern part of the State. If it is fair for the people in the northeastern part of the state, why isn't it fair for the southeastern part of the coastline. He further stated that the problem for his area is the potential for fish spills and how the spills could effect the retail businesses and tourist business. The business persons on all the beaches in Brunswick County fear, in case of a fish spill, the tourist would leave and not come back, meaning a lost of revenue for that area. It also causes lost of jobs in that area. There are not large Menhaden companies in Brunswick; but stated that one Menhaden fishing boat from Carteret County does fish in Brunswick County. Representative Redwine further stated that he was before the committee asking help for his folks in Brunswick County.

Following Representative Redwine bill presentation, Representative Ronnie Smith stated that he thought it was a bad bill and that his constituents in Carteret County are very much opposed to the bill, especially those that are trying to make a living fishing and manufacturing fish meal for feeding livestock.

Rep. Redwine further stated that if the Marine Fisheries Commission would do the same for Brunswick the same as they have done for the Northeastern part of the state that he would not need to run this bill. He further stated that tourism related in his county could be on the line if there is an accidental spill on the coast of Brunswick County and please be fair to the folks in Brunswick County.

Rep. Daughtry asks if it would not be better to let the Marine Fisheries Commission decide this issue.

Rep. Redwine said he had shared this with them and they have not done any thing on this and they probably will not do what is any this bill and probably not reverse their ruling in the Northeast.
Rep. Smith then added that Rep. Daughtry was right about the fish have different migratory patterns on different parts of coast (sometimes fish are nearer to the coast and other time further out, etc...) He further stated that their has not been a spill since 1984 and there possibly might be a net that burst at some time. Gear has changed, improved and much more durable. This bill, in Rep. Smith opinion, has made this a local issue; but he feels that the local issue should be down in Carteret County where the industry is located. He added that is local when you are trying to keep these vessels from coming up or down the beach and keep them from fishing in certain water in the ocean and making a decision on who is making a living doing different things. Another comment he made is that these fish do move around and that is another reason why this bill is not needed. If we have a law like this, it will keep these vessels from following these fish and, therefore, this is a bad bill. Rep. Redwine response to this was that Carteret County get all the goodie from this (they come and fish and return to Carteret County) and if there is a spill while they are fishing Brunswick waters, that County will be left with cleaning it up and losing tourism business.

The following persons spoke against the bill:
Jerry Schill, President of the North Carolina Fisheries Association main reason for opposing this act is that the "1997 Fisheries Reform Act" was supported by the Fisheries Association and was supposed to be a holistic approach to fish management working through the Marine Fisheries Commission Plan and not coming up to the General Assembly or anywhere else presenting arguments based on emotion rather than sound science.

Bob Black, President, Oak Island Fishing Club & Long Bay Artificial Reef Association says that the heavy Menhaden Fishing off Brunswick shores cuts down on the amount of Menhaden bait fish they can catch for their fisherman therefore he is in favor of the legislation.

Natalie English, Executive Vice President of the North Carolina Agribusiness Council, stated that the Council opposes this bill because Menhaden fishmeal which is needed to feed livestock across North Carolina. The Council considers aquaculture a part of agribusiness and a serious partner in making the food, fiber and forestry that we all depend on such much.

Joan Autman, Mayor of Long Beach, spoke for the bill and ask for fairness to both the fish meal industry and the tourist industry in Brunswick County. If a persons comes into the Brunswick County on vacation and if a spill occurs on the beach, these folks will leave and therefore hurting their local industry.
She also asked for the same treatment as the folks in the northeastern part of the State have at present.

Jules Wheatly, Owner of Beaufort Fisheries spoke against the bill. He stated that 90% percent of the Menhaden used for fishmeal to feed hogs and chickens in the state is caught in Brunswick County. He added that his employees could not stay in business if they can not work in the summer. This would be detrimental to his business and the livestock of this State.

Jim Lock, Town Council of Long Beach, spoke in favor of the bill and stated they tried to go through the Marine Fisheries Commission, but they did not act so having their representative bring it to the General Assembly in the form of legislative was their only hope. He is concerned for the tourist and recreation fishing activity of their county.

Berry Fraiser, fisherman from Havelock, and supplier to Beaufort Fisheries who spoke in favor of the bill. He stated, if Beaufort Fisheries goes out of business, many employees would be out of work and possibly keep many people off welfare. It would make it very difficult for those who have done this job for so long find other employment. \

Following the question and testimony on House Bill 571 action was not taken and this bill and S 249, that was on the agenda, was carried over to the next meeting of the committee.

Rep. Warwick then adjourned the meeting.

Carolyn Honeycutt, Committee Assistant

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 571

Short Title: Brunswick Menhaden Restrictions. (Local)

Sponsors: Representatives Redwine; and Hill.

Referred to: Environment and Natural Resources.

March 23, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO TAKE MENHADEN OR ATLANTIC THREAD HERRING WITH PURSE SEINE NETS WITHIN ONE AND ONE-HALF NAUTICAL MILES OF THE SHORELINE OF BRUNSWICK COUNTY FROM MAY 1 THROUGH SEPTEMBER 30 OF EACH YEAR.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to take menhaden or Atlantic thread herring by the use of a purse seine from May 1 through September 30 of each year within one and one-half (1.5) nautical miles of the Atlantic shoreline in that area east of a line beginning at a point onshore at the border between North Carolina and South Carolina at 33°51'04"N - 78°32'35"W, running thence 144°(M) one and one-half (1.5) nautical miles to a point offshore at 33°50'01"N - 78°31'18"W and south of a line beginning at a point onshore at the border between Brunswick County and New Hanover County at 33°55'53"N - 77°56'12"W, running thence 188°(M) one and one-half (1.5) nautical miles to a point offshore at 33°55'17"N - 77°54'36"W.

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 249*
Proposed House Committee Substitute S249-PCS2694-SB

Short Title: Extend Core Sound Moratorium. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, AND TO ESTABLISH AN INTERIM CRAB LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at

35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

Section 2. The Division of Marine Fisheries and the Primary Investigator for the Human Use Mapping Project in Core Sound shall report the results of the shellfish mapping and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

Section 4.(a) Definitions. -- The definitions set out in G.S. 113-168 shall apply to this section.

Section 4.(b) SCFL Not Valid to Take Crabs. -- Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. -- Except as provided in subsection (j) of this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the

direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to sell crabs taken under the interim crab license.

Section 4.(d) Eligibility for Interim Crab License. -- Any person who held a valid crab license issued pursuant to G.S. 113-153.1 during the period July 1, 1994, through July 1, 1999, is eligible to receive an interim crab license. The Division shall issue an interim crab license to any person who is eligible under this section upon receipt of an application and required fees.

Section 4.(e) Duration; Fees. -- The interim crab license expires on October 1, 2000. The fee for the interim crab license shall be seven dollars and fifty cents ($7.50) for a resident of this State and one hundred dollars ($100.00) for a person who is not a resident of this State.

Section 4.(f) General Provisions. -- Subsections (c), (d), (e), (g), (h), and (i) of G.S. 113-168.1 shall apply to the interim crab license.

Section 4.(g) License Issuance. -- The Division shall issue an interim crab license to eligible applicants at any office of the Division.

Section 4.(h) Assignment and Transfer Prohibited. -- An interim crab license is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license.

Section 4.(i) Record-Keeping Requirements. -- The record-keeping requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

Section 4.(j) Exemptions. -- A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

Section 4.(k) Note to G.S. 113-168.2. -- The Revisor of Statutes shall set out this section as a note to G.S. 113-168.2.

Section 5. This act becomes effective July 1, 1999. Section 4 of this act expires October 1, 2000.

VISITOR REGISTRATION SHEET

Enviro. Comm 4/13/99

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1.	
2. Lu-Ann Cole	Farmers for Fairness
3. Natalie Eneloe	NC Agribusiness Council
4. Terry Schill	NC Fisheries Assoc.
5. Jule Whealty	Beaufort Fisheries
6. Roger Mearns	Beaufort Fisheries
7. Elwood Willis	Beaufort Fishers
8. Robert Allen	Beaufort Fisheries
9. Benny Davis	Beaufort Fisheries
10. Harvey Owens	Beaufort Fisheries
11. William Pierce	Harker's I. NC
12. Randy Lee Jackson	Beaufort Fisher
13. Barry Hayes	Havelock NC.
14. Wendell L. Hunnings	Beaufort, NC
15. Tommy Cooper	Beaufort Fishing
16. David Lupton	Beaufort Fishery
17. Wallace E. Dickson	Beaufort Fishery
18. Ricky Bass	Beaufort Fishery
19. William Nolan	Beaufort Fishery
20.	Beaufort Fisheries
21. Prentice Bryan	Beaufort Fisheries

VISITOR REGISTRATION SHEET

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Alan Briggs	SOS
2.	Thomas M Ellis	ON SS
3.	Nadene Bonenberger	Beaufort Fisheries
4.	David Taylor	NC Div. of Marine Fisheries
5.	Lee Crumbacker	Beaufort Fisheries
6.	Hilton Godette	295 FRI SIQ
7.	Ron Smith	600. Adams creek, OR, D
8.	Elvin H. Johnson, Jr.	Beaufort Fisheries
9.	Carl L. Neale	Beaufort Fisheries
10.	Rick Dudley	Beaufort Fisheries
11.	Sherman Nolan	Beaufort Fisheries
12.		Clerk of Courts
13.		Willard Godette
14.		Corey Wrangle
15.		Thomas Rose
16.	Preston Howard	MCIC
17.	Norman Bone	Bone & Assoc.
18.	Charles Case	Hunton & Williams
19.	George Everett	Duke Energy
20.	Bill Lewis	Bell Fisheries
21.	Alton Deerley	

VISITOR REGISTRATION SHEET

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
1. Charles oden	Beaufort fisher
2. Theodius Gorde	Beaufort Fisher
3. Bobby A Mann Jr	Beaufort Fisheries
4. Harry A Hall	A.M. Terrell Mc - T. A. Taylor & Sons
5. Deanna Taylor	T.A. Taylor & Sons Beaufort
6. Shaun Johnson	Beaufort Fisher
7. Jeffrey Mason	BEAUFORT FISHERIES
8. John Cyrus	n.c. state Grange
9. David Meredith	n.c. State Grange
10. David McLeod	NCDA&CS.
11. William Ribs	Beaufort Fisheries
12. Lindsay Rogers	Beafort Fisheries
13. David Felton	Beaufort Fisher
14. Thomas Moore	Beaufort Fisheries
15. Michael Sparks	Beafort Fishers
16. Bobby Lewis	Beaufort Fisheries
17. Adam Sparks	Beaufort Fisheries
18. K. Rogers	PCNR
19. Dan McCumber	DCNR
20. JERRY WILDER	CCA
21. Jack Locke	Commissioner / Long Beach, N.C.
22. Joan Altman	Town of Long Beach
23 Bob Black	OAK ISland Fishing Clubs Long Bay Artificial Reef

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment and Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, April 20, 1999**

TIME: **12 o'clock noon**

LOCATION: **643 LOB**

The following bills will be considered (Bill # & Short Title):
HB 571 - Brunswick Menhaden Restrictions
SB 249 - Extend Core Sound Moratorium
HB 1008 - Sedimentation Act/Excavation

Respectfully,

Representative Gibson and Warwick
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **3:00** on **April 15, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Shirlyn MacPherson and Carolyn Honeycutt (Committee Assistant)

AGENDA
(for Chairs Gibson & Warwick)

House Committee on
Environment and Natural Resources

April 20, 1999

Call to Order .....Chair Warwick & Gibson

Bills to be Discussed:

H 571 Brunswick Menhaden Restrictions .... Rep. Redwine

S 249 Extend Core Sound Moratorium..... Sen. Albertson
H 215 Extend Core Sound Moratorium Rep. Preston

H 1008 Sedimentation Act/Excavation .....Rep. Cox
H 1218 Env. Tech. Corrections .....Chairs & George
H 978 Damaged Piers in State Parks ..... Rep. Nye
H 1108 DENR to Study Burning Permits ..... Rep. Thomas
H 746 New River State Park ..... Rep. Baker

Announcements & Adjournment ..... Chair Gibson

HOUSE COMMITTEE ON ENVIRONMENT AND

April 20, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, April 22, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Jean Preston, Liston Ramsey, Ronnie Smith, Scott Thomas, Joe Tolson, Russell Tucker, and Alex Warner,

Chair Warwick called the meeting to order at 12:06 p.m. He announced that the Committee was assigned twenty-five bills with three additional bills coming. The meeting has been extended until 2:30 p.m. with seven on the agenda today. Because of the crossover deadline of Wednesday, April 28, additional meeting times would be Thursday and Friday this week and Monday of next.

Representative David Redwine introduced H.B. 571, Brunswick Menhaden Restrictions. Mr. Bill Harrell, President of Coastal Conservation Association in North Carolina, supported the bill to move the menhaden fishing away from beach areas. In the event of a fish spill, fish would wash onto the beach (Attachment 1).

Dale McDowell, President, Long B Artificial Reef Association of Brunswick County, opposed the bill because menhaden is used by fishermen.

Ms. Betty Williamson, Mayor of Ocean Isle and real estate broker, stated that tourism is vital in their county and number one industry. She supported menhaden fishing boats fishing no closer than 1-½ mile nautical miles of the beaches of Brunswick County from May 1 through September 30.

Jule Wheatley, President and General Manager of Beaufort Fisheries stated that 50% of menhaden fishing is from the shore to ½ mile and 40% of the fishing from ½ to 1 mile. According to Marine Fisheries, there has never been a fish spill, and fisheries are required by rule to clean up and bear the cost. Ninety percent of their total fish catch comes from Brunswick County. Eighty families are supported by the last menhaden fishing fleet in North Carolina. Jerry Schill, North Carolina Fisheries Association urged the Committee not to put fishing businesses and the state's coastal heritage out of business. Natalie English, NC AgriBusiness Council, stated that lack of supplies of fishmeal for livestock feed will increase feed prices.

Senator Redwine reiterated that Brunswick County tourism would be impacted adversely and that only 7% of the menhaden catch came from Brunswick County during 1998. During the discussion, it was noted that the economic impact to the state was as follows: average 6-month salary for a fisherman was a minimum of $24,000 and the tourism industry was $42 million. The per capita income in the Ocean Isle is $15, 016. Following discussion, Representative Ronnie Smith moved to give H.B. 571 an unfavorable report. Representative John Brown seconded, and it passed.

Represented Warwick introduced Pages Casey Moore, Wake County, and Monique Jones, Northhampton County.

S.B. 249, Extend Core Sound Moratorium. Senator Charles Albertson (Attachment 2) explained that this bill extends the moratorium on issuing shellfish cultivation leases in Core Sound by one year to July 1, 2000. Representative Jean Preston moved to accept the Committee Substitute in order to discuss it (Attachment 2a). A staff member explained that the substitute would extend the moratorium until October 1, 2001 and other changes to Section 3 and 4. Mr. Preston Pate, DENR, stated that crab fishery need a regionalized approach to regulate crab fishery involving stakeholder groups, and more time is need to continue to work on the effort management component and maintain status quo in that fishery. Representative John Brown moved to give this bill a favorable report and re-referred to Finance. Unanimously passed.

Chair Warwick passed the gavel to Co-Chair Gibson. Representative Ronnie Smith moved that H.B. 215 be converted into a Committee Substitute identical to S.B. 249 Committee substitutes also a favorable report and re-referred to Finance. Passed

Representative Leslie Cox moved Committee Substitute for H.B. 1008 come before the Committee.

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H.B. 1008, Sedimentation Act Regulating Some Excavation (Attachment 3). Sponsor Joe Tolson presented Committee Substitute and stated twelve private and public agencies endorse the bill. Representative Leo Daughtry moved to give the bill a favorable report. Passed. The bill goes to the Floor.

Representative Warwick presides.

H.B. 1218 , Environmental Technical Corrections. Representative Donald Bonner moved for a favorable report. Representative Daughtry seconded. Passed.

H.B. 978, Damaged Piers. Representative Gibson discussed the bill for its sponsor, Representative Edd Nye. He stated that with the language of the current bill, piers were destroyed on private lakes. Homeowners were not allowed to repair them. Because of Hurricane Fran, there has been much damage to private piers. This bill allows owners to

repair their piers without putting posts into lake bottoms. Representative Donald Bonner moved to give the bill a favorable report. Representative Tolson moved for the Chair to hold the bill with a favorable report until the Committee gets an position agreement with DENR. Passed.

H.B. 1108, DENR to Study Burning Permits, sponsored by Representative Scott Thomas. He explained that someone burning with a permit in his district started a fire, it spread and lasted several days. The study is requested to DENR to study this and report back. Representative Ronnie Smith moved to give the bill a favorable report re-refer to Rules. Representative Tucker seconded. Passed.

H.B., New River State Park/Acreage Limit, Representative Rex Baker. (Attachment 4) Representative Leo Daughtry moved to amend the bill on page 1, line 4 by changing the title the "New River Scenic Area" and on Page 1, lines 22 and 23 to delete excess verbiage and give it a favorable report. Passed the amendment. Representative Daughtry then moved to incorporate the amendment into a new Committee substitute and give the Committee substitute a favorable report. Passed.

Representative Warwick announced that H.B. 323, Ambient Air Quality Improvement/AB, and H.B.1099, Sulfur Content limits for Gasoline, will be handled in the same time frame and will be at the top of the agenda on Thursday, April 22, 1999. There will be no vote on the bills as hours of discussion will be needed, and he emphasized that the Committee studies these issues (Attachment 5). Staff Head Attorney George Givens explained that the H.B. 323 Committee Substitute has everything on it as introduced plus the Governor's comments highlighted at the Air Quality Conference in Asheville. Representative Gibson asked that staff get copies of these handouts and DENR to get the Governor's comments at the Summit to those absent Committee members.

Sub-committee members were appointed: Representative Bonner, Cox, Gibson, Lubke, Warner, and Warwick. They will meet 10 minutes after Session today and schedule another one hour meeting to discuss assigned bills.

Meeting was adjourned at 1:14 p.m.

Nurham L Warwick
Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson
Shirlyn MacPherson, Committee Assistant

Shirlyn MacPherson (Rep. Gibson)

From: Carolyn Honeycutt (Rep. Warwick)
Sent: Thursday, April 22, 1999 4:42 PM
: @House/Environment/ & Natural Resources/LAs
: George Givens (Research)

In Committee today, the House Bills listed below were sent to subcommittees.

H 352 Improve Enforcement of Littering
H 1098 Amend Sedimentation Act
H 1128 Moratorium on Discharge Systems
H 1183 State Agencies Comply with committees
H 1232 Wetlands Reimburse/Local Tax Base
H 1241 Protect/Restore Riparian Buffers



STAFF PHOTO BY ERIC CARLSON

Bilge Residue

A stinking film of fish oil washes ashore toward a crowd of unsuspecting bathers at Sunset Beach Monday morning. The residue was pumped from the bilges of a passing menhaden fishing boat a short distance from the town's fishing pier. There have been numerous complaints of the large commercial vessels working close to shore off Brunswick County beaches this month. But state and federal law enforcement officials say the boats are not operating illegally.

Banning Pogie Fishing: We Can't Afford Not To

Perhaps you have to have seen or smelled a menhaden spill to fully appreciate why Ocean Isle Beach commissioners want pogie fishing banned off the Brunswick County coastline.

Imagine millions—literally—of little fish washing ashore and decomposing in the summer sun and you begin to get the picture.

Menhaden vessels have been particularly prolific off the Brunswick beaches this summer. This newspaper last month published a front-page color photograph in which a film of coagulating fish oil drifted toward a beach crowded with bathers. Those who complained about the culprit—a menhaden vessel which apparently dumped the contents of its bilge a short distance from the end of a local fishing pier—were told by officials that nothing could be done because there is no law prohibiting the boats from operating near shore.

No one with a conscience wants to further undermine commercial fishing, a beleaguered industry and an honorable livelihood with a large role in our county's history and heritage. But it is because Brunswick County has not outlawed menhaden fishing off our coastline that the threat of a spill grows ever more imminent.

The state's one remaining menhaden operation—which is not located in Brunswick County—has been legislated out of fishing off other North Carolina counties. Our neighboring states and others on the East Coast forbid or restrict menhaden fishing because they've discovered that visitors object to sharing the beach with rotting fish. In addition, the large menhaden boats can deplete stocks of bait fish used by recreational anglers. Consequently, pogie boats from other areas are taking advantage of Brunswick County as one of a few remaining convenient fishing grounds.

While we can empathize with menhaden operations facing a declining resource, Brunswick County's primary economic resource is tourism, which faces enough environmental threats without this one.

#2

SENATE BILL 249:
Extend Core Sound Moratorium

BILL ANALYSIS

Committee:	House Environment	**Introduced by:**	Senator Albertson
Date:	April 13, 1999	**Summary by:**	Jeff Hudson
Version:	First Edition		Committee Counsel

SUMMARY: Senate Bill 249 extends the moratorium on issuing shellfish cultivation leases in Core Sound by one year to July 1, 2000.

CURRENT LAW: Under current law, there is a moratorium on issuing shellfish cultivation leases in Core Sound. This moratorium is scheduled to expire on July 1, 1999.

BILL ANALYSIS: Senate Bill 249 extends the moratorium on issuing shellfish cultivation leases in Core Sound from July 1, 1999 to July 1, 2000. Senate Bill 249 also requires the Division of Marine Fisheries (Division) and the Primary Investigator for the Core Sound Human Use Mapping Project to report the results of the shellfish and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture (Seafood and Aquaculture) and the Marine Fisheries Commission (Commission) by October 1, 1999. Finally, Senate Bill 249 requires the Commission to review the results of the shellfish and human use mapping and to report its findings and recommendations to Seafood and Aquaculture by February 1, 2000.

BACKGROUND: Senate Bill 249 was recommended to the 1999 General Assembly by Seafood and Aquaculture. Its companion bill, House Bill 215 (Extend Core Sound Moratorium), was introduced in the House of Representatives by Representative Jean Preston.

Core Sound is a water body located between mainland Carteret County and Core Banks (See attached map). In this area of the State there is a great deal of conflict between individuals who lease areas underlying coastal fishing waters for shellfish cultivation and individuals who harvest shellfish from naturally occurring shellfish beds. Due to this conflict, a moratorium on issuing new shellfish cultivation leases was enacted for a portion of Core Sound during the 1996 Regular Session. This moratorium was extended by one year during the 1997 Regular Session and again by one year during the 1998 Regular Session.

The Division is in the process of completing its shellfish mapping of Core Sound, which identifies shellfish density and habitat. A human use mapping project designed to facilitate a better understanding of user conflicts is also underway for Core Sound and is scheduled to be completed during the summer of 1999. In addition to these studies, the Division and the Commission are currently developing the Fishery Management Plan for Shellfish. The Division estimates that the Shellfish Fishery Management Plan will be completed during the fall of 2000. When the Shellfish Fishery Management Plan is completed, the Secretary of Environment and Natural Resources (Secretary) will present the proposed Plan to Seafood and Aquaculture and the Environmental Review Commission (ERC).

EFFECTIVE DATE: This act is effective when it becomes law.

(See next page for analysis of proposed committee substitute for Senate Bill 249)

Proposed Committee Substitute for Senate Bill 249

Section 1. Extension of the Core Sound Moratorium. – Senate Bill 249, as introduced, would extend the moratorium on issuing shellfish cultivation leases in Core Sound from July 1, 1999 to July 1, 2000. The proposed committee substitute would extend the moratorium to October 1, 2001.

Section 2. Report on Core Sound Studies. – The proposed committee substitute does not change the provision in Senate Bill 249, as introduced, that requires the Division and the primary investigator to report on the shellfish and human-use mapping to Seafood and Aquaculture and the Commission. The proposed committee substitute deletes the provision in Senator Bill 249, as introduced, that requires the Commission to make recommendations to Seafood and Aquaculture regarding the resolution of user conflicts in Core Sound.

Section 3. Fisheries License Agents. – Effective July 1, 1999, the Secretary will be required to bond all license agents who sell marine fishing licenses. Section 3 of the proposed committee substitute would authorize the Secretary, rather than require the Secretary, to bond fisheries license agents.

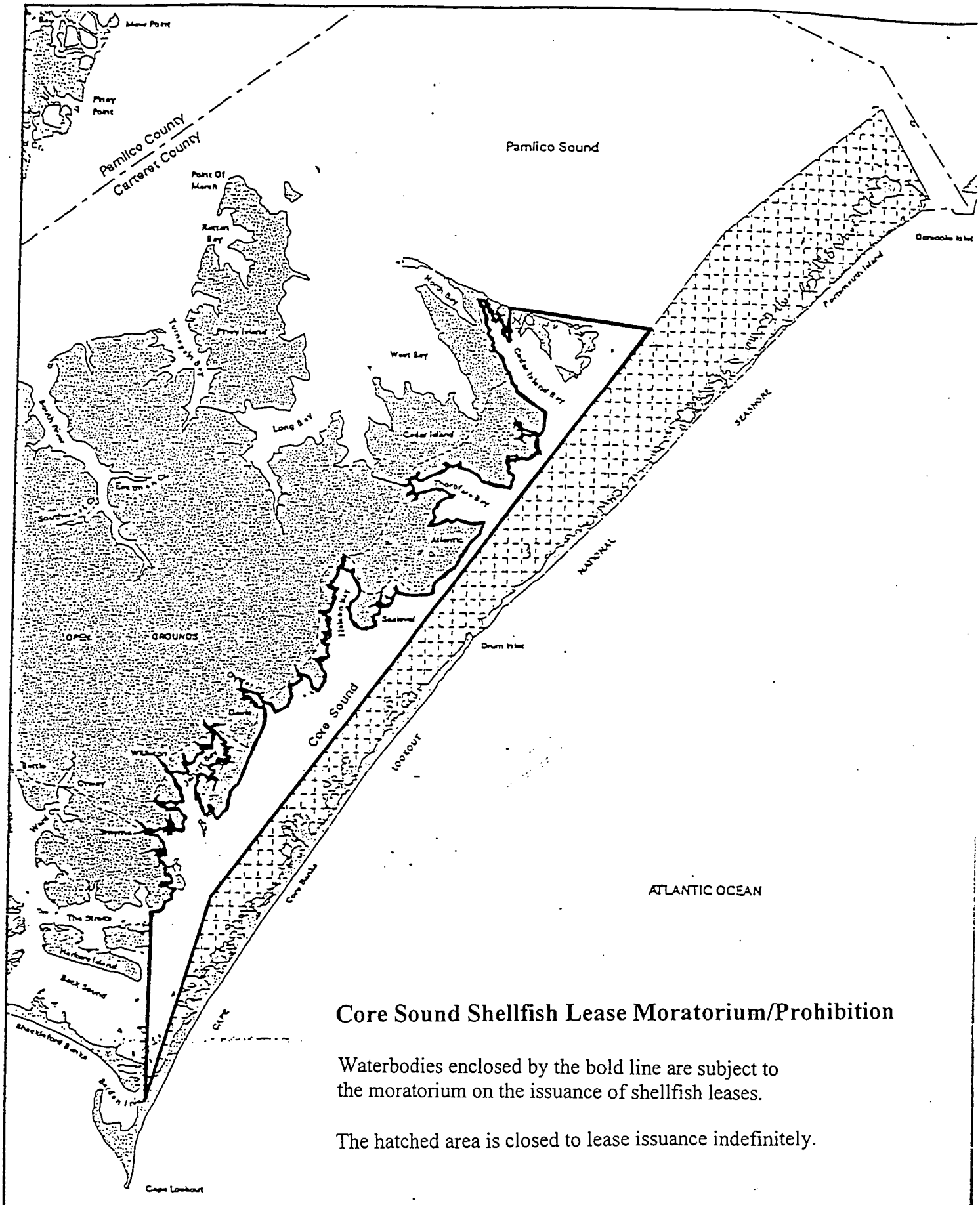
The Division is coordinating with the Wildlife Resources Commission (WRC) to use WRC license agents to sell the Division's Recreational Commercial Gear License. Current law does not require the bonding of WRC license agents.

Section 4. Interim Crab License. – Effective July 1, 1999, the current license to take and sell crabs will expire and all holders of a Standard Commercial Fishing License (SCFL) will be able to take and sell crabs. Section 4 of the proposed committee subsitute establishes an interim crab license that is effective from July 1, 1999 through October 1, 2000. Section 4 provides that during this period, only those persons who hold an interim crab license or work under the direction of a person who holds an interim crab license will be able to take and sell crabs. The specific provisions of the interim crab license are as follows:

- Eligibility. – Only those individuals who held a crab license during the period July 1, 1994 through July 1, 1999 are eligible to receive an interim crab license.
- Fees. – The fee for the interim crab license is $7.50 for North Carolina residents and $100.00 for nonresidents.
- Assignment and Transfer. – Assignment and transfer are prohibited.
- Exemption. – A person who is under 16 years of age is exempt from the license requirement if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession an interim crab license issued to the person's parent, grandparent, or guardian.

The Fisheries Reform Act of 1997 required the Commission to adopt a Fishery Management Plan for the blue crab fishery by January 1, 1999. The MFC adopted the Blue Crab Fishery Management Plan by this deadline, but the Plan did not include provisions for the control of effort in the blue crab fishery. The MFC presented the Plan to Seafood and Aquaculture and the ERC and requested an extension of the moratorium on issuing new crab licenses until it could develop an effort control strategy. The Commissions took no action on this request.

Section 5. Effective Date. – This act becomes effective July 1, 1999. The interim crab license expires October 1, 2000.



Core Sound Shellfish Lease Moratorium/Prohibition

Waterbodies enclosed by the bold line are subject to the moratorium on the issuance of shellfish leases.

The hatched area is closed to lease issuance indefinitely.

#29

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 249*
Proposed House Committee Substitute S249-PCS2694-SB

Short Title: Extend Core Sound Moratorium. (Public)

Sponsors:

Referred to:

March 8, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, TO AUTHORIZE RATHER THAN REQUIRE THE SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE FISHERIES LICENSE AGENTS TO POST BONDS, AND TO ESTABLISH AN INTERIM CRAB LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L. 1998-56, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at

35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1, 1999.~~ October 1, 2001."

Section 2. The Division of Marine Fisheries and the Primary Investigator for the Human Use Mapping Project in Core Sound shall report the results of the shellfish mapping and human use mapping of Core Sound to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission no later than October 1, 1999.

Section 3. G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary ~~shall~~ may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence or misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1."

Section 4.(a) Definitions. -- The definitions set out in G.S. 113-168 shall apply to this section.

Section 4.(b) SCFL Not Valid to Take Crabs. -- Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.

Section 4.(c) Interim Crab License Required to Take Crabs as Part of a Commercial Fishing Operation; Sale of Crabs. -- Except as provided in subsection (j) of this section, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina without having first procured an interim crab license. A person who works as a member of the crew of a vessel that is taking crabs as part of a commercial fishing operation under the

direction of a person who holds an interim crab license is not required to hold an interim crab license. An interim crab license entitles the holder to sell crabs taken under the interim crab license.

Section 4.(d) Eligibility for Interim Crab License. -- Any person who held a valid crab license issued pursuant to G.S. 113-153.1 during the period July 1, 1994, through July 1, 1999, is eligible to receive an interim crab license. The Division shall issue an interim crab license to any person who is eligible under this section upon receipt of an application and required fees.

Section 4.(e) Duration; Fees. -- The interim crab license expires on October 1, 2000. The fee for the interim crab license shall be seven dollars and fifty cents ($7.50) for a resident of this State and one hundred dollars ($100.00) for a person who is not a resident of this State.

Section 4.(f) General Provisions. -- Subsections (c), (d), (e), (g), (h), and (i) of G.S. 113-168.1 shall apply to the interim crab license.

Section 4.(g) License Issuance. -- The Division shall issue an interim crab license to eligible applicants at any office of the Division.

Section 4.(h) Assignment and Transfer Prohibited. -- An interim crab license is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer an interim crab license.

Section 4.(i) Record-Keeping Requirements. -- The record-keeping requirements of G.S. 113-168.2(i) shall apply to the interim crab license.

Section 4.(j) Exemptions. -- A person who is under 16 years of age is exempt from the license requirements of this section if the person is accompanied by a parent, grandparent, or guardian who holds an interim crab license or if the person has in the person's possession a valid interim crab license issued to the person's parent, grandparent, or guardian.

Section 4.(k) Note to G.S. 113-168.2. -- The Revisor of Statutes shall set out this section as a note to G.S. 113-168.2.

Section 5. This act becomes effective July 1, 1999. Section 4 of this act expires October 1, 2000.

HOUSE BILL 1008:
Sedimentation Act Reg. Some Excavation

BILL ANALYSIS

Committee:	House Env. & Natural Resources	**Introduced by:**	Representative Cox
Date:	April 20, 1999	**Summary by:**	Rick Zechini
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 1008 amends the Mining Act of 1971 to allow certain excavation and grading activities to be regulated under the Sedimentation Pollution Control Act of 1973.

CURRENT LAW: The Mining Act of 1971 (Mining Act) requires any person wishing to engage in mining to first obtain a mining permit from the Department of Environment and Natural Resources. Excavation and grading conducted solely in aid of on-site construction for purposes other than mining is currently excluded from the definition of "mining" and therefore not regulated under the Mining Act. This type of activity is regulated under the Sedimentation Pollution Control Act of 1973 (Sedimentation Act). There is no exemption from the Mining Act for excavation and grading conducted to aid off-site construction, however, so these activities are regulated under the Mining Act.

BILL ANALYSIS: House Bill 1008 specifically excludes from the definition of "mining", and thus excludes from regulation under the Mining Act, certain excavation and grading activities conducted to provide soil or other unconsolidated material for an off-site construction project. The ***Proposed Committee Substitute's*** only change to the bill as introduced is the addition of the term "off-site" to clarify that the exemption only applies to excavation and grading activities conducted in aid of off-site construction. One of the conditions for exempting these activities from regulation under the Mining Act is that they be regulated under the Sedimentation Act.

BACKGROUND: The Mining Act requires the filing of a bond as part of the mining permit application process. The amount of the bond depends on the size of the mining operation and generally is several thousand dollars. The Mining Act also requires a person applying for a mining permit to notify adjacent landowners and the chief administrative officer of the county or municipality in which the site is located of the person's intent to conduct a mining operation on the site. The Sedimentation Act does not require bonding or notice to adjacent landowners and chief administrative officers. The permit fee under the Mining Act for the type of excavation and grading contemplated in this bill is $150. Permit fees under the Sedimentation Act are calculated at $30 for the first acre and $20 for each additional acre.

EFFECTIVE DATE: This bill is effective October 1, 1999.

HOUSE BILL 746:
New River State Park/Acreage Limit

#4

BILL ANALYSIS

Committee:	House Environment	**Introduced by:**	Representative Baker
Date:	April 20, 1999	**Summary by:**	Rick Zechini
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 746 removes the limit on the amount of acres that may be acquired to protect the section of the New River designated as a Natural and Scenic River.

CURRENT LAW: G.S. 113A-35.1 authorizes the Department of Environment and Natural Resources to acquire lands or interest in lands not to exceed 2,200 acres for providing protection of and public access to the 26.5 miles of the New River in Ashe and Alleghany Counties designated as a Natural and Scenic River. All of the 1,539 acres that have been acquired pursuant to this statute have been included in the New River State Park.

BILL ANALYSIS: House Bill 746 removes the provision limiting the amount of land that the Department of Environment and Natural Resources can acquire to protect the section of the New River designated as a Natural and Scenic River. The ***amendment*** changes the bill as introduced by deleting the language relating to acquiring land in fee simple or as easements, because this language is surplusage and potentially confusing. The ***amendment*** also amends the bill as introduced by deleting the provision added by the bill that lands or interest in lands are to be included in the New River State Park.

BACKGROUND: Since the designation of this segment of the New River in 1976, 1,539 acres have been acquired. This acreage includes 3.5 miles of river frontage and three public access areas.

EFFECTIVE DATE: The bill is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 746

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H746V1-ART-001.01

Date_____,1999

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative ~~Baker~~ Daughtry

moves to amend the bill on page 1, line 4,
by rewriting that line to read:

"ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM" and

on page 1, lines 22 and 23,
by rewriting those lines to read:

"~~2,200 acres, to acquire such lands in fee simple or to acquire such interests in lands as easements, to~~ lands, provide".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

#4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1008*
Proposed Committee Substitute H1008-PCS7196-RT

Short Title: Sedimentation Act Reg. Some Excavation. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-49(7) reads as rewritten:

"(7) 'Mining' means:

a. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter.

b. Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.

c. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

'Mining' does not include:

a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.

b. Mining operations where the affected land does not exceed one acre in area.

c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.

d. Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining.

e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.

f. Excavation or grading where all of the following apply:

1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.

2. The affected land, including nonpublic access roads, does not exceed five acres.

3. The excavation or grading is completed within one year.

4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.

5. The excavation or grading is not in violation of any local ordinance.

6. An erosion control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes."

Section 2. This act becomes effective October 1, 1999.

HOUSE BILL 323:
Ambient Air Quality Improvement/AB

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Rep. Hackney
Date:	April 20, 1999	**Summary by:**	Hannah Holm, Research Assistant
Version:	Proposed Committee Substitute		

SUMMARY: ***HB 323 authorizes the Environmental Management Commission (EMC) and the Commissioner of the Division of Motor Vehicles (DMV) to require and enforce vehicle emissions inspection and maintenance (I/M) programs to improve air quality in counties where the programs are not currently required by federal law and which are not specified in the State Implementation Plan (SIP) for emissions testing submitted to the federal Environmental Protection Agency (EPA). HB 323 also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for HB 323 additionally authorizes the EMC to regulate the sulfur content of gasoline and provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system.***

CURRENT LAW: The current law authorizes the EMC and DMV to adopt and implement emissions testing programs and standards and require I/M programs in certain counties in compliance with federal requirements. It also states that a vehicle must be powered or designed so that it could be powered by gasoline in order to be subject to emissions testing.

BILL ANALYSIS: HB 323, as introduced, authorizes the EMC to designate counties where I/M programs must be implemented and adopt different standards and I/M programs for different counties as necessary and appropriate to improve ambient air quality, without reference to federal requirements. The bill also authorizes the Commissioner of DMV to implement and ensure the enforcement of rules governing I/M programs in the counties where the programs are required by the EMC. In addition, the bill broadens the class of vehicles subject to emissions inspections to include vehicles not powered by gasoline or designed to be powered by gasoline. The **Proposed Committee Substitute** for HB 323 contains all the provisions of the bill as introduced and additionally:

- Authorizes the EMC to regulate the sulfur content of gasoline.
- Provides that an exhaust emissions analysis may consist of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, if required by the EMC, an analysis of data collected by diagnostic equipment that monitors the vehicle's emissions while the vehicle is in operation.
- Authorizes every agency to which the act applies to adopt temporary rules to implement the provisions of the act and provides that this authorization shall remain valid until all rules necessary to implement the act have become effective as either temporary or permanent rules.

BACKGROUND: The Proposed Committee Substitute for HB 323 includes portions of the air quality initiative announced by Governor. Hunt at the Summit for Mountain Air Quality in Asheville April 6-7.

EFFECTIVE DATE: The Proposed Committee Substitute for HB 323 is effective when it becomes law.

#5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 323
PROPOSED HOUSE COMMITTEE SUBSTITUTE H323-CSRT-001
23:23:15 EZT / 19-APR-99

ATTENTION: Line numbers may change after adoption.

Short Title: Ambient Air Quality Improvement. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO REDUCE EMISSIONS FROM MOBILE SOURCES, AND TO PROVIDE FOR A PROGRAM OF INCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS OF AIR CONTAMINANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require, as part of the emissions inspection and maintenance program, that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle; and to certify

to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle emissions inspection and maintenance program. The Commission may adopt different motor vehicle emissions standards and different motor vehicle emissions inspection and maintenance programs for different areas or counties as may be necessary and appropriate to improve ambient air quality.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the oxygen and sulfur content of gasoline, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs

to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants."

Section 2. G.S. 20-39(e) reads as rewritten:

"(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of ~~necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards.~~ rules governing motor vehicle emissions inspection and maintenance programs adopted pursuant to G.S. 143-215.107(a)(6)."

Section 3. G.S. 20-128.2(a) reads as rewritten:

"(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) shall be implemented when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle ~~inspection/maintenance~~ emissions inspection and maintenance program within a specified county or group of ~~counties, as necessary to effect attainment or preclude violations of the National Ambient Air Quality Standards for carbon monoxide or ozone; provided the Environmental Management Commission may prescribe different vehicle emission limits for different areas as may be necessary and appropriate to meet the stated purposes of this section.~~ counties."

Section 4. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.
(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
(3) It is a 1975 or later model.
~~(4) It is powered or designed so that it could be powered by gasoline.~~
(5) It meets any of the following descriptions:
a. It is required to be registered in an emissions county.
b. It is part of a fleet that is operated primarily in an emissions county.
c. It is offered for rent in an emissions county.
d. It is a used vehicle offered for sale by a dealer in an emissions county.
e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:
(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted~~ under G.S. 143-215.107(a)(6).
(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 5. G.S. 20-183.3(b) reads as rewritten:

"(b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly

connected, and are the correct type for the vehicle and an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and the exhaust emissions analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well. An exhaust emissions analysis consists of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, for any model year for which the Environmental Management Commission adopts a rule that requires that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle, an analysis of the data collected by the diagnostic equipment."

Section 6. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. Oxygen and sulfur content standards and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the oxygen and sulfur content of gasoline or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S.

FOR REVIEW ONLY

143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

Section 7. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 8. This act is effective when it becomes law.

H6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999 1099 APR 14 99

HOUSE PRINCIPAL CLERK

H D

HOUSE DRH7177-LD069.01(3.18)

Short Title: Sulfur Content Limits for Gasoline. (Public)

Sponsors: Representative Hackney.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN LIMITS FOR THE SULFUR CONTENT OF GASOLINE.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"§ 119-26.3. Sulfur content standards.

(a) Subject to subsection (b) of this section, no person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(b) A person is exempt from the requirements of subsection (a) of this section if both of the following apply:

(1) The person manufactures, sells, or offers for sale during any one-year period gasoline that contains a concentration of sulfur that is not greater than 80 parts per million per gallon of gasoline.

(2) The average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by the person during the one-year period is less than 30 parts per million per gallon of gasoline.

(c) No person shall manufacture, sell, or offer for sale diesel motor fuel that contains a concentration of sulfur that is greater than 50 parts per million after the earlier of either October 1, 2005, or October 1 of the year that the Department of Agriculture and Consumer Services reports to the General Assembly, pursuant to subsection (e) of this section, that the motor vehicle manufacturers have introduced a significant number of diesel-powered sports utility vehicles, minivans, and light trucks

into a market that was previously dominated by gasoline-powered sports utility vehicles, minivans, and light trucks.

(d) The Department of Agriculture and Consumer Services shall adopt regulations to implement the requirements of this section.

(e) The Department of Agriculture and Consumer Services, in consultation with the Department of Environment and Natural Resources and the Department of Transportation, shall submit a report to the General Assembly no later than October 1 of each year on the transition in the motor vehicle manufacturing industry to using diesel engines in place of gasoline engines in sports utility vehicles, minivans, and light trucks."

Section 2. In consultation with the United States Environmental Protection Agency, the Department of Environment and Natural Resources shall report to the General Assembly by January 1, 2002, on the potential benefits to urban and regional air quality of establishing maximum and average allowable sulfur concentrations for gasoline that are lower than the concentration limitations specified in G.S. 119-26.3, as enacted by Section 1 of this act.

Section 3. This act becomes effective October 1, 2002, and applies to gasoline manufactured, sold, or offered for sale on or after that date.

VISITOR REGISTRATION SHEET

Natural Resources / Environment 4/20/99
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Evelyn Hawthorne	UNC-CH
Tim McDowell	NCAICU
Patric Mullen	Free Will
Lloyd Thurman	TAP/PD
John Cyrus	N.C. State Grange
David Meredith	N.C. State Grange
Lucius Pullen	Attorney
Jonathan Robinson	Cultural Commissioner
Fred Allen	NC Aggregates Assn.
Mac Boxley	NC Aggregates
Jim Kuszaj	NCEL
John Adams	Farmer
Eugene Bove	Bove & Assoc - NCPC
[illegible]	NC Park Service
Hamlett	Omega Protein

S33 5504

VISITOR REGISTRATION SHEET

Natural Resources / Environment — 4/26/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Chris Pardue	Long Beach, N.C.
JEFF LEE	COMMISIONER - HOLDEN BEACH
Carol Tingley	DENR - Parks + Recreation
Phil McKnelly	DENR/DPR
BERRY JENKINS	CAROLINAS AGC
FRANCIS M. NEVILS JR	DENR/DLR/LPS
JOHN R. BRATTON	Sedimentation and Control Comm. / Mining Comm.
Sandra Gaskill	Harkers Island N.C. / Commercial Fisherm
Janice M. Hamilton	Luther L. Hamilton Son Atlantic, N.C.
Laura DeNiro	DENR
Preston Pate	"
Bill Harrell	CCA-NC
TERRY Wilder	CCA - NC
Dick Brame	CCA-
Lloyd WATKINS	CCA - NC

VISITOR REGISTRATION SHEET

Natural Resources/Environment — 4/20/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Walter Cherry	N/C Pork Council
Natalie English	NC Agribusiness Council
Lu-Ann Coe	Farmers for Fairness, Inc
Charles Case	Hunton & Williams
Sandra Long	Martin Marietta
John Long	Martin Marietta
Jerry Schill	NCDA
Bob Shupe	Ocean Isle Beach
Thom Mills	ONSS
Kim Hibbard	NCLM
Russell Hagaman	DENR, Div. of Air Quality
Joan Altman	Town of Long Beach
Betty Williamson	Town of Ocean Isle Beach
Bob Black	Oak Island Tax Office
Dale McDowell	Long Bay Art. Reef. Ass 3928 Cross St Bolivia, NC

VISITOR REGISTRATION SHEET

Natural Resources / Environment — 4/20/94
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Damon M. Tatem	CWMTF 505 Copley Dr Kill Devil Hills NC

Reported out after 4/20/99 mtg.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 215 A BILL TO BE ENTITLED AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, AND TO REQUIRE THE MARINE FISHERIES COMMISION TO REVIEW THESE RESULTS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill # _____)~~; (and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 746 A BILL TO BE ENTITLED AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY ACQUIRE FOR INCLUSION IN THE NEW RIVER STATE PARK.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
H.B. 1108 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REVIEW ITS CURRENT PROCEDURES CONCERNING THE ISSUING OF PERMITS FOR OPEN BURNING.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on ~~Appropriations~~ ☐ ~~Finance~~ ☐ RULES ☒.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURECE**.

☐ Committee Substitute for
H.B. 1039 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A STRATEGY AND A PLAN FOR BEACH MANAGEMENT AND RESTORATION AND TO IDENTIFY FINANCING ALTERNATIVES FOR THIS PURPOSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#),~~ ☐ ~~which changes the title,~~ unfavorable as to (original bill), ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
S.B. 249 A BILL TO BE ENTITLED AN ACT AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES COMMISSION, AND TO REQUIRE THE MARINE FISHERIES COMMISSION TO REVIEW THESE RESULTS AND REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #)~~, (and recommendation that the committee substitute bill #) be re-referred to the Committee on FINANCE.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
H.B. 1218 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS ENVIRONMENTAL LAWS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, April 22, 1999**

TIME: **12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

H.B. 323	**AMBIENT AIR QUALITY IMPROVEMENT**
H.B. 1099	**SULFUR CONTENT LIMITS FOR GASOLINE**
H.B. 1125	**CONFORM DEFINITION OF HAZ. SITE**
H.B. 1039	**BEACH MANAGEMENT STRATEGY**
H.B. 1160	**EXTEND ANIMAL WASTE PILOT**

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **April 20, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

ENVIRONMENT & NATURAL RESOURCES

AGENDA

April 22, 1999

- **CALL TO ORDER . . . . . CHAIR GIBSON**
- **BILLS TO BE DISCUSSED:**
  - **H 323 AMBIENT AIR QUALITY IMPROVEMENT .....Rep. Hackney**
  - **H 1099 SULFUR CONTENT LIMITS FOR GASOLINE.....Rep Hackney**
  - **H 1125 CONFORM DEFINITION OF HAZARDOUS SITE...Rep. Hackney**
  - **H 1039 BEACH MANAGEMENT STRATEGY.....Rep. Redwine**
  - **1160 EXTEND ANIMAL WASTE PILOT.....Rep. Hackney**
- **ANNOUNCEMENT & ADJOURNMENT. . . . . CHAIR GIBSON**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

APRIL 22, 1999

MINUTES

The House Committee on Environment and Natural Resources met Thursday, April 22, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Don Davis, Joe Hackney, Dewey Hill, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Frank Mitchell, Liston Ramsey, Ronnie Smith, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue.

After "housekeeping" announcements, Representative Gibson suggested members study S.B. 1084 which has valuable information and relates to H.B. 1129 that was re-referred to Committee from the Floor. Representative Creech made the motion for an adoption of committee substitute on H.B. 1039.

Representative Ronnie Smith discussed H.B. 1039, Beach Management Strategy. The bill requires that the Department of Environment and Natural Resources develop a strategy for beach restoration (Attachment 1). Discussion ensued on whether funds were attached to this bill. Mr. Bill Holman, Assistant Secretary for Department of Environment and Natural Resources (DENR),. said that Governor Hunt's expansion budget has an initiative to support this legislation and provide for a comprehensive program. This bill sets up framework and direction, and if funds were not appropriated, DENR would work with the General Assembly to move this initiative forward. Representative Brown moved that Committee Substitute for H.B. 1039 a favorable and unfavorable to the original bill. The motion carried unanimously.

Representative Gibson recognized the pages Amber Burwell from Granville County, and Ronald Rogers from Wake County.

H.B. 323 (Attachment # 2) – Representative Hackney explained that this was an air quality bill with many provisions. There was a committee substitute, and Representative Hackney moved to adopt it. Representative Yongue seconded the motion. Passed.

With further discussion, Dr. Wes Wallace, Physician and Professor of Emergency Medicine, at the University of North Carolina hospitals in Chapel Hill, North Carolina. He explained that what air quality and ozone levels are really about people breathing. When ozone levels are high, those people with respiratory limitation have serious problems. He talked about a child who is an asthma patient can scarcely breath on high ozone days. This attacks our youngest, oldest and those with chronic disease during the

summer when ozone levels rise with heat and stagnant air. Forty-four days last year in the Great Smoky National Park, there were high ozone days in violation of Federal standards, so it is not just a problem of our urban areas. Most of the sources are from older power plant, not necessary automobiles. "This is about real human health that affects real families in North Carolina."

On the national level, Mr. Bill Holman, (Attachment #3), said his department is committed to protect public health for North Carolina and meet EPA standards.

Deborah Bryan, American Lung Association of North Carolina, informed the Committee that asthma is the leading cause of absence in our schools and children are more at risk. Lung disease is increasing, and health costs relating to air pollution in the United States are $50 billion a year. People polled across the country said they were willing to pay more for gas to decrease air pollution--89% favored increased gas tax, 69% would pay up to 5 cents more, while 91% were willing to pay up to 3 cents more. The cost estimate was 1 to 3 cents per gallon. North Carolina predicted growth would increase from 7 to 14 million in the next 25 years.

Representative Warwick stated that the Sub-Committee did meet and he assigned H.Bs. 352, 1098,1128, 1183, 1232, and 1241 to Sub-Committee

The meeting was adjourned at 12:36 p.m.

Nurham Warwick
Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson
Shirlyn MacPherson, Committee Assistant

A #1

HOUSE BILL 1039:
Beach Management Strategy

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Redwine
		Summary by:	Hannah Holm, Research Assistant
Date:	April 22, 1999		
Version:	First Edition		

SUMMARY: ***HB 1039 requires the Department of Environment and Natural Resources (DENR) to develop a plan for beach restoration, make recommendations on aiding property owners in moving structures threatened by erosion, and set priorities for the acquisition of public land for beach access, open space, and hazard reduction.***

CURRENT LAW: No law currently requires DENR to carry out the actions required by HB 1039.

BILL ANALYSIS: HB 1039 directs DENR to submit a beach management and restoration plan to the General Assembly by May 1, 2000, with updates every two years thereafter. The plan shall:

- Provide for cooperation among various State and federal agencies.
- Identify erosion rates and storm vulnerabilities at beach communities.
- Determine the need for and probable effectiveness of beach nourishment.
- Indicate the status of existing US Army Corps of Engineers beach protection projects.
- Make maximum feasible use of sand from dredging navigation channels for beach nourishment.
- Promote inlet sand bypassing to replicate the natural flow of sand interrupted by inlets.
- Locate suitable materials for beach nourishment.
- Determine the most cost-effective approach to beach nourishment by region.
- Provide for adequate public beach access, including handicapped access.
- Recommend priorities for State funding of beach nourishment.
- Make recommendations on how to obtain the maximum available federal aid for beach nourishment.
- Be subject to public hearing.

HB 1039 also directs DENR to:

- Review State, federal and local policies to aid property owners in moving structures threatened by erosion and recommend measures to make moving such structures more feasible for landowners.
- Review existing programs for the acquisition and management of public land for beach access and open space and recommend priorities for land acquisition for public beach access, open space, and hazard-reduction.

EFFECTIVE DATE: This act is effective when it becomes law.

#4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1039
Proposed Committee Substitute H1039-PCSA131-RT

Short Title: Beach Management Strategy. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A STRATEGY AND A PLAN FOR BEACH MANAGEMENT AND RESTORATION AND TO IDENTIFY FINANCING ALTERNATIVES FOR THIS PURPOSE.

The General Assembly of North Carolina enacts:

Whereas, North Carolina has 320 miles of ocean beach, including some of the most pristine and attractive beaches in the country; and

Whereas, the balance between economic development and quality of life in North Carolina has made our coast one of the most desirable along the Atlantic Seaboard; and

Whereas, North Carolina's beaches are vital to the State's tourism industry; and

Whereas, North Carolina's beaches belong to all the State's citizens and provide recreational and economic benefits to our residents statewide; and

Whereas, beach erosion can threaten the economic viability of coastal communities and can significantly affect State tax revenues; and

Whereas, the Atlantic Seaboard is vulnerable to hurricanes and other storms, and it is prudent to take precautions such as beach nourishment that protect and conserve the State's beaches and reduce property damage and flooding; and

Whereas, beach renourishment as an erosion control method provides hurricane flood protection, enhances the attractiveness of beaches to tourists, restores

habitat for turtles, shorebirds, and plants, and provides additional public access to beaches; and

Whereas, federal policy previously favored and assisted voluntary movement of structures threatened by erosion, but this assistance is no longer available; and

Whereas, relocation of structures threatened by erosion is sometimes the best available remedy for the property owner and is in the public interest; and

Whereas, public parking and public access areas are needed for use by the general public to enable their enjoyment of North Carolina's beaches; and

Whereas, acquisition of high erosion hazard property by local or State agencies can reduce risk to citizens and property, reduce costs to insurance policy holders, improve public access to beaches and waterways, and protect the environment; and

Whereas, beach nourishment projects such as those at Wrightsville Beach and Carolina Beach have been very successful and greatly reduced property damage during Hurricane Fran; and

Whereas, because local beach communities derive the primary benefits from the presence of adequate beaches, a program of beach management and restoration should not be accomplished without a commitment of local funds to combat the problem of beach erosion; and

Whereas, the State of North Carolina prohibits seawalls and hardening the shoreline to prevent destroying the public's beaches; and

Whereas, beach nourishment is encouraged by both the Coastal Resources Commission and the U.S. Army Corps of Engineers as a method to control beach erosion; and

Whereas, the Department of Environment and Natural Resources has statutory authority to assist local governments in financing beach nourishment projects and is the sponsor of several federal navigation projects that result in dredging beach-quality sand; and

Whereas, it is declared to be a necessary governmental responsibility to properly manage and protect North Carolina's beaches from erosion and that good planning is needed to assure a cost-effective and equitable approach to beach management and restoration, and that as part of a comprehensive response to beach erosion, sound policies are needed to facilitate the ability of landowners to move threatened structures and to allow public acquisition of appropriate parcels of land for public beach access; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 7C.

"Beach Management and Restoration.

"§ 113A-134.20. Beach Management and Restoration Strategy and Plan.

(a) The Department of Environment and Natural Resources shall compile and evaluate information on the current conditions and erosion rates of beaches, on

coastal geology, and on storm and erosion hazards for use in developing a State plan and strategy for beach management and restoration. The Department of Environment and Natural Resources shall make this information available to local governments for use in land-use planning.

(b) The Department of Environment and Natural Resources shall develop a multiyear beach management and restoration strategy and plan that does all of the following:

(1) Utilizes the data and expertise available in the Divisions of Water Resources, Coastal Management, and Land Resources.

(2) Identifies the erosion rate at each beach community, and estimates the degree of vulnerability to storm and hurricane damage.

(3) Uses the best available geological and geographical information to determine the need for and probable effectiveness of beach nourishment.

(4) Provides for coordination with the U.S. Army Corps of Engineers, the North Carolina Department of Transportation, the North Carolina Division of Emergency Management, and other State and federal agencies concerned with beach management issues.

(5) Provides a status report on all U.S. Army Corps of Engineers' beach protection projects in the planning, construction, or operational stages.

(6) Makes maximum feasible use of suitable sand dredged from navigation channels for beach nourishment to avoid the loss of this resource and to reduce equipment mobilization costs.

(7) Promotes inlet sand bypassing where needed to replicate the natural flow of sand interrupted by inlets.

(8) Provides for geological and environmental assessments to locate suitable materials for beach nourishment.

(9) Considers the regional context of beach communities to determine the most cost-effective approach to beach nourishment.

(10) Provides for and requires adequate public beach access, including handicapped access.

(11) Recommends priorities for State funding for beach nourishment projects, based on the amount of erosion occurring, the potential damage to property and to the economy, the benefits for recreation and tourism, the adequacy of public access, the availability of local government matching funds, the status of project planning, the adequacy of project engineering, the cost-effectiveness of the project, and the environmental impacts.

(12) Includes recommendations on obtaining the maximum available federal financial assistance for beach nourishment.

(13) Is subject to a public hearing to receive citizen input.

(c) Each plan shall be as complete as resources and available information allow. The Department of Environment and Natural Resources shall revise the plan every

two years and shall submit the revised plan to the General Assembly no later than 1 March of each odd-numbered year. The Department may issue a supplement to the plan in even-numbered years if significant new information becomes available."

Section 2. Notwithstanding G.S. 113A-134.20(c), as enacted by Section 1 of this act, the Department of Environment and Natural Resources shall submit the first plan required by G.S. 113A-134.20, as enacted by Section 1 of this act, no later than 1 May 2000. With the first plan, the Department shall:

(1) Provide to the General Assembly a report on alternative State and local government sources of funding for beach nourishment.

(2) Review State, federal, and local policies on enabling and assisting property owners to move structures that are threatened by imminent erosion damage and shall recommend policies, legislative changes, and actions to make moving structures more feasible for landowners.

(3) Review existing programs for the acquisition and management of public land for beach access areas and open space, including identifying high-hazard, erosion-prone, or unbuildable parcels of land that may be used for this purpose, and shall recommend any policy and legislative changes needed to improve public beach access. The Department shall recommend priorities for land acquisition for public beach access, open space, and hazard-reduction purposes.

Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1039

Short Title: Beach Management Strategy. (Public)

Sponsors: Representatives Redwine, Smith (Primary Sponsors); Rayfield, Barefoot, Jeffus, and Preston.

Referred to: Environment and Natural Resources.

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A STRATEGY AND A PLAN FOR BEACH MANAGEMENT AND RESTORATION AND TO IDENTIFY FINANCING ALTERNATIVES FOR THIS PURPOSE.

The General Assembly of North Carolina enacts:

Whereas, North Carolina has 320 miles of ocean beach, including some of the most pristine and attractive beaches in the country; and

Whereas, the balance between economic development and quality of life in North Carolina has made our coast one of the most desirable along the Atlantic Seaboard; and

Whereas, North Carolina's beaches are vital to the State's tourism industry; and

Whereas, North Carolina's beaches belong to all the State's citizens and provide recreational and economic benefits to our residents statewide; and

Whereas, beach erosion can threaten the economic viability of coastal communities and can significantly affect State tax revenues; and

Whereas, the Atlantic Seaboard is vulnerable to hurricanes and other storms, and it is prudent to take precautions such as beach nourishment that protect and conserve the State's beaches and reduce property damage and flooding; and

Whereas, beach renourishment as an erosion control method provides hurricane flood protection, enhances the attractiveness of beaches to tourists, restores

habitat for turtles, shorebirds, and plants, and provides additional public access to beaches; and

Whereas, federal policy previously favored and assisted voluntary movement of structures threatened by erosion, but this assistance is no longer available; and

Whereas, relocation of structures threatened by erosion is sometimes the best available remedy for the property owner and is in the public interest; and

Whereas, public parking and public access areas are needed for use by the general public to enable their enjoyment of North Carolina's beaches; and

Whereas, acquisition of high erosion hazard property by local or State agencies can reduce risk to citizens and property, reduce costs to insurance policy holders, improve public access to beaches and waterways, and protect the environment; and

Whereas, beach nourishment projects such as those at Wrightsville Beach and Carolina Beach have been very successful and greatly reduced property damage during Hurricane Fran; and

Whereas, because local beach communities derive the primary benefits from the presence of adequate beaches, a program of beach management and restoration should not be accomplished without a commitment of local funds to combat the problem of beach erosion; and

Whereas, the State of North Carolina prohibits seawalls and hardening the shoreline to prevent destroying the public's beaches; and

Whereas, beach nourishment is encouraged by both the Coastal Resources Commission and the U.S. Army Corps of Engineers as a method to control beach erosion; and

Whereas, the Department of Environment and Natural Resources has statutory authority to assist local governments in financing beach nourishment projects and is the sponsor of several federal navigation projects that result in dredging beach-quality sand; and

Whereas, it is declared to be a necessary governmental responsibility to properly manage and protect North Carolina's beaches from erosion and that good planning is needed to assure a cost-effective and equitable approach to beach management and restoration, and that as part of a comprehensive response to beach erosion, sound policies are needed to facilitate the ability of landowners to move threatened structures and to allow public acquisition of appropriate parcels of land for public beach access; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 7C.

"Beach Management and Restoration.

"§ 113A-134.20. Beach Management and Restoration Strategy and Plan.

(a) The Department of Environment and Natural Resources shall compile and evaluate information on the current conditions and erosion rates of beaches, on

coastal geology, and on storm and erosion hazards for use in developing a State plan and strategy for beach management and restoration. The Department of Environment and Natural Resources shall make this information available to local governments for use in land use planning.

(b) The Department of Environment and Natural Resources shall develop a multiyear beach management and restoration strategy and plan that does all of the following:

(1) Utilizes the data and expertise available in the Divisions of Water Resources, Coastal Management, and Land Resources.

(2) Identifies the erosion rate at each beach community, and estimates the degree of vulnerability to storm and hurricane damage.

(3) Uses the best available geological and geographical information to determine the need for and probable effectiveness of beach nourishment.

(4) Provides for coordination with the U.S. Army Corps of Engineers, the North Carolina Department of Transportation, the North Carolina Division of Emergency Management, and other State and federal agencies concerned with beach management issues.

(5) Provides a status report on all U.S. Army Corps of Engineers' beach protection projects in the planning, construction, or operational stages.

(6) Makes maximum feasible use of suitable sand dredged from navigation channels for beach nourishment to avoid the loss of this resource and to reduce equipment mobilization costs.

(7) Promotes inlet sand bypassing where needed to replicate the natural flow of sand interrupted by inlets.

(8) Provides for geological and environmental assessments to locate suitable materials for beach nourishment.

(9) Considers the regional context of beach communities to determine the most cost-effective approach to beach nourishment.

(10) Provides for and requires adequate public beach access, including handicapped access.

(11) Recommends priorities for State funding for beach nourishment projects, based on the amount of erosion occurring, the potential damage to property and to the economy, the benefits for recreation and tourism, the adequacy of public access, the availability of local government matching funds, the status of project planning, the adequacy of project engineering, the cost-effectiveness of the project, and the environmental impacts.

(12) Includes recommendations on obtaining the maximum available federal financial assistance for beach nourishment.

(13) Is subject to a public hearing to receive citizen input.

(c) The Department of Environment and Natural Resources shall submit the plan to the 1999 General Assembly by May 1, 2000. This first plan shall be as complete as

resources and available information allow. The Department shall revise, update, and improve the plan every two years, submitting it to the General Assembly by March 1 of each odd-numbered year. The Department may issue a supplement to the plan in even-numbered years if significant new information becomes available.

(d) The Department of Environment and Natural Resources shall provide to the General Assembly along with the first plan a report on alternative State and local government sources of funding for beach nourishment.

(e) The Department of Environment and Natural Resources shall review State, federal, and local policies on enabling and assisting property owners to move structures that are threatened by imminent erosion damage and shall recommend policies, legislative changes, and actions to make moving structures more feasible for landowners.

(f) The Department of Environment and Natural Resources shall review existing programs for the acquisition and management of public land for beach access areas and open space, including identifying high-hazard, erosion-prone, or unbuildable parcels of land that may be used for this purpose, and shall recommend any policy and legislative changes needed to improve public beach access. The Department shall recommend priorities for land acquisition for public beach access, open space, and hazard-reduction purposes."

Section 2. This act is effective when it becomes law.

#2

HOUSE BILL 323:
Ambient Air Quality Improvement/AB

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Rep. Hackney
		Summary by:	Hannah Holm, Research Assistant
Date:	April 20, 1999		
Version:	Proposed Committee Substitute		

SUMMARY: ***HB 323 authorizes the Environmental Management Commission (EMC) and the Commissioner of the Division of Motor Vehicles (DMV) to require and enforce vehicle emissions inspection and maintenance (I/M) programs to improve air quality in counties where the programs are not currently required by federal law and which are not specified in the State Implementation Plan for emissions testing submitted to the federal Environmental Protection Agency. HB 323 also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for HB 323 additionally authorizes the EMC to regulate the sulfur content of gasoline and provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system.***

CURRENT LAW: Current law authorizes the EMC and DMV to adopt and implement emissions testing programs and standards and to require I/M programs in certain counties in compliance with federal requirements. These emissions testing requirements apply only to vehicles powered or designed to be powered by gasoline.

BILL ANALYSIS: HB 323, as introduced, authorizes the EMC to designate counties where I/M programs must be implemented and to adopt different standards and I/M programs for different counties as necessary and appropriate to improve ambient air quality, without reference to federal requirements. The bill also authorizes the Commissioner of DMV to implement and enforce rules governing I/M programs in the counties where the EMC requires the programs. In addition, the bill broadens the class of vehicles subject to emissions inspections to include vehicles not powered by gasoline or designed to be powered by gasoline. The **Proposed Committee Substitute** for HB 323 contains all the provisions of the bill as introduced and additionally:

- Authorizes the EMC to regulate the sulfur content of gasoline.
- Provides that an exhaust emissions analysis may consist of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, if required by the EMC, an analysis of data collected by diagnostic equipment that monitors the vehicle's emissions while the vehicle is in operation.
- Authorizes every agency to which the act applies to adopt temporary rules to implement the provisions of the act and provides that this authorization shall remain valid until all rules necessary to implement the act have become effective as either temporary or permanent rules.

BACKGROUND: The Proposed Committee Substitute for HB 323 includes portions of the air quality initiative announced by Governor. Hunt at the Summit for Mountain Air Quality in Asheville April 6-7. The companion bill for HB 323 is SB 593, which was introduced by Sen. Brad Miller.

EFFECTIVE DATE: The Proposed Committee Substitute for HB 323 is effective when it becomes law.

#2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 323
Proposed Committee Substitute H323-PCS1221-RT

Short Title: Ambient Air Quality Improvement. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO REDUCE EMISSIONS FROM MOBILE SOURCES, AND TO PROVIDE FOR A PROGRAM OF INCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS OF AIR CONTAMINANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the

policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require, as part of the emissions inspection and maintenance program, that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle; and to certify to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle emissions inspection and maintenance program. The Commission may adopt different motor vehicle emissions standards and different motor vehicle emissions inspection and maintenance programs for different areas or counties as may be necessary and appropriate to improve ambient air quality.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides emissions in

accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the oxygen and sulfur content of gasoline, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants."

Section 2. G.S. 20-39(e) reads as rewritten:

"(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of ~~necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards.~~ rules governing motor vehicle emissions inspection and maintenance programs adopted pursuant to G.S. 143-215.107(a)(6)."

Section 3. G.S. 20-128.2(a) reads as rewritten:

"(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) shall be implemented when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle ~~inspection/maintenance~~ emissions inspection and maintenance program within a specified county or group of ~~counties, as necessary to effect attainment or preclude violations of the National Ambient Air Quality Standards for carbon monoxide or ozone; provided the Environmental Management Commission may prescribe different vehicle emission limits for different areas as may be necessary and appropriate to meet the stated purposes of this section.~~ counties."

Section 4. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

~~(4) It is powered or designed so that it could be powered by gasoline.~~

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:

(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted~~ under G.S. 143-215.107(a)(6).

(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 5. G.S. 20-183.3(b) reads as rewritten:

"(b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and the exhaust emissions analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well. An exhaust emissions analysis consists of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, for any model year for which the Environmental Management Commission adopts a rule that requires that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle, an analysis of the data collected by the diagnostic equipment."

Section 6. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. Oxygen and sulfur content standards and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the oxygen and sulfur content of gasoline or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

Section 7. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 8. This act is effective when it becomes law.

#2

Excerpted Remarks by Gov. Jim Hunt
Governors' Summit on Clear Air
Asheville, NC
April 7, 1999

These are the oldest mountains in the world. They were formed and shaped over millions of years to develop into the awesome landscape we know today. For most of that time, their only enemy was the forces of nature.

But since the Industrial Revolution, all that has changed. You don't need to look any farther than our highest peak, Mount Mitchell, to realize that something is seriously wrong. Many of you have been up there, and you've seen the dead trees. Somehow, humans are contributing.

And since we've caused the problem, it's our job to find the solution to air pollution that obscures our great vistas, harms our environment, threatens our health and hurts our tourism industry.

A week ago marked the start of the "ozone season" in the South. It's that period of during our warm months when our climate cooks the emissions from cars and smokestacks and creates ozone, a lung irritant and a known enemy of plants and crops.

When the summer heats up and ozone is created, the public's health is at risk. Not just the elderly and little children and the sick. Even healthy athletes out for a jog, and people who work outdoors are affected. It's a serious problem, and it's time we faced up to it.

Here in North Carolina, we take great pains to monitor our air quality. We don't always like what we find, but it's better than not knowing. But we know that half of our ozone pollution comes from vehicle emissions -- as much as 90 percent in our cities.

We're a growing state, with more and more people coming here all the time for our quality of life here in the mountains, and in our great Piedmont urban areas, and along our coastline. But the number of miles we travel in our cars is growing at a rate three times faster than our population is growing. That means more ozone-causing emissions, and more public-health threats.

Today, I'm announcing my Administration's coordinated strategy to fight back against ozone. It's focused on vehicle emissions, because they're our biggest problem. But it also includes industrial emissions, because all elements of the problem have to be addressed.

Our ozone-reduction plan will include seven key elements:

1) Expand and toughen vehicle emissions inspections. We'll expand into more counties than ever and require that dirty cars be fixed or get off the road. We'll test for nitrogen oxide, the building block of ozone.

2) Require that only low-sulfur gas be sold in North Carolina to improve the performance of pollution-control equipment on cars.

3) Provide incentives to encourage the use of alternative fuel vehicles that use electricity, natural gas and other clean fuels.

4) Continue to expand the ozone awareness programs in our state. This proposal recognizes that we're all in this together, and there are things we can do in our daily lives to reduce pollution.

5) Expand funding for mass transit and rail projects in our state. I proposed more than $56 million over the next two years to upgrade our rail lines, plan for urban mass transit systems, and contribute to operating costs for rural, small urban and regional urban transit systems.

6) Cut emissions by two thirds over the next four years in our state's five largest power plants, with further cutbacks likely for other utilities and industries at a later date.

7) And to protect our economic base while we clear the air, we'll establish an emissions trading program. It will allow companies that clean their emissions ahead of schedule to "bank" their emissions credits. They then could sell the credits to new or expanding businesses that must find offsets for their emissions to meet clean air requirements.

This isn't a quick fix. Getting out of the hole we've dug for ourselves won't be easy. And we'll all need to work to get this plan in place.

We all know what great things we can accomplish in this state when we work together. We've already begun to clean up our rivers and streams in Western North Carolina. And we can do our part to clean up our air with the same cooperative effort.

There's also a regional aspect to this problem, and that's why we're here today. Air pollution doesn't respect state boundaries. All of us represented here today are part of the problem and can be part of the solution. So let's get down to business.

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

NCDENR

JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

April 22, 1999

MEMORANDUM

To: Members of the House Committee on Environment & Natural Resources

From: Bill Holman, Assistant Secretary for Environmental Protection

Re: Governor Hunt's Clean Air Initiative

Governor Jim Hunt announced an initiative to reduce air pollution from cars and trucks, powerplants, and other sources at the Governors' Summit on Mountain Air Quality in Asheville on April 7, 1999. Governor Hunt's plan calls for reductions from both industry and vehicles.

Governor Hunt's budget provides $56 million to continue his Transit 2001 initiative to provide high-speed passenger rail service between Raleigh and Charlotte, expand passenger rail service to Western North Carolina, build regional transit systems, and support existing urban and rural transit systems.

Governor Hunt supports legislation to expand and enhance emission tailpipe tests for cars and trucks, to require the sale of low-sulfur gasoline, to provide incentives for the use of alternative fuel vehicles, to expand the ozone awareness educational program, and to provide credits for early reduction of nitrogen oxides. Governor Hunt also supports appropriate controls to reduce emissions from powerplants. The Environmental Management Commission already has authority to require controls on powerplants.

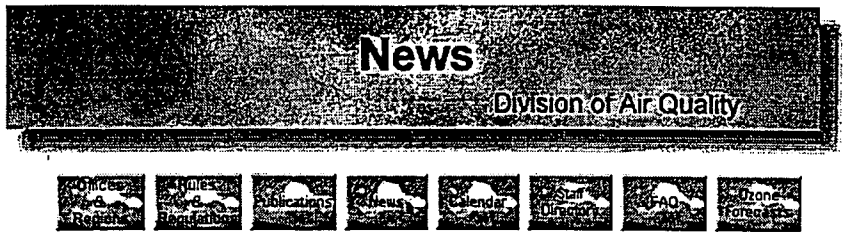
Expanding and enhancing tailpipe tests for cars and trucks will require an increase in inspection fees and review by the Finance Committee. Tax credits and other financial incentives for the use of alternative fuel vehicles will also require review by the Finance Committee.

Governor Hunt has directed DENR, DOT and Commerce to work with your committee and stakeholders to develop and enact a comprehensive clean air bill this year. Representative Joe Hackney has introduced HB 323, Air Quality Improvements, and HB 1099, Low Sulfur Gasoline, that address two elements of Governor Hunt's Clean Air Initiative. Representative Hackney's bills provide good vehicles to develop a comprehensive clean air bill.

We look forward to working with you and other stakeholders and thank you for your consideration.

P.O. BOX 27687, RALEIGH NC 27611-7687 / 512 NORTH SALISBURY STREET, RALEIGH NC 27604
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#3



James B. Hunt Jr., Governor NCDENR Wayne McDevitt, Secretary

N.C. Department of Environment and Natural Resources

Release: Immediate
Contact: Tom Mather (919) 715-7408
Date: December 28, 1998
Distribution: Statewide

NORTH CAROLINA OFFERS MORE COMPREHENSIVE ALTERNATIVE TO FEDERAL OZONE REQUIREMENT

RALEIGH -- The Hunt administration today proposed a comprehensive new strategy to reduce North Carolina's air pollution, including a substantial reduction in utility emissions and significant measures to cut exhaust from motor vehicles.

The proposal was offered as an aggressive alternative to the U.S. Environmental Protection Agency's (EPA) order for a revised ozone control plan for the state. North Carolina filed a petition with the U.S. Court of Appeals in the District of Columbia because the accelerated timetable in the EPA's order ignores pollution from motor vehicles and forces the state to spend hundreds of millions of dollars with minimal environmental benefit to North Carolina. Several other states, including South Carolina and Virginia, have filed similar petitions.

"Reducing air pollution is not a quick fix, and requires a comprehensive and far-reaching solution," said Wayne McDevitt, secretary of the N.C. Department of Environment and Natural Resources. "All of us in North Carolina want cleaner air. The Hunt Administration is requiring utilities to dramatically reduce their emissions, but we're not leaving it at that. We want to go beyond EPA's narrow focus to tackle the root causes of air pollution, which in our state means tackling the issue of motor vehicle air pollution."

The state's clean air proposal calls for significant emissions reductions from utilities and a series of measures to reduce pollution from motor vehicles, the largest source of ozone-forming pollution in North Carolina. The plan will be a cooperative effort between the Department of Environment and Natural Resources (DENR) and the Department of Transportation (DOT).

The proposed alternative clean air strategy includes requiring substantial emissions cutbacks at the state's five largest utilities, which account for about 70 percent of the emissions reductions sought by the EPA. The plants include three Duke Power Co. facilities (Belews Creek in Stokes County, Marshall in Catawba County and Allen in Gaston County) and two Carolina Power & Light facilities (Roxboro and Mayo, both in Person County).

The package also is expected to include:

- Increased funding for Transit 2001, (Gov. Hunt's mass transit expansion initiative);
- Use of low sulfur gasoline;
- A strengthened vehicle emission inspection and maintenance program;

- Incentives for alternative fuel vehicles;
- Continuation and expansion of the state's ozone awareness effort;
- A market-based program to encourage voluntary nitrogen oxides (NOx) reductions; and
- Continued assessment of the impact of nitrogen emissions from power plants, motor vehicles and animal operations.

The N.C. Department of Transportation is committed to working closely with DENR to find workable solutions to reduce air pollution from the state's motor vehicles, according to DOT Secretary Norris Tolson.

"At DOT, we understand our fundamental responsibility to provide an integrated transportation system that boosts economic development and maximizes mobility while protecting the environment and our natural resources," said Tolson. "We will continue to work with DENR on a plan to reduce air pollution throughout our state."

Ozone, the primary component in smog, is formed when nitrogen oxides (NOx) react in the air with hydrocarbons on hot, sunny days. High ozone levels can be unhealthy to breathe, particularly for children, the elderly and people with asthma or other respiratory problems. Ozone also can damage trees and crops. Because of such concerns, the EPA in 1997 adopted a stricter federal ozone standard, which North Carolina supports. At the time, the EPA told states it would give them until July 18, 2003, to develop plans for meeting the new standard, with new controls phased in over several years.

In September, however, the EPA shortened the timetable and ordered North Carolina and 21 other Eastern and Midwestern states to revise their State Implementation Plans (SIPs) for controlling nitrogen oxide emissions by September 30, 1999. Under the accelerated EPA's "SIP Call," all of North Carolina's utilities and some large industries would be required to cut their NOx emissions by about two-thirds by 2003. But the EPA mandate ignores cars and trucks -- which account for about half of the NOx emissions statewide and nearly 90 percent in North Carolina's major metropolitan areas.

Another reason for the North Carolina alternative is that the EPA SIP Call is based on claims that air pollution from North Carolina causes states in the Northeast to exceed the old ozone standard, despite evidence that emissions from North Carolina do not significantly affect those areas. This has been shown in studies by North Carolina as well as the Ozone Transport Assessment Group, a multi-year analysis of ozone formation and movement in the Eastern U.S.

"Research shows that North Carolina has little impact on air pollution problems in the Northeast," said Bill Holman, DENR's assistant secretary for environmental protection. "This problem is far too serious for North Carolina to spend hundreds of millions of dollars to fix problems we do not cause. We believe our resources and energies would be better spent on this comprehensive approach that would achieve these goals in a more effective way."

At the same time, North Carolina is working to improve air quality in other ways, including regular ozone alerts, a new plan to comply with tougher federal standards, a spring conference on clean air and a new agreement to ensure new industrial emissions do not degrade air quality in the Great Smoky Mountains and other wilderness areas. This establishes formal procedures for reviewing permit applications for new or expanded utilities and other large industries.

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HOUSE BILL 1099:
Sulfur Content Limits for Gasoline

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Rep. Hackney
		Summary by:	Hannah Holm, Research Assistant
Date:	April 22, 1999		
Version:	First Edition		

SUMMARY: HB 1099 establishes limits on the sulfur content of gasoline and diesel fuel sold in North Carolina.

CURRENT LAW: Current law includes no limits on the sulfur content of either gasoline or diesel fuel.

BILL ANALYSIS: HB 1099 sets specific limits on the concentrations of sulfur in gasoline sold in the State. The bill also sets limits on the sulfur content of diesel fuel. The sulfur limits for gasoline go into effect October 1, 2002. The sulfur limits for diesel fuel go into effect the earlier of either October 1, 2005 or October 1 of the year that the Department of Agriculture and Consumer Services reports to the General Assembly that diesel-powered sport utility vehicles, minivans, and light trucks have become a significant presence in a market previously dominated by gasoline-powered sport utility vehicles, minivans, and light trucks. The bill also directs the Department of Environment and Natural Resources to report to the General Assembly by January 1, 2002 on the potential air quality benefits of establishing limits on the concentrations of sulfur in gasoline that are lower than those specified in this bill.

EFFECTIVE DATE: This act is effective October 1, 2002 and applies to gasoline manufactured, sold, or offered for sale on or after that date.

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Bob Slocum	NC Forestry Assoc
Dan McLawhorn	DENR
JIM KUSZAJ	NCEI
Ed Regan	N.C. Assoc. of Co. Comm
Kim Hibbard	NCLM
Cathy Clamp	Stanton - Williams
John Morris	DENR
Sam Poole	Sanford Holshouser
Molly Diggins	NC Sierra Club
Walt Mundt	Conservation Council of NC
Joan Danielett	Agri-Views, Madison, WI
Linda Sewall	DEH
Anne Brunnemeyer	student observer
Laura DeVivo	DENR
Brock Nicholson	DENR - DAQ

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Mike Kelly	DIV Waste Mgt
Bill Weatherspoon	NC Petroleum Council
Alan Briggs	Save Our State
Cam Cover	BPMHL
John Rabinowitz	NCDMO - Enf.
[illegible]	NCSSA
Sherol Bremer	NC Petroleum Council

ENVIRONMENT & NATURAL RESOURCES

AGENDA

Friday, April 23, 1999

CALL TO ORDER ....CHAIR WARWICK

BILLS TO BE DISCUSSED:

- H 323 AMBIENT AIR QUALITY IMPROVEMENT .....Rep. Hackney
- H 1099 SULFUR CONTENT LIMITS FOR GASOLINE.....Rep Hackney
- H 1125 CONFORM DEFINITION OF HAZARDOUS SITE...Rep. Hackney
- H 1127 REVISE CERTAIN LODGING RULES.....Rep. Smith
- 1160 EXTEND ANIMAL WASTE PILOT.....Rep. Hackney

- ANNOUNCEMENT & ADJOURNMENT. . .. . CHAIR WARWICK

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES
Minutes

April 23, 1999

The House Committee on Environment and Natural Resources met on April 23, 1999, with the following members present: Chairs Warwick, Vice-Chair Cox, Representatives Bonner, Brown, Creech, Culp, Davis, Gillespie, Hackney, Hill, McCombs, McLawhorn, Ramsey, Smith, Thomas, Tolson, Tucker, Warner and Yongue. Representative Daughtry had an excused absence.
Chair Nurham Warwick called the meeting to order at 12:00 Noon. The following bill were presented and action taken as follows:

H 323 Ambient Air Quality Improvement & H.B. 1099 Sulfur Content Limits for Gasoline- A draft Committee Substitute on H. B. 323 was distributed to the members. (A copy of the Substitute of H.B. 323 is included with these minutes as Attachment # 1. A brief summary is also included.) Following a brief discussion of the proposed Committee Substitute on H.B. 323, Representative Yongue introduced an amendment which moves to amend the bill on page 1 lines 3 through 5, by rewriting those lines to read: "FROM MOBILE SOURCES, TO PROVIDE FOR A PROGRAM OF ENCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS OF AIR CONTAMINANTS, AND TO ADJUST THE CHARGE FOR THE INSPECTION OF A MOTOR VEHICLE." And on page 6, line 12, by rewriting that line to read: (see the attached original, signed copy of the amendment included as Attachment 2 to get the exact language for changes to Section 8 and 9 of this bill.) The motion was passed and seconded to adopt this amendment and roll it into a new committee substitute for this bill. The motion was passed. Further action was not taken on this bill but will be brought up at the next meeting of the committee.

Representative Yongue also introduced an amendment (#1) to H.B. 1099 to amend page 1, line 3, by rewriting that line to read: "GASOLINE AND TO ADJUST THE CHARGE FOR THE INSPECTION OF A MOTOR VEHICLE." And on page 2, lines 17 and 18, by rewriting those lines to read:
(see the included original copy of the amendment included as Attachment 3 to get the exact language for changes to Section 3 and 4 of this bill. A copy of the bill & summary is included as Attachment #4.) Representative Yongue moved the amendment be adopted and rolled over into a committee substitute that will be considered at the next meeting of the committee. The committee passed the motion adopting the amendment.

Chair Warwick then call on Sheroyl Grummen of the North Carolina Petroleum Industry to speak on the above bills Ms. Grummen stated that the Petroleum Industry certainly wants cleaner burning engines, cleaner burning fuel and cleaner burning emissions from vehicles. She stated that the industry is working on lower sulfur content in gasoline and hopefully will accomplish this by the year 2004 as Federal EPA ruling requires.

Representative McMahan ask what will be the cost to bring the sulfur content in fuel to 40 parts per gallon. Ms Grummen state approximately 5 cents more per gallon. Representative Brown ask about the State of California. She stated that California is already using low sulfur fuel.

H.B. 1127 Revise Certain Lodging Rules - Representative Smith, sponsor of the bill, called on Staff Attorney Jeff Hudson to explain the bill. This bill would allow the Environmental Services Section (EHSS) Division of Environmental Health of the North Carolina Department of Environment and Natural Resources (DENR) to adopt changes to certain administrative rules related to how ice buckets and coffee pots that are placed in rooms for use by guests of a hotel or motel are to be cleaned. This bill would temporarily suspend the current rules while the agency dopts new rules to ensure the cleanliness of coffee pots and ice buckets that are placed in guest rooms for use by guests of the hotel or motel. (A copy of the bill and summary is included as Attachment #5.) Representative Smith moved that the bill be given a favorable report. Representative Warner seconded the motion and the motion passed giving the bill as presented a favorable report.

H.B. 1160 Extend Animal Waste Pilot - Representative Hackney asked Staff Attorney Givens to explain the bill. This bill would extend the pilot program under which the Division of Soil and Water conservation of the Department of Environment and Natural Resources conducts all inspections of animal waste management systems in Jones and Columbus Counties. It would push back the end of the pilot program from October 31, 1998 to December 31, 2000. Representative MacMahan moved that the bill be given a favorable report. Representative Davis seconded and the motion carried giving the bill a favorable report. (A copy of the bill and summary is included with these minutes as Attachment #6.)

H.B. 1125 Conform Definition of Hazardous Site - Representative Hackney called upon Staff Attorney Givens to explain the bill. This bill would amend the definition of inactive hazardous sites in the General Statutes to make it conform with the definition in federal law. He stated that the current definition of "inactive hazardous substance or waste disposal site" does not provide for a site contaminated by a hazardous substance that has migrated from elsewhere or for which a source is not known. Following brief discussion of the bill Representative Thomas moved the bill be given a favorable report and Representative Culp seconded the motion. The motion then pass giving the bill a favorable report. (A copy of the bill and a brief summary is included with the minutes as Amendment # 7.)

George Givens announced that H.B. 323 and H.B. 1099 Stakeholders would be meeting Friday, May 7th at 10:00 PM to try and workout differences in these bills. All interested call George Givens for more information.

Chair Warwick announced that H.B. 1211 and H.B. 1234 would be going to subcommittee.

The meeting was then adjourned.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Legislative Assistant

Attachment #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 323
PROPOSED HOUSE COMMITTEE SUBSTITUTE H323-CSRT-001
23:23:15 EZT / 19-APR-99

ATTENTION: Line numbers may change after adoption.

Short Title: Ambient Air Quality Improvement. (Public)

Sponsors:

Referred to:

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO REDUCE EMISSIONS FROM MOBILE SOURCES, AND TO PROVIDE FOR A PROGRAM OF INCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS OF AIR CONTAMINANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require, as part of the emissions inspection and maintenance program, that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle; and to certify

to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle emissions inspection and maintenance program. The Commission may adopt different motor vehicle emissions standards and different motor vehicle emissions inspection and maintenance programs for different areas or counties as may be necessary and appropriate to improve ambient air quality.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the oxygen and sulfur content of gasoline, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs

to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants."

Section 2. G.S. 20-39(e) reads as rewritten:

"(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of ~~necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards.~~ rules governing motor vehicle emissions inspection and maintenance programs adopted pursuant to G.S. 143-215.107(a)(6)."

Section 3. G.S. 20-128.2(a) reads as rewritten:

"(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) shall be implemented when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle ~~inspection/maintenance~~ emissions inspection and maintenance program within a specified county or group of ~~counties, as necessary to effect attainment or preclude violations of the National Ambient Air Quality Standards for carbon monoxide or ozone; provided the Environmental Management Commission may prescribe different vehicle emission limits for different areas as may be necessary and appropriate to meet the stated purposes of this section.~~ counties."

Section 4. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.
(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
(3) It is a 1975 or later model.
~~(4) It is powered or designed so that it could be powered by gasoline.~~
(5) It meets any of the following descriptions:
a. It is required to be registered in an emissions county.
b. It is part of a fleet that is operated primarily in an emissions county.
c. It is offered for rent in an emissions county.
d. It is a used vehicle offered for sale by a dealer in an emissions county.
e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:
(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted~~ under G.S. 143-215.107(a)(6).
(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 5. G.S. 20-183.3(b) reads as rewritten:

"(b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly

connected, and are the correct type for the vehicle and an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and the exhaust emissions analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well. An exhaust emissions analysis consists of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, for any model year for which the Environmental Management Commission adopts a rule that requires that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle, an analysis of the data collected by the diagnostic equipment."

Section 6. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. Oxygen and sulfur content standards and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the oxygen and sulfur content of gasoline or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S.

143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

Section 7. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 8. This act is effective when it becomes law.

Summary

HOUSE BILL 323:
Ambient Air Quality Improvement/AB

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Rep. Hackney
		Summary by:	Hannah Holm, Research Assistant
Date:	April 20, 1999		
Version:	Proposed Committee Substitute		

SUMMARY: ***HB 323 authorizes the Environmental Management Commission (EMC) and the Commissioner of the Division of Motor Vehicles (DMV) to require and enforce vehicle emissions inspection and maintenance (I/M) programs to improve air quality in counties where the programs are not currently required by federal law and which are not specified in the State Implementation Plan for emissions testing submitted to the federal Environmental Protection Agency. HB 323 also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for HB 323 additionally authorizes the EMC to regulate the sulfur content of gasoline and provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system.***

CURRENT LAW: Current law authorizes the EMC and DMV to adopt and implement emissions testing programs and standards and to require I/M programs in certain counties in compliance with federal requirements. These emissions testing requirements apply only to vehicles powered or designed to be powered by gasoline.

BILL ANALYSIS: HB 323, as introduced, authorizes the EMC to designate counties where I/M programs must be implemented and to adopt different standards and I/M programs for different counties as necessary and appropriate to improve ambient air quality, without reference to federal requirements. The bill also authorizes the Commissioner of DMV to implement and enforce rules governing I/M programs in the counties where the EMC requires the programs. In addition, the bill broadens the class of vehicles subject to emissions inspections to include vehicles not powered by gasoline or designed to be powered by gasoline. The **Proposed Committee Substitute** for HB 323 contains all the provisions of the bill as introduced and additionally:

- Authorizes the EMC to regulate the sulfur content of gasoline.
- Provides that an exhaust emissions analysis may consist of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, if required by the EMC, an analysis of data collected by diagnostic equipment that monitors the vehicle's emissions while the vehicle is in operation.
- Authorizes every agency to which the act applies to adopt temporary rules to implement the provisions of the act and provides that this authorization shall remain valid until all rules necessary to implement the act have become effective as either temporary or permanent rules.

BACKGROUND: The Proposed Committee Substitute for HB 323 includes portions of the air quality initiative announced by Governor. Hunt at the Summit for Mountain Air Quality in Asheville April 6-7. The companion bill for HB 323 is SB 593, which was introduced by Sen. Brad Miller.

EFFECTIVE DATE: The Proposed Committee Substitute for HB 323 is effective when it becomes law.

Original Bill

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 323

Short Title: Ambient Air Quality Improvement/AB. (Public)

Sponsors: Representatives Hackney; and Luebke.

Referred to: Environment & Natural Resources.

March 4, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY BY AUTHORIZING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO EXPAND THE MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to designate emissions counties; and to certify to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle emissions inspection and maintenance program. The Commission may adopt different motor vehicle emissions standards and different motor vehicle emissions inspection and maintenance programs for different areas or counties as may be necessary and appropriate to improve ambient air quality.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the oxygen content of gasoline, to require use of reformulated gasoline as the Commission determines necessary, to

implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B."

Section 2. G.S. 20-39(e) reads as rewritten:

"(e) The Commissioner is authorized to cooperate with and provide assistance to the Environmental Management Commission, or appropriate local government officials, and to develop, adopt, and ensure enforcement of ~~necessary rules and regulations, regarding programs of motor vehicle emissions inspection/maintenance required for areas in which ambient air pollutant concentrations exceed National Ambient Air Quality Standards.~~ rules governing motor vehicle emissions inspection and maintenance programs adopted pursuant to G.S. 143-215.107(a)(6)."

Section 3. G.S. 20-128.2(a) reads as rewritten:

"(a) The rules and regulations promulgated pursuant to G.S. 143-215.107(a)(6) shall be implemented when the Environmental Management Commission certifies to the Commissioner of Motor Vehicles that the ambient air quality in an area will be improved by the implementation of a motor vehicle ~~inspection/maintenance~~ emissions inspection and maintenance program within a specified county or group of ~~counties, as necessary to effect attainment or preclude violations of the National Ambient Air Quality Standards for carbon monoxide or ozone; provided the Environmental Management Commission may prescribe different vehicle emission limits for different areas as may be necessary and appropriate to meet the stated purposes of this section.~~ counties."

Section 4. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.
(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:
(1) It is subject to registration with the Division under Article 3 of this Chapter.
(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
(3) It is a 1975 or later model.
~~(4) It is powered or designed so that it could be powered by gasoline.~~
(5) It meets any of the following descriptions:
a. It is required to be registered in an emissions county.
b. It is part of a fleet that is operated primarily in an emissions county.
c. It is offered for rent in an emissions county.
d. It is a used vehicle offered for sale by a dealer in an emissions county.
e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:
(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted~~ under G.S. 143-215.107(a)(6).
(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 5. This act is effective when it becomes law.

Attachment #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 323

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H323PCS1221-ART-001.01 Page 1 of 1

Date ,1999

Comm. Sub. [YES]
Amends Title [YES]
First Edition PCS1221

Representative YONGUE

moves to amend the bill on page 1, lines 3 through 5, by rewriting those lines to read:

"FROM MOBILE SOURCES, TO PROVIDE FOR A PROGRAM OF INCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS OF AIR CONTAMINANTS, AND TO ADJUST THE CHARGE FOR THE INSPECTION OF A MOTOR VEHICLE." and

on page 6, line 12, by rewriting that line to read:

"Section 8. G.S. 20-183.7(a) reads as rewritten:

'(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ ~~8.25~~ 11.25	$ 1.00
Safety Only, With After-Factory Tinted Window	~~18.25~~ 21.25	1.00
Emissions and Safety Without After-Factory Tinted Window	~~17.00~~ 22.00	2.40
Emissions and Safety With After-Factory Tinted Window	~~27.00~~ 32.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 323

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.'

Section 9. Section 8 of this act becomes effective 1 October 1999. All other sections of this act are effective when this act becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment # 3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1099

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1099V1-ASB-001.01

Date _____, 1999

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Representative Younge YONGUE

moves to amend the bill on page 1, line 3, by rewriting that line to read:"GASOLINE AND TO ADJUST THE CHARGE FOR THE INSPECTION OF A MOTOR VEHICLE." and

on page 2, lines 17 and 18, by rewriting those lines to read:

"Section 3. G.S. 20-183.7(a) reads as rewritten:

'(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ ~~8.25~~ 11.25	$ 1.00
Safety Only, With After-Factory Tinted Window	~~18.25~~ 21.25	1.00
Emissions and Safety Without After-Factory Tinted Window	~~17.00~~ 22.00	2.40
Emissions and Safety With After-Factory Tinted Window	~~27.00~~ 32.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1099

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1099V1-ASB-001.01

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.'

Section 4. Sections 1, 2, and 4 of this act become effective October 1, 2002, and apply to gasoline manufactured, sold, or offered for sale on or after that date. Section 3 of this act becomes effective 1 October 1999."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment 4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1099

Short Title: Sulfur Content Limits for Gasoline. (Public)

Sponsors: Representative Hackney.

Referred to: Environment and Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CERTAIN LIMITS FOR THE SULFUR CONTENT OF GASOLINE.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"**§ 119-26.3. Sulfur content standards.**

(a) Subject to subsection (b) of this section, no person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur that is greater than 40 parts per million per gallon of gasoline.

(b) A person is exempt from the requirements of subsection (a) of this section if both of the following apply:

(1) The person manufactures, sells, or offers for sale during any one-year period gasoline that contains a concentration of sulfur that is not greater than 80 parts per million per gallon of gasoline.

(2) The average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by the person during the one-year period is less than 30 parts per million per gallon of gasoline.

(c) No person shall manufacture, sell, or offer for sale diesel motor fuel that contains a concentration of sulfur that is greater than 50 parts per million after the earlier of either October 1, 2005, or October 1 of the year that the Department of Agriculture and Consumer Services reports to the General Assembly, pursuant to subsection (e) of this section, that the motor vehicle manufacturers have introduced a significant number of diesel-powered sports utility vehicles, minivans, and light trucks

into a market that was previously dominated by gasoline-powered sports utility vehicles, minivans, and light trucks.

(d) The Department of Agriculture and Consumer Services shall adopt regulations to implement the requirements of this section.

(e) The Department of Agriculture and Consumer Services, in consultation with the Department of Environment and Natural Resources and the Department of Transportation, shall submit a report to the General Assembly no later than October 1 of each year on the transition in the motor vehicle manufacturing industry to using diesel engines in place of gasoline engines in sports utility vehicles, minivans, and light trucks."

Section 2. In consultation with the United States Environmental Protection Agency, the Department of Environment and Natural Resources shall report to the General Assembly by January 1, 2002, on the potential benefits to urban and regional air quality of establishing maximum and average allowable sulfur concentrations for gasoline that are lower than the concentration limitations specified in G.S. 119-26.3, as enacted by Section 1 of this act.

Section 3. This act becomes effective October 1, 2002, and applies to gasoline manufactured, sold, or offered for sale on or after that date.

HOUSE BILL 1099:
Sulfur Content Limits for Gasoline

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Rep. Hackney
		Summary by:	Hannah Holm, Research Assistant
Date:	April 22, 1999		
Version:	First Edition		

SUMMARY: HB 1099 establishes limits on the sulfur content of gasoline and diesel fuel sold in North Carolina.

CURRENT LAW: Current law includes no limits on the sulfur content of either gasoline or diesel fuel.

BILL ANALYSIS: HB 1099 sets specific limits on the concentrations of sulfur in gasoline sold in the State. The bill also sets limits on the sulfur content of diesel fuel. The sulfur limits for gasoline go into effect October 1, 2002. The sulfur limits for diesel fuel go into effect the earlier of either October 1, 2005 or October 1 of the year that the Department of Agriculture and Consumer Services reports to the General Assembly that diesel-powered sport utility vehicles, minivans, and light trucks have become a significant presence in a market previously dominated by gasoline-powered sport utility vehicles, minivans, and light trucks. The bill also directs the Department of Environment and Natural Resources to report to the General Assembly by January 1, 2002 on the potential air quality benefits of establishing limits on the concentrations of sulfur in gasoline that are lower than those specified in this bill.

EFFECTIVE DATE: This act is effective October 1, 2002 and applies to gasoline manufactured, sold, or offered for sale on or after that date.

Attachment #5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1127

Short Title: Revise Certain Lodging Rules. (Public)

Sponsors: Representative Smith.

Referred to: Rules, Calendar and Operations of the House.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT A STUDY INVOLVING INTERESTED PARTIES TO REVIEW AND REVISE THE CURRENT PROCEDURES CONCERNING COFFEE POTS AND ICE BUCKETS PROVIDED BY LODGING ESTABLISHMENTS IN GUEST ROOMS AND TO SUSPEND CURRENT APPLICABLE RULES UNTIL REVISED RULES HAVE BEEN ADOPTED AS TEMPORARY RULES.

The General Assembly of North Carolina enacts:

Section 1.(a) The Division of Environmental Health of the Department of Environment and Natural Resources shall review the current rules adopted pursuant to Part 6 of Article 8 of Chapter 130A of the General Statutes that apply to procedures that must be followed by lodging establishments concerning coffee pots and ice buckets that are placed in guest rooms for use by guests of the establishment, shall consult during this review with representatives of the affected industry and the various agencies responsible for implementing the applicable rules, and shall recommend rules, revised as needed, to the Commission for Health Services.

Section 1.(b) Current rules that apply to equipment concerning coffee pots and ice buckets that are placed by lodging establishments in guest rooms for use by guests of the establishment are suspended until revised rules under this act have been adopted.

Section 1.(c) The Commission for Health Services shall adopt the revised rules under subsection (a) of this section as temporary rules no later than January 31, 2000.

Section 2. This act is effective when it becomes law.

HOUSE BILL 1127 AND SENATE BILL 1014 - REVISE CERTAIN LODGING RULES

This bill would allow the Environmental Health Services Section (EHSS), Division of Environmental Health of the North Carolina Department of Environment and Natural Resources (DENR) to adopt changes to certain administrative rules related to how ice buckets and coffee pots that are placed in rooms for use by guests of a hotel or motel are to be cleaned.

There are problems with the current rules, such that hotels and motels could be required to remove ice buckets and coffee pots from the room, carry them downstairs to the kitchen, wash, rinse and in some cases sanitize these items, and then set them out to dry. The hotel must then carry them back up to the room and place them back in the room for use by guests. Members of the hotel industry and representatives of the Environmental Health Services Section of DENR have met over the last several weeks and agreed that the procedures and current rules are not necessary. There are ways to ensure that ice buckets and coffee pots are clean for use by guests, without the onerous burden of carrying them out of the room and down to the kitchen between each guest.

The following groups have met and discussed these administrative rules, and agree that a change needs to be made:

- Environmental Health Services Section of the Division of Environmental Health of the North Carolina Department of Environment and Natural Resources
- The North Carolina Public Health Association (which are the public health employees throughout North Carolina)
- The North Carolina Environmental Health Supervisors Association (these are supervisors of the environmental health specialists at the local level)
- The Environmental Health Committee of the North Carolina Local Health Directors Association
- The North Carolina Hotel and Motel Association, representing the lodging industry.

This bill would allow the Environmental Health Services Section to temporarily halt the current rules and allow EHSS to recommend and enact temporary rules concerning coffee pots and ice buckets that are placed in guest rooms for use by the guest. All of the groups involved agree that this is the best and most effective approach to solve the problem with the current rules. All interested parties support this bill. There is no opposition to this bill that we are aware of.

Once again, this bill would temporarily suspend the current rules while the agency adopts new rules to ensure the cleanliness of coffee pots and ice buckets that are placed in guest rooms for use by guests of the hotel or motel.

Attachment #6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1160*

Short Title: Extend Animal Waste Pilot. (Public)

Sponsors: Representatives Hackney; and Hardaway.

Referred to: Environment and Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE PILOT PROGRAM UNDER WHICH THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES CONDUCTS ALL INSPECTIONS OF ANIMAL WASTE MANAGEMENT SYSTEMS IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:

"(a) The Department of ~~Environment, Health,~~ Environment and Natural Resources shall develop and implement a pilot program to begin no later than November 1, 1997, and to terminate ~~October 31, 1998,~~ December 31, 2000, regarding the annual inspections of animal operations that are subject to a permit under Part 1A of 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. 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 Part 1A of Article 21 of Chapter 143 of the General Statutes in these two 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 two 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, Health,~~ Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the two counties are used for the quick response ~~of~~ to complaints and reported problems previously referred only to the Division of Water ~~Quality.~~ Quality of the Department of Environment and Natural Resources."

Section 2. The two counties that were selected for the pilot program pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County, shall remain in the pilot program.

Section 3. The Division of Soil and Water Conservation of the Department of Environment and Natural Resources and the Division of Water Quality of the Department of Environment and Natural Resources shall jointly submit interim reports no later than October 15, 1999; April 15, 2000; October 15, 2000; and a final report no later than January 15, 2001, to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the 2001 General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals.

Section 4. This act is effective when it becomes law.

HOUSE BILL 1160:
Extend Animal Waste Pilot

BILL ANALYSIS

Committee: House Environment and Natural Resources
Date: April 23, 1999
Version: First Edition

Introduced by: Representative Hackney
Summary by: Hannah Holm, Research Assistant

SUMMARY: HB 1160 Extends the pilot program under which the Division of Soil and Water Conservation of the Department of Environment and Natural Resources conducts all inspections of animal waste management systems in Jones and Columbus Counties.

CURRENT LAW: The law establishing the pilot program provided that the program would begin by November 1, 1997 and would terminate October 31, 1998.

BILL ANALYSIS: HB 1160 pushes back the end of the pilot program from October 31, 1998 to December 31, 2000. HB 1160 also requires the Division of Soil and Water Conservation and the Division of Water Quality to jointly submit a series of interim reports and a final report due January 15, 2001 to the Environmental Review Commission and the Fiscal Research Division. The reports shall indicate whether the pilot program has increased the effectiveness of the inspections program or the response to complaints and reported problems. The final report shall also include a recommendation on whether to continue or expand the program.

COMPANION BILL: The companion bill to HB 1160 is SB 1084, which was introduced in the Senate by Senator Albertson.

EFFECTIVE DATE: This act is effective when it becomes law.

Attachment # 7

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1125

Short Title: Conform Definition of Haz. Site. (Public)

Sponsors: Representative Hackney.

Referred to: Environment and Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE DEFINITION OF AN INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE UNDER THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-310 reads as rewritten:

"**§ 130A-310. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part:

(1) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 **et seq.**, as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended.

(2) 'Hazardous substance' means hazardous substance as defined in CERCLA/SARA.

(3) 'Inactive hazardous substance or waste disposal site' or 'site' means any ~~facility, structure, or area where disposal of any hazardous substance or waste has occurred. Such~~ facility, as defined in CERCLA/SARA. These sites do not include hazardous waste facilities permitted or in interim status under this Article.

(4) 'Operator' means the person responsible for the overall operation of an inactive hazardous substance or waste disposal site.

(5) 'Owner' means any person who owns an inactive hazardous substance or waste disposal site, or any part thereof.
(6) 'Release' means release as defined in the CERCLA/SARA.
(7) 'Remedy' or 'Remedial Action' means remedy or remedial action as defined in CERCLA/SARA.
(8) 'Remove' or 'Removal' means remove or removal as defined in CERCLA/SARA.
(9) 'Responsible party' means any person who is liable pursuant to G.S. 130A-310.7."

Section 2. This act is effective when it becomes law.

HOUSE BILL 1125:
Conform Definition of Hazardous Site

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Hackney
Date:	April 23, 1999	**Summary by:**	Hannah Holm, Research Assistant
Version:	First Edition		

SUMMARY: ***HB 1125 amends the definition of inactive hazardous sites in the General Statutes to make it conform with the definition in federal law.***

CURRENT LAW: "'Inactive hazardous substance or waste disposal site' or 'site'" is currently defined as "any facility, structure, or area where disposal of any hazardous substance or waste has occurred."

BILL ANALYSIS: HB 1125 amends the definition of "'inactive hazardous substance or waste disposal site' or 'site'" by making it the same as the definition for "facility" in the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980. This definition reads:

> The term "facility" means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel. (100 USC 1613)

BACKGROUND: The current definition of "inactive hazardous substance or waste disposal site does not provide for a site contaminated by a hazardous substance that has migrated from elsewhere or for which a source is not known.

EFFECTIVE DATE: This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1127 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT A STUDY INVOLVING INTERESTED PARTIES TO REVIEW AND REVISE THE CURRENT PROCEDURES CONCERNING COFFEE POTS AND ICE BUCKETS PROVIDED BY LODGING ESTABLISHMENTS IN GUEST ROOMS AND TO SUSPEND CURRENT APPLICABLE RULES UNTIL REVISED RULES HAVE BEEN ADOPTED AS TEMPORARY RULES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
H.B. 1160 A BILL TO BE ENTITLED AN ACT TO EXTEND THE PILOT PROGRAM UNDER WHICH THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES CONDUCTS ALL INSPECTIONS OF ANIMAL WASTE MANAGEMENT SYSTEMS IN CERTAIN COUNTIES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1125 A BILL TO BE ENTITLED AN ACT TO CONFORM THE DEFINITION OF AN INACTIVE HAZARDOUS SUBSTANCE OR WASTE DISPOSAL SITE UNDER THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 TO FEDERAL LAW.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

VISITOR REGISTRATION SHEET

Environment; Natural Resources — 4/23/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Dale McKeel	Scenic NC, Inc.
Bob Slocum	NC Forestry Assn
Natalie English	NC Agribusiness Council
John Phelps	NCLM
Jim Upchurch	CP&L
Kelli Kuklewa	DuPont
Michelle Cook	Weyerhaeuser
Ed Regan	N.C. A.C.C.
R. Rogers	NCDENR
Jim Burchett	NCSU
PF	NCFS
Cam Cover	BPMHL
Sharol Barnes	NCRC
C. Porter	B&A
Ruth Sappie	NCDOT

VISITOR REGISTRATION SHEET

Environment & Natural Resources — 4/23/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Laura DeVivo	DENR
Bill Meyer	DENR DWM
Mike Kelly	DENR DWM
Brock Nicholson	DENR - DAQ
Terry Hardesty	NCPC
David Horney	State Planning
Michael U. Rhodes	DENR - DEH
David Ferrell	NC Hotel & Motel Assn.
Jim Hobbs	N.C. Hotel Motel Assn
Amy Hobbs	NC Hotel Motel Assoc.
David Knight	NC Sierra Club, NC Pub. Trans Assoc., NC Coal. for Public Trans
Thomas Hall	ONSS
Nat Mund	CCNC

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, April 27, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

Committee Business Overview

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 p.m.** on **April 23, 1999**.

___Principal Clerk
___Reading Clerk - House Chamber

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

APRIL 27, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, April 27, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, Billy Creech, Leo Daughtry, Don Davis, Joe Hackney, Dewey Hill, Danny McComas, Eugene McCombs, Frank Mitchell, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue.

Representative Gibson called the meeting to order at 12:06 p.m.

H.B. 1241, Protect/Restore Riparian* Buffers. An amendment was attached to this bill which is, essentially, to keep a bill alive, as the Committee may want to have more discussion on it (Attachment 1). This bill was in Sub-Committee. Due to the nature of the current content of the bill, it was amended so as to not be subject to crossover. More time is needed to study this bill.

Representative Warwick said that Representative Creech, absent at this time, was in agreement with the amendment. The bill will be discussed in Sub-Committee. (When Representative Creech came in Chair Warwick explained to him what had ensued during his absence.)

Representative Davis moved to accept the amendment. Passed.

Representative Danny McComas questioned what had just been done to the bill so that it conforms to Committee procedures. Chair Gibson, with counsel from Staff, stated that, if the adopted bill had an appropriation, it is not subject to the crossover.

Representative Warwick again suggested that Committee members study H.B. 323 (Clear Air) and H.B. 1099 (Sulfur Emissions) and to do their homework in order to best use the time allotted for Committee meetings.

Pages Holly Harden of Iredell County and Lionel Hunter from Franklin County were introduced.

The meeting adjourned at 12:19 p.m.

*Water legality

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

#1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1241

Short Title: Protect/Restore Riparian Buffers. (Public)

Sponsors: Representative Creech.

Referred to: Environment and Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE PROTECTION AND RESTORATION OF VEGETATED RIPARIAN BUFFERS IN ORDER TO PREVENT THE POLLUTION OF SURFACE WATERS.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.20. Protection and restoration of vegetated riparian buffers.**

(a) Policy; Purpose and Intent. -- Protection and restoration of vegetated riparian buffers along surface waters will prevent and reduce pollution of those waters. Vegetated riparian buffers remove sediment, nutrients, and other pollutants before those pollutants enter and impact surface waters. It is the purpose and intent of this section to provide for the protection of vegetated riparian buffers along all surface waters of the State and to provide for the restoration of vegetated riparian buffers along surface waters where buffers do not currently exist.

(b) Protection of Riparian Buffers. -- The Commission shall adopt rules to provide for the protection of riparian buffers along all surface waters of the State, including intermittent streams, perennial streams, lakes, ponds, and estuaries. These rules shall be consistent with any rules adopted by the Commission that apply to riparian buffers along the Neuse River. The Commission shall adopt temporary rules for the protection of vegetated riparian buffers along all surface waters in watersheds designated as nutrient sensitive waters (NSW) under rules adopted by the Commission.

(c) Restoration of Riparian Buffers. -- The Commission shall examine opportunities to restore vegetated riparian buffers in watersheds through the development and implementation of basinwide water quality management plans as provided in G.S. 143-215.8B(b)(3).

(d) Reporting Requirement. -- The Commission shall report no later than November 1 of each year to the Environmental Review Commission regarding implementation of this section. The report shall document the status of the statewide protection of vegetated riparian buffers along surface waters and the status of vegetated riparian buffer restoration in each of the seventeen major river basins."

Section 2. G.S. 143-215.8B(b) is amended by adding a new subdivision to read:

"(3) Examine opportunities to restore vegetated riparian buffers in watersheds, identify surface waters that lack vegetated riparian buffers, establish priorities regarding vegetated riparian buffer restoration along surface waters, and identify sources of funds for buffer restoration. In carrying out the requirements of this subdivision, the Commission shall coordinate its efforts with the Wetlands Restoration Program under G.S. 143-214.8 through G.S. 143-214.13."

Section 3. When referring to rules adopted by the Environmental Management Commission that apply to riparian buffers along the Neuse River, G.S. 143-214.20(b), as enacted by Section 1 of this act, means temporary rule 15A NCAC 2B.0233, as defined in Section 1.1 of S.L. 1998-221, as revised pursuant Section 1.8 of S.L. 1998-221 and adopted by October 1, 1999.

Section 4. This act becomes effective October 1, 1999.

VISITOR REGISTRATION SHEET

Enviro/Nati Resources — 4/27/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alan Briggs	SOS
Sharol Bowman	NCRC
Brock Nicholson	DENR - DAQ
Walter Cherry	NCPC
Beth Anne Mumford	NCPC
Angie McMillan	TNC - NC Chapter
George Everett	Duke Energy
Jim Kuszaj	NCEI
Doug Duncan	NCFA
Nat [illegible]	CCNC
Laura DeVane	DENR
Michelle Cook	Womble Carlyle
Bob Slocum	NC Forestry Assoc.
Charles Case	Hunton & Williams
Ed Regan	N.C. A.C.C.
Kim Hubbard	NCLM
Rw Kaylor	Kaylor Gross Pa PC

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, May 18, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

SB 872 - New River State Park/Acreage Limit
SB 1047 – Protect Certain Cultch Planting Areas
SB 1048 – Amend Fishery Resource Grant Program
SB 1139 – Nature and Historic Preserve
SB 1127 – State Nature and Historic Preserve
SB 1159 – Land-Use/Contaminated Sites

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **May 12, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

AGENDA

House Committee on
Environment and Natural Resources
May 18, 1999

Call to Order ..... **Chair Warwick**

Bills to be Discussed:

S 872 New River State Park/Acreage Limit ..... **Sen. Foxx**

S 1047 Protect Certain Cultch Planting Areas ..... **Sen. Albertson**

S 1048 Amend Fishery Resource Grant Program ..... **Sen. Albertson**

S 1139 Nature and Historic Preserve ..... **Sen Horton**

S 1127 State Nature and Historic Preserve ..... **Sen. Horton**

Announcements & Adjournment ..... **Chair Warwick**

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Committee Minutes

Tuesday, May 18, 1999

Chair Nurham Warwick called the meeting to order at 12:05 PM. The following Representatives were excused from the meeting to attend a conflicting meeting: Chair Gibson, Representatives Tolson, Bonner, Warner, Tucker, Yongue, Vice-Chair Cox and McLawhorn. Some of these members will join us when the other meeting ends. The following members were present: Representatives Brown, Creech, Culp, Daughtry, Davis, Hackney, Hill, McCombs, Mitchell, Thompson. The following member joins following their conflicting meeting: Representatives Gibson, Cox, Yongue, Warner, Tucker, Tolson, Bonner and Cox.

Chair Warwick stated that the Committee Staff discovered that S.B. 1159 Land-Use/Contaminated Sites sponsored by Senator Plyler needs some changes, which have not been prepared in time for this meeting. This billed has been pulled from the Committee's Agenda until the changes are ready for presentation at a future meeting.

The Committee heard a presentation and took action on the following bills:

S.B. 872 New River State Park/Acreage Limit – Senator Foxx explained the bill that has language that removes the limit on the amount of acres that may be acquired to protect the section of the New River designated as a Natural and Scenic River. Senator Foxx added that bill has not run into any opposition and her entire delegation from this district and local folks support this change in the law. Chair Warwick asked if this bill only pertains to New River State Park. Senator Foxx said yes only New River State Park. Representative Thompson moved that 2nd Edition of Senate Bill 872 be given a favorable as presented in Committee. Representative Mitchell seconded the motion and the Committee Members passed the motion. (A copy of the 2nd Edition of S.B. 872 and a summary is included with these minutes as Attachment # 1.)

S.B. 1047 Protect Certain Cultch Planting Areas – Senator Albertson explained his bill as a change in the law that prohibits the taking of shellfish near a public under which the Division of Marine Fisheries has deposited cultch material. There being no questions or opposition to the bill, Representative Culp moved that the bill be given a favorable report. The motion was seconded and the Committee approved the motion giving the 2nd Edition of S.B. 1047 a favorable report. (A copy of the 2nd Edition of S.B. 1047 and a summary is included with these minutes as Attachment # 2.)

S. B. 1048 Amend Fishery Resource Grant Program – Senator Albertson explained this bill as amending the Fishery Resource Grant Program by creating the Grants Committee to replace the Marine Fisheries Commission as the entity responsible for setting priorities, reviewing applications, and awarding grants under the Fishery Resource Grant Program. Senator Albertson further added that the bill needs such technical adjustments. Representative Mitchell then introduced an amendment that would amend the bill on Page 3, lines 27, 30, 33, and 36, by deleting the phrase "Chair of the" on those lines; and on Page 3, line 43, by deleting the phrase "Sea Grant College Program" and substituting the phrase "Grants Committee". Representative Brown moved that the amendment be approved. The Committee approved the motion. Representative then moved that the bill be given a favorable report as amended and that the amendment language be rolled over into a new committee substitute. The committee passed the motion. (A copy of the 2nd Edition of S.B. 1048, a summary is included with these minutes as Attachment # 3. A copy of Amendment 1 as approved by the Committee is included as Attachment # 4.)

S.B. 1139 Nature and Historic Preserve & S. B. 1127 State Nature and Historic Preserve– Senator Horton explained this bill as a Proposed House Committee Substitute for Senate Joint Resolution 1139 and the language states that this resolution accepts State properties in the State Nature and Historic Preserve. He went on to explain S.B. 1127 as a bill that would codify in the General Statutes the addition of these properties in S.B.1139, removes certain tracts of land from the State Nature and Historic preserve and the State Park System, and contains a Constitutional amendment to allow properties to be accepted into the Preserve by enactment of a bill rather than adoption of a resolution. Following a brief discussion of S. J. R. 1139 Representative Daughtry moved that the resolution be given a favorable report as presented. The Committee passed the motion as to favorable report for S.J.R. 1139. (A copy of the Resolution and brief summary for both SJR 1139/SB 1127 is included with these minutes as Attachment # 5.) Representative Hackney asked if there were not parcels of land that will be removed from the State Nature and Historic Preserve if this bill is passed. He stated that that is true. There is road needed by property owner to get to their property at Hanging Rock State Park, and some in the Eno River State Park are being deleted as requested by the Department of Transportation to provide for their excursions into the park. The bill is written the way it is because the law is written that the Council of State has to petition the General Assembly to accept into Preserve various State parklands and historic sites. They decide which lands go in and out of the Parks System. The General Assembly cannot amend this bill, but is required by law to accept what is sent from the Council of State. Representative Hackney recognized Dr. Phil McKnelly of the Parks & Recreation Division of DENR to answer his question on since no one knows where the Northwest Loop around Durham is going, would it not be better to wait until that decision is made to know what land should go into the Reserve. Dr. McKnelly says they are working on this with the Department of Transportation and the final decision on the land will not be made until the decision is made on the Loop. The land in question is already been purchased and in the State Park System but not in the Reserve and this will not happen until the Loop question is settled. Representative Hackney recommended that action on S.B. 1127 be deferred until some of the questions and detail of the bill can be reviewed and explained. The Committee Chair agreed with this recommendation and also

recommended that the approved Resolution not be reported out of Committee this week but held over with this bill until next week. Chair Warwick also recommended that if any one has questions or recommendations on this bill please relate them to him for staff consideration to be brought back at the next meeting.

Chair Warwick then adjourned the meeting.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

Attachment #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 872*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/21/99

Short Title: New River State Park/Acreage Limit. (Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-35.1(a) reads as rewritten:

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

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

For purposes of implementing this section and the management plan, the Department ~~is authorized to~~ may acquire lands or interests in ~~lands not to exceed 2,200 acres, to acquire such lands in fee simple or to acquire such interests in lands as~~

~~easements, to~~ lands, provide for protection of scenic values as described in G.S. 113A-38, and ~~to~~ provide for public access. Easements obtained for the purpose of implementing this section and the management plan shall not abridge the water rights being exercised on May 26, 1975.

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

Section 2. This act is effective when it becomes law.

SENATE BILL 872:
New River State Park/Acreage Limit

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Foxx
		Summary by:	Rick Zechini Committee Counsel
Date:	May 18, 1999		
Version:	Second Edition		

SUMMARY: Senate Bill 872 removes the limit on the amount of acres that may be acquired to protect the section of the New River designated as a Natural and Scenic River.

CURRENT LAW: G.S. 113A-35.1 authorizes the Department of Environment and Natural Resources to acquire lands or interests in lands not to exceed 2,200 acres for providing protection of and public access to the 26.5 miles of the New River in Ashe and Alleghany Counties designated as a Natural and Scenic River. All of the 1,539 acres that have been acquired pursuant to this statute have been included in the New River State Park.

BILL ANALYSIS: Senate Bill 872 removes the provision limiting the amount of land that the Department of Environment and Natural Resources may acquire to protect the section of the New River designated as a Natural and Scenic River. The bill also deletes the language relating to acquiring land in fee simple or as easements, because this language is surplusage and potentially confusing.

BACKGROUND: Since the designation of this segment of the New River in 1976, 1,539 acres have been acquired. This acreage includes 3.5 miles of river frontage and three public access areas.

EFFECTIVE DATE: The bill is effective when it becomes law.

Attachment #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S **2**

SENATE BILL 1047
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99

Short Title: Protect Certain Cultch Planting Areas. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE TAKING OF SHELLFISH WITHIN ONE HUNDRED FIFTY FEET OF A PUBLICALLY OWNED PIER BENEATH WHICH THE DIVISION OF MARINE FISHERIES HAS DEPOSITED CULTCH MATERIAL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-207 reads as rewritten:

"**§ 113-207. ~~Clamming on posted oyster rocks~~ Taking shellfish from certain areas forbidden; penalty.**

(a) ~~The Department shall post to~~ To the extent that funds are ~~available~~ available, the Department shall post oyster rocks or appropriate landing sites to forbid the taking of clams upon such rocks by use of rakes or tongs or any other device which will disturb or damage the oysters thereon. ~~Within the meaning of this section, oyster rocks shall be defined as those rocks producing oysters upon which the tide rises and falls.~~ As used in this section, 'oyster rocks' mean those rocks in the coastal fishing waters upon which oysters grow.

(b) It ~~shall be~~ is unlawful for any person to take clams on oyster rocks posted by the Department by use of rakes, tongs, or any other device which will disturb or damage the oysters growing thereon. This section will not apply to the taking of clams by signing. ~~A violation of this section shall constitute a Class 3 misdemeanor.~~

(c) It is unlawful for any person to take shellfish within 150 feet of any part of a publically owned pier beneath which the Division of Marine Fisheries has deposited cultch material.

(d) A person who violates this section is guilty of a Class 3 misdemeanor."

Section 2. This act becomes effective September 1, 1999, and applies to violations occurring on or after that date.

SENATE BILL 1047:
Protect Certain Cultch Planting Areas

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Albertson
		Summary by:	Hannah Holm, Research Assistant
Date:	May 18, 1999		
Version:	Second Edition		

SUMMARY: The Proposed Committee Substitute (PCS) for SB 1047 prohibits the taking of shellfish near a public pier under which the Division of Marine Fisheries has deposited cultch material.

BILL ANALYSIS: The PCS for SB 1047 amends the statute that prohibits clamming on posted oyster rocks by adding a subsection that prohibits the taking of shellfish within 150 feet of a publicly owned pier under which the Division of Marine Fisheries has deposited cultch material. The PCS for SB 1047 makes violating the new subsection a Class 3 misdemeanor.

EFFECTIVE DATE: This act becomes effective September 1, 1999 and applies to violations occurring on or after that date.

BACKGROUND: SB 1047, as introduced, was a blank bill.

Attachment #3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S **2**

SENATE BILL 1048
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99

Short Title: Amend Fishery Resource Grant Program. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR, REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER THE FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY RESOURCE GRANT PROGRAM STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-200 reads as rewritten:

"**§ 113-200. Fishery Resource Grant Program.**

(a) Creation. -- There is created within the Sea Grant College Program at The University of North Carolina, the Fishery Resource Grant Program. The purpose of the program is to work within priorities established by the ~~Marine Fisheries Commission~~ Grants Committee to protect and enhance the State's coastal fishery resources through individual grants in the following areas:

(1) New fisheries equipment or ~~gear;~~ gear.

(2) Environmental pilot studies, including water quality and fisheries ~~habitat;~~ habitat.

(3) Aquaculture or mariculture of marine dependent ~~species; or~~ species.

(4) Seafood technology.

(b) Definition; Annual Establishment of Priorities. -- For purposes of this section, the term 'fishing related industry' means any of the following: (i) commercial fishing; (ii) recreational fishing; (iii) aquaculture; (iv) mariculture; and (v) handling of

seafood products, including seafood dealing and seafood processing. The ~~Commission~~ Grants Committee shall, in cooperation with ~~fishermen,~~ persons involved in fishing related industries, the Division of Marine Fisheries, and the Sea Grant College Program, establish funding priorities effective July 1 of each year for the grant program. ~~The adoption of priorities by the Commission shall not be considered rule making within the meaning of the Administrative Procedure Act.~~ In adopting priorities, the Grants Committee is exempt from Article 2A of Chapter 150B of the General Statutes. The ~~Commission~~ Grants Committee shall provide public notice of its proposed priorities at least 30 days before the ~~Commission~~ Grants Committee meeting prior to a final determination of its priorities for the fiscal year.

(c) Procedure to Solicit Proposals. -- Following the establishment of priorities by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall hold workshops within ~~each of~~ the northern, southern, central, and Pamlico coastal regions to solicit applications and to assist persons involved in fishing related industries in writing proposals. ~~For purposes of this act, the term 'fishing industry' includes persons involved in: (i) commercial or recreational fishing; (ii) aquaculture or mariculture; or (iii) handling fish products such as seafood dealers or processors.~~ The Sea Grant College Program shall encourage preproposal conferences ~~between individuals in the fisheries industry~~ among persons involved in fishing related industries and those with technical or research ~~background~~ backgrounds to work as partners in developing and writing the proposals and in writing ~~final report results.~~ reports of final results. If the grants approved by the ~~Commission~~ Grants Committee do not utilize all available funds, the Sea Grant College Program may advertise and solicit additional applications during the applicable fiscal year.

(d) Application for Grant Program. -- An applicant may apply for grant funds to the Sea Grant College Program. For purposes of this subsection, every proposal shall include substantial involvement of ~~active North Carolina persons~~ residents of North Carolina who are actively involved in a fishing related industry. A proposal generated by a person not involved in a fishing related industry may be eligible for funding only if the proposal includes written endorsements supporting the project from persons or organizations representing fishing related industries. An application shall ~~include, but not be limited to, the following:~~ include:

(1) Name and address of the primary ~~applicant;~~ applicant.

(2) List of marine fishing licenses issued under Chapter 113 of the General Statutes to the applicant by the State of North ~~Carolina;~~ Carolina.

(3) A description of the ~~project;~~ project.

(4) A detailed statement of the projected costs of the project including the cost to plan and design the ~~project;~~ project.

(5) An explanation of how the project will enhance the fishery ~~resource;~~ resource.

(6) List of names and addresses of any other persons who will participate in the ~~project; and~~ project.

(7) Any other information necessary to make a recommendation on the application.

(e) Review Process. -- The Sea Grant College Program shall conduct an anonymous peer review of all applications for fisheries grants. At least one of the peer reviewers shall be a person involved in a fishing related industry. ~~Applications shall be~~ An application is confidential and ~~shall not be defined as~~ is not a public record ~~as defined~~ under G.S. 132-1 until after the closing date for submission of applications. Following the review of all proposals, the Sea Grant College Program shall rank proposals in order of priority and shall present the recommendations to the ~~Commission.~~ Grants Committee. ~~Any criterion used by Sea Grant in ranking proposals shall not require rule making within the meaning of the Administrative Procedure Act, but such criteria shall be public records as defined in G.S. 132-1.~~ The Sea Grant College Program may adopt criteria to rank proposals. In adopting criteria, the Sea Grant College Program is exempt from Article 2A of Chapter 150B of the General Statutes. Criteria adopted pursuant to this subsection are public records within the meaning of G.S. 132-1.

(e1) Grants Committee. -- The Grants Committee shall consist of eleven members as follows:

(1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.

(2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.

(3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.

(4) One member of the Northeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Chair of the Northeast Regional Advisory Committee.

(5) One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Chair of the Central Regional Advisory Committee.

(6) One member of the Southeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Chair of the Southeast Regional Advisory Committee.

(7) One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Chair of the Inland Regional Advisory Committee.

(f) Award Process. -- ~~The Commission shall review the ranking of proposals, and if consistent with the priority rankings established under subsection (e) of this section, shall fund those proposals.~~ The Grants Committee shall evaluate all grant proposals and the results of the peer review and ranking conducted pursuant to subsection (e) of this section. On the basis of this evaluation, the Grants Committee shall determine the amount of funding, if any, to be awarded to each grant applicant. To the extent practicable, the Sea Grant College Program shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions. ~~Applications~~ Proposals for

projects that include involvement ~~by fishermen~~ of persons involved in a fishing related industry ~~in the project~~ shall be accorded a priority in funding by the ~~Commission.~~ Grants Committee. Following approval by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall award the grants. ~~To the extent practicable, the Sea Grant College Program shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions.~~

(g) Restrictions on Grants. -- No member of the ~~Commission~~ Grants Committee may benefit financially from a grant. If a grant recipient from a prior year has failed to perform a grant project to the satisfaction of the Sea Grant College Program or the ~~Commission,~~ Grants Committee, the ~~Sea Grant College Program~~ Grants Committee may decline to fund any new application involving the principal applicant.

(h) Grant Reports and Funding. -- Grant recipients shall provide quarterly progress reports to the Sea Grant College Program and shall submit invoices for expenditures for each quarter. Twenty-five percent (25%) of the total grant award shall be held until the grant recipient has completed the project and submitted a final written report. The remainder of the grant award shall be distributed upon approval of each quarterly report and upon verification of the expenditures.

(i) Report on Grant Program. -- The Sea Grant College Program shall report on ~~an annual basis~~ the Fishery Resource Grant Program to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and ~~Aquaculture.~~ Aquaculture no later than January 1 of each year."

Section 2. The Sea Grant College Program shall submit the first report required by G.S. 113-200(i), as amended by Section 1 of this act, no later than January 1, 2000.

Section 3. This act is effective when it becomes law.

SENATE BILL 1048:
Amend Fishery Resource Grant Program

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Albertson
		Summary by:	Rick Zechini Committee Counsel
Date:	May 18, 1999		
Version:	Second Edition		

SUMMARY: ***Senate Bill 1048 amends the Fishery Resource Grant Program by creating the Grants Committee to replace the Marine Fisheries Commission as the entity responsible for setting priorities, reviewing applications, and awarding grants under the Fishery Resource Grant Program.***

CURRENT LAW: The General Assembly created the Fishery Resource Grant Program (FRGP) in 1995 to protect and enhance the State's coastal fishery resources through individual research grants. The FRGP is located within the Sea Grant College Program at the University of North Carolina and awards grants for research projects in the following areas:

- New fisheries equipment or gear.
- Environmental pilot studies, including water quality and fisheries habitat.
- Aquaculture or mariculture of marine dependent species.
- Seafood technology.

Currently, applications for the grants are made to the Sea Grant College Program that ranks the applications in order of priority and presents its recommendations to the Marine Fisheries Commission.

BILL ANALYSIS: Senate Bill 1048 creates the Grants Committee to replace the Marine Fisheries Commission as the entity responsible for setting priorities, reviewing applications, and awarding grants under the FRGP. The Grants Committee is compromised of the following eleven members:

- Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.
- Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.
- Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.
- One member each from the Northeast Regional Advisory Committee, the Central Regional Advisory Committee, the Southeast Regional Advisory Committee, and the Inland Regional Advisory Committee, appointed by the Chair of the respective regional advisory committee.

Senate Bill 1048 also designates January 1 of each year as the deadline for the Sea Grant College Program's report on the FRGP to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and Aquaculture. In addition, the bill contains clarifying, conforming, and technical changes.

EFFECTIVE DATE: This act is effective when it becomes law.

Attachment #4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1048

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S1048V2-ASB-001.01

Date 5-18- ,1999

Comm. Sub. [NO]
Amends Title [NO]
SECOND EDITION

Representative Mitchell

moves to amend the bill on page 3, lines 27, 30, 33, and 36, by deleting the phrase "Chair of the" on those lines; and

on page 3, line 43, by deleting the phrase "Sea Grant College Program" and substituting the phrase "Grants Committee".

SIGNED W. F. Mitchell
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Committee Sub with approved amendment included

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1048
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99
Proposed House Committee Substitute S1048-PCS3818-SB

Short Title: Amend Fishery Resource Grant Program. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR, REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER THE FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY RESOURCE GRANT PROGRAM STATUTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-200 reads as rewritten:

"**§ 113-200. Fishery Resource Grant Program.**

(a) Creation. -- There is created within the Sea Grant College Program at The University of North Carolina, the Fishery Resource Grant Program. The purpose of the program is to work within priorities established by the ~~Marine Fisheries Commission~~ Grants Committee to protect and enhance the State's coastal fishery resources through individual grants in the following areas:

(1) New fisheries equipment or ~~gear;~~ gear.

(2) Environmental pilot studies, including water quality and fisheries ~~habitat;~~ habitat.

(3) Aquaculture or mariculture of marine dependent ~~species; or~~ species.

(4) Seafood technology.

(b) Definition; Annual Establishment of Priorities. -- For purposes of this section, the term 'fishing related industry' means any of the following: (i) commercial fishing;

(ii) recreational fishing; (iii) aquaculture; (iv) mariculture; and (v) handling of seafood products, including seafood dealing and seafood processing. The ~~Commission~~ Grants Committee shall, in cooperation with ~~fishermen,~~ persons involved in fishing related industries, the Division of Marine Fisheries, and the Sea Grant College Program, establish funding priorities effective July 1 of each year for the grant program. ~~The adoption of priorities by the Commission shall not be considered rule making within the meaning of the Administrative Procedure Act.~~ In adopting priorities, the Grants Committee is exempt from Article 2A of Chapter 150B of the General Statutes. The ~~Commission~~ Grants Committee shall provide public notice of its proposed priorities at least 30 days before the ~~Commission~~ Grants Committee meeting prior to a final determination of its priorities for the fiscal year.

(c) Procedure to Solicit Proposals. -- Following the establishment of priorities by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall hold workshops within ~~each of~~ the northern, southern, central, and Pamlico coastal regions to solicit applications and to assist persons involved in fishing related industries in writing proposals. ~~For purposes of this act, the term 'fishing industry' includes persons involved in: (i) commercial or recreational fishing; (ii) aquaculture or mariculture; or (iii) handling fish products such as seafood dealers or processors.~~ The Sea Grant College Program shall encourage preproposal conferences ~~between individuals in the fisheries industry~~ among persons involved in fishing related industries and those with technical or research ~~background~~ backgrounds to work as partners in developing and writing the proposals and in writing ~~final report results.~~ reports of final results. If the grants approved by the ~~Commission~~ Grants Committee do not utilize all available funds, the Sea Grant College Program may advertise and solicit additional applications during the applicable fiscal year.

(d) Application for Grant Program. -- An applicant may apply for grant funds to the Sea Grant College Program. For purposes of this subsection, every proposal shall include substantial involvement of ~~active North Carolina persons~~ residents of North Carolina who are actively involved in a fishing related industry. A proposal generated by a person not involved in a fishing related industry may be eligible for funding only if the proposal includes written endorsements supporting the project from persons or organizations representing fishing related industries. An application shall ~~include, but not be limited to, the following:~~ include:

(1) Name and address of the primary ~~applicant;~~ applicant.

(2) List of marine fishing licenses issued under Chapter 113 of the General Statutes to the applicant by the State of North ~~Carolina;~~ Carolina.

(3) A description of the ~~project;~~ project.

(4) A detailed statement of the projected costs of the project including the cost to plan and design the ~~project;~~ project.

(5) An explanation of how the project will enhance the fishery ~~resource;~~ resource.

(6) List of names and addresses of any other persons who will participate in the ~~project; and~~ project.

(7) Any other information necessary to make a recommendation on the application.

(e) Review Process. -- The Sea Grant College Program shall conduct an anonymous peer review of all applications for fisheries grants. At least one of the peer reviewers shall be a person involved in a fishing related industry. ~~Applications shall be~~ An application is confidential and ~~shall not be defined as~~ is not a public record ~~as defined~~ under G.S. 132-1 until after the closing date for submission of applications. Following the review of all proposals, the Sea Grant College Program shall rank proposals in order of priority and shall present the recommendations to the ~~Commission.~~ Grants Committee. ~~Any criterion used by Sea Grant in ranking proposals shall not require rule making within the meaning of the Administrative Procedure Act, but such criteria shall be public records as defined in G.S. 132-1.~~ The Sea Grant College Program may adopt criteria to rank proposals. In adopting criteria, the Sea Grant College Program is exempt from Article 2A of Chapter 150B of the General Statutes. Criteria adopted pursuant to this subsection are public records within the meaning of G.S. 132-1.

(e1) Grants Committee. -- The Grants Committee shall consist of eleven members as follows:

(1) Three employees of the Sea Grant College Program, appointed by the Director of the Sea Grant College Program.

(2) Two employees of the Division of Marine Fisheries, appointed by the Fisheries Director.

(3) Two members of the Marine Fisheries Commission, appointed by the Chair of the Marine Fisheries Commission.

(4) One member of the Northeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Northeast Regional Advisory Committee.

(5) One member of the Central Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Central Regional Advisory Committee.

(6) One member of the Southeast Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Southeast Regional Advisory Committee.

(7) One member of the Inland Regional Advisory Committee established pursuant to G.S. 143B-289.57(e), appointed by the Inland Regional Advisory Committee.

(f) Award Process. -- ~~The Commission shall review the ranking of proposals, and if consistent with the priority rankings established under subsection (e) of this section, shall fund those proposals.~~ The Grants Committee shall evaluate all grant proposals and the results of the peer review and ranking conducted pursuant to subsection (e) of this section. On the basis of this evaluation, the Grants Committee shall determine the amount of funding, if any, to be awarded to each grant applicant. To the extent practicable, the Grants Committee shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions. ~~Applications~~ Proposals for projects

that include involvement ~~by fishermen~~ of persons involved in a fishing related industry ~~in the project~~ shall be accorded a priority in funding by the ~~Commission.~~ Grants Committee. Following approval by the ~~Commission,~~ Grants Committee, the Sea Grant College Program shall award the grants. ~~To the extent practicable, the Sea Grant College Program shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions.~~

(g) Restrictions on Grants. -- No member of the ~~Commission~~ Grants Committee may benefit financially from a grant. If a grant recipient from a prior year has failed to perform a grant project to the satisfaction of the Sea Grant College Program or the ~~Commission,~~ Grants Committee, the ~~Sea Grant College Program~~ Grants Committee may decline to fund any new application involving the principal applicant.

(h) Grant Reports and Funding. -- Grant recipients shall provide quarterly progress reports to the Sea Grant College Program and shall submit invoices for expenditures for each quarter. Twenty-five percent (25%) of the total grant award shall be held until the grant recipient has completed the project and submitted a final written report. The remainder of the grant award shall be distributed upon approval of each quarterly report and upon verification of the expenditures.

(i) Report on Grant Program. -- The Sea Grant College Program shall report on ~~an annual basis~~ the Fishery Resource Grant Program to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and ~~Aquaculture.~~ Aquaculture no later than January 1 of each year."

Section 2. The Sea Grant College Program shall submit the first report required by G.S. 113-200(i), as amended by Section 1 of this act, no later than January 1, 2000.

Section 3. This act is effective when it becomes law.

Attachment #5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE JOINT RESOLUTION 1139
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99
Proposed House Committee Substitute S1139-PCS4707-SG

Sponsors:

Referred to:

April 15, 1999

A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution, authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution, accepting properties added to the State Parks System since the last dedication of lands on May 29, 1989, and designated in the petition for inclusion in the State Nature and Historic Preserve; and

Whereas, one component of the State Parks System and various State Historic Sites properties, some of which remain unchanged in land mass and some of which have acquired additional land, have different names since they were dedicated to the State Nature and Historic Preserve; and

Whereas, the Council of State has petitioned the General Assembly to remove certain properties from the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve as named or renamed:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 6, 1999: Baldhead Island State Natural Area, Bushy Lake State Natural Area, Cliffs of the Neuse State Park, Duke Power State Park, Goose Creek State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jockey's Ridge State Park, Lake James State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws.

(3) All land within the boundaries of Crowders Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.

(4) All lands owned in fee simple by the State at the New River Scenic River as of April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.

(5) All lands and waters within the boundaries of Stone Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres.

(6) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County", for TIP U-2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County" for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office.

(7) All lands and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office.

(8) All lands and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or property at South

Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of January 1, 1999: Charles B. Aycock Birthplace, Bennett Place, Bentonville Battleground (formerly Bentonville Battleground Historic Site), Brunswick Town (formerly Brunswick Town Historic Site)/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial (formerly Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site), Charlotte Hawkins Brown Memorial, Historic Edenton (formerly James Iredell House Historic Site), Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, North Carolina Transportation Museum, Reed Gold Mine, Somerset Place, Tryon Palace Historic Sites & Gardens (formerly Tryon Palace Historic Site), and Thomas Wolfe Memorial (formerly Thomas Wolfe Memorial Historic Site).

(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled "Boundaries of Gorges State Park" prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.

Section 2. The General Assembly dedicates and accepts all the following lands and waters, which were dedicated and accepted previously by the General Assembly to the State Nature and Historic Preserve, which properties have not

changed their boundaries, but which have been renamed since their prior dedication and acceptance, as components of the State Nature and Historic Preserve as renamed: Mount Jefferson State Natural Area (formerly Mount Jefferson State Park), Alamance Battleground (formerly Alamance Battleground Historic Site), Historic Bath (formerly Historic Bath Historic Site), Duke Homestead (formerly Duke Homestead Historic Site), House in the Horseshoe (formerly House in the Horseshoe Historic Site), James K. Polk Memorial (formerly President James K. Polk Memorial Historic Site), Historic Stagville (formerly Stagville Preservation Center Historic Site), State Capitol (formerly State Capitol Historic Site), Town Creek Indian Mound (formerly Town Creek Indian Mound Historic Site), and Zebulon B. Vance Birthplace (formerly Governor Zebulon B. Vance Birthplace Historic Site).

Section 3. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the register of deeds of the counties in which the dedicated properties named in Sections 1 and 2 of this act are located.

Section 4. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE JOINT RESOLUTION 1139
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99

Sponsors:

Referred to:

April 15, 1999

A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution accepting properties added to the State Parks System since the last dedication of lands on May 29, 1989, and designated in the petition for inclusion in the State Nature and Historic Preserve; and

Whereas, one component of the State Parks System and various State Historic Sites properties, some of which remain unchanged in land mass and some of which have acquired additional land, have different names since they were dedicated to the State Nature and Historic Preserve; and

Whereas, the Council of State has petitioned the General Assembly to remove certain properties from the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve as named or renamed:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 6, 1999: Baldhead Island State Natural Area, Bushy Lake State Natural Area, Cliffs of the Neuse State Park, Duke Power State Park, Goose Creek State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jockeys Ridge State Park, Lake James State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled 'Property of The State of North Carolina William B. Umstead State Park', dated January 14, 1977, and as removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) All land within the boundaries of Crowders Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated 7/22/88.

(4) All lands owned in fee simple by the State at the New River Scenic River as of April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated 9/21/79.

(5) All lands and waters within the boundaries of Stone Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone

Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Gap Road as shown on the National Park Service Land Status Map 33 dated 3/24/81, containing approximately 72 acres.

(6) All land and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the six tracts that the Council of State has petitioned the General Assembly to remove from the State Nature and Historic Preserve.

(7) All land and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the tract that the Council of State has petitioned the General Assembly to remove from the State Nature and Historic Preserve.

(8) All land and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the tracts that the Council of State has petitioned the General Assembly to remove from the State Nature and Historic Preserve.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of January 1, 1999: Charles B. Aycock Birthplace, Bennett Place, Bentonville Battleground (formerly Bentonville Battleground Historic Site), Brunswick Town (formerly Brunswick Town Historic Site)/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial (formerly Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site), Charlotte Hawkins Brown Memorial, Historic Edenton (formerly James Iredell House Historic Site), Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, North Carolina Transportation Museum, Reed Gold Mine, Somerset Place, Tryon Palace Historic Sites & Gardens (formerly Tryon Palace Historic Site), and Thomas Wolfe Memorial (formerly Thomas Wolfe Memorial Historic Site).

(10) All lands and waters within the boundaries of Gorges State Park, the purchase of which was approved by the Council of State at its meeting on 2 March 1999, as of the date on which the lands and waters are purchased by the State.

Section 2. The General Assembly dedicates and accepts all the following lands and waters, which were dedicated and accepted previously by the General Assembly to the State Nature and Historic Preserve, which properties have not changed their boundaries, but which have been renamed since their prior dedication and acceptance, as components of the State Nature and Historic Preserve as renamed:

Mount Jefferson State Natural Area (formerly Mount Jefferson State Park), Alamance Battleground (formerly Alamance Battleground Historic Site), Historic Bath (formerly Historic Bath Historic Site), Duke Homestead (formerly Duke Homestead Historic Site), House in the Horseshoe (formerly House in the

Horseshoe Historic Site), James K. Polk Memorial (formerly President James K. Polk Memorial Historic Site), Historic Stagville (formerly Stagville Preservation Center Historic Site), State Capitol (formerly State Capitol Historic Site), Town Creek Indian Mound (formerly Town Creek Indian Mound Historic Site), and Zebulon B. Vance Birthplace (formerly Governor Zebulon B. Vance Birthplace Historic Site).

Section 3. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the Register of Deeds of the counties in which the dedicated properties named in Sections 1 and 2 of this act are located.

Section 4. This resolution is effective upon ratification.

Attachment #6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1127
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99

Short Title: State Nature and Historic Preserve. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, INCLUDING THE CODIFICATION OF NAME CHANGES OF CERTAIN LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS; AND TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The following parcels of tracts of land are removed, pursuant to Article XIV, Section 5 of the North Carolina Constitution, from the State Nature and Historic Preserve:

(1) All lands and waters as follows: The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626-854, and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of the State of

North Carolina, Division of Parks and Recreation, Durham County Project 8.1351301 ID# U-2102 for tracts 155, 158, 159, and 163"; the portion of that certain tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945-773 and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of the State of North Carolina, Division of Parks and Recreation, Durham County Project 8.1351301 ID# U-2102 for tracts 155, 158, 159, and 163"; and the certain parcels or tracts of land in Durham and Orange Counties identified as tracts I, II, III, and IVA on the George C. Love, Jr. survey entitled "Plat Prepared for Acquisition of Zener Forest for Eno River State Park" dated December 2, 1993, and revised December 14, 1993.

(2) All lands and waters as follows: The portion of that certain tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, that is a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet and more particularly shown on a survey titled, "J. Spot Taylor Heirs, Danbury Township, Stokes County, N.C." by Grinski Surveying Company, June 1985, as extending from the southwest corner of the Bobby Joe Lankford tract.

(3) All lands and waters as follows: The portion of that certain tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471 for the new right-of-way for SR 1904 needed for the relocation of this road within the park and as described in the drawing and shown as between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary dated January 28, 1999, entitled "Survey for State of North Carolina" file name 12455.dwg by Suttles Surveying P.A.; and the portions of those certain tracts or property at South Mountains State Park in Burke County, in Upper Fork Township described in Deed Book 860, Page 341 and Deed Book 884, Page 1641 that are south of the centerline of the CCC road and shown on the drawing entitled "Land Trade Between South Mountains State Park and Adjacent Game Land Along CCC Road" by the Division of Parks and Recreation dated March 15, 1999.

Section 2. G.S. 143-260.10 reads as rewritten:

"**§ 143-260.10. Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 4, 1989.~~ April 6, 1999:

Baldhead Island State Natural Area, Bay Tree Lake State Park, Boones Cave State Park, Bushy Lake State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Duke Power State Park, ~~Eno River State Park,~~ Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Hammocks Beach State Park, ~~Hanging Rock State Park,~~ Hemlock Bluffs State Natural Area, Jockeys Ridge State Park, Jones Lake State Park, Lake James State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, ~~Merchant's~~ Merchants Millpond State Park, Mitchells Millpond State Natural ~~Area north of S.R. 2224,~~ Area, Mount Jefferson ~~State Park,~~ State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, ~~South Mountains State Park,~~ Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled 'Property of The State of North Carolina William B. Umstead State Park', dated January 14, 1977, and as removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

~~(3) All lands within the boundaries of Jockey's Ridge State Park as of April 4, 1989, with the exception of the following tract: That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: Beginning at an iron rod which is located North 39°07'08" West 74.96 feet from an iron pipe having a NC Coordinate value of X-2996057.363 and Y-823796.892, said iron rod also being located in a common property line between the State of North Carolina and R. M. Ritchie, et al.; thence running from said beginning point South 39°07'08" East 10 feet to a point; thence North 49°10'51" East 47.98 feet to a point in the right-of-way of U.S. 158 Bypass; thence northwesterly along the~~

~~aforementioned right-of-way 10 feet to an iron rod; thence South 49°10'51" West 47.98 feet to the point and place of beginning and containing 479.80 square feet more or less, and as drawn out by the Design and Development Section of the Division of Parks and Recreation on a map dated November 8, 1988.~~

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, reference to which is hereby made for a more complete description.

~~(5) All lands within the boundaries of Pettigrew State Park as of April 4, 1989, with the exception of the following tract: The portion of that certain tract or parcel of land at Pettigrew State Park in Washington County, Scuppernong Township, described in Deed Book 257, page 479, lying south of S.R. 1183 or the extension thereof along its present right-of-way.~~

(6) All land within the boundaries of ~~Crowder's~~ Crowders Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at ~~Crowder's~~ Crowders Mountain State Park in Gaston County, ~~Crowder's~~ Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated 7/22/88. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(7) All lands owned in fee simple by the State at the New River Scenic River as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated 9/21/79. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Gap Road as shown on the National Park Service Land Status Map 33 dated 3/24/81, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~March 6, 1979.~~ January 1, 1999: Alamance ~~Battleground Historic Site,~~ Battleground, Charles B. Aycock Birthplace, Historic ~~Bath Historic Site,~~ Bath, Bennett Place, Bentonville ~~Battleground Historic Site,~~ Battleground, Brunswick ~~Town Historic Site,~~ Town/Fort Anderson, ~~Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site,~~ C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke ~~Homestead Historic Site,~~ Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the ~~Horseshoe Historic Site, James Iredell House Historic Site,~~ Horseshoe, North Carolina Transportation Museum, ~~President~~ James K. Polk ~~Memorial Historic Site,~~ Memorial, ~~Stagville Preservation Center Historic Site,~~ Stagville, State ~~Capitol Historic Site,~~ Capitol, Town Creek Indian ~~Mound Historic Site,~~ Mound, Tryon Palace Historic ~~Site, Governor~~ Sites & Gardens, Zebulon B. Vance ~~Birthplace Historic Site,~~ Birthplace, and Thomas Wolfe ~~Memorial Historic Site.~~ Memorial.

(10) All lands and waters within the boundaries of Gorges State Park, the purchase of which was approved by the Council of State at its meeting on 2 March 1999, as of the date on which the lands and waters are purchased by the State.

(11) All land and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of six tracts: The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626-854, and more particularly described in a Department of Transportation drawing entitled 'Sketch Showing a Portion of the Property of the State of North Carolina, Division of Parks and Recreation, Durham County Project 8.1351301 ID# U-2102 for tracts 155, 158, 159, and 163'; and the portion of that certain tract or parcel of land at Eno River State Park in Durham County,

Lebanon Township, described in Deed Book 1945-773 and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of the State of North Carolina, Division of Parks and Recreation, Durham County Project 8.1351301 ID# U-2102 for tracts 155, 158, 159 and 163". These two tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. Further exclusions from the State Nature and Historic Preserve are: the certain parcels or tracts of land in Durham and Orange Counties identified as tracts I, II, III, and IVA on the George C. Love, Jr. survey entitled 'Plat Prepared for Acquisition of Zener Forest for Eno River State Park' dated December 2, 1993, and revised December 14, 1993. The State of North Carolina may only exchange these six tracts for other land for the expansion of Eno River State Park or sell these tracts and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(12) All land and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, that is a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet and more particularly shown on a survey titled, 'J. Spot Taylor Heirs, Danbury Township, Stokes County, N.C.,' by Grinski Surveying Company, June 1985, as extending from the southwest corner of the Bobby Joe Lankford tract. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All land and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the following tracts: The portion of that certain tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471 for the new right-of-way for SR 1904 needed for the relocation of this road within the park and as described in the drawing and shown as between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary dated January 28, 1999, entitled 'Survey for State of North Carolina' file name 12455.dwg by Suttles Surveying P.A.; and the portions of those certain tracts or property at South Mountains State Park in Burke County, in Upper Fork Township described in Deed Book 860, Page 341 and Deed Book 884, Page 1641 that are south of the centerline of the

CCC road and shown on the drawing entitled 'Land Trade Between South Mountains State Park and Adjacent Game Land Along CCC Road' by the Division of Parks and Recreation dated March 15, 1999. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

Section 3. This act is effective when it becomes law.

SEN. JOINT RESOLUTION 1139/SB 1127:
State Nature & Historic Preserve

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Horton
		Summary by:	Rick Zechini, Committee Counsel
Date:	May 18, 1999		
Version:	First Editions		

SUMMARY: ***Senate Joint Resolution 1139 accepts properties as part of the State Nature and Historic Preserve. Senate Bill 1127 codifies in the General Statutes the addition of these properties. Senate Bill 1127 also removes certain tracts of land from the State Nature and Historic Preserve and the State Park System.***

CURRENT LAW: Article XIV, Section 5 of the North Carolina Constitution authorizes the State Nature and Historic Preserve (Preserve). This authorization is intended to insure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. The Council of State may petition the General Assembly to adopt a resolution accepting State properties for inclusion in the Preserve. The General Assembly accepts the properties into the Preserve by a joint resolution adopted by a vote of three-fifths of the members of each house. A resolution accepting properties into the Preserve must also be codified in the General Statutes. In addition, a certified copy of every resolution accepting properties into the Preserve must be transmitted by the Secretary of State to the register of deeds in each county where any of the properties accepted are located for filing and indexing in the grantor index. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house.

BILL ANALYSIS: The Council of State has petitioned the General Assembly to accept into the Preserve certain properties owned by the State. Senate Joint Resolution 1139 contains the descriptions of the properties to be accepted. The resolution also contains the names of properties previously accepted into the Preserve, but whose names have changed without a change in their boundaries. Senate Bill 1127 removes certain properties from the Preserve, some of which are also excluded from the State Parks System. In addition, the bill amends the names of certain properties whose names have changed since the last acceptance of lands into the Preserve. Furthermore, the bill codifies in the General Statutes the description of the properties accepted into the Preserve by the resolution.

BACKGROUND: Properties were last accepted into the Preserve in 1989. Since that time over 15,000 acres have been added to the North Carolina Park System.

EFFECTIVE DATE: The resolution is effective upon ratification. The bill is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 872. A BILL TO BE ENTITLED AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 1047 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE TAKING OF SHELLFISH WITHIN ONE HUNDRED FIFTY FEET OF A PUBLICALLY OWNED PIER BENEATH WHICH THE DIVISION OF MARINE FISHERIES HAS DEPOSITED CULTCH MATERIAL.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 1048 A BILL TO BE ENTITLED AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR, REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER THE FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY RESOURCE GRANT PROGRAM STATUTE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to HOUSE committee substitute bill (#), ~~☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

SENATE BILL 1159:
Land-Use Restrictions/ Contaminated Sites

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Plyler
		Summary by:	Hannah Holm, Research Assistant
Date:	May 18, 1999		
Version:	First Edition		

SUMMARY: ***Senate Bill 1159 expands the circumstances under which the Department of Environment and Natural Resources (DENR) may allow the imposition of land-use restrictions on contaminated property to protect public health or the environment. The bill also provides that such restrictions shall be filed in the appropriate register of deeds office and must be referenced in any instrument of transfer in the event that the property is leased or changes ownership.***

CURRENT LAW: DENR already has the authority to allow land-use restrictions on contaminated property to protect public health or the environment under legislation on Brownfields (G.S. 130A-310.32 and G.S. 130A-310.35) and Oil Discharge Controls (G.S. 143-215.84(f) and G.S. 143-215.85A). This authority does not, however, extend to other DENR programs for the remediation of contaminated sites.

BILL ANALYSIS: By placing provisions that authorize DENR to allow land-use restrictions on contaminated property to protect public health or the environment in Part 1 of Article 7 of Chapter 143B (Department of Environment and Natural Resources – General Provisions), Senate Bill 1159 makes these provisions applicable to all DENR programs for the remediation of contaminated sites. The bill details the conditions under which DENR may allow land-use restrictions and the requirements for the recordation of the land-use restrictions.

Land-Use Restrictions. In order to protect public health or the environment at a contaminated site, an owner, operator or other responsible party may impose restrictions on any part of the property where contamination is located if the following conditions are met:

- The property owner agrees to the restrictions.
- The restrictions are included in a remedial action plan approved by the Secretary of Environment and Natural Resources (Secretary) and implemented as part of the remedial action program for the site.

The Secretary may approve land-use restrictions as part of a remediation program for a site in accordance with standards the Secretary determines to be applicable to the site. The restrictions may apply to the use of groundwater, the movement of soil, or other activities on, over, or under the property and must be enforced by any owner, operator or other party responsible for the contaminated site. The restrictions may also be enforced by DENR or any unit of local government with jurisdiction over any part of the site.

Recordation. The owner of contaminated property subject to a land-use restriction must provide DENR with a professionally-prepared survey plat identifying areas designated by DENR within 180 days of receiving notice to do so. This plat shall be entitled "NOTICE OF CONTAMINATED SITE" (Notice) and must clearly identify:

- Any disposal areas and areas of potential environmental concern.
- The type, location, and quantity of contamination the owner knows to exist on the site.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1159

Short Title: Land-Use Restrictions/Contaminated Sites. (Public)

Sponsors: Senators Plyler; Hartsell, Odom, and Purcell.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding two new sections to read:

"**§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.**

In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided

by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

"§ 143B-279.10. Recordation of contaminated sites.

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9 shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF CONTAMINATED SITE'. Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the land.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in

the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name 'Secretary of Environment and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

Section 2. This act is effective when it becomes law.

5/18/99 Environ / Natural Resources

1.	Stephanie Trainor	aide for Senator Kinnaird
2.	Steve Woodson	NC Farm Bureau
3.	Walter Cherry	NCPC
4.	Jerry Schill	NC Fisheries Assoc.
5.	Barbara Wyse	Sierra Club
6.	CAROL TINGLEY	DENR - Parks + Recreation
7.	R. ROGERS	DENR
8.	Laura DeVries	DENR
9.	[illegible]	DENR/DPR
10.	[illegible]	DENR
11.	David Knight	NC Sierra Club, NC Wildlife Fed
12.	Mark Mine	CCNE
13.	Preston Howard	MCIC
14.	Jim Kuszaj	NCEI
15.	Pat Regan	N.C.A.C.L.
16.	[illegible]	Lyon Shoreline [illegible] #3
17.	Lu-Ann Cox	
18.	[illegible]	N.C. Parks Council
19.	Natalie English	NC Agribusiness Council
20.	[illegible]	Bond + Associates
21.	John Cyrus	N.C. State Grange
22.	Mike Carpenter	NCHBA
23.	Kim Hibbard	NCLM
24	[illegible]	Duke
25.	[illegible]	Bond + Assoc.
26.	Carol Low	Common Cause

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 1048 A BILL TO BE ENTITLED AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR, REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER THE FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY RESOURCE GRANT PROGRAM STATUTE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to HOUSE committee substitute bill (#), ☐ ~~which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 1047 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE TAKING OF SHELLFISH WITHIN ONE HUNDRED FIFTY FEET OF A PUBLICALLY OWNED PIER BENEATH WHICH THE DIVISION OF MARINE FISHERIES HAS DEPOSITED CULTCH MATERIAL.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 872 A BILL TO BE ENTITLED AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, May 25, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

SB 1139 – Nature and Historic Preserve
SB 1127 – State Nature and Historic Preserve
SB 1159 – Land-Use/Contaminated Sites

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **May 20, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND

May 25, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, May 25, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Don Davis, Mitch Gillespie, Paul Luebke, Danny McComas, Marian McLawhorn, Ed McMahan, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Alex Warner and Douglas Yongue. Representative Liston Ramsay had an excused absence due to his accident.

Chair Warwick called the meeting to order at 12:08 p.m. Agenda items SB 1139, Nature and Historic Preserve, and SB 1127, State Nature and Historic Preserve, will not considered, but will be on the agenda at a later time.

SB 1159, Land-Use/Contaminated Sites, was presented by Representative Pryor Gibson for Senator Aaron Plyler. A motion was made to present the Proposed House Committee Substitute before the Committee; so received. This bill represents landmark work of the General Assembly over the past few years—the Brown Field Reclamation issues.

George Givens, Staff Attorney, explained that the Brown Field Property Reuse Act was enacted two years ago. There are properties were used for commercial purposes and have contamination on site. This renders the site unusable because it would not be safe. In many instances, the property could be cleaned up to a point that the site could be used for industrial redevelopment—hence, the name the "brown field" rather than the "green field." The enviromentmental community supports this approach because it allows a cleanup, making the property safe for use for certain development, as an industrial site. An analysis must be done on the risk site as to what contamination will remain, what cleanup standards must be adhered to, and the allowable use of the property. The legislation provides for the recordation of land use restrictions. If ground water were contaminated, a well would not be advisable or have water flowing off site. Whatever restrictions match the risk analysis and the projected future use. That basis principle was codified in the law two years ago. The Brown Field Act and the Inactive Hazardous Sites Program (1987) involve cleanup of certain sites, and sites contaminated by petroleum. This bill extends the principle of land use restrictions and the recordation to other cleanup programs operated by the Department of Natural Resources and codifies the land use restrictions and the authorization and recordation in the General Statutes applied to the Department, but this does not create any mandate to the Department. This is permissive legislation that allows land use restrictions if the Department agrees on a risk-based approach. The only place that a risk-based approach is mandated at this time is in respect

With underground storage tanks. The risk-based process, although it is attractive in concept, is very complex and requires a great deal of analysis. The Department is in the process of examining the overall process of risk analysis. This is a voluntary arrangement from legislation two years ago. It is not contemplated that any landowner would be required to record these restrictions unless they agree to them. A land owner can seek a less than pristine cleanup, and, in exchange for that, may choose to agree to a land use restriction in order to be given the opportunity to do something less than a complete clean up.

Mr. Bill Holman, Assistant Secretary for Department of Environment and Natural Resources (DENR), said that the Department supports this bill, and it is consistent with the Brown Field Act passed last Session. It will help the State get some property cleaned up and reused. He said, "It is a win win for the environment and the economy."

Representative Gillespie raised the question as to land use restrictions (p.2, Line 7, Attachment 1), Mr. Givens said that the Department has the right to enforce them, as does a private individual. It is a contract with enforceable provisions. Representative Gillespie raised another question in regard to restrictions of land uses protecting the health and environment. Mr. Givens said that restrictions would be made as to land use only for industry rather than for houses, day care centers churches, etc. Physical boundaries such as chain link fences could be constructed around a "hot spot." If the problem is ground water, the restriction may be only use of the surface. Sinking a well for drinking water would be prohibited. The restrictions would be tailored to the nature of the contamination of the site. Representative Gibson said that a site just 1,000 yards from the Legislature, an old textile mill has been reclaimed for office and retail as a result of the Brown Field Act.

Representative Hackney said that the bill should have an immediate effective date of October 1, 1999. Passed.

A question was raised about statues of enforcement and that it would be criminal offense rather than civil. Mr. Givens said that this bill does not enforce by criminal means and no provision to make this a violation of criminal law. There are other statutes that provide for violations.

Ms. Leslie Bevacqua, NC Citizens for Business & Industry said that their organization supported the bill.

Representative Smith moved to incorporate the amendment into a new committee substitute and give the new committee substitute a favorable report. Seconded. Passed.

Chairman Warwick adjourned the meeting at 12:23 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1159 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Hackney
Sen.)

moves to amend the bill on page 3, line 24

( ) WHICH CHANGES THE TITLE

by _____

Rewriting Sec 2. as follows:

Section 2. This act ~~is~~ becomes effective October 1, 1999.

SIGNED Hackney

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ATTACHMENT 1

SENATE BILL 1159:
Land-Use Restrictions/ Contaminated Sites

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Plyler
		Summary by:	Hannah Holm, Research Assistant
Date:	May 18, 1999		
Version:	First Edition		

SUMMARY: Senate Bill 1159 expands the circumstances under which the Department of Environment and Natural Resources (DENR) may allow the imposition of land-use restrictions on contaminated property to protect public health or the environment. The bill also provides that such restrictions shall be filed in the appropriate register of deeds office and must be referenced in any instrument of transfer in the event that the property is leased or changes ownership.

CURRENT LAW: DENR already has the authority to allow land-use restrictions on contaminated property to protect public health or the environment under legislation on Brownfields (G.S. 130A-310.32 and G.S. 130A-310.35) and Oil Discharge Controls (G.S. 143-215.84(f) and G.S. 143-215.85A). This authority does not, however, extend to other DENR programs for the remediation of contaminated sites.

BILL ANALYSIS: By placing provisions that authorize DENR to allow land-use restrictions on contaminated property to protect public health or the environment in Part 1 of Article 7 of Chapter 143B (Department of Environment and Natural Resources – General Provisions), Senate Bill 1159 makes these provisions applicable to all DENR programs for the remediation of contaminated sites. The bill details the conditions under which DENR may allow land-use restrictions and the requirements for the recordation of the land-use restrictions.

Land-Use Restrictions. In order to protect public health or the environment at a contaminated site, an owner, operator or other responsible party may impose restrictions on any part of the property where contamination is located if the following conditions are met:

- The property owner agrees to the restrictions.
- The restrictions are included in a remedial action plan approved by the Secretary of Environment and Natural Resources (Secretary) and implemented as part of the remedial action program for the site.

The Secretary may approve land-use restrictions as part of a remediation program for a site in accordance with standards the Secretary determines to be applicable to the site. The restrictions may apply to the use of groundwater, the movement of soil, or other activities on, over, or under the property and must be enforced by any owner, operator or other party responsible for the contaminated site. The restrictions may also be enforced by DENR or any unit of local government with jurisdiction over any part of the site.

Recordation. The owner of contaminated property subject to a land-use restriction must provide DENR with a professionally-prepared survey plat identifying areas designated by DENR within 180 days of receiving notice to do so. This plat shall be entitled "NOTICE OF CONTAMINATED SITE" (Notice) and must clearly identify:

- Any disposal areas and areas of potential environmental concern.
- The type, location, and quantity of contamination the owner knows to exist on the site.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1159

Short Title: Land-Use Restrictions/Contaminated Sites. (Public)

Sponsors: Senators Plyler; Hartsell, Odom, and Purcell.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding two new sections to read:

"**§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.**

In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided

by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

"**§ 143B-279.10. Recordation of contaminated sites.**

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9 shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF CONTAMINATED SITE'. Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the land.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in

the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name 'Secretary of Environment and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson & Warwick** for the Committee on **Environment & Nat. Res.**.

☒ Committee Substitute for
S.B. 1159 A BILL TO BE ENTITLED AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (~~# _____~~), ☐ ~~which changes the title,~~ unfavorable as to (original bill), ~~(Committee Substitute Bill # _____), (and recommendation that the committee substitute bill # _____) be re-referred to the Committee on _____).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

Shirlyn MacPherson (Rep. Gibson)

From: Dot Barber (Rep. Ramsey)
Sent: Thursday, May 20, 1999 3:29 PM
To: Shirlyn MacPherson (Rep. Gibson)
Subject: RE: Environment & Natural Resources Committee Meeting - May 25, 1999

Shirlyn,

Will you pls give Rep. Liston Ramsey an excused absence from the Env. & Natural Res. Meetings until he returns. Hopefully he will be back in a couple of weeks. Thanks.

Dot Barber

-----Original Message-----
From: Shirlyn MacPherson (Rep. Gibson)
Sent: Thursday, May 20, 1999 2:31 PM
To: @House/Environment/ & Natural Resources/LAs; Anne Cole; Blanche Critcher; George Givens; Hannah Holm; HCALENDAR HCALENDAR; House Sgt of Arms; Jeffrey Hudson; Laura DeVivo; Legislative Press; Rick Zechini; Valerie Rustin; WUNC Press
Subject: Environment & Natural Resources Committee Meeting - May 25, 1999

5-27

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson & Warwick** for the Committee on **Environment & Nat. Res.**.

☒ Committee Substitute for
S.B. 1159 A BILL TO BE ENTITLED AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill (#), ☐ ~~which changes the title,~~ unfavorable as to (original bill), ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson & Warwick** for the Committee on **Environment & Nat. Res.**.

☒ Committee Substitute for
S.B. 1159, A BILL TO BE ENTITLED AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC HEALTH AT CONTAMINATED SITES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to (original bill), ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 15, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1434 – Coastal Recreational Fishing License

The bills may or may not be taken up in this order.

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **June 10, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 15, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, June 15, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representatives Liston Ramsay and Dewey Hill were excused.

Chair Warwick called the meeting to order at 12:10 p.m. He introduced Pages Sarah Kirkpatrick, Lenoir County; Ashley Green, Forsyth County; and Gerald Jones, Mecklenburg County.

SJR 1139 and SB 1127 (Attachment 1). Representative Gibson explained that the bill allows the State to acquire properties for the State Park System. Representative Hackney said these bills should go in tandem and reminded the Committee that SJR 1139 received a favorable report previously and moved to reconsider SB 1127; seconded by Representative Bonner. Passed.

Chair Gibson asked staff to explain the bill. Mr. Zechini stated that the resolution is the instrument which dedicates and accepts these properties into the preserve; the bill codifies the property into the Statutes. Some technical corrections have been made to tighten the property descriptions and survey and deed language (dots the i's and crosses the t's). S1139PCS4707-SG. Representative Gibson moved to approve the House Committee Substitute for consideration. Passed. Representative Hackney moved to give the SJR 1139 with the Committee Substitute a favorable report. Representative Gibson seconded. Passed.

SB 1127 – S1127PCS 7695-SG (Committee Substitute – Attachment 2). Moved by Representative Hackney to bring the Committee Substitute before the Committee. Ayes have it. George Givens, Staff Counsel, explained the corrections and conforming statutory changes in order two similar bills would not be presented again in this way. Rep Gibson moved for unfavorable to the original bill and favorable report for the bill with the committee substitute. Passed and subject to a 3/5 vote on the Floor.

Chair Gibson recognized Representative David Redwine on HB 1434, Coastal Recreational Fishing License (Attachment 3). In 1994, part of the Moratorium Study Commission that recommended the Fisheries Reform Act that was passed years ago. Public hearings and surveys have been conducted. held across the state, Seafood and AquaCulture studied it, and he introduced the bill in 1997 and has reintroduced the bill with changes with consideration of suggestions from these groups and legislators.

He explained the bill and each section and discussed these points regarding his bill:

1. Fairness issue—there is a fresh water license.
2. In passing this, North Carolina might get Federal monies dedicated to the State based on the number of recreational fishermen.
3. Good management tool, i.e. passage of the Fisheries Reform Act in 1997 on the commercial side.
4. Dedicated funds generated for the Sea Life Enhancement Fund.

The bill is based loosely on what other states are doing. He said that a committee substitute would provide for one license for fresh and salt-water fishing and for Seafood and AquaCulture Study Commission to produce one unified license.

A question and answer discussion followed with questions from Representatives Daughtry, Mitchell, Culp, Mitchell, Creech, Preston, Thomas, and Smith.

Representative Smith said he had a letter sent to the Committee before this meeting requesting a Public Hearing (Attachment 4). A lengthy discussion went on about rules regulating filibuster tactics. However, it was the Chair's intent not to filibuster, but the wishes of the Committee to be heard.

Following some "house keeping" announcements, Representative Gibson said he would appoint a sub-committee on animal cruelty issues. The meeting was adjourned at 1:03 pm.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

Attachment #1

SEN. JOINT RESOLUTION 1139/SB 1127: State Nature & Historic Preserve

BILL ANALYSIS

Committee:	House Env. & Nat. Resources	**Introduced by:**	Senator Horton
Date:	June 10, 1999	**Summary by:**	Rick Zechini, Committee Counsel
Version:	Proposed House Committee Substitutes		

SUMMARY: ***The Proposed House Committee Substitute for Senate Joint Resolution 1139 accepts State properties into the State Nature and Historic Preserve. The Proposed House Committee Substitute for Senate Bill 1127 codifies in the General Statutes the addition of these properties, removes certain tracts of land from the State Nature and Historic Preserve and the State Park System, and contains a Constitutional amendment to allow properties to be accepted into the Preserve by enactment of a bill rather than adoption of a resolution.***

CURRENT LAW: Article XIV, Section 5 of the North Carolina Constitution establishes the State Nature and Historic Preserve (Preserve). The Preserve is intended to insure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. The Council of State may petition the General Assembly to adopt a resolution accepting State properties for inclusion in the Preserve. The General Assembly accepts the properties into the Preserve by a joint resolution adopted by a vote of three-fifths of the members of each house. A resolution accepting properties into the Preserve must also be codified in the General Statutes. A certified copy of every resolution accepting properties into the Preserve must be transmitted by the Secretary of State to the register of deeds in each county where any of the properties accepted are located for filing and indexing in the grantor index. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house.

BILL ANALYSIS: Properties were last accepted into the Preserve in 1989. Since that time over 15,000 acres have been added to the North Carolina Park System. The Council of State has petitioned the General Assembly to accept into the Preserve various State parklands and historic sites.

Senate Joint Resolution 1139 contains the descriptions of the properties to be accepted. The resolution also re-accepts those properties that have been previously accepted into the Preserve, but have changed names without a change in their boundaries. In addition, the resolution directs the Secretary of State to forward a certified copy of the resolution to the register of deeds of the counties in which the accepted properties are located.

Senate Bill 1127 codifies in the General Statutes the description of the properties accepted into the Preserve by the resolution. In addition, the bill removes certain properties from the Preserve and provides that other properties are deleted from the Parks System.

The **Proposed House Committee Substitutes** for Senate Joint Resolution 1139 and Senate Bill 1127 include technical corrections and more precise descriptions of the properties. The **Proposed House Committee Substitutes** also accept into the Preserve a portion of the Eno River State Park that was excepted from inclusion into the Preserve in the First and Second Editions of the bill and resolution. The **Proposed House Committee Substitutes** for the bill contains a Constitutional amendment to allow properties to be accepted into the Preserve by enactment of a bill rather than adoption of a resolution. The

Proposed House Committee Substitute for the bill also contains conforming amendments to the State Nature and Historic Preserve Dedication Act that are contingent upon passage of the Constitutional amendment by the voters.

Attachment #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE JOINT RESOLUTION 1139
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99
Proposed House Committee Substitute S1139-PCS4707-SG

Sponsors:

Referred to:

April 15, 1999

A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution, authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution, accepting properties added to the State Parks System since the last dedication of lands on May 29, 1989, and designated in the petition for inclusion in the State Nature and Historic Preserve; and

Whereas, one component of the State Parks System and various State Historic Sites properties, some of which remain unchanged in land mass and some of which have acquired additional land, have different names since they were dedicated to the State Nature and Historic Preserve; and

Whereas, the Council of State has petitioned the General Assembly to remove certain properties from the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve as named or renamed:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 6, 1999: Baldhead Island State Natural Area, Bushy Lake State Natural Area, Cliffs of the Neuse State Park, Duke Power State Park, Goose Creek State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jockey's Ridge State Park, Lake James State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws.

(3) All land within the boundaries of Crowders Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.

(4) All lands owned in fee simple by the State at the New River Scenic River as of April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.

(5) All lands and waters within the boundaries of Stone Mountain State Park as of April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres.

(6) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County", for TIP U-2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County" for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office.

(7) All lands and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office.

(8) All lands and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or property at South

Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of January 1, 1999: Charles B. Aycock Birthplace, Bennett Place, Bentonville Battleground (formerly Bentonville Battleground Historic Site), Brunswick Town (formerly Brunswick Town Historic Site)/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial (formerly Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site), Charlotte Hawkins Brown Memorial, Historic Edenton (formerly James Iredell House Historic Site), Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, North Carolina Transportation Museum, Reed Gold Mine, Somerset Place, Tryon Palace Historic Sites & Gardens (formerly Tryon Palace Historic Site), and Thomas Wolfe Memorial (formerly Thomas Wolfe Memorial Historic Site).

(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled "Boundaries of Gorges State Park" prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.

Section 2. The General Assembly dedicates and accepts all the following lands and waters, which were dedicated and accepted previously by the General Assembly to the State Nature and Historic Preserve, which properties have not

changed their boundaries, but which have been renamed since their prior dedication and acceptance, as components of the State Nature and Historic Preserve as renamed: Mount Jefferson State Natural Area (formerly Mount Jefferson State Park), Alamance Battleground (formerly Alamance Battleground Historic Site), Historic Bath (formerly Historic Bath Historic Site), Duke Homestead (formerly Duke Homestead Historic Site), House in the Horseshoe (formerly House in the Horseshoe Historic Site), James K. Polk Memorial (formerly President James K. Polk Memorial Historic Site), Historic Stagville (formerly Stagville Preservation Center Historic Site), State Capitol (formerly State Capitol Historic Site), Town Creek Indian Mound (formerly Town Creek Indian Mound Historic Site), and Zebulon B. Vance Birthplace (formerly Governor Zebulon B. Vance Birthplace Historic Site).

Section 3. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the register of deeds of the counties in which the dedicated properties named in Sections 1 and 2 of this act are located.

Section 4. This resolution is effective upon ratification.

Attachment 1
(from Staff)

North Carolina General Assembly
Legislative Services Office

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MEMORANDUM

June 15, 1999

To: House Committee on Environment and Natural Resources

From: Jeff Hudson, Committee Counsel

Re: Background material on the proposed coastal recreational fishing license

This package contains the following background material relating to the licensing of coastal recreational fishing as proposed in House Bill 1434.

Summary of House Bill 1434: Coastal Recreational Fishing License (As Introduced)
House Bill 1434 was introduced by Representatives Redwine and McComas on April 29, 1999, and referred to the House Committee on Environment.

Text of House Bill 1434 (As Introduced)

Recommendation from the Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture regarding the establishment of a coastal recreational fishing license
The Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture was directed by the Commission to study whether a licensing system should be adopted for coastal recreational fishing and, if so, what that system should be and how it should be implemented. The Advisory Committee presented its recommendations for the establishment of a coastal recreational fishing license to the Commission on January 19, 1999. The Commission took no action on this recommendation. House Bill 1434 incorporates some of the recommendations presented by the Advisory Committee.

Excerpts from the final report of the Moratorium Steering Committee relating to the establishment of a coastal recreational fishing license
The 1994 General Assembly imposed a two year moratorium on the issuance of new vessel, crab, and shellfish licenses as well as non-vessel endorsements to sell fish. In conjunction with the imposition of the moratorium, the 1994 General Assembly also established the Moratorium Steering Committee. The Moratorium Steering Committee was charged with undertaking a comprehensive study of the State's fisheries program and making recommendations to the Joint Legislative

Commission on Seafood and Aquaculture. The Moratorium Steering Committee approved draft recommendations in August of 1996 and presented them at nineteen public hearings throughout the State. The Moratorium Steering Committee then revised its recommendations and made a final report to the Joint Legislative Commission on Seafood and Aquaculture in November of 1996. Many of the recommendations of the Moratorium Steering Committee relating to fisheries management, habitat protection, law enforcement, and the licensing of commercial fishing were included in the Fisheries Reform Act of 1997. The Moratorium Steering Committee's recommendations relating to the licensing of recreational fishing were not included in the Fisheries Reform Act of 1997.

Summary of the Saltwater Recreational Fishing License Programs in the Southeastern and Gulf Coast States

This summary was prepared for and presented to the Joint Legislative Commission on Seafood and Aquaculture on January 19, 1999.

I hope this information is helpful to you. Please contact me at 733-2578 if you have any further questions.

Outline of Proposed Coastal Recreational Fishing License

Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture
January 19, 1999

General Provisions

Purchase: At offices of the Division of Marine Fisheries (DMF), through an "800" number, from an authorized license agent, or at other locations where fishing supplies are sold

Renewal: By mail

Replacement: Available for $2.00 for a license that has been lost or destroyed

Transferability: Nontransferable

Sale of Fish: Fish may not be sold under the license

Reporting Requirements: License holder must comply with DMF and Marine Fisheries Commission (MFC) sampling and survey programs

Disclosure of Information: Secretary of Environment and Natural Resources may require disclosure of information from license applicants or licensees

License Requirement: Individual must have a license with the individual's correct name and address in order to take fish by means of traditional recreational gear as defined by the MFC in the coastal fishing waters of North Carolina

Types of Licenses, Fees, and Exemptions:

Standard Coastal Recreational Fishing License: One year duration from the date of purchase; $15.00

One Week Coastal Recreational Fishing License: Seven day duration; $5.00

Coastal Recreational Endorsement for Standard Commercial Fishing License: No charge

Special User Lifetime Coastal Recreational Fishing License: Lifetime duration

- Persons over 65 years of age: $10.00
- Handicapped or disabled persons: $10.00
- Disabled American veterans: $10.00
- Legally blind persons: $10.00

Wildlife Resources and Marine Fisheries Lifetime Coastal Recreational Fishing License: Lifetime duration; No charge; Available to any person holding a Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman Combination License

Lifetime Adult Coastal Recreational License: Lifetime duration; $250.00; Available to persons 17 years of age or older

Personalized Lifetime Adult Coastal Recreational Fishing License: Lifetime duration; $255.00; Available to persons 17 years of age or older

Lifetime Infant Coastal Recreational Fishing License: Lifetime duration; $100.00; Available to persons of less than one year of age

Personalized Lifetime Infant Coastal Recreational Fishing License: Lifetime duration; $105.00; Available to persons of less than one year of age

Lifetime Youth Coastal Recreational Fishing License: Lifetime duration; Available to persons of ages one to 16 who apply for this license during the six-month period following the requirement of a Coastal Recreational Fishing License for the following fees

- 1-5 years of age $100.00
- 6-10 years of age $150.00
- 11-16 years of age $200.00

Exemptions: Persons under the age of 16 accompanied by a licensed parent or guardian; Subsistence fishers

License Agents: Will remit the entire license fee paid on a weekly basis to the Department of Environment and Natural Resources (DENR); DENR will reimburse the license agent 6% of the value of each license sold

Marine and Estuarine Resources Fund: Is established within DENR; Funds from the lifetime licenses will be placed in an endowment account, while funds from the other recreational licenses and interest income from the endowment account will be placed in the Recreational License Resource Account

Recreational License Resource Account: Contains license revenues from the sale of the Coastal Recreational Fishing License; Funds will be disbursed according to the following formula

- Resources and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

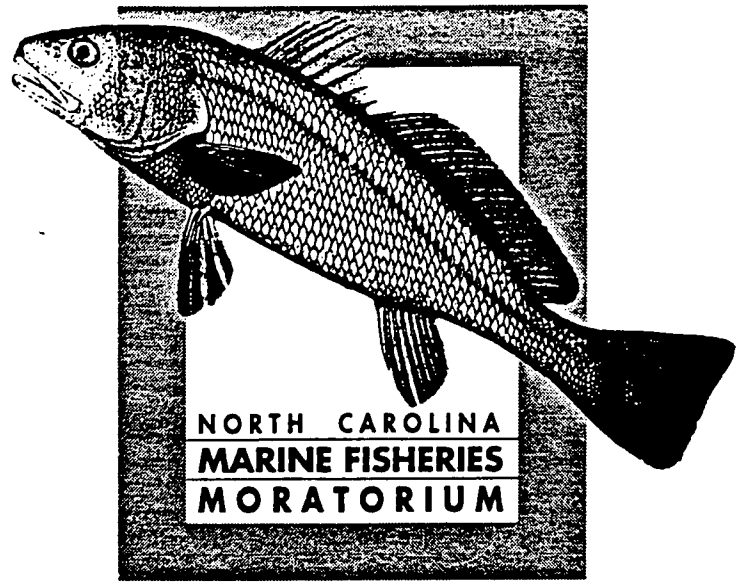
Funds in the Recreational License Resource Account will be administered by the Marine Fisheries Commission. The Commission will be assisted by the Recreational License Resource Account Advisory Committee. The Advisory Committee will be composed of:

- Seven members who hold coastal recreational fishing licenses and are appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

The Advisory Committee will recommend expenditure of funds from the Recreational License Resource Account. The Commission may only expend funds from the Recreational License Resource Account upon recommendation of the Advisory Committee and upon approval of a recommendation by a two-thirds majority of the Commission.

Target Effective Date: March 1, 2001

Start Up Funding: Funding necessary to implement the Coastal Recreational Fishing License should be appropriated by the General Assembly



FINAL REPORT

OF THE

FISHERIES MORATORIUM STEERING COMMITTEE

TO THE

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

OF THE

NORTH CAROLINA GENERAL ASSEMBLY

Sea Grant
National Sea Grant College Program

NORTH CAROLINA SEA GRANT COLLEGE PROGRAM
UNC-SG-96-11

FINAL REPORT

OF THE MORATORIUM STEERING COMMITTEE

TO THE

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

OF THE NORTH CAROLINA GENERAL ASSEMBLY

October 25, 1996

C. COASTAL RECREATIONAL FISHING LICENSE.

As the third major category of individual coastal fishing licenses, the License Subcommittee recommends that:

- **The General Assembly should amend Chapter 113 of the North Carolina General Statutes to create a Coastal Recreational Fishing License, required for any recreational fisherman who wishes to use traditional recreational gears to harvest fish from the coastal fishing waters of North Carolina, incorporating the specific features and conditions set forth below.** The purpose of creating this license is to (1) document the number of recreational users who take state marine and estuarine resources, (2) obtain harvest and effort data from those fishermen, and (3) implement the principle that all persons who harvest state public trust resources pay for that privilege by investing in coastal fisheries conservation and management. Traditional recreational gears include, but are not limited to, "hook-and-line", gigs, clam rakes, cast nets, *etc.* At the public meetings on its recommended coastal fisheries management package, although some segments of the public opposed the proposed Coastal Recreational Fishing License as unfair or unnecessary, the Moratorium Steering Committee generally heard widespread support for this license *so long as the funds its generates are reserved for use to improve the State's coastal fishery resources.*

1. LICENSE FEATURES.

a. Licensing Unit.

- **The Coastal Recreational Fishing License shall be an individual license, except that a Coastal Recreational Group Fishing License shall be available to the owners of commercial fishing piers or charter/head/dive boats for a set fee, to cover their paying, but unlicensed, customers.** As with all other licenses under the proposed new licensing system, the Coastal Recreational Fishing License will generally be an individual license. However, the "blanket license" exception recommended will ensure that the new recreational license requirement does not unduly interfere with existing businesses that depend upon use by recreational fisheries, by allowing a professional, recreational fishing business to exempt its customers from the individual licensing requirements when the blanket license holder agrees to provide the Division of Marine Fisheries with specific data concerning the number of anglers using its services. Potential blanket license holders will also have the option of not purchasing the blanket license, whereupon each fishing customer will be required to obtain an individual Coastal Recreational Fishing License.

  At the public meetings held by the Moratorium Steering Committee, the blanket license issue was probably the most controversial of the recommendations associated with the Coastal Recreational Fishing License, with widely disparate opinions being expressed concerning its necessity, usefulness or fairness. Many commentators supported the idea of blanket licensing as a practical method of allowing commercial piers and charter/head/dive boats to operate without undue regulatory interference. On the other hand, some opposed the option of blanket

licensing altogether, fearing that its implementation will result in "large holes" in the data set derived for recreational resource users and thereby hamper good fisheries management decisions. Others opposed the license as giving an unfair advantage to commercial pier owners and charter/head/dive boat services. The businesses that would themselves be affected by implementation of the recommendation were split on the issue.

Additionally, several commentators not only supported the proposed blanket licenses, but recommended that the concept be substantially expanded to offer blanket licenses for recreational vessel owners, the owners of private (non-commercial) docks and piers, and coastal riparian owners in general. Given all of the public input and after additional consideration, the License Subcommittee continues to believe that provision for limited blanket licenses is a necessary and practical part of the revised licensing system recommended in its report. However, the License Subcommittee has considered all of those recommendations made calling on the Committee to expand the reach of the blanket licenses offered under the Coastal Recreational Fishing License, and rejects further expansion in the belief that creating additional exceptions would quickly overwhelm the purposes for which this license is recommended.

b. License Eligibility.

- **There shall be no limitation on the class of persons eligible to hold the Coastal Recreational Fishing License.** There is little, if any, evidence that recreational harvest of marine and estuarine resources by use of recreational gears presents a significant threat to the continued health of coastal fish stocks. Until such a risk is indicated, there is no need to consider restrictions on the number of persons who may purchase the Coastal Recreational Fishing License.

c. License Duration.

- **The Coastal Recreational Fishing License shall be valid for one year from the date of its purchase, with the specific exceptions for one-week and lifetime licenses set out below, and shall be renewable by mail.** The License Subcommittee makes the recommendation modifying its original proposal as to the term of this license for the reasons previously set out in discussing the duration of the Recreational Commercial Gear License in section II.B.1.c., above. Upon expiration, the Coastal Recreational Fishing License will be renewable upon payment of the annual licensing fee.

The "exceptions" to the general applicability of the Coastal Recreational Fishing License requirement educed substantial comment at the Moratorium Steering Committee's public meetings on its recommended coastal fisheries management package. A number of commentators proposed additional exemptions from the license requirement for either resident surf and pier fishermen, or all surf and pier fishermen. Others suggested that any coastal fishing license requirement be combined with the inland fishing license requirements administered by the Wildlife Resources Commission. While the License Subcommittee believes that

some of these modifications are attractive at least at first blush, they were rejected as impractical or contrary to the purposes of creating the license in the first place. The Subcommittee would also note that in December 1994, the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee published its *Final Report to the Joint Legislative Commission on Seafood and Aquaculture.* The *Report* was the culmination of a two-year deliberative process, including a number of public hearings, by that Committee. The License Subcommittee thoroughly re-examined and discussed the recommendations in that *Report* in the context of the Coastal Recreational Fishing License, and believes that those recommendations are both sound and have continued viability. For those reasons, the Subcommittee has endorsed the license categories recommended by that Committee, as set out below:

- **A limited duration license, good for one week, shall be available.** This limited duration license is intended for purchase primarily by vacationers or others not wanting, or needing, to purchase an annual license.

- **Permanent (lifetime) Coastal Recreational Fishing Licenses shall be available to the following groups:**

  - **"Special users", which include: (1) elderly persons (those over 65 years of age), (2) handicapped or disabled persons, (3) disabled American veterans and (4) legally blind persons.** Any citizen who is a member of a "special user" class will be entitled to obtain a lifetime Coastal Recreational Fishing License for a reduced fee (see section II.C.1.j., below) upon providing documentation that the applicant fits the special user category. Holders of all lifetime licenses will, of course, be exempt from the annual license renewal requirement.

  - **Persons holding a "Lifetime Resident Comprehensive Fishing License" or a "Lifetime Sportsman Combination License" issued by the North Carolina Wildlife Resources Commission pursuant to N.C.G.S. §§ 113-271(d)(3) & 113-270.1D(b), respectively.** The Coastal Recreational Fishing License requirement will apply only in state Coastal Fishing Waters, while the Wildlife Resources Commission fishing license requirement will apply to state Inland Fishing Waters. However, the situation is complicated by the fact that both license requirements pertain in state "Joint Fishing Waters. Wildlife Resource Commission Lifetime Fishing License holders clearly believe that they have purchased the permanent right to fish in North Carolina waters without additional charge by the State. In fact, such license holders were among the most vocal members of the public who made comments at the Moratorium Steering Committee's public meetings. Those persons were clearly of the opinion that the State has a "moral" duty at least, to honor their lifetime licenses for purposes of coastal fisheries licensing. The Subcommittee believes that the expectation of Lifetime Wildlife Fishing License holders that they are "vested users" is a reasonable one, and thus recommends the listed

provision allowing holders of the Wildlife Resources Commission Lifetime Comprehensive Fishing or Sportsman Licenses as of the date of ratification of the Coastal Recreational Fishing License to apply for a Lifetime Coastal Recreational Fishing License at nominal cost. The license will be issued for an administrative fee if the application is submitted within six months of the date of implementation of the new license. Most persons commenting at the public meetings did not object to a one-time, nominal cost for the issuance of such a license. The License Subcommittee considered the option of simply honoring the lifetime fishing license issued by the Wildlife Resources Commission, but rejected that possibility on the belief that in order for the "Violation Points System" recommended by the Law Enforcement Subcommittee to operate fairly and effectively, all recreational licenses must have a license issued by the Division of Marine Fisheries. Following the six-month "grace period, all Wildlife Resources Commission Lifetime Fishing License holders will be required to purchase a Coastal Recreational Fishing License at the fee generally applicable to the class of license applied for in order to lawfully fish in state Coastal Fishing Waters.

- **Lifetime License Purchasers, including purchasers of (1) Lifetime Infant Licenses, (2) Implementation Period Lifetime Youth Licenses and (3) Lifetime Adult Licenses.** Implementation of this provision will establish as an ongoing option the allowance for an adult (> 16 years of age) or an infant (< 1 year of age) to purchase a lifetime Coastal Recreational Fishing License. In addition, during a six-month period following the effective date of implementation of the Coastal Recreational Fishing License requirement, age-specific youth lifetime licenses will be available for the fees set out in section II.C.1.j., below.

d. License Transferability.

- **The Coastal Recreational Fishing License shall be non-transferable.** As with the Recreational Commercial Gear License, since there is no restriction on who may apply for and receive this license, there is no need to allow license transferability.

e. Harvest Salability.

- **A Coastal Recreational Fishing License holder shall be prohibited from selling fish harvested under the license.** Again, this provision simply reflects a major tenet of the Moratorium Steering Committee's recommendations for future coastal fisheries management: only professional, commercial fishermen who depend on fishing for their livelihoods should be permitted to sell the fish they harvest. This recommended policy was supported by the vast majority of recreational fishermen making comments to the Committee.

f. Reporting Requirements.

Although the harvest of any one recreational fisherman is relatively insignificant, the sheer number of recreational anglers makes the total harvest by that group substantial, and therefore, makes data on recreational harvest extremely significant. Currently, there is little good data on the overall recreational harvest of marine and estuarine resources in the State. In addition, commentators at the Moratorium Steering Committee's public meetings made it clear that one of the public priorities is for the State to obtain adequate, accurate data on *all* coastal fishing activities, in order to make good fisheries management decisions. For those reasons, the License Subcommittee makes the following recommendations, which parallel those for other recreational and commercial licensees:

- **Coastal Recreational Fishing License holders shall, as a condition of licensing, be required to comply with Commission requirements and with all Division of Marine Fisheries biological data sampling and survey programs and efforts.**

- **The Division of Marine Fisheries, utilizing as necessary non-state agency sources of fisheries management expertise, shall develop methodologies for obtaining adequate, accurate catch-per-unit-effort (CPUE) data for persons holding and fishing under the Coastal Recreational Fishing License, and shall report regularly to the Marine Fisheries Commission on its progress towards achieving this objective.**

Similarly, because the fishing effort from commercial piers and charter, head or dive boats is potentially very significant, the License Subcommittee further recommends that:

- **Fishing pier owners and charter/head/dive boat owners purchasing the blanket license in order to exempt their customers from the individual licensing requirement shall be required, on a monthly basis, to report to the Division of Marine Fisheries the number of angler trips per day provided by their professional, recreational facilities/services.**

g. Harvest Limits.

- **The Marine Fisheries Commission shall adopt by rule as necessary, recreational harvest limits for all recreationally significant (or potentially significant) marine and/or estuarine species as a component of appropriate Fishery Management Plans, and Coastal Recreational Fishing License holders shall be restricted to these recreational harvest limits.** This provision reflects the current law applicable to coastal, hook-and-line fishermen, and is identical to the harvest limit requirement recommended for holders of the Recreational Commercial Gear License, as set out in section II.B.g., above.

h. Gear Restrictions.

- **A Coastal Recreational Fishing License holder shall be restricted to the use of recreational (*i.e.*, fishing gears not defined by the Marine Fisheries**

Commission as "commercial gear") gears only. This is the major provision separating the Commercial Gear Recreational License from the Coastal Recreational Fishing License. At the Moratorium Steering Committee's public meetings, several charter boat owners and operators questioned whether this provision would prevent them from using gill nets under their blanket Coastal Recreational Fishing License to harvest bait fish en route to fishing offshore, and whether they would thus be required to also hold a Standard Commercial Fishing License in order to operate a charter vessel. The answer to that question is that while implementation of this provision will prevent them from using a gill net under their blanket recreational license to harvest bait-fish, they will not have to qualify for or hold a Standard Commercial Fishing License in order to use such gear. Instead, the vessel captain will be required to purchase a Recreational Commercial Gear License, as described in section II.B.1.i.(1)(c), above.

i. License Endorsements.

(1) Vessel Endorsements.

- **A Coastal Recreational Fishing License holder shall not be required to obtain a vessel endorsement in order to harvest fish with recreational fishing gear used from or in conjunction with a vessel.** The failure of the License Subcommittee to treat holders of the Coastal Recreational Fishing License exactly the same as holders of the Standard Commercial Fishing and Recreational Commercial Gear Licenses for purposes of vessel licensing was criticized by some commercial fishermen at the public meetings as unfair. However, the Subcommittee believes that their criticism is not valid in light of the rationale for licensing vessels where commercial gear use is authorized -- to be able to reasonably ascertain the potential level of harvest effort that a licensee may exhibit based on the size of the vessel licensed. That same rationale is simply not applicable to persons licensed only to use recreational harvest gears, and requiring vessel licensing of such users would serve no useful fisheries management purpose.

j. License Cost.

(1) Basic License Cost.

- **The cost of the annual Coastal Recreational Fishing License for both residents and nonresidents shall be $15.00, except for licenses for "special user groups".** Many folks at the Moratorium Steering Committee's public meetings expressed opposition to charging resident and nonresident recreational license applicants the same fee, primarily because only North Carolina residents pay state taxes in support of coastal fishery resources. At the same time, representatives for coastal leisure tourism are adamant in their opposition to a higher fee for nonresident fishermen, largely because of the perceived adverse impacts on the nonresident tourist trade that such a disparity could cause. The License Subcommittee has looked to other states that charge higher nonresident recreational fishing fees to determine what the negative

tourism impacts might be, and is aware of no data that indicate such adverse effects. Nevertheless, on balance, the License Subcommittee believes that given the enormous amounts of money that nonresident tourists add to the State and local coastal economies, the potential negative impacts to tourism of a higher nonresident license fee outweigh the need to protect state citizens from undue benefits to nonresident from North Carolina tax expenditures.

(2) Special License Costs.

As previously noted, in its December 1994, *Final Report to the Joint Legislative Commission on Seafood and Aquaculture*, the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee recommended a schedule of costs for all special license categories considered by that body. The License Subcommittee endorses both the license categories recommended by that Committee and its recommended schedule of costs. Most of those licensing recommendations have been appropriately incorporated into previous sections of the License Subcommittee Report.

As a result of adopting the recommendations of the Saltwater Sport Fishing Advisory Committee, the License Subcommittee recommends the following:

- **The categories and costs of "special user group" Coastal Recreational Fishing Licenses shall be as recommended by the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee in its December 1994, *Final Report to the Joint Legislative Commission on Seafood and Aquaculture.*** That schedule is reproduced below, in consolidated form:

Special License Category	*License Cost*
One Week License	$ 5.00.
Special User Lifetime (all permanent licenses)	
Elderly	$ 10.00.
Handicapped or Disabled	$ 10.00.
Disabled American Veteran	$ 10.00.
Legally Blind	No Charge
Subsistence	No Charge
WRC Lifetime Fishing Licensees (if applied for during 6-mo. period following requirement of CRFL)	$ 10.00
Lifetime Adult	$250.00.
Personalized Lifetime Adult	$255.00.
Lifetime Infant	$100.00.
Personalized Lifetime Infant	$105.00.
Implementation Period Youth (if	

applied for during 6-mo. period following requirement of CRFL)	
0 - 5 years	$100.00.
6 - 10 years	$150.00.
11 - 15 years	$200.00.
Charter/Head/Dive Boat Owner "Blanket" License	$1.00/ft. for vessels 0-18' in length;
	$1.50/ft. for vessels >18' < 38' in length; and
	$3.00/ft. for vessels > 38' in length.
Commercial Pier Owner "Blanket" License	$3.00/ft., in addition to the cost of the current fishing pier license
	required under N.C.G.S. § 113-156.1.

The License Subcommittee would specifically note, as set out in the chart immediately above, that the Saltwater Sport Fishing License Advisory Committee recommended that the State make available (1) a lower cost, one-week license for persons vacationing at the beach; (2) low (or no) cost, permanent licenses for the elderly and disabled; (3) lifetime licenses similar to the ones offered for inland fishermen by the Wildlife Resources Commission; (4) an annual "Subsistence Coastal Recreational Fishing License", administered by the Division of Marine Fisheries in conjunction with the appropriate county social service agency that will allow those producing proof of eligibility for low-income assistance programs to have the basic, annual license fee waived; and (5) blanket licenses for commercial pier and charter boat owners.

(3) License Fee Use.

As previously discussed, all monies collected from the sale of the Coastal Recreational Fishing License will be deposited in the "Recreational License Marine and Estuarine Resources Enhancement Trust Fund", for disbursement under one of the options set out in Section I.C., above, except that private license sales agents will be allowed to retain up to $1.00 of the Coastal Recreational Fishing License fee as compensation for the cost of license issuance.

D. OTHER NEW COASTAL FISHING LICENSES CONSIDERED.

1. COASTAL FISHING TOURNAMENT LICENSE.

Fishing tournaments result in intense fishing pressure on target species for a few days at a time. Some tournaments draw hundreds of boats, potentially resulting in a large catch, although actual harvest levels may be less than expected because of releases.

Summary:

Saltwater Recreational Fishing License Programs

in the Southeastern and Gulf Coast States

January 19, 1999

Prepared by:
Jeff Hudson, Commission Counsel
Joint Legislative Commission on Seafood and Aquaculture

Piper Nieters, Intern
North Carolina State Legislative Internship Program

Delaware

License Required: Yes, for harvest of hard clams

License Types:

Noncommercial Clamming Permit: Authorizes permit holder to harvest over 50 hard clams (non-resident) or 100 hard clams (resident) in any one day period

Annual: $5.75 resident; $57.50 non-resident

Exemptions: None

Distribution: Issued by the Division of Fishing and Wildlife through independent vendors and bonded agents

License Revenues: To Division of Fishing and Wildlife

License Requirement Implemented: 1987

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Delaware Code Annotated sections 2408 and 2409

Contact: Andrew Manus, Director, Division of Fish and Wildlife
Phone Number: (302) 739-5295
Website: Not Available

Maryland

License Required: Yes, to take finfish in Chesapeake Bay

License Types:

Chesapeake Bay sport fishing license:

Annual:	$7 resident; $12 non-resident
Five-day:	$4 resident and non-resident
Charter Boat:	
6 fishermen or less:	$240
7 fishermen or more:	$290

Exemptions:

Under 16:	No license required
65 or older Resident:	Discounted License ($5 annual)
Blind:	Complimentary license (No fee)
Private Property:	No license required
Public Bridge:	No license required
Designated Pier:	No license required

Distribution: Issued by the Department of Natural Resources through six regional service centers and independent vendors

License Revenues: To the Fisheries Research and Development Fund

License Requirement Implemented: 1996

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of Maryland article 4-701

Contact:	Robert Bachman, Fisheries Service
Phone Number:	(410) 260-8281
Website:	www.dnr.state.md.us

Virginia

License Required: Yes, for fishing in the Chesapeake Bay and its tributaries

License Types:

Recreational Saltwater Fishing Licenses:

Annual:	$7.50 resident and non-resident
Ten-day:	$5 resident and non-resident

Private Vessel License:

$30 resident and non-resident

Charter Boat License:

6 or fewer passengers:	$150
More than 6 passengers:	$150 plus $4 for every passenger over 6

Commercial Pier License:

Annual:	$450

Exemptions:

Under 16:	No license required
65 or older Resident:	No license required
Disabled:	Discount license ($5 annual)
Private Property:	No license required

Distribution: Issued by the Virginia Department of Game and Inland Fisheries through independent vendors

License Revenues: To the Marine Recreational Fishing Development Fund

License Requirement Implemented: 1993

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of Virginia Annotated 28-2-302.1 through 28-2-302.10

Contact:	Jack Travelstead, Marine Resources Commission
Phone Number:	(757) 247-2247
Website:	Not available

South Carolina

License Required: Yes, to fish for recreation in tidal waters

License Types:

Marine Recreational Fishing Stamp:
- Annual: $5.50 resident and non-resident

Public Fishing Pier Permit:
- Annual: $350

Charter Vessel Permit:
- Annual: $150 (6 or less passengers)
  $250 (7 to 49 passengers)
  $350 (49 or more passengers)

Rental Boat Permit:
- Annual: $40

Exemptions:

Under 16:	No license required
Over 65:	Gratis License
Disabled:	No license required
Fishing from shore or shore based structure:	No license required

Distribution: Issued by the Department of Natural Resources through independent licensing agents and vendors

License Revenues: To the Department of Natural Resources funds; the Department distributes funds among various categories according to statute

License Requirement Implemented: 1991

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of South Carolina 50-20-10 through 50-20-120

Contact: Wayne Waltz, Department of Natural Resources
Phone Number: (843)-762-5094
Website: www.dnr.state.sc.us

Georgia

License Required: Yes, for all types of recreational fishing and harvesting

License Types:

Universal Licenses:

Annual:	$9 resident; $24 non-resident
One-day:	$3.50 resident
Seven-day:	$7 non-residents

Charter Boat And Commercial Pier License

Annual:	$400

Exemptions:

Under 16:	No license required
Over 65 Resident:	Complimentary license
Disabled:	Honorary fishing license
Blind:	Honorary fishing license
Private Property:	No license required

Distribution: Issued by the Licensing Division of the Georgia Department of Natural Resources through independent vendors and coastal law enforcement

License Revenues: To General Fund (Georgia Department of Natural Resources will propose to the 1999 session of the Georgia legislature that revenues generated by coastal recreational fishing licenses be returned to the Department of Natural Resources and administered by a citizen advisory committee)

License Requirement Implemented: 1998

Pending Changes to the Licensing Program: Licenses will be distributed through a point of sale computerized licensing system

Netban: No general net ban (Gill nets have been prohibited in inshore waters since the mid-1950's)

Statutory Authority: Official Code of Georgia Annotated sections 27-2-1 through 27-2-30

Contact:	Susan Shipman, Coastal Resources
Phone Number:	(912) 262- 3110
Website:	www.ganet.org/DNR/

Florida

License Required: Yes, to take marine fish

License Types:

Saltwater Fishing Licenses:

Annual:	$12 resident; $30/non-resident
Five-year:	$60 resident; NA non-resident
Three-day:	NA resident; $5 non-resident
Seven-day:	NA resident; $15 non-resident
Ten-day:	$10 resident; NA non-resident
Lifetime:	$300 resident 13 years and up; $225 resident ages 5-12; $125 resident ages 4 or under; NA non-resident
Pier Owner:	$500 per year
Charter Boat:	
	$200 (4 or fewer customers)
	$400 (5-10 customers)
	$800 (10 or more customers)

* All licenses in the state of Florida are subject to a $1.50 issuance fee

Exemptions:

Under 16:	No license required
65 or older:	No license required
Disabled:	No license required
Resident fishing from shore or shore based structure:	No license required

Distribution: Issued by the Game and Freshwater Fish Commission through independent vendors and a toll free hotline

License Revenues: To a Marine Fisheries Commission trust fund; Commission distributes among various categories according to statute

License Requirement Implemented: 1990

Pending Changes to the Licensing Program: Three divisions of Florida's fishing and wildlife departments are being reorganized into one department, the Florida Fish and Wildlife Commission, effective July 1 1999

Netban: Yes; implemented in 1995

Statutory Authority: Florida State Statutes 370.0605 section 2, 89-270

Contact: Roy Williams, Florida Marine Fisheries Commission
Phone Number: (850) 487-0554
Website: www.dep.state.fl.us/mfcl

Alabama

License Required: Yes

License Types:

Recreational Saltwater Fishing License:

Annual:	$16/ resident (reciprocal fee for residents of FL, MS, TN, GA, and LA), All other non-residents: $32
Seven-day:	$6/ resident (reciprocal fee for residents of FL, MS, TN, GA, and LA), All other non-residents: $32

Exemptions:

Under 16:	No license required
Over 65 Resident:	No license required
Disabled:	Discount license (Annual: $1.25)

Distribution: Issued by the Department of Conservation and Natural Resources through bonded independent vendors

License Revenues: To the Marine Fisheries Division for research, management, and enforcement

License Requirement Implemented: 1992

Pending changes to the Licensing Program: None

Netban: None

Statutory Authority: Alabama Code sections 9-11-53.1, 9-11-53.2, 9-11-53.3, 9-11-53.5, and 9-11-54

Contact:	Vernon Minton, Director, Marine Fisheries Division
Phone Number:	(334) 861-2882
Website:	www.dcnr.state.al.us/mr

Mississippi

License Required: Yes

License Types:

Recreational Saltwater Fishing License:

Annual:	$5 resident, $28 non-resident
Three-day:	$8 non-resident

Exemptions:

Under 16:	No license required
Resident 65 or older:	No license required
Disabled:	No license required

Distribution: Issued by the Department of Marine Resources via independent vendors

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Mississippi Code Annotate section 49-15-313

Contact:	Linda Saint Orneaux
Phone Number:	(228) 374-5000
Website:	www.dmr.state.ms.us

Louisiana

License Required: Yes, for recreational fishing in saltwater

License Types:

Saltwater Angler's License:

Annual: $5.50 resident; $36 non-resident

(The Saltwater Angler's License is required in addition to the basic fishing license; the fees for the basic fishing license are $5.50 for residents and $31 for non-residents)

Saltwater Trip License:

Three-day: NA resident; $20 non-resident

(The Saltwater Trip License is required in addition to the basic trip license; the basic trip license is not applicable to residents, but is available to non-residents for a fee of $20)

Charter Trip License:

Per trip: NA resident; $2.50 non-resident

Marine Resources Conservation Stamp:

$3 resident; $3 non-resident

(The Marine Resources Conservation Stamp is required in addition to basic and saltwater licenses to fish in saltwater)

Exemptions:

Under 16:	No license required
Residents over 60:	No license required
Disabled Resident:	Reduced Fee License ($5 annual)
Blind:	No license required

Distribution: Issued by the Department of Wildlife and Fisheries via independent vendors and law enforcement

License Revenues: To the Department of Wildlife and Fisheries

License Requirement Implemented: 1985

Pending Changes to the Licensing Program: License will be distributed through a point of sale computerized purchasing system beginning in 2000

Netban: Louisiana has a limited gill net ban

Statutory Authority: Louisiana Revised Statutes Annotated section 302.1.C

Contact: Karen Foote, Department of Wildlife and Fisheries
Phone Number: (225) 765-2384
Website: www.wlf.state.la.us

Texas

License Required: Yes, for recreational fishing in saltwater

License Types:

Saltwater Stamp:

Annual: $7 resident and non-resident

The Saltwater Stamp is required in addition to a general fishing license; the fees for the general fishing licenses are:

Annual: *$19 resident, $30 non-resident*
Three-day: *$10 resident*
Five-day: *$20 non-resident*
Two-week: *$12 resident*

Special Resident License:

Annual: $6 resident; NA non-resident

Exemptions:

Under 17:	No license required
Over 65 prior to 9/1/96:	No license required
Over 65 after 9/1/96:	Special Resident License required
Blind:	Special Resident License required

Distribution: Issued by Parks and Wildlife Department through independent vendors and point of sale computerized licensing system

License Revenues: To Parks and Wildlife Department

License Requirement Implemented: 1958

Pending Changes to the Licensing Program: None

Netban: Texas has had a ban on entangling nets except for limited trawl and shrimp nets since 1988

Statutory Authority: Parks and Wildlife Code section 46-001

Contact: Larry McEachron, Parks and Wildlife Department
Phone Number: (512) 729-2328
Website: www.tpwd.state.tx.us

Attachment #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1127
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/26/99
Proposed House Committee Substitute S1127-PCS7695-SG

Short Title: State Nature and Historic Preserve. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, INCLUDING THE CODIFICATION OF NAME CHANGES OF CERTAIN LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS; TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM; AND TO MAKE A TECHNICAL CORRECTION TO THE STATE CONSTITUTION TO ALLOW THE DEDICATION AND ACCEPTANCE OF PROPERTY INTO THE STATE NATURE AND HISTORIC PRESERVE BY THE GENERAL ASSEMBLY BY A BILL RATHER THAN BY A JOINT RESOLUTION.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC

Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie either within the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501, or within the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719, are removed from the State Nature and Historic Preserve pursuant to Article XIV, Section 5 of the North Carolina Constitution.

Section 2. G.S. 143-260.10 reads as rewritten:

"**§ 143-260.10. Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 4, 1989:~~ April 6, 1999: Baldhead Island State Natural Area, Bay Tree Lake State Park, Boones Cave State Park, Bushy Lake State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Duke Power State Park, ~~Eno River State Park,~~ Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Hammocks Beach State Park, ~~Hanging Rock State Park,~~ Hemlock Bluffs State Natural Area, Jockey's Ridge State Park, Jones Lake State Park, Lake James State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, ~~Merchant's~~ Merchants Millpond State Park, Mitchells Millpond State Natural ~~Area north of S.R. 2224,~~ Area, Mount Jefferson ~~State Park,~~ State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, ~~South Mountains State Park,~~ Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled 'Property of The State of North Carolina William B. Umstead State Park', dated January 14, ~~1977, and as~~ 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

~~(3) All lands within the boundaries of Jockey's Ridge State Park as of April 4, 1989, with the exception of the following tract: That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: Beginning at an iron rod which is located North 39°07'08" West 74.96 feet from an iron pipe having a NC Coordinate value of X-2996057.363 and Y-823796.892, said iron rod also being located in a common property line between the State of North Carolina and R. M. Ritchie, et al.; thence running from said beginning point South 39°07'08" East 10 feet to a point; thence North 49°10'51" East 47.98 feet to a point in the right-of-way of U.S. 158 Bypass; thence northwesterly along the aforementioned right-of-way 10 feet to an iron rod; thence South 49°10'51" West 47.98 feet to the point and place of beginning and containing 479.80 square feet more or less, and as drawn out by the Design and Development Section of the Division of Parks and Recreation on a map dated November 8, 1988.~~

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

~~(5) All lands within the boundaries of Pettigrew State Park as of April 4, 1989, with the exception of the following tract: The portion of that certain tract or parcel of land at Pettigrew State Park in Washington County, Scuppernong Township, described in Deed Book 257, page 479, lying south of S.R. 1183 or the extension thereof along its present right-of-way.~~

(6) All land within the boundaries of ~~Crowder's~~ Crowders Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at ~~Crowder's~~ Crowders Mountain State Park in Gaston County, ~~Crowder's~~ Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated ~~7/22/88.~~ July 22, 1988 and filed in the State Property Office.

(7) All lands owned in fee simple by the State at the New River Scenic River as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54

acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated ~~9/21/79.~~ September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 4, 1989,~~ April 6, 1999, with the exception of the following tract: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows ~~Gap Road~~ Road, as shown on the National Park Service Land Status Map 33 dated ~~3/24/81,~~ March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~March 6, 1979:~~ January 1, 1999: Alamance ~~Battleground Historic Site,~~ Battleground, Charles B. Aycock Birthplace, Historic ~~Bath Historic Site,~~ Bath, Bennett Place, Bentonville ~~Battleground Historic Site,~~ Battleground, Brunswick ~~Town Historic Site,~~ Town/Fort Anderson, ~~Governor Richard Caswell Memorial/C.S.S. Neuse Historic Site,~~ C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke ~~Homestead Historic Site,~~ Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the ~~Horseshoe Historic Site, James Iredell House Historic Site,~~ Horseshoe, North Carolina Transportation Museum, ~~President~~ James K. Polk ~~Memorial Historic Site,~~ Memorial, Reed Gold Mine, Somerset Place, ~~Stagville Preservation Center Historic Site,~~ Stagville, State ~~Capitol Historic Site,~~ Capitol, Town Creek Indian ~~Mound Historic Site,~~ Mound, Tryon Palace Historic ~~Site, Governor~~ Sites & Gardens, Zebulon B. Vance ~~Birthplace Historic Site,~~ Birthplace, and Thomas Wolfe ~~Memorial Historic Site.~~ Memorial.

(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled 'Boundaries of Gorges State Park' prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.

(11) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled 'Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County', for TIP U-2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled 'Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County' for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office. These two tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of April 6, 1999, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, 'J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.', by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric

Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled 'Survey for State of North Carolina', dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled 'Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road' prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land."

Section 3. Section 5 of Article XIV of the Constitution of North Carolina reads as rewritten:

"**Sec. 5. Conservation of natural resources.**

It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by ~~resolution adopted~~ a law enacted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the 'State Nature and Historic Preserve,' and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes."

Section 4. The amendment set out in Section 3 of this act shall be submitted to the qualified voters of the State at the next election at which another amendment to the Constitution is submitted to the voters, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment making a technical correction to allow dedication and acceptance of property into the State Nature and Historic Preserve by the General Assembly by enactment of a bill rather than a joint resolution."

Section 5. If a majority of the votes cast on the question are in favor of the amendment set out in Section 3 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment becomes effective upon this certification. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 6. G.S. 143-260.8 reads as rewritten:

"**§ 143-260.8. Procedures.**

(a) Within the meaning of this section:

(1) 'Local governing body' means, as the case may be, the board of commissioners of a county, the city council (or equivalent legislative body) of a city, or the board of aldermen or board of commissioners (or equivalent legislative body) of a town.

(2) 'Local government' means a county, city or town.

(3) 'Properties' include any properties or interest in properties acquired by purchase or gift.

(b) The Council of State may petition the General Assembly to ~~adopt a resolution~~ enact a law pursuant to Article XIV, Sec. 5 of the North Carolina Constitution, accepting any properties owned by the State of North Carolina (or proposed for gift to or purchase by the State) and designated in ~~said~~ the petition for inclusion in the State Nature and Historic Preserve.

(c) The governing body of any local government, or any combination of two or more such bodies may petition the General Assembly to ~~adopt a resolution~~ enact a law pursuant to Article XIV, Sec. 5 of the North Carolina Constitution, accepting any properties owned by ~~said~~ the local government (or proposed for gift to or purchase by ~~said~~ the local government) and designated in ~~said~~ the petition for inclusion in the State Nature and Historic Preserve.

(d) The petition referred to in subsections (a) and (b) of this section shall identify the properties sought to be included in the Preserve. The General Assembly may then ~~by joint resolution~~ enact a law to accept the designated properties in the Preserve and ~~adoption of said resolution~~ enactment of the law by the General Assembly shall constitute the special dedication and acceptance of the designated properties in the State Nature and Historic Preserve contemplated by Article XIV, Sec. 5 of the North Carolina Constitution.

(e) In order to provide accessible information to the public concerning the State Nature and Historic Preserve, every ~~resolution~~ law accepting properties in the Preserve shall be codified in the General Statutes. A certified copy of every ~~resolution~~ law accepting properties in the Preserve shall be transmitted by the Secretary of State to the register of deeds in each county wherein ~~said~~ these properties, or any part of them, are located, for filing and indexing in the grantor index.

(f) This Article shall constitute an exclusive procedure only for placing properties in the State Nature and Historic Preserve, and shall not preclude the dedication of properties by other means for purposes identical or similar to those enumerated by Article XIV, Sec. 5 of the North Carolina Constitution.

(g) It is the intent of this Article to complement any applicable provisions of federal and State law and regulations relating to dedication or acceptance of properties for purposes similar to those enumerated by Article XIV, Sec. 5 of the North Carolina Constitution. The Council of State is hereby authorized to adopt rules and regulations to implement the provisions of this Article, including rules and regulations consistent with this Article to comport with applicable federal and State law and regulations. A copy of this Article, and of any ~~such rules or regulations~~ rules affecting properties owned by local governments shall be filed by the Council of State with the chairman of the local governing body of every county, city and town within 30 days after ~~ratification or adoption as the case may be.~~ ratification."

Section 7. Sections 1 through 5 and Section 7 of this act are effective when this act becomes law. Section 6 of this act becomes effective when the amendment set out in Section 3 of this act becomes effective.

Attachment #3

SALTWATER FISHING LICENSE FACT SHEET

prepared by the Coastal Conservation Association of North Carolina

Benefits of a Recreational Saltwater Fishing License

- Provides dedicated revenue for resource and habitat enhancement.
- Documents number of anglers for better data collection and management.
- May increase federal assistance (Wallop-Breaux funds) with accurate numbers.
- Better education of recreational fishermen.
- These benefits can only occur as long as there is a healthy fishery.

Economic Impact of Recreational Saltwater Fishing

Estimated Number of Recreational Saltwater Fishermen: 1.2 million

Total Expenditures:	$673,291,743
Economic Impact:	$1,285,277,129
Jobs Created:	19,739

Angler Acceptance

The recreational saltwater fishing license has been endorsed by virtually every saltwater fishing club and organization; the NC Marine Fisheries Commission has endorsed it also. Every state from Texas to Maryland has a saltwater license. There have been two surveys done on angler acceptance of saltwater license:

Division of Marine Fisheries Survey, 1996

When asked "Do you support a saltwater license *if all funds are dedicated*?" **68.3% yes**

Beach and bank anglers supported the license the highest of any group: 72.0% yes

N.C. State University Survey, conducted by Dr. William Clifford and Dr. Thomas Hoban, 1999.

When asked "Do you support a saltwater license *if all funds are dedicated*?" **78.3% yes**

When all respondents totalled together and asked if they would buy an annual or one week license: **84.0% yes**

SUMMARY: Lack of fish, not a saltwater license, is the major threat to the coastal tourist and recreational fishing industry. The license will create a dedicated fund to improve coastal fisheries.

Attachment 3

HOUSE BILL 1434:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Redwine and McComas
Date:	June 15, 1999	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	First Edition		

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission
- CRFL means Coastal Recreational Fishing License
- Division means the Division of Marine Fisheries
- Recreational Fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements
- A CRFL does not authorize the license holder to sell fish taken under the license
- Assignment or transfer of a CRFL is prohibited
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary
- A person engaging in recreational fishing must have a CRFL available for inspection
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address
- A person isn't eligible to obtain a CRFL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application
- The Division may cancel a CRFL issued on the basis of false information
- The holder of a CRFL must comply with sampling and survey programs conducted by the Division and Commission

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard, One Week, and One Day CRFL may be purchased from authorized license agents.

Types of CRFLS:

Standard CRFL	$7.50	One year duration
One Week CRFL	$3.50	One week duration
One Day CRFL	$1.00	One day duration
CRFL for Commercial License Holders	No charge	Expires June 30 each year
Subsistence CRFL	No charge	One year duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
65 years or older	$10.00	
Lifetime CRFL for holders of:		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		*
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$5.00/linear foot	*

* No provision in bill as drafted

Exemptions

- A person under 16 years of age is exempt from CRFL requirements if accompanied by a parent, grandparent, or guardian who holds a CRFL or if the person has in the person's possession a CRFL issued to the person's parent, grandparent, or guardian.
- A person fishing from shore or a shore-based structure is exempt from CRFL requirements.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's and RCGL's. The Secretary of Environment and Natural Resources may disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL or RCGL, to be appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents

Sections 2 through 9 make technical, clarifying, and conforming changes.

Section 10 authorizes the Marine Fisheries Commission to adopt temporary rules.

Section 11 is a severability clause.

EFFECTIVE DATE: This act becomes effective March 1, 2001.

Attachment #3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1434

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors: Representatives Redwine, McComas (Primary Sponsors); and Luebke.

Referred to: Environment and Natural Resources, if favorable, Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"§ 113-174. Definitions.

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"§ 113-174.1. General provisions governing licenses.

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in the State without having ready at hand for inspection all valid licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any

commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under this Article if, at the time the person applies for the license, any other license or endorsement issued to the person under this Article or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing by means of recreational gear without holding a CRFL issued under this section.

(b) Purchase. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year.

(2) One Week CRFL. -- $3.50. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this

subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitute a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds a either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. The fee for an Ocean Fishing Pier Blanket CRFL is five dollars ($5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian who holds a valid CRFL or has in the person's possession a valid CRFL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing by means of recreational gear from the shore or from a shore-based structure without holding a CRFL.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

"§ 113-174.4. Sealife Enhancement Fund.

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the proceeds from the sale of licenses issued under G.S. 113-174.2 and G.S. 113-174.3 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special fund within the Department. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resources and habitat enhancement. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement.

(2) Law enforcement. -- Not more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including data collection and the development of Fishery Management Plans.

(4) Grants. -- Not more than ten percent (10%) of the moneys in the Fund shall be distributed to fund coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL or a RCGL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL or a RCGL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) The Department shall compensate license agents by refunding to each license agent six percent (6%) of the value of each license sold by that license agent."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of

commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or Article 14B of the Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 12. This act becomes effective 1 March 2001.

Attachment # 4

North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE RONALD L. SMITH
4TH DISTRICT

OFFICE ADDRESS: ROOM 2223, LEGISLATIVE BLDG.
RALEIGH, N.C. 27601-1096
TELEPHONE: (919) 733-5773
(919) 733-2599 FAX

HOME ADDRESS: 103 GLOUCESTER COURT
NEWPORT, NC 28570-6508
(252) 726-7933

COMMITTEES:

APPROPRIATIONS
SUBCOMMITTEE ON EDUCATION
EDUCATION
SUBCOMMITTEE ON COMMUNITY COLLEGES
ENVIRONMENT & NATURAL RESOURCES
FINANCAL INSTITUTIONS
INSURANCE
PUBLIC UTILITIES - CHAIR
WILDLIFE RESOURCES

June 15, 1999

The Honorable Pryor Gibson, III
The Honorable Nurham Warwick
Co-Chairs
Environment and Natural Resources Committee
North Carolina House of Representatives
Raleigh, NC 27601-1096

Dear Representatives Gibson and Warwick:

This letter is to request a public hearing under House Rule 29.1. Public Hearings regarding House Bill 1434, Coastal Recreational Fishing License, to be held 30 minutes after the House session Wednesday, June 23, 1999.

I also request that a vote not be scheduled any earlier than the next scheduled Environment and Natural Resources Committee meeting following the public hearing.

Thank you for your consideration of this request.

Sincerely,

Ronnie L. Smith

glt

P.S. Below is a list of representatives I have spoken with in the last several days who are willing to request a public hearing on House Bill 1434.

The Honorable Leslie Cox, Jr.
The Honorable Donald Bonner
The Honorable John Brown
The Honorable Donald Davis
The Honorable Robert Gillespie
The Honorable Jean Preston
The Honorable Scott Thomas
The Honorable Joe Tolson
The Honorable Russell Tucker
The Honorable Douglas Yongue

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☒ Committee Substitute for
S.J.R. 1139 A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (~~#~~), ☐ ~~which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☒ Committee Substitute for
SB 1127 A BILL TO BE ENTITLED AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, INCLUDING THE CODIFICATION OF NAME CHANGES OF CERTAIN LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS; AND TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

Natural and Environmental Res. — 6/15/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Twila Nelson	
Trish Hutchins	TARHEEL WATERMEN FOR ~~NATURE~~ INDUSTRY & ENVIRONMENT (TWINE) CARTERET CO.
Lawrence Davis	Womble Carlyle / CCA
Don Betts	Betts Tackle Mfg.
Wm. A. Lambeth MD	Raleigh Plastic Surgery
Lloyd Watkins	Wilmington N.C.
HARRY ARCHER III	" "
Mel Broughton III	Raleigh, N.C.
Jay Kriss	New Bern, NC
Bob Hinnant	Goldsboro, NC / CCA
Donald Willis Sr	Kinston NC CCA.
James N. Blackerby	New Bern, NC. / CCA
Barb Rote	NCWRC
Dick Hamilton	"
Bobbi McDowell	"
Jimmy Johnson	MFC
Preston Pate	DMF - Morehead City
Laura DeVivo	DENR
Thomas Mills	OAGSS
Mike Wicker	Raleigh, N.C.
Barbara Wyse	Sierra Club
Benny Scarlino	NC HC
Kristen Guilbert	Lt. Gov. office
L Ray Brown	Goldsboro
John K. Fanney	Raleigh CCA
Ben Atwater	Siler City NC CCA
John Rea	Pineville, N.C. CCA
John Wayne	Charlotte NC CCA

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BILL AUSTIN	CHARLOTTE CCA
Sherol Brewer	NCPC
Joel Arrington	Salt Water Sportsman magazine
I B Nichols	CCA Raleigh NC Raleigh Salt Water Cl.b
MAC CURRIN	Raleigh, NC Recreational Anglers, CCA
Dick BRAMS	CCA
David Knight	NC Wildlife Fed, NC Sierra Club
[illegible]	WCSR/CCA
[illegible]	WCSR
Sarah Sands	WCSR
John Cyrus	N.C. State Grange
Bernie McCants	Raleigh N.C. Rec. fisherman
Bo Rowell	Raleigh NC
JOHN McKEE	ORANGE / DURHAM
Beth Warren	AG's Office
Jamie Worth	Raleigh NC

Box 10

1. (Cont.) 1999 House Environment & Natural Resources, ***June 16***-
2. 2000 House Environment & Natural Resources
3. 1999 House Finance

AGENDA

House Committee on
Environment and Natural Resources
(Chairs Gibson & Warwick)

June 16, 1999

Call to Order . . . . . .Chair Gibson

Bills to be Discussed:

H 1434 Coastal Recreational Fishing License . . . . . .Char Gibson

Speakers: Jerry Schill
Jule Wheatly

Announcements & Adjournment. . . . . Chair Warwick

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Committee Minutes

Wednesday, June 16, 1999

The meeting was called to order by Chair Gibson at 12:00 noon.

Present: Chairs Warwick and Gibson, V-Chair Cox, Representatives Bonner, Brown Creech, Culp, Daughtry, Davis, Gillespie, Hackney, Hill, Luebke, McCombs, McComas, McLawhorn, McMahan, Mitchell, Preston, Smith, Thomas, Thompson, Tolson, Tucker, Warner, and Yongue.

Chair Gibson recognized Representative Smith who asked about the status of the public hearing he requested on H.B. 1434 COASTAL RECREATIONAL FISHING LICENSE. Chair Gibson stated that the public hearing would be held on Tuesday, June 16 at 4:00 P.M. and they are trying to arrange for it to be held in Room 643 of the Legislative Office Building. Representative Redwine, sponsor of the bill, then stated for the record that he does not believe that a public hearing needs to be held on this bill and that it is just a delaying move to defeat the bill. He stated that if is delayed beyond Tuesday that there would possibly not enough time to run it through Finance Committee due to fees and have it pass in both chambers. The Research Staff confirmed this schedule for this bill and added that it would may also go into conference if the Senate does not agreed on the House version. Representative Redwine then added for the record and to be fair that he had ask that this bill not be brought up into committee until after the budget bill was finished. Not complaining about bill not being brought up sooner but would like to have the bill passed out of the meeting as soon as possible. Chair Warwick then stated that he had talked with the Speaker and he wants the bill to be voted on, as soon as possible, so he had suggest that a meeting be held directly after the public hearing on Tuesday, maybe 7:00 P.M. or have a meeting on Wednesday to move the bill as soon as possible. Representative Warwick also added that some inappropriate information had spread across the state that the bill was to be brought up last Tuesday and that was incorrect information; the bill was never scheduled to be heard before this meeting. He stated that he does see Representative Redwine's point and the committee chairs will work with him to get scheduled to be heard before this meeting. He further stated that he also understands Representative Smith's point and will try to work with them both and go about hearing and voting on this bill in a very thoughtful manner. Representative Preston said you could also look at holding this up until the last as a way of rushing it through. Representative Luebke expressed his concern on waiting until now to request a public hearing. The public hearing for this bill will be held Tuesday, June 22, 1999 at 4:00 P.M.

The following persons spoke on the bill: Mr. Preston Pate Director of the NC Division of Marine Fisheries spoke at to Division's support of coastal recreational fishing license for a long time based on the need to collect data on those fishing to be factored into the fisheries management plan that are being developed. They have concern about the bill as it does not license the on shore fishermen. This would make the data collected more accurate. Thirty to forty percent of those fishing are fishing now are exempted from this bill.

Jeff Hudson, Legislative Research Staff, gave a overview of the folder containing 6 pieces of information relative to H.B. 1434 that were distributed to the members of the committee. (A set of these documents numbered 1-6 are included following these minutes.) Among these documents is a copy of H. B. 1434, a bill analysis, background material on the proposed license, Advisory committee proposal to the Joint Legislative Commission on Seafood and Aquaculture dated January 19, 1999, the final report of the Fisheries Moratorium Steering Committee to the Joint Legislative Commission on Seafood and Aquaculture of the General Assembly, and a summary of Saltwater Recreational Fishing License Programs in the Southeastern and Gulf Coast States. He stated a few differences between the Advisory Committee recommendations and the final legislation. Mostly the differences are in the fees charged and the exemptions. They are stated in the included materials.

Jerry Schill, Executive Director of the North Carolina Fisheries Association, stated that his association is against this bill because they see this legislation as a growing bureaucracy. It will grow with the amounts of new money coming in from the license fees. Mr. Schill question how this bill's language will fit in with Federal regulations in place. How the funds will be spent and if and how they will follow Federal regulations as to diverting funds from these fees. He recommends that the fees collected go into the General Fund. He further can see this as the first step toward net band.

In response to a question by Chair Warwick, the Research Staff said a fiscal note is being prepared on this bill. Chair Gibson said a fiscal note on this bill will ready on Monday.

Representative Redwine stated that this has nothing to do with net band. He added that if the commercial fishermen do not include the recreational fishermen a seat at the fisheries management table, they might come to the General Assembly with all sorts of ideas, net ban could be one.

Jules Wheatly then responded to Representative Redwine's statements on the CCA request for this bill not being the motive behind this bill. CCA has said that they have it as their goal, to ban all net fishing in the state. Mr. Wheatly feels as though the net ban will follow this legislation.

Mr. Harry Archer, State Secretary of the CCA, stated that motion to support a net ban has been made twice in CCA Board meeting. He further said that the motion was never 2nd and therefore was not discussed or voted on. He stated that North Carolina was the only state from Maryland to Texas that does not have a saltwater license fee. These other

states also have fisheries to replenish the resources. For this reason some of these states have more fish that NC. It is CCA hope that NC move back to the forefront of fishing. Right now they are not. Saltwater License will not run the commercial fisherman out of business as some commercial fisherman say. All fisherman should have equal representation and responsibility.

Mr. David Knight, North Carolina Wildlife Federation and NC Sierra Club gave thanks to the sponsors of the bill. He said that the above mentioned associations and the Nature Conservancy support this bill with several exceptions. One being exemption of the shore fisherman and also increasing the fee of the license. They will work with the sponsors to improve this bill as it moves forward.

Representative Thomas ask when the committee substitute of this bill be available to the members of the committee so they will know if they need to make any amendments. Probably by the end of the week and staff will help all committee members with any changes they wish to make. Representative Warner wants to see the committee substitute as soon as possible.

The meeting was then adjourned. The committee will next meet on Thursday, June 17, 1999 at 12:00 Noon.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

HOUSE BILL 1434:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Redwine and McComas
Date:	June 15, 1999	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	First Edition		

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission
- CRFL means Coastal Recreational Fishing License
- Division means the Division of Marine Fisheries
- Recreational Fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements
- A CRFL does not authorize the license holder to sell fish taken under the license
- Assignment or transfer of a CRFL is prohibited
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary
- A person engaging in recreational fishing must have a CRFL available for inspection
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address
- A person isn't eligible to obtain a CRFL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application
- The Division may cancel a CRFL issued on the basis of false information
- The holder of a CRFL must comply with sampling and survey programs conducted by the Division and Commission

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard, One Week, and One Day CRFL may be purchased from authorized license agents.

Types of CRFLS:

Standard CRFL	$7.50	One year duration
One Week CRFL	$3.50	One week duration
One Day CRFL	$1.00	One day duration
CRFL for Commercial License Holders	No charge	Expires June 30 each year
Subsistence CRFL	No charge	One year duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
65 years or older	$10.00	
Lifetime CRFL for holders of:		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		*
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$5.00/linear foot	*

* No provision in bill as drafted

Exemptions

- A person under 16 years of age is exempt from CRFL requirements if accompanied by a parent, grandparent, or guardian who holds a CRFL or if the person has in the person's possession a CRFL issued to the person's parent, grandparent, or guardian.
- A person fishing from shore or a shore-based structure is exempt from CRFL requirements.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's and RCGL's. The Secretary of Environment and Natural Resources may disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL or RCGL, to be appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents

Sections 2 through 9 make technical, clarifying, and conforming changes.

Section 10 authorizes the Marine Fisheries Commission to adopt temporary rules.

Section 11 is a severability clause.

EFFECTIVE DATE: This act becomes effective March 1, 2001.

DRAFT
FOR REVIEW ONLY

HOUSE BILL 1434:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment	**Introduced by:**	Representatives Redwine and McComas
Date:	June 11, 1999		
Version:	First Edition	**Summary by:**	Jeff Hudson, Committee Counsel

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission
- CRFL means Coastal Recreational Fishing License
- Division means the Division of Marine Fisheries
- Recreational Fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements
- A CRFL does not authorize the license holder to sell fish taken under the license
- Assignment or transfer of a CRFL is prohibited
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary
- A person engaging in recreational fishing must have a CRFL available for inspection
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address
- A person isn't eligible to obtain a CRFL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application
- The Division may cancel a CRFL issued on the basis of false information
- The holder of a CRFL must comply with sampling and survey programs conducted by the Division and Commission

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1434

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors: Representatives Redwine, McComas (Primary Sponsors); and Luebke.

Referred to: Environment and Natural Resources, if favorable, Finance.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"§ 113-174.1. General provisions governing licenses.

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in the State without having ready at hand for inspection all valid licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any

commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under this Article if, at the time the person applies for the license, any other license or endorsement issued to the person under this Article or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing by means of recreational gear without holding a CRFL issued under this section.

(b) Purchase. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year.

(2) One Week CRFL. -- $3.50. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this

subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitute a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds a either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. The fee for an Ocean Fishing Pier Blanket CRFL is five dollars ($5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian who holds a valid CRFL or has in the person's possession a valid CRFL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing by means of recreational gear from the shore or from a shore-based structure without holding a CRFL.

"§ 113-174.3. Recreational Commercial Gear License.

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

"§ 113-174.4. Sealife Enhancement Fund.

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the proceeds from the sale of licenses issued under G.S. 113-174.2 and G.S. 113-174.3 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special fund within the Department. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resources and habitat enhancement. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement.

(2) Law enforcement. -- Not more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including data collection and the development of Fishery Management Plans.

(4) Grants. -- Not more than ten percent (10%) of the moneys in the Fund shall be distributed to fund coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL or a RCGL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL or a RCGL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"§ 113-174.5. License agents.

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) The Department shall compensate license agents by refunding to each license agent six percent (6%) of the value of each license sold by that license agent."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of

commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or Article 14B of the Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 12. This act becomes effective 1 March 2001.

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MEMORANDUM

June 15, 1999

To: House Committee on Environment and Natural Resources

From: Jeff Hudson, Committee Counsel

Re: Background material on the proposed coastal recreational fishing license

This package contains the following background material relating to the licensing of coastal recreational fishing as proposed in House Bill 1434.

Summary of House Bill 1434: Coastal Recreational Fishing License (As Introduced)
House Bill 1434 was introduced by Representatives Redwine and McComas on April 29, 1999, and referred to the House Committee on Environment.

Text of House Bill 1434 (As Introduced)

Recommendation from the Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture regarding the establishment of a coastal recreational fishing license
The Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture was directed by the Commission to study whether a licensing system should be adopted for coastal recreational fishing and, if so, what that system should be and how it should be implemented. The Advisory Committee presented its recommendations for the establishment of a coastal recreational fishing license to the Commission on January 19, 1999. The Commission took no action on this recommendation. House Bill 1434 incorporates some of the recommendations presented by the Advisory Committee.

Excerpts from the final report of the Moratorium Steering Committee relating to the establishment of a coastal recreational fishing license
The 1994 General Assembly imposed a two year moratorium on the issuance of new vessel, crab, and shellfish licenses as well as non-vessel endorsements to sell fish. In conjunction with the imposition of the moratorium, the 1994 General Assembly also established the Moratorium Steering Committee. The Moratorium Steering Committee was charged with undertaking a comprehensive study of the State's fisheries program and making recommendations to the Joint Legislative

Commission on Seafood and Aquaculture. The Moratorium Steering Committee approved draft recommendations in August of 1996 and presented them at nineteen public hearings throughout the State. The Moratorium Steering Committee then revised its recommendations and made a final report to the Joint Legislative Commission on Seafood and Aquaculture in November of 1996. Many of the recommendations of the Moratorium Steering Committee relating to fisheries management, habitat protection, law enforcement, and the licensing of commercial fishing were included in the Fisheries Reform Act of 1997. The Moratorium Steering Committee's recommendations relating to the licensing of recreational fishing were not included in the Fisheries Reform Act of 1997.

Summary of the Saltwater Recreational Fishing License Programs in the Southeastern and Gulf Coast States
This summary was prepared for and presented to the Joint Legislative Commission on Seafood and Aquaculture on January 19, 1999.

I hope this information is helpful to you. Please contact me at 733-2578 if you have any further questions.

DRAFT
FOR REVIEW ONLY

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard, One Week, and One Day CRFL may be purchased from authorized license agents.

Types of CRFLS:

Standard CRFL	$7.50	One year duration
One Week CRFL	$3.50	One week duration
One Day CRFL	$1.00	One day duration
CRFL for Commercial License Holders	No charge	Expires June 30 each year
Subsistence CRFL	No charge	One year duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
65 years or older	$10.00	
Lifetime CRFL for holders of:		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		*
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$5.00/linear foot	*

* No provision in bill as introduced

Exemptions

- A person under 16 years of age is exempt from CRFL requirements if accompanied by a parent, grandparent, or guardian who holds a CRFL or if the person has in the person's possession a CRFL issued to the person's parent, grandparent, or guardian.
- A person fishing from shore or a shore-based structure is exempt from CRFL requirements.

Outline of Proposed Coastal Recreational Fishing License

Advisory Committee to the Joint Legislative Commission on Seafood and Aquaculture
January 19, 1999

General Provisions

Purchase: At offices of the Division of Marine Fisheries (DMF), through an "800" number, from an authorized license agent, or at other locations where fishing supplies are sold

Renewal: By mail

Replacement: Available for $2.00 for a license that has been lost or destroyed

Transferability: Nontransferable

Sale of Fish: Fish may not be sold under the license

Reporting Requirements: License holder must comply with DMF and Marine Fisheries Commission (MFC) sampling and survey programs

Disclosure of Information: Secretary of Environment and Natural Resources may require disclosure of information from license applicants or licensees

License Requirement: Individual must have a license with the individual's correct name and address in order to take fish by means of traditional recreational gear as defined by the MFC in the coastal fishing waters of North Carolina

Types of Licenses, Fees, and Exemptions:

Standard Coastal Recreational Fishing License: One year duration from the date of purchase; $15.00

One Week Coastal Recreational Fishing License: Seven day duration; $5.00

Coastal Recreational Endorsement for Standard Commercial Fishing License: No charge

Special User Lifetime Coastal Recreational Fishing License: Lifetime duration

- Persons over 65 years of age: $10.00
- Handicapped or disabled persons: $10.00
- Disabled American veterans: $10.00
- Legally blind persons: $10.00

Wildlife Resources and Marine Fisheries Lifetime Coastal Recreational Fishing License: Lifetime duration; No charge; Available to any person holding a Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman Combination License

Lifetime Adult Coastal Recreational License: Lifetime duration; $250.00; Available to persons 17 years of age or older

Personalized Lifetime Adult Coastal Recreational Fishing License: Lifetime duration; $255.00; Available to persons 17 years of age or older

Lifetime Infant Coastal Recreational Fishing License: Lifetime duration; $100.00; Available to persons of less than one year of age

Personalized Lifetime Infant Coastal Recreational Fishing License: Lifetime duration; $105.00; Available to persons of less than one year of age

Lifetime Youth Coastal Recreational Fishing License: Lifetime duration; Available to persons of ages one to 16 who apply for this license during the six-month period following the requirement of a Coastal Recreational Fishing License for the following fees

- 1-5 years of age $100.00
- 6-10 years of age $150.00
- 11-16 years of age $200.00

Exemptions: Persons under the age of 16 accompanied by a licensed parent or guardian; Subsistence fishers

License Agents: Will remit the entire license fee paid on a weekly basis to the Department of Environment and Natural Resources (DENR); DENR will reimburse the license agent 6% of the value of each license sold

Marine and Estuarine Resources Fund: Is established within DENR; Funds from the lifetime licenses will be placed in an endowment account, while funds from the other recreational licenses and interest income from the endowment account will be placed in the Recreational License Resource Account

Recreational License Resource Account: Contains license revenues from the sale of the Coastal Recreational Fishing License; Funds will be disbursed according to the following formula

- Resources and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

Funds in the Recreational License Resource Account will be administered by the Marine Fisheries Commission. The Commission will be assisted by the Recreational License Resource Account Advisory Committee. The Advisory Committee will be composed of:

- Seven members who hold coastal recreational fishing licenses and are appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

The Advisory Committee will recommend expenditure of funds from the Recreational License Resource Account. The Commission may only expend funds from the Recreational License Resource Account upon recommendation of the Advisory Committee and upon approval of a recommendation by a two-thirds majority of the Commission.

Target Effective Date: March 1, 2001

Start Up Funding: Funding necessary to implement the Coastal Recreational Fishing License should be appropriated by the General Assembly

Summary:

Saltwater Recreational Fishing License Programs

in the Southeastern and Gulf Coast States

January 19, 1999

Prepared by:
Jeff Hudson, Commission Counsel
Joint Legislative Commission on Seafood and Aquaculture

Piper Nieters, Intern
North Carolina State Legislative Internship Program

Delaware

License Required: Yes, for harvest of hard clams

License Types:

Noncommercial Clamming Permit: Authorizes permit holder to harvest over 50 hard clams (non-resident) or 100 hard clams (resident) in any one day period

Annual: $5.75 resident; $57.50 non-resident

Exemptions: None

Distribution: Issued by the Division of Fishing and Wildlife through independent vendors and bonded agents

License Revenues: To Division of Fishing and Wildlife

License Requirement Implemented: 1987

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Delaware Code Annotated sections 2408 and 2409

Contact: Andrew Manus, Director, Division of Fish and Wildlife
Phone Number: (302) 739-5295
Website: Not Available

Maryland

License Required: Yes, to take finfish in Chesapeake Bay

License Types:

Chesapeake Bay sport fishing license:

Annual:	$7 resident; $12 non-resident
Five-day:	$4 resident and non-resident
Charter Boat:	
6 fishermen or less:	$240
7 fishermen or more:	$290

Exemptions:

Under 16:	No license required
65 or older Resident:	Discounted License ($5 annual)
Blind:	Complimentary license (No fee)
Private Property:	No license required
Public Bridge:	No license required
Designated Pier:	No license required

Distribution: Issued by the Department of Natural Resources through six regional service centers and independent vendors

License Revenues: To the Fisheries Research and Development Fund

License Requirement Implemented: 1996

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of Maryland article 4-701

Contact: Robert Bachman, Fisheries Service
Phone Number: (410) 260-8281
Website: www.dnr.state.md.us

Virginia

License Required: Yes, for fishing in the Chesapeake Bay and its tributaries

License Types:

Recreational Saltwater Fishing Licenses:

Annual:	$7.50 resident and non-resident
Ten-day:	$5 resident and non-resident

Private Vessel License:

$30 resident and non-resident

Charter Boat License:

6 or fewer passengers:	$150
More than 6 passengers:	$150 plus $4 for every passenger over 6

Commercial Pier License:

Annual:	$450

Exemptions:

Under 16:	No license required
65 or older Resident:	No license required
Disabled:	Discount license ($5 annual)
Private Property:	No license required

Distribution: Issued by the Virginia Department of Game and Inland Fisheries through independent vendors

License Revenues: To the Marine Recreational Fishing Development Fund

License Requirement Implemented: 1993

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of Virginia Annotated 28-2-302.1 through 28-2-302.10

Contact:	Jack Travelstead, Marine Resources Commission
Phone Number:	(757) 247-2247
Website:	Not available

South Carolina

License Required: Yes, to fish for recreation in tidal waters

License Types:

Marine Recreational Fishing Stamp:
- Annual: $5.50 resident and non-resident

Public Fishing Pier Permit:
- Annual: $350

Charter Vessel Permit:
- Annual: $150 (6 or less passengers)
  $250 (7 to 49 passengers)
  $350 (49 or more passengers)

Rental Boat Permit:
- Annual: $40

Exemptions:

Under 16:	No license required
Over 65:	Gratis License
Disabled:	No license required
Fishing from shore or shore based structure:	No license required

Distribution: Issued by the Department of Natural Resources through independent licensing agents and vendors

License Revenues: To the Department of Natural Resources funds; the Department distributes funds among various categories according to statute

License Requirement Implemented: 1991

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Code of South Carolina 50-20-10 through 50-20-120

Contact: Wayne Waltz, Department of Natural Resources
Phone Number: (843)-762-5094
Website: www.dnr.state.sc.us

Georgia

License Required: Yes, for all types of recreational fishing and harvesting

License Types:

Universal Licenses:

Annual:	$9 resident; $24 non-resident
One-day:	$3.50 resident
Seven-day:	$7 non-residents

Charter Boat And Commercial Pier License

Annual:	$400

Exemptions:

Under 16:	No license required
Over 65 Resident:	Complimentary license
Disabled:	Honorary fishing license
Blind:	Honorary fishing license
Private Property:	No license required

Distribution: Issued by the Licensing Division of the Georgia Department of Natural Resources through independent vendors and coastal law enforcement

License Revenues: To General Fund (Georgia Department of Natural Resources will propose to the 1999 session of the Georgia legislature that revenues generated by coastal recreational fishing licenses be returned to the Department of Natural Resources and administered by a citizen advisory committee)

License Requirement Implemented: 1998

Pending Changes to the Licensing Program: Licenses will be distributed through a point of sale computerized licensing system

Netban: No general net ban (Gill nets have been prohibited in inshore waters since the mid-1950's)

Statutory Authority: Official Code of Georgia Annotated sections 27-2-1 through 27-2-30

Contact:	Susan Shipman, Coastal Resources
Phone Number:	(912) 262- 3110
Website:	www.ganet.org/DNR/

Florida

License Required: Yes, to take marine fish

License Types:

Saltwater Fishing Licenses:

Annual:	$12 resident; $30/non-resident
Five-year:	$60 resident; NA non-resident
Three-day:	NA resident; $5 non-resident
Seven-day:	NA resident; $15 non-resident
Ten-day:	$10 resident; NA non-resident
Lifetime:	$300 resident 13 years and up; $225 resident ages 5-12; $125 resident ages 4 or under; NA non-resident
Pier Owner:	$500 per year
Charter Boat:	
	$200 (4 or fewer customers)
	$400 (5-10 customers)
	$800 (10 or more customers)

* All licenses in the state of Florida are subject to a $1.50 issuance fee

Exemptions:

Under 16:	No license required
65 or older:	No license required
Disabled:	No license required
Resident fishing from shore or shore based structure:	No license required

Distribution: Issued by the Game and Freshwater Fish Commission through independent vendors and a toll free hotline

License Revenues: To a Marine Fisheries Commission trust fund; Commission distributes among various categories according to statute

License Requirement Implemented: 1990

Pending Changes to the Licensing Program: Three divisions of Florida's fishing and wildlife departments are being reorganized into one department, the Florida Fish and Wildlife Commission, effective July 1 1999

Netban: Yes; implemented in 1995

Statutory Authority: Florida State Statutes 370.0605 section 2, 89-270

Contact: Roy Williams, Florida Marine Fisheries Commission
Phone Number: (850) 487-0554
Website: www.dep.state.fl.us/mfcl

Alabama

License Required: Yes

License Types:

Recreational Saltwater Fishing License:

Annual:	$16/ resident (reciprocal fee for residents of FL, MS, TN, GA, and LA), All other non-residents: $32
Seven-day:	$6/ resident (reciprocal fee for residents of FL, MS, TN, GA, and LA), All other non-residents: $32

Exemptions:

Under 16:	No license required
Over 65 Resident:	No license required
Disabled:	Discount license (Annual: $1.25)

Distribution: Issued by the Department of Conservation and Natural Resources through bonded independent vendors

License Revenues: To the Marine Fisheries Division for research, management, and enforcement

License Requirement Implemented: 1992

Pending changes to the Licensing Program: None

Netban: None

Statutory Authority: Alabama Code sections 9-11-53.1, 9-11-53.2, 9-11-53.3, 9-11-53.5, and 9-11-54

Contact:	Vernon Minton, Director, Marine Fisheries Division
Phone Number:	(334) 861-2882
Website:	www.dcnr.state.al.us/mr

Mississippi

License Required: Yes

License Types:

Recreational Saltwater Fishing License:

Annual:	$5 resident, $28 non-resident
Three-day:	$8 non-resident

Exemptions:

Under 16:	No license required
Resident 65 or older:	No license required
Disabled:	No license required

Distribution: Issued by the Department of Marine Resources via independent vendors

Pending Changes to the Licensing Program: None

Netban: None

Statutory Authority: Mississippi Code Annotate section 49-15-313

Contact:	Linda Saint Orneaux
Phone Number:	(228) 374-5000
Website:	www.dmr.state.ms.us

Louisiana

License Required: Yes, for recreational fishing in saltwater

License Types:

Saltwater Angler's License:

Annual: $5.50 resident; $36 non-resident

(The Saltwater Angler's License is required in addition to the basic fishing license; the fees for the basic fishing license are $5.50 for residents and $31 for non-residents)

Saltwater Trip License:

Three-day: NA resident; $20 non-resident

(The Saltwater Trip License is required in addition to the basic trip license; the basic trip license is not applicable to residents, but is available to non-residents for a fee of $20)

Charter Trip License:

Per trip: NA resident; $2.50 non-resident

Marine Resources Conservation Stamp:

$3 resident; $3 non-resident

(The Marine Resources Conservation Stamp is required in addition to basic and saltwater licenses to fish in saltwater)

Exemptions:

Under 16:	No license required
Residents over 60:	No license required
Disabled Resident:	Reduced Fee License ($5 annual)
Blind:	No license required

Distribution: Issued by the Department of Wildlife and Fisheries via independent vendors and law enforcement

License Revenues: To the Department of Wildlife and Fisheries

License Requirement Implemented: 1985

Pending Changes to the Licensing Program: License will be distributed through a point of sale computerized purchasing system beginning in 2000

Netban: Louisiana has a limited gill net ban

Statutory Authority: Louisiana Revised Statutes Annotated section 302.1.C

Contact: Karen Foote, Department of Wildlife and Fisheries
Phone Number: (225) 765-2384
Website: www.wlf.state.la.us

Texas

License Required: Yes, for recreational fishing in saltwater

License Types:

Saltwater Stamp:

Annual: $7 resident and non-resident

The Saltwater Stamp is required in addition to a general fishing license; the fees for the general fishing licenses are:

Annual: *$19 resident, $30 non-resident*
Three-day: *$10 resident*
Five-day: *$20 non-resident*
Two-week: *$12 resident*

Special Resident License:

Annual: $6 resident; NA non-resident

Exemptions:

Under 17:	No license required
Over 65 prior to 9/1/96:	No license required
Over 65 after 9/1/96:	Special Resident License required
Blind:	Special Resident License required

Distribution: Issued by Parks and Wildlife Department through independent vendors and point of sale computerized licensing system

License Revenues: To Parks and Wildlife Department

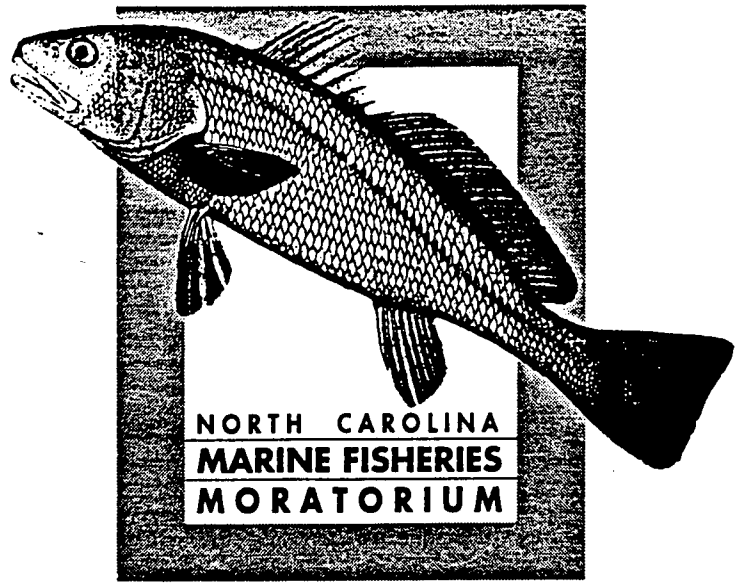
License Requirement Implemented: 1958

Pending Changes to the Licensing Program: None

Netban: Texas has had a ban on entangling nets except for limited trawl and shrimp nets since 1988

Statutory Authority: Parks and Wildlife Code section 46-001

Contact: Larry McEachron, Parks and Wildlife Department
Phone Number: (512) 729-2328
Website: www.tpwd.state.tx.us



FINAL REPORT

OF THE

FISHERIES MORATORIUM STEERING COMMITTEE

TO THE

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

OF THE

NORTH CAROLINA GENERAL ASSEMBLY

Sea Grant
National Sea Grant College Program

NORTH CAROLINA SEA GRANT COLLEGE PROGRAM
UNC-SG-96-11

FINAL REPORT

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TO THE

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

OF THE NORTH CAROLINA GENERAL ASSEMBLY

October 25, 1996

C. COASTAL RECREATIONAL FISHING LICENSE.

As the third major category of individual coastal fishing licenses, the License Subcommittee recommends that:

- **The General Assembly should amend Chapter 113 of the North Carolina General Statutes to create a Coastal Recreational Fishing License, required for any recreational fisherman who wishes to use traditional recreational gears to harvest fish from the coastal fishing waters of North Carolina, incorporating the specific features and conditions set forth below.** The purpose of creating this license is to (1) document the number of recreational users who take state marine and estuarine resources, (2) obtain harvest and effort data from those fishermen, and (3) implement the principle that all persons who harvest state public trust resources pay for that privilege by investing in coastal fisheries conservation and management. Traditional recreational gears include, but are not limited to, "hook-and-line", gigs, clam rakes, cast nets, *etc.* At the public meetings on its recommended coastal fisheries management package, although some segments of the public opposed the proposed Coastal Recreational Fishing License as unfair or unnecessary, the Moratorium Steering Committee generally heard widespread support for this license *so long as the funds its generates are reserved for use to improve the State's coastal fishery resources.*

1. LICENSE FEATURES.

a. Licensing Unit.

- **The Coastal Recreational Fishing License shall be an individual license, except that a Coastal Recreational Group Fishing License shall be available to the owners of commercial fishing piers or charter/head/dive boats for a set fee, to cover their paying, but unlicensed, customers.** As with all other licenses under the proposed new licensing system, the Coastal Recreational Fishing License will generally be an individual license. However, the "blanket license" exception recommended will ensure that the new recreational license requirement does not unduly interfere with existing businesses that depend upon use by recreational fisheries, by allowing a professional, recreational fishing business to exempt its customers from the individual licensing requirements when the blanket license holder agrees to provide the Division of Marine Fisheries with specific data concerning the number of anglers using its services. Potential blanket license holders will also have the option of not purchasing the blanket license, whereupon each fishing customer will be required to obtain an individual Coastal Recreational Fishing License.

  At the public meetings held by the Moratorium Steering Committee, the blanket license issue was probably the most controversial of the recommendations associated with the Coastal Recreational Fishing License, with widely disparate opinions being expressed concerning its necessity, usefulness or fairness. Many commentators supported the idea of blanket licensing as a practical method of allowing commercial piers and charter/head/dive boats to operate without undue regulatory interference. On the other hand, some opposed the option of blanket

licensing altogether, fearing that its implementation will result in "large holes" in the data set derived for recreational resource users and thereby hamper good fisheries management decisions. Others opposed the license as giving an unfair advantage to commercial pier owners and charter/head/dive boat services. The businesses that would themselves be affected by implementation of the recommendation were split on the issue.

Additionally, several commentators not only supported the proposed blanket licenses, but recommended that the concept be substantially expanded to offer blanket licenses for recreational vessel owners, the owners of private (non-commercial) docks and piers, and coastal riparian owners in general. Given all of the public input and after additional consideration, the License Subcommittee continues to believe that provision for limited blanket licenses is a necessary and practical part of the revised licensing system recommended in its report. However, the License Subcommittee has considered all of those recommendations made calling on the Committee to expand the reach of the blanket licenses offered under the Coastal Recreational Fishing License, and rejects further expansion in the belief that creating additional exceptions would quickly overwhelm the purposes for which this license is recommended.

b. License Eligibility.

- **There shall be no limitation on the class of persons eligible to hold the Coastal Recreational Fishing License.** There is little, if any, evidence that recreational harvest of marine and estuarine resources by use of recreational gears presents a significant threat to the continued health of coastal fish stocks. Until such a risk is indicated, there is no need to consider restrictions on the number of persons who may purchase the Coastal Recreational Fishing License.

c. License Duration.

- **The Coastal Recreational Fishing License shall be valid for one year from the date of its purchase, with the specific exceptions for one-week and lifetime licenses set out below, and shall be renewable by mail.** The License Subcommittee makes the recommendation modifying its original proposal as to the term of this license for the reasons previously set out in discussing the duration of the Recreational Commercial Gear License in section II.B.1.c., above. Upon expiration, the Coastal Recreational Fishing License will be renewable upon payment of the annual licensing fee.

The "exceptions" to the general applicability of the Coastal Recreational Fishing License requirement educed substantial comment at the Moratorium Steering Committee's public meetings on its recommended coastal fisheries management package. A number of commentators proposed additional exemptions from the license requirement for either resident surf and pier fishermen, or all surf and pier fishermen. Others suggested that any coastal fishing license requirement be combined with the inland fishing license requirements administered by the Wildlife Resources Commission. While the License Subcommittee believes that

some of these modifications are attractive at least at first blush, they were rejected as impractical or contrary to the purposes of creating the license in the first place. The Subcommittee would also note that in December 1994, the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee published its *Final Report to the Joint Legislative Commission on Seafood and Aquaculture*. The *Report* was the culmination of a two-year deliberative process, including a number of public hearings, by that Committee. The License Subcommittee thoroughly re-examined and discussed the recommendations in that *Report* in the context of the Coastal Recreational Fishing License, and believes that those recommendations are both sound and have continued viability. For those reasons, the Subcommittee has endorsed the license categories recommended by that Committee, as set out below:

- **A limited duration license, good for one week, shall be available.** This limited duration license is intended for purchase primarily by vacationers or others not wanting, or needing, to purchase an annual license.

- **Permanent (lifetime) Coastal Recreational Fishing Licenses shall be available to the following groups:**

  - **"Special users", which include: (1) elderly persons (those over 65 years of age), (2) handicapped or disabled persons, (3) disabled American veterans and (4) legally blind persons.** Any citizen who is a member of a "special user" class will be entitled to obtain a lifetime Coastal Recreational Fishing License for a reduced fee (see section II.C.1.j., below) upon providing documentation that the applicant fits the special user category. Holders of all lifetime licenses will, of course, be exempt from the annual license renewal requirement.

  - **Persons holding a "Lifetime Resident Comprehensive Fishing License" or a "Lifetime Sportsman Combination License" issued by the North Carolina Wildlife Resources Commission pursuant to N.C.G.S. §§ 113-271(d)(3) & 113-270.1D(b), respectively.** The Coastal Recreational Fishing License requirement will apply only in state Coastal Fishing Waters, while the Wildlife Resources Commission fishing license requirement will apply to state Inland Fishing Waters. However, the situation is complicated by the fact that both license requirements pertain in state "Joint Fishing Waters. Wildlife Resource Commission Lifetime Fishing License holders clearly believe that they have purchased the permanent right to fish in North Carolina waters without additional charge by the State. In fact, such license holders were among the most vocal members of the public who made comments at the Moratorium Steering Committee's public meetings. Those persons were clearly of the opinion that the State has a "moral" duty at least, to honor their lifetime licenses for purposes of coastal fisheries licensing. The Subcommittee believes that the expectation of Lifetime Wildlife Fishing License holders that they are "vested users" is a reasonable one, and thus recommends the listed

provision allowing holders of the Wildlife Resources Commission Lifetime Comprehensive Fishing or Sportsman Licenses as of the date of ratification of the Coastal Recreational Fishing License to apply for a Lifetime Coastal Recreational Fishing License at nominal cost. The license will be issued for an administrative fee if the application is submitted within six months of the date of implementation of the new license. Most persons commenting at the public meetings did not object to a one-time, nominal cost for the issuance of such a license. The License Subcommittee considered the option of simply honoring the lifetime fishing license issued by the Wildlife Resources Commission, but rejected that possibility on the belief that in order for the "Violation Points System" recommended by the Law Enforcement Subcommittee to operate fairly and effectively, all recreational licenses must have a license issued by the Division of Marine Fisheries. Following the six-month "grace period, all Wildlife Resources Commission Lifetime Fishing License holders will be required to purchase a Coastal Recreational Fishing License at the fee generally applicable to the class of license applied for in order to lawfully fish in state Coastal Fishing Waters.

- **Lifetime License Purchasers, including purchasers of (1) Lifetime Infant Licenses, (2) Implementation Period Lifetime Youth Licenses and (3) Lifetime Adult Licenses.** Implementation of this provision will establish as an ongoing option the allowance for an adult (> 16 years of age) or an infant (< 1 year of age) to purchase a lifetime Coastal Recreational Fishing License. In addition, during a six-month period following the effective date of implementation of the Coastal Recreational Fishing License requirement, age-specific youth lifetime licenses will be available for the fees set out in section II.C.1.j., below.

d. License Transferability.

- **The Coastal Recreational Fishing License shall be non-transferable.** As with the Recreational Commercial Gear License, since there is no restriction on who may apply for and receive this license, there is no need to allow license transferability.

e. Harvest Salability.

- **A Coastal Recreational Fishing License holder shall be prohibited from selling fish harvested under the license.** Again, this provision simply reflects a major tenet of the Moratorium Steering Committee's recommendations for future coastal fisheries management: only professional, commercial fishermen who depend on fishing for their livelihoods should be permitted to sell the fish they harvest. This recommended policy was supported by the vast majority of recreational fishermen making comments to the Committee.

f. Reporting Requirements.

Although the harvest of any one recreational fisherman is relatively insignificant, the sheer number of recreational anglers makes the total harvest by that group substantial, and therefore, makes data on recreational harvest extremely significant. Currently, there is little good data on the overall recreational harvest of marine and estuarine resources in the State. In addition, commentators at the Moratorium Steering Committee's public meetings made it clear that one of the public priorities is for the State to obtain adequate, accurate data on *all* coastal fishing activities, in order to make good fisheries management decisions. For those reasons, the License Subcommittee makes the following recommendations, which parallel those for other recreational and commercial licensees:

- **Coastal Recreational Fishing License holders shall, as a condition of licensing, be required to comply with Commission requirements and with all Division of Marine Fisheries biological data sampling and survey programs and efforts.**

- **The Division of Marine Fisheries, utilizing as necessary non-state agency sources of fisheries management expertise, shall develop methodologies for obtaining adequate, accurate catch-per-unit-effort (CPUE) data for persons holding and fishing under the Coastal Recreational Fishing License, and shall report regularly to the Marine Fisheries Commission on its progress towards achieving this objective.**

Similarly, because the fishing effort from commercial piers and charter, head or dive boats is potentially very significant, the License Subcommittee further recommends that:

- **Fishing pier owners and charter/head/dive boat owners purchasing the blanket license in order to exempt their customers from the individual licensing requirement shall be required, on a monthly basis, to report to the Division of Marine Fisheries the number of angler trips per day provided by their professional, recreational facilities/services.**

g. Harvest Limits.

- **The Marine Fisheries Commission shall adopt by rule as necessary, recreational harvest limits for all recreationally significant (or potentially significant) marine and/or estuarine species as a component of appropriate Fishery Management Plans, and Coastal Recreational Fishing License holders shall be restricted to these recreational harvest limits.** This provision reflects the current law applicable to coastal, hook-and-line fishermen, and is identical to the harvest limit requirement recommended for holders of the Recreational Commercial Gear License, as set out in section II.B.g., above.

h. Gear Restrictions.

- **A Coastal Recreational Fishing License holder shall be restricted to the use of recreational (*i.e.*, fishing gears not defined by the Marine Fisheries**

Commission as "commercial gear") gears only. This is the major provision separating the Commercial Gear Recreational License from the Coastal Recreational Fishing License. At the Moratorium Steering Committee's public meetings, several charter boat owners and operators questioned whether this provision would prevent them from using gill nets under their blanket Coastal Recreational Fishing License to harvest bait fish en route to fishing offshore, and whether they would thus be required to also hold a Standard Commercial Fishing License in order to operate a charter vessel. The answer to that question is that while implementation of this provision will prevent them from using a gill net under their blanket recreational license to harvest bait-fish, they will not have to qualify for or hold a Standard Commercial Fishing License in order to use such gear. Instead, the vessel captain will be required to purchase a Recreational Commercial Gear License, as described in section II.B.1.i.(1)(c), above.

i. License Endorsements.

(1) Vessel Endorsements.

- **A Coastal Recreational Fishing License holder shall not be required to obtain a vessel endorsement in order to harvest fish with recreational fishing gear used from or in conjunction with a vessel.** The failure of the License Subcommittee to treat holders of the Coastal Recreational Fishing License exactly the same as holders of the Standard Commercial Fishing and Recreational Commercial Gear Licenses for purposes of vessel licensing was criticized by some commercial fishermen at the public meetings as unfair. However, the Subcommittee believes that their criticism is not valid in light of the rationale for licensing vessels where commercial gear use is authorized -- to be able to reasonably ascertain the potential level of harvest effort that a licensee may exhibit based on the size of the vessel licensed. That same rationale is simply not applicable to persons licensed only to use recreational harvest gears, and requiring vessel licensing of such users would serve no useful fisheries management purpose.

j. License Cost.

(1) Basic License Cost.

- **The cost of the annual Coastal Recreational Fishing License for both residents and nonresidents shall be $15.00, except for licenses for "special user groups".** Many folks at the Moratorium Steering Committee's public meetings expressed opposition to charging resident and nonresident recreational license applicants the same fee, primarily because only North Carolina residents pay state taxes in support of coastal fishery resources. At the same time, representatives for coastal leisure tourism are adamant in their opposition to a higher fee for nonresident fishermen, largely because of the perceived adverse impacts on the nonresident tourist trade that such a disparity could cause. The License Subcommittee has looked to other states that charge higher nonresident recreational fishing fees to determine what the negative

tourism impacts might be, and is aware of no data that indicate such adverse effects. Nevertheless, on balance, the License Subcommittee believes that given the enormous amounts of money that nonresident tourists add to the State and local coastal economies, the potential negative impacts to tourism of a higher nonresident license fee outweigh the need to protect state citizens from undue benefits to nonresident from North Carolina tax expenditures.

(2) Special License Costs.

As previously noted, in its December 1994, *Final Report to the Joint Legislative Commission on Seafood and Aquaculture*, the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee recommended a schedule of costs for all special license categories considered by that body. The License Subcommittee endorses both the license categories recommended by that Committee and its recommended schedule of costs. Most of those licensing recommendations have been appropriately incorporated into previous sections of the License Subcommittee Report.

As a result of adopting the recommendations of the Saltwater Sport Fishing Advisory Committee, the License Subcommittee recommends the following:

- **The categories and costs of "special user group" Coastal Recreational Fishing Licenses shall be as recommended by the North Carolina Department of Environment, Health, and Natural Resources Saltwater Sport Fishing License Advisory Committee in its December 1994, *Final Report to the Joint Legislative Commission on Seafood and Aquaculture.*** That schedule is reproduced below, in consolidated form:

Special License Category	*License Cost*
One Week License	$ 5.00.
Special User Lifetime (all permanent licenses)	
Elderly	$ 10.00.
Handicapped or Disabled	$ 10.00.
Disabled American Veteran	$ 10.00.
Legally Blind	No Charge
Subsistence	No Charge
WRC Lifetime Fishing Licensees (if applied for during 6-mo. period following requirement of CRFL)	$ 10.00
Lifetime Adult	$250.00.
Personalized Lifetime Adult	$255.00.
Lifetime Infant	$100.00.
Personalized Lifetime Infant	$105.00.
Implementation Period Youth (if	

applied for during 6-mo. period following requirement of CRFL)	
0 - 5 years	$100.00.
6 - 10 years	$150.00.
11 - 15 years	$200.00.
Charter/Head/Dive Boat Owner "Blanket" License	$1.00/ft. for vessels 0-18' in length;
	$1.50/ft. for vessels >18' < 38' in length; and
	$3.00/ft. for vessels > 38' in length.
Commercial Pier Owner "Blanket" License	$3.00/ft., in addition to the cost of the current fishing pier license
	required under N.C.G.S. § 113-156.1.

The License Subcommittee would specifically note, as set out in the chart immediately above, that the Saltwater Sport Fishing License Advisory Committee recommended that the State make available (1) a lower cost, one-week license for persons vacationing at the beach; (2) low (or no) cost, permanent licenses for the elderly and disabled; (3) lifetime licenses similar to the ones offered for inland fishermen by the Wildlife Resources Commission; (4) an annual "Subsistence Coastal Recreational Fishing License", administered by the Division of Marine Fisheries in conjunction with the appropriate county social service agency that will allow those producing proof of eligibility for low-income assistance programs to have the basic, annual license fee waived; and (5) blanket licenses for commercial pier and charter boat owners.

(3) License Fee Use.

As previously discussed, all monies collected from the sale of the Coastal Recreational Fishing License will be deposited in the "Recreational License Marine and Estuarine Resources Enhancement Trust Fund", for disbursement under one of the options set out in Section I.C., above, except that private license sales agents will be allowed to retain up to $1.00 of the Coastal Recreational Fishing License fee as compensation for the cost of license issuance.

D. OTHER NEW COASTAL FISHING LICENSES CONSIDERED.

1. COASTAL FISHING TOURNAMENT LICENSE.

Fishing tournaments result in intense fishing pressure on target species for a few days at a time. Some tournaments draw hundreds of boats, potentially resulting in a large catch, although actual harvest levels may be less than expected because of releases.

VISITOR REGISTRATION SHEET

Natural & Env. Resources — 6/16/99

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kristen Guillory	Lt. Gov. office
Mel Broughton III	Raleigh, N. C.
PHIL HOFT	RALEIGH N.C.
MAC CURRIN	Raleigh - Rec. Angler, CCA
Sue Watkins	Wilmington NC
Lloyd WATKINS	Wilmington, N.C.
Laura DeVivo	DENR
Preston Pate	DMF
Michele Duval	NC EDF
M. H. Dawson	NC Sierra Club
Richard Hamilton	Wildlife
Barbara Rote	Wildlife
[illegible]	WCSP
Nat Reed	CCNC
Barbara Wise	Sierra Club
David Knight	NC Wildlife Fed., NC Sierra Club
DON BETTS	BETTS Co.,
Tom Duncan	WCSK/CCA
Sandy Sands	WCSK/CCA
Dick Brame	CCA
HARRY ARCHER III	WILMINGTON CCA
Joel Arrington	Salt Water Sportsman mag.
Bo Nowell	RSWSFC
Jay Knuis	CCA - Executive Dir.
BILL MANDULAK	RALEIGH, NC
JOHN McKEE	ORANGE / DURHAM
BERNIE McCANTS	Raleigh, NC Rec Angler
Roger Bone	Bone & Assoc
Jim Hardesty	NC Park Board / CCA

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Sloan	NC Forestry Association
JERRY SCHILL	NC Fisheries Association
Jule Wheatley	Beaufort Fisheries, INC, Bft. NC
Mark Benson	Capital Group
Benny Scoggins	NCHC
LE Hartsell	NC Bar Association
Dan McCumber	DENR
[illegible]	AP
[illegible]	NYSENC
BLAKE RUSSELL	SEN. BASNIGHT'S OFFICE
Bernie Dannison	LA - Rep Pope
Natalie English	NCAE
Thomas Mills	OWSS
Danny Bates	DENR
Linda Payne	School Counselor Assoc.
Jean Henderson	NC School Counselor Assoc.
Paula A Hord	Covenant w/ NC's Children
Ballard Everett	—

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, June 17, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1434 – Coastal Recreational Fishing License

The bills may or may not be taken up in this order.

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 p.m.** on **June 16, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 17, 1999

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, June 17, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Dewey Hill, Joe Hackney, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay was excused.

Chair Gibson called the meeting to order at 12:10 p.m. He introduced Pages Sarah Kirkpatrick, Lenoir County, Julie Guthrie, Wake County, Sammie Gentry, Surry County, and William Davis, New Hanover County.

HB 1434, Coastal Recreational Fishing License. Representative Redwine was recognized again.

Representative Gibson asked Staff Counsel George Givens to give the perameters on public hearings. Mr. Givens said that the Committee could consider the bill including Committee Substitutes. The Committee Cannot, however, because a public hearing has been requested, the Com cannot take an action, which would remove the bill from the jurisdiction of the Committee A motion for "Favorable Report" or "Unfavorable Report" would be out of order because the public hearing has been requested, the Committee Cannot consider the bill if the bill is not within the jurisdiction of the Committee The Committee Must retain jurisdiction of the bill until the public hearing.

Chair Gibson asked the Committee To allow complete debate. Representative McComas moved to adopt the Proposed Committee Substitute (Attachment 1) Passed. In addition Representative Ronnie Smith passed out an informational statistics paper (Attachment 1A).

Mr. Jeff Hudson, Committee Counsel, discussed Representative Redwine's Committee Substitute (p. four of Attachment 1).

Representative Gillespie introduced his amendment (Attachment 2) and Representative McComas introduced his amendment as well (Attachment 3) and passed out to the Committee. Discussion ensued of the "housekeeping" of the public hearing, and the public announcement was distributed to the Committee (Attachment 4).

Representative Gillespie explained his amendment. Representative Hackney moved to adopt the amendment. Passed. Representative McComas explained his amendment. Fine points of his amendment were discussed. Representative McComas said it would be an inequity to not include the shore-based fishermen under the licensing program. Representative Daughtry noted that not many fish are caught surf fishing. If monitoring the fish catch is the goal, and then having people fish off piers with a license should be required. Representative Warwick said he was at the Emerald Isle fishing pier the past weekend, and 143 people were fishing. He added that hundreds and thousands of people fish on the piers in a year. He asked if property owners on the water were required to get a license. No, but individuals visiting would have to have a license. (Under the committee substitute, shore based license, pier and charter boats fishermen would have to have a license. Representative Redwine said that his bill two years ago included shore-based fishermen having licenses; he changed it due to public opinion—he could live with either way. It was noted that pier fisher persons would have a license because they fish other ways. License revenues were discussed. Mr. Hudson discussed fresh water provisions. Representative Gibson said, that, if the body of water were completely surrounded by the property owner's, the owner would not have to have a license. There are exceptions for subsistence populations—they do not need a license. Other exemptions include children under 16 years and the blind or disabled. Representative Gibson noted that the two systems being meshed together into one license might be at least a year away.
Representative Gibson stated that there was an amendment before the Committee as it relates to inclusion to shore based fishermen.

Mr. Dick Hamilton, NC Wildlife Federation said that there is Statuary exemptions to the inland fishing licenses. "Guest" applies to piers on public waters covering everyone fishing on that pier; children under sixteen; people fishing on their own property and private ponds, and special license for the blind. When fishing with natural bait, one is exempted in their home county. There are many similarities between fresh water license and HB 1434.

Representative Redwine said that surveys were conducted across the state, the Seafood and AquaCulture Commissions studied it, and he reintroduced the bill in 1997 and has introduced the bill with changes suggested. He stressed these points regarding his bill:

1. Fairness issue—there is a fresh water license.
2. In passing this, North Carolina might get Federal monies dedicated to the State based on the number of recreational fishermen.
3. Good management tool, i.e. passage of the Fisheries Reform Act in 1997 on the commercial side.
4. Dedicated funds generated for the Sea Life Enhancement Fund.

He explained the bill section by section. The bill is based loosely on what other states are doing. He said that a committee substitute would provide for one license for fresh and salt-water fishing and for Seafood and AquaCulture Study Commission to produce one unified license.

A question and answer discussion followed with questions from Representatives Daughtry, Mitchell, Culp, Mitchell, Creech, Preston, Thomas, and Smith.

Representative Smith said he sent a letter to the Committee before this meeting requesting a Public Hearing (Attachment 4). A lengthy discussion went on about rules regulating filibuster tactics. However, it was the Chair's intent not to filibuster, but the wishes of the Committee are heard.

Following some "house keeping" announcements, Representative Gibson said he would be appointing a sub-committee on animal cruelty. The meeting adjourned at 1:03 pm.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

Attachment #1

HOUSE BILL 1434:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment	**Introduced by:**	Representatives Redwine and McComas
Date:	June 17, 1999		
Version:	First Edition	**Summary by:**	Jeff Hudson, Committee Counsel

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission
- CRFL means Coastal Recreational Fishing License
- Division means the Division of Marine Fisheries
- Recreational Fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements
- A CRFL does not authorize the license holder to sell fish taken under the license
- Assignment or transfer of a CRFL is prohibited
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary
- A person engaging in recreational fishing must have a CRFL available for inspection
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address
- A person isn't eligible to obtain a CRFL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application
- The Division may cancel a CRFL issued on the basis of false information
- The holder of a CRFL must comply with sampling and survey programs conducted by the Division and Commission

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard, One Week, and One Day CRFL may be purchased from authorized license agents.

Types of CRFLS:

Standard CRFL	$7.50	One year duration
One Week CRFL	$3.50	One week duration
One Day CRFL	$1.00	One day duration
CRFL for Commercial License Holders	No charge	Expires June 30 each year
Subsistence CRFL	No charge	One year duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
65 years or older	$10.00	
Lifetime CRFL for holders of:		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		*
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$5.00/linear foot	*

* No provision in bill as introduced

Exemptions

- A person under 16 years of age is exempt from CRFL requirements if accompanied by a parent, grandparent, or guardian who holds a CRFL or if the person has in the person's possession a CRFL issued to the person's parent, grandparent, or guardian.
- A person fishing from shore or a shore-based structure is exempt from CRFL requirements.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's and RCGL's. The Secretary of Environment and Natural Resources may disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%
- Law Enforcement: Not more than 25%
- Marine Fisheries Research, including data collection and the development of Fishery Management Plans and Coastal Habitat Protection Plans: Not less than 25%
- Grants for coastal fishing programs and scholarships: Not more than 10%
- Administration: Not more than 10%
- Public Education and Information: 5% to 10%

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL or RCGL, to be appointed by the Governor
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting)
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting)

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents

Sections 2 through 9 make technical, clarifying, and conforming changes.

Section 10 authorizes the Marine Fisheries Commission to adopt temporary rules.

Section 11 is a severability clause.

EFFECTIVE DATE: This act becomes effective March 1, 2001.

Proposed Committee Substitute for House Bill 1434

(Coastal Recreational Fishing License) - REDWINE

H1434-PCS7256-RT

The Proposed Committee Substitute for House Bill 1434 (Coastal Recreational Fishing License) makes the following changes to the bill as introduced:

- Provides that limitations on license eligibility based on the suspension or revocation of another fishing license or the violation of a State or federal law governing the management of marine and estuarine resources apply only to the Recreational Commercial Gear License (RCGL) and commercial fishing licenses
- Provides that it is unlawful for a person fishing under a Coastal Recreational Fishing License (CRFL) to possess fish in excess of recreational possession limits
- Provides that a CRFL or RCGL may be renewed by mail
- Establishes a one year duration for Charterboat and Ocean Fishing Pier Blanket CRFL's
- Provides that the Sealife Enhancement Fund will hold revenues generated by the sale of CRFL's (the Fund will not hold revenues generated by the sale of Recreational Commercial Gear Licenses)
- Directs the Marine Fisheries Commission to adopt rules to define fishing gear as either recreational gear or commercial gear
- Directs the Joint Legislative Commission on Seafood and Aquaculture to study the establishment of a Unified Recreational Fishing License for recreational fishing in both inland and coastal fishing waters

[FAX COVER PAGE]

Attachment #1A

DATE : 6/13/99

TO : NAME : Rep. Ronnie Smith

FAX NO. : 726-7933

FROM : NAME : Mildred Gilgo

FAX NO. : 225-4181

Number of Pages : 6 (including cover page)

Subject / Notes :

Please read & share with the committee that will be looking at Rec License

14 of the 33 spec. Listed

Rec's catch more than commercial

Commercial pay $200 + $'s per ft for vessel

A token Rec fee does not reflect the impact on resourse.

As you know I'm not infavor of a rec liscense

Please call if you have questions 225-4181

North Carolina Marine Finfish Harvest
(Average for 1994-1997, in thousands of pounds)
Source: Division of Marine Fisheries

species	Rec.	Comm.	Ratio of Rec. to Comm.
Amberjacks	171	160	1.07
Barracudas	34		
Bluefish	767	3020	0.25
Bonito	24	32	0.73
Cobia	121	35	3.46
Croaker, Atlantic	226	7122	0.04
Dogfish sharks	12	10261	0.001
Dolphin	3378	219	15.42
Drum, red	202	139	1.45
Drum, black	167	93	1.69
Flounders, southern	142	4249	0.03
Flounders, summer	357	3473	0.10
Groupers	41	726	0.06
Grunts	81	143	0.57
Jacks	13	10	1.30
Kingfishes	304	770	0.40
Mackerel, king	1200	1054	1.14
Mackerel, Spanish	532	525	1.01
Perch, silver	24	155	0.15
Pigfish	193	102	1.89
Pinfish	81	23	3.52
Pompano	38	24	1.58
Puffers	43	314	0.14
Sea basses	63		
Seatrout, spotted	141	686	0.21
Sharks	411	362	1.14
Skates	43	2297	0.02
Sheepshead	150	77	1.95
Snappers	28	393	0.07
Spot	1121	2716	0.41
Tuna, yellowfin	5346	1508	3.55
Wahoo	501	27	18.56
Weakfish	114	3786	0.03

NOTE: The number and pounds of finfish listed represent estimated harvest; finfish released alive are not included. Recreational finfish catches from headboats are not included in this table; headboat data are collected separately by National Marine Fisheries Service

FROM : FULBRIGHT PHONE NO. : 252 225 4181 Jun. 12 1999 08:37PM P2

As you embark on the task of a recreational fishing license question please consider these facts.

1) Only 34.??% of tourist fish when they come to the coast (Re: Channel 12 News)
2) Sports fishermen cannot sell their catch (Magnuson Act)
3) N.C. allows the sale of recreational catches in tournaments
4) 94-97 DMF estimates 58,000 rec. anglers
   Rec groups estimate ↗ 1,000,000
5) In an open letter to GA 6/6/99 in the News Times 97 – total economic impact of # 1,285,277,128 (No source noted)
6) 94 – Commercial impact 500,000,000 (Dr Hogarth Re-Fishing Forum)
7) Public trust (common property owned by citizens) Re DMF
8) Fish landed by commercial operations <u>are</u> made available to <u>ALL</u> NC citizens
9) Fish landed by recreational operations are <u>NOT</u> made available to <u>ALL</u> NC citizens.
10) 6,348 commercial fishing license with no endorsement to sell where held by recreational fishermen (survey of Rec. use of Commercial Gear 1998) DMF. (Yr 97-98
11) Less than 7,000 endorsements to sell were held by commercial fishermen 94) many of these (DMF 94) represent only one person Ex: most fishermen have two vessels, thus two endorsements
12) Appx 1700 commercial license holders sold more than # 10,000 in a year. (DMF 94)

12) Compare $200 vs rec pro fee.
Both have the privaledge to fish. One will pay an enormus price compared to a token price.
13) Rec. Lusierse would exclude some people and blanket others.
14) Rec Lusierse would grandfather some for a $10 minimal fee.
15) Commercial licence gave no exclusions, blanket fees or grandfathered liscense.
16) The only data tracked by DMF for recreational landings are for fish.
17) DMF uses wallop fuan funds for this and also uses them to hire new employees (Rec Fishing Forum)
18) Commercial fishermen except for bait fishermen do not target finfish.
19) Cast nets target finfish
Now lets look at data
Rec landings do not include head boat landings: These are done by national marine fisheries but would only add to the numbers.
Recreational landings are not total pounds but are put out by DMF in 4yr. avg.
Commercial landings are in avg. for 4yrs 94-97.
Both are from DMF – 94-97 –
Recreational landings by Avg/year. 94-97
Commercial landings by avg4yr.
For your convience and with the help of retried statistics from NMFS. We have given you 4yrs vs 4yrs Avg/1 so that you may compare totals.

Never have we seen the totals on the same page; so we have done that for you.

With increased commercial regulations and fewer commercial fishermen, commercial landings will continue to be less. However; recreational landings will continue to increase as more and more recreational fishermen will use the resource.

The communicative effect of recreational harvest is as important as the commercial

Propaganda: Just keep telling them there are no fish (Rec. Fishing Forum) Our question is: If you can't sell your catch (Rec) Where are all the fish that have been landed recreationally.

Example:

Yellow fin tuna:

Commercial needs permit to land

Rec needs nothing:

Rec landings	94-97	16,777,414 lbs
Commercial	94-97	6,035,512 lbs.

WHERE Are 16 3/4 million lbs of tuna?

Where are the fish?

Who had the greatest impact on the reasource?

During the moratorium much that drove the high licence fee for commercial fishermen was that you must contribute for the use.

Since we are suppose to use best available data and contribute. How will a Recreational licence that blankets some and exclude others accomplish this.

It is our hope that you would look at these numbers and compair for yourselves what is known but not given to you in real numbers.

This whole moritorium and licence is not and never was about the reasource.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1434
Proposed Committee Substitute H1434-PCS7256-RT

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"§ 113-174.2. Coastal Recreational Fishing License.

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year from the date of issuance.

(2) One Week CRFL. -- $3.50. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitutes a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is five dollars ($5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian

who holds a valid CRFL or has in the person's possession a valid CRFL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing by means of recreational gear from the shore or from a shore-based structure without holding a CRFL.

"§ 113-174.3. Recreational Commercial Gear License.

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if

there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

"§ 113-174.4. Sealife Enhancement Fund.

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resources and habitat enhancement. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement.

(2) Law enforcement. -- Not more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including data collection and the development of Fishery Management Plans.

(4) Grants. -- Not more than ten percent (10%) of the moneys in the Fund shall be distributed to fund coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) The Department shall compensate license agents by refunding to each license agent six percent (6%) of the value of each license sold by that license agent."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

Section 11. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2000 Regular Session of the 1999 General Assembly.

Section 12. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 13. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 14. This act becomes effective 1 March 2001.

Attachment #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1434V1-ASB-002.01

Date_____,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Gillespie

moves to amend the bill on page 5, line 42 through page 6, line 2, by rewriting those lines to read:

"(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1434V1-ASB-004.01

Date_____,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative McComas

moves to amend the bill on page 3, line 39 through page 5, line 5, by rewriting those lines to read:

"(c) Types of CRFLs; Fees: Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $15.00. This license is valid for a period of one year from the date of issuance.

(2) One Week CRFL. -- $5.00. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitute a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds a either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1434V1-ASB-004.01

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #4

North Carolina General Assembly

House of Representatives

State Legislative Building

Raleigh 27611

17 June 1999

MEMORANDUM

TO: Interested Persons

FROM: Representative Pryor Gibson & Representative Nurham Warwick, Chairs
House Committee on Environment and Natural Resources

RE: Notice of Public Hearing on House Bill 1434, Coastal Recreational Fishing License, Tuesday June 22 1999

The House Committee on Environment and Natural Resources will hold a public hearing on House Bill 1434, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE, at 4:00 p.m. on Tuesday 22 June 1999 in Room 643 of the Legislative Office Building, 300 North Salisbury Street, Raleigh, North Carolina. In the event that the House of Representatives has not adjourned by 4:00 PM, the hearing will begin 10 minutes after the House has adjourned. All persons who wish to be heard must reserve a place on the agenda by contacting Ms. Carolyn Honeycutt, Committee Clerk, Room 419C, Legislative Office Building, telephone (919) 715-3003, by 3:00 p.m. on Monday 21 June.

In order that their statement may be made a part of the record, speakers are encouraged to provide the Committee Clerk with a copy of their prepared remarks at the time of the hearing; however, written remarks are not required. Written statements should be on standard size (8 ½" X 11") paper with sufficient left margin for binding. Speakers are encouraged to bring additional copies of written remarks for the public and press.

Oral presentations will take place in the order determined by the Chair. In general proponents and opponents of the bill will be scheduled alternately and equally unless there is a valid reason to comply with a specific schedule or request. Oral presentations will be strictly limited to a maximum of 2 minutes. Any person who wishes to present additional information to the committee, and any person who cannot be scheduled or heard in the time provided, may submit a copy of his or her statement to the Committee Clerk prior to 3:00 p.m. Monday June 21, 1999, for inclusion in the record or waiver by the Chair. Any substantive statistical or analytical material shall be subject to review and approval by the Chair prior to distribution. All oral and written information shall identify any membership, affiliation, or vested interest in any association or organized group potentially affected by the proposed legislation.

As many persons as possible will be scheduled and heard within the time reserved. Because of time limitations, it may not be possible to schedule all who request to speak. Speakers will not be permitted to exchange scheduled times or to transfer their time to another speaker.

Any person who desires additional information about this hearing should contact the Committee Clerk as indicated above.

VISITOR REGISTRATION SHEET

Natural & Environ. Resources — 6/17/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JERRY SCHILL	NC Fisheries ASSOC.
[signature]	WCSP
Beth Warren	AG's Office
Doug Jones	Office of the Lt. Governor
Barb Rot	NC WRC
Richard Hamilton	NCWRC
David L. Taylor	NC Div. of Marine Fisheries
Barbara Hayes	NC Sierra Club
David Knight	NC Wildlife Fed. NC Sierra Club
Dick Brame	CCA
N. to Mund	CCNC
Lawrence Davis	CCA / Wimble Carlyle
[signature]	WCSP/CCA
Mac Currin	Raleigh A. Rec Angler/CCA

NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTICE OF PUBLIC HEARING

The House Committee on **ENVIRONMENT & NATURAL RESOURCES** will hold a **Public Hearing**

Day & Date: TUESDAY, JUNE 22, 1999

Time: 4:00 p.m. (or 10 minutes after adjournment of 6/22 House Session)

Location: Room 643, Legislative Office Building

The views of interested parties will be heard concerning

HB 1434 COASTAL RECREATIONAL FISHING LICENSE

Representative Warwick, Gibson
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at 11:00 a.m. o'clock on June 17, 1999.

☒ Principal Clerk
☒ Reading Clerk - House Chamber
☒ Press Room

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistant)

AGENDA

House Committee on
Environment and Natural Resources
(Chairs Gibson & Warwick)

June 22, 1999

Call to Order . . . . . .Chair Gibson

Bills to be Discussed:

H 1434 Coastal Recreational Fishing License . . . . . .Char Gibson

Announcements & Adjournment

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Tuesday, June 22, 1999

The House Committee on Environment and Natural Resources met Tuesday, June 22, 1999, in Room 643 of the Legislative Office Building at 12:00 Noon. Representative Pryor Gibson and Nurham Warwick presided. Other members attending wereV-Chair Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Paul Luebke, Eugene McCombs, Danny McComas, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Alex Warner, and Doug Yongue.

Chair Pryor Gibson opened the meeting by asking the staff to distribute to the members of the committee copies of a fiscal analysis of the Proposed Committee Substitute of H. B. 1434-PCS7256-RT.

Chair Gibson recognized Representative Danny McCommas for a motion on his amendments that were submitted without action taken at the June 17 meeting (Attachments 1 & 2). Representative McCommas stated in the motion, that due to his reconsideration of the amendments and not wanting to hold up action on the bill, he would like to withdraw both his amendments that were submitted for consideration at the June 17 meeting of the committee. Two amendments were distributed to the members at the June 17 meeting. Amendment 1 dealt with shore-base fishing license being included in the bill, was discussed. Amendment 1 was not discussed on June 17 and dealt with exemption of salt water fishing license for those under 16 years of age with licensed relative. His motion to withdrawn both amendment was accepted.

Chair Gibson recognized Mona Moon, Fiscal Research Division, to explain the fiscal analysis on Proposed Committee Substitute H 1434 that was distributed earlier in the meeting. This is Attachment 3 to these minutes. The committee was asked to review these findings.

Chair Gibson stated that amendments for H.B. 1434 would be heard at this meeting and the Committee would vote on the bill tomorrow at their 12:00 Noon meeting. The following amendments were offered and action taken as follows:
Amendment 3 (Attachment 4) offered by Representative Thomas – moves to amend H. B. 1434 with several whereas and language stating the intent of the proposed substitute before the committee. It states many reasons for this bill. One to protect coastal fishery resources by providing data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support. In explaining this amendment, Representative Thomas stated his reason for

adding this language to this bill was that in years to come, if this is looked at again, there would not be any question about the intent of this bill. This would make it clear that it is not intended in any way to call for prohibiting nets and trawls. In answer to a question from Representative McComas, Bill Harrell of CCA stated that he is in support of this amendment. The amendment was passed by the committee and will be incorporated into a new committee substitute for this bill.

Amendment 4 (Attachment 5) offered by Representative Gillespie. Amends H. B. 1434 by exempting anyone 65 years or older from the saltwater license requirement. Representatives Hackney and Redwine both spoke against this amendment as a matter of policy. It was their feeling, the data collected by acquiring a license would be beneficial and is a part of the intent of this bill. Every group you exempt is data you loose for the good of this legislation. The committee voted to adopt this amendment. Chair Gibson said he failed to recognize Ms. Moon from Fiscal Research to comment on the impact of this amendment. She stated that the impact would be significant because the number of fisherman over 65 years of age is a substantial number. In light of this information and the committee not hearing the fiscal information before their vote, Representative McLawhorn moved that a reconsideration vote be taken on this amendment. The motion for reconsideration passed, 13 voted for,8 against . The amendment then passed. Representative Luebke then offered an amendment to require a $1:00 fee for those over 65 so data can be collected. He then, on advise of the other sponsors of the bill, withdrew the amendment.

Amendment 5 & 6 (Attachment 6 & 7) offered by Representative Smith. Amends H. B. 1434 by exempting persons under 16 years of age from having a saltwater license if accompanied by a relative or guardian holding a license, removes shore-base license exemption and also exempts Charter/Head/Dive boat operators from needing to purchase a CRFL that entitles all persons without CRFL to fish on the boat. Both of these amendments fail on vote by the committee and were not adopted.

The meeting was then adjourned by the Chair.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1434
Proposed Committee Substitute H1434-PCS7256-RT

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"§ 113-174.1. General provisions governing licenses.

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year from the date of issuance.

(2) One Week CRFL. -- $3.50. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitutes a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is five dollars ($5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

Section 11. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2000 Regular Session of the 1999 General Assembly.

Section 12. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 13. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 14. This act becomes effective 1 March 2001.

Attachment #1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H1434V1-ASB-004.01

Date _____,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative McComas

moves to amend the bill on page 3, line 39 through page 5, line 5, by rewriting those lines to read:

"(c) Types of CRFLs; Fees: Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $15.00. This license is valid for a period of one year from the date of issuance.

(2) One Week CRFL. -- $5.00. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitute a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00
e.	65 years of age or older	$10.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds a either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1434V1-ASB-004.01 Page 3 of 3

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued for a fee of $10.00 and is valid for the lifetime of the licensee."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H1434V1-ASB-003.01

Date _____ ,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative McComas

moves to amend the bill on page 5, line 41 through page 6, line 5, by rewriting those lines to read:

"(f) Exemption. -- A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian who holds a valid CRFL or has in the person's possession a valid CRFL issued to the person's parent, grandparent, or guardian."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment 3

FISCAL ANALYSIS MEMORANDUM

DATE: June 22, 1999

TO: House Committee on Environment and Natural Resources

FROM: Mona Moon
Fiscal Research Division

RE: House Bill 1434, Coastal Recreational Fishing License
Proposed Committee Substitute H1434-PCS7256-RT

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
REVENUES					
Sealife Enhancement Fund License Revenue		$558,260	$2,233,038	$2,233,038	$2,233,038
Marine Fisheries Agency Receipts		($7,355)	($29,418)	($29,418)	($29,418)
EXPENDITURES					
Wildlife Resources Commission System Modification	$780,000				
Division of Marine Fisheries System Development and Administration	$1,008,086	$389,843	$769,308	$776,565	$784,700
POSITIONS:		6.00	6.00	6.00	6.00

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: March 1, 2001

ASSUMPTIONS AND METHODOLOGY:

REVENUES

Total revenue from the sale of Coastal Recreational Fishing Licenses (CRFL) proposed in House Bill 1434 is estimated using data collected by the Division of Marine Fisheries through annual Marine Recreational Fishery Statistics Surveys. The surveys include direct interviews with approximately 20,000 anglers at various public access points along the North Carolina coast, as well as telephone interviews with 20,000 additional, randomly selected persons.

Information obtained through the surveys is used to estimate the total number of marine or coastal anglers in North Carolina, the total number of coastal fishing trips annually and the mode of fishing (i.e. from a man-made structure, beach or bank, charter/head boat or private boats).

The following two tables summarize the results of the annual survey over the last five years:

Table 1:

Estimated Number of Marine Recreational Anglers in NC, 1993-1997

	Coastal Residents	Non-Coastal Residents	Out-of State	Total Anglers
1997	321,520	163,261	840,679	1,325,460
1996	260,000	176,000	708,000	1,144,000
1995	340,000	216,000	721,000	1,277,000
1994	409,000	256,000	815,000	1,480,000
1993	398,000	224,000	745,000	1,367,000
5 Year Average	345,704	207,052	765,936	1,318,692
Percentage of Total	26%	16%	58%	

Table 2:

Estimated Marine Recreational Fishing Trips in NC, 1993-1997

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
1997	1,272,993	1,704,436	294,890	1,509,565	4,781,884
1996	1,246,284	1,802,507	243,156	1,312,645	4,604,592
1995	1,437,773	2,020,224	203,719	1,330,754	4,992,470
1994	1,595,701	1,904,294	186,188	1,483,954	5,170,137
1993	1,316,431	1,832,538	130,929	1,436,184	4,716,082
5 Year Average	1,373,836	1,852,800	211,776	1,414,620	4,853,033
Percentage of Total	28%	38%	4%	29%	

Based on the five-year average number of estimated marine anglers (Table 1), there are 1,318,692 potential licensees. However, the bill provides for a number of general exemptions and individual licenses at no charge, reducing the number of potential anglers subject to the coastal recreational fishing license fees. Table 3 outlines the adjustments necessary to estimate the number of anglers who may be required to purchase a license:

Table 3: Calculation of Adjusted Total Number of Anglers

Total Number of Anglers, 5 year average:		1,318,692
No Charge Licenses, General Exemptions, Attrition		
1. Standard/Retired Standard Commercial Fishing License (SCFL/RSCFL)	20,000	
2. Wildlife Resources Commission - Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License Holders (87,686 issued; assume 90% will seek CRFL)	78,917	
3. Subsistence, Permanently Handicapped/Disabled, Disabled Veteran, Legally Blind, Attrition (Assume 15% of total anglers to capture persons eligible for no charge licenses and possible attrition; note recent annual fluctuation in total anglers)	197,804	
4. Persons < 16 Years of Age (1998 population data indicates approximately 23% of the state's population is under the age of 16; assume 14% of total anglers will fall under this exemption)	184,617	
Less No Charge Licenses, General Exemptions, Attrition		481,338
Adjusted Total Number of Anglers		837,354

According to the Division of Marine Fisheries, applying the percentages associated with each type of fishing trip (Table 2) to the adjusted total number of anglers (Table 3) provides a rough estimate of the number of anglers engaging in that particular mode of fishing. Table 4 provides a breakdown of total anglers by type of fishing trip:

Table 4:

Estimated Marine Recreational Anglers by Type of Fishing Trip

	Man-made	Beach/Bank	Charter Boats	Private Boats	Total
Adjusted for no charge licenses, general exemptions and attrtion	237,045	319,687	36,540	244,082	837,354

Note: Because the Marine Recreational Fishery Statistics Survey does not include private entry points, such as personally owned piers or docks, man-made structures are assumed to be commercial or other public fishing piers and structures.

These numbers can be used to estimate the number of additional exemptions as specified in the bill and the number of anglers purchasing CRFLs as follows:

Table 5: Calculation of Anglers Purchasing Coastal Recreational Fishing Licenses

Adjusted Total Number of Anglers		837,354
Blanket Licenses and Exemptions		
1. Beach/Bank Exemption	319,687	
2. Charter/Head/Dive Boat Blanket (Assume 30% of charter boat fishermen will purchase a CRFL to fish using a different means; therefore 70% will fall under the blanket license)	25,578	
3. Ocean Fishing Pier Blanket (Assume 30% of pier fishermen will purchase a CRFL to fish using a different means, therefore 70% of those persons fishing from man-made structures will fall under the blanket license.	165,932	
Less Blanket Licenses and Exemptions		511,196
Adjusted Total Number of Anglers Purchasing CRFLs		326,158

The estimated revenue from the sale of the Coastal Recreational Fishing License as outlined in the bill follows:

Table 6: Estimated Revenue Generated by Coastal Recreational Fishing License

License Type	License Fee	Estimated Sales	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Standard CRFL	$7.50	226,027	$423,801	$1,695,204	$1,695,204	$1,695,204
One Week CRFL	$3.50	80,724	$70,634	$282,534	$282,534	$282,534
One Day CRFL	$1.00	16,145	$4,036	$16,145	$16,145	$16,145
		322,896				
Lifetime CRFL						
< 6 years of age	$100.00	652	$16,308	$65,232	$65,232	$65,232
6 to 11 years of age	$150.00	245	$9,173	$36,693	$36,693	$36,693
11 to 17 years of age	$200.00	245	$12,231	$48,924	$48,924	$48,924
17 to 65 years of age	$250.00	424	$26,500	$106,001	$106,001	$106,001
> 65 years of age	$10.00	1,696	$4,240	$16,960	$16,960	$16,960
		3,262				
Charter/Head/Dive Boat Blanket CRFL	$1.50/ft to $4.50/ft	200	$5,925	$23,700	$23,700	$23,700
Ocean Fishing Pier Blanket CRFL	$5.00/linear ft	25	$21,045	$84,180	$84,180	$84,180
Gross Revenue from CRFL Receipts		**326,383**	**$593,893**	**$2,375,572**	**$2,375,572**	**$2,375,572**
Less License Agent Fee			($35,634)	($142,534)	($142,534)	($142,534)
Net Revenue from CRFL Receipts -- Credited to the Sealife Enhancement Fund			**$558,260**	**$2,233,038**	**$2,233,038**	**$2,233,038**

This revenue estimate is based on the following assumptions:

1. Possible attrition was accounted for in calculating the number of potential anglers subject to the CRFL fees (Table 3). According to the Marine Recreational Fishery Statistics Surveys, the total number of anglers in North Carolina from 1993 to 1997 has changed very little. Therefore, no additional attrition or growth is assumed in projecting future revenues.

2. The license provisions become effective March 1, 2001. License revenue for the 2000-01 fiscal year is assumed to be one-fourth of the annual amount.

3. Lifetime licenses are assumed to be 1% of total sales. The sale of lifetime licenses accounted for 1.6% of Wildlife Resources Commission (WRC) license sales in the 1997-98 fiscal year. Because House Bill 1434 contains a beach and shore-based structure exemption and blanket licenses, the sale of lifetime CRFLs is anticipated to account for a lower percentage of total sales than Wildlife experiences.

4. The distribution of lifetime license sales among the various age groupings is based on the sale WRC lifetime licenses.

5. Distribution of license sales among the short-term licenses is assumed to be 70% for the standard or annual license, 25% for the weekly and 5% for the daily.

6. The Division of Marine Fisheries estimated revenue from the Charter/Head Boat Blanket CRFL based on known charter boat operations and vessel lengths.

7. The Division of Marine Fisheries estimated revenue from the Ocean Fishing Pier Blanket CRFL based on the known number of piers and lengths.

Other Revenue Issues

The bill repeals the current pier license of $0.50 per linear foot. The Division of Marine Fisheries currently retains the proceeds from this fee to offset operating costs. The division estimates the repeal of this fee will reduce annual revenue by $8,418.

House Bill 1434 also changes the amount allowed to be retained by authorized license agents from the sale of Recreational Commercial Gear Licenses (RCGL) which will go on sale July 1, 1999. Agents are currently authorized to charge $1.00 in addition to the RCGL fee of $35.00. The bill changes this practice to allow the agent to be reimbursed 6% of the license fee or $2.10 per license sold. The Division expects 10,000 RCGLs will be sold annually through license agents, reducing annual revenue by $21,000.

EXPENDITURES

This analysis assumes the coastal license program will be integrated with the existing license system operated by the Wildlife Resources Commission. However, the WRC must provide prior approval before system modification and development proceeds.

Wildlife Resources Commission

The Division of Marine Fisheries would like to take advantage of the automated licensing system employed by the Wildlife Resources Commission and the large network of WRC License Agents to sell CRFLs.

To accommodate the additional license types, the Wildlife system will require some modification and upgrades. Based on the license proposal in House Bill 1434, the WRC estimates the cost for software modification to be $150,000 and the cost of system upgrades to accommodate additional license agents and increased volume to be $350,000. Point of sale computer equipment will be provided to any new agent selling the CRFLs. Assuming 200 business owners in coastal counties choose to sell the licenses, an additional $280,000 ($1,400 per agent) will be required for hardware costs.

Division of Marine Fisheries

Integration of the Marine Fisheries licensing system with the Wildlife licensing system will also require up front expenditures for system development. The division estimates that $1,008,086 will be required in the 1999-2000 fiscal year for additional hardware, software development and related information technology expenses. Funds are needed in the 1999-2000 fiscal year to ensure that the system is complete and operational by March 1, 2001 when the licenses go on sale.

The division also anticipates requiring additional staff and operating support to administer the CRFL program. And administrative officer will oversee management of the license program and will serve as the primary contact with the WRC. A computer programmer will be responsible for system maintenance, quality control and data transfer. A computer tech position is needed to provide technical assistance to license agents. An accounting clerk will be responsible for tracking license sales, deposits and auditing sales records. Two processing assistants will issue licenses, handle questions concerning license requirements and regulations, and data entry in the Morehead and Columbia offices. For the purposes of this analysis positions are assumed to be effective September 1, 2000 , or six months prior to the effective date of the licenses to allow for recruitment and training. Operating support for the 2000-01 fiscal year is assumed to be one half the annual amount since the licenses will not go on sale until March 1, 2001.

In addition, the division will pay a per transaction fee to the Wildlife Resources Commission to cover the commission's costs for technical support, hardware maintenance, and communication charges associated with the transfer of data to and from agents. The transaction fee will be based on expected volume of license sales.

Beginning July 1, 1999 the WRC will sell the Recreational Commercial Gear License (RCFL) on behalf of the division. Wildlife will receive $3.50 per license sold, or 10% of the $35.00 RCGL fee. For the purposes of this analysis, the per transaction fee is assumed to be 10% of the CRFL fee.

The total estimated budget requirements for Marine Fisheries to implement the Coastal Recreational Fishing License requirements is outline in the following table:

Table 7: Division of Marine Fisheries, Total Budget Requirements

	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Personnel					
Administrative Officer II		31,270	38,932	40,309	41,852
Applications Analyst Programmer II		49,558	61,737	63,957	66,446
Computer Support Tech II		23,744	29,548	30,577	31,730
Accounting Clerk IV		20,449	25,439	26,316	27,299
(2) Processing Assistant IV		39,457	49,141	50,895	52,861
Total Salaries & Benefits *	-	164,477	204,797	212,053	220,188
Positions		*6.00*	*6.00*	*6.00*	*6.00*
Operating Expenses	1,008,086	165,977	326,954	326,954	326,954
Transaction Fee Paid to WRC		59,389	237,557	237,557	237,557
Total Requirements	**$1,008,086**	**$389,843**	**$769,308**	**$776,565**	**$784,700**

** Salaries adjusted for inflation based on January 1999 forecasts by Data Resources, Inc, as provided by the Office of State Budget and Management.*

Attachment 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

H1434V1-ASB-001.04

Date 6-22-99 ,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Thomas

moves to amend the bill on page 1, between lines 2 and 3, by inserting between those lines:

"Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

att. 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

H1434V1-ASB-001.04

Whereas the General Assembly finds that in order to protect coastal fishery resources it is essential that the recreational as well as the commercial fishing sector provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,"

SIGNED Scott Thomas
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

H1434V1-ASB-003.02

Date _____, 1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Smith

moves to amend the bill on page 5, line 41 through page 6, line 5, by rewriting those lines to read:

"(f) Exemption. -- A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL if the person is accompanied by a parent, grandparent, or guardian who holds a valid CRFL or has in the person's possession a valid CRFL issued to the person's parent, grandparent, or guardian."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if **Senate** Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 6
(to be filled in by
Principal Clerk)

H1434V1-ASB-006.01

Date _____ ,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Smith

moves to amend the bill on page 5, lines 6 through 40, by deleting those lines;

on page 5, line 41, by rewriting that line to read:

"(d) Exemptions. --";

on page 10, line 11, by deleting that line'; and

by renumbering the remaining sections accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #5

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1434

AMENDMENT NO. 4
(to be filled in by Principal Clerk)

H1434V1-ASG-005.02

Date ,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Gillespie

moves to amend the bill on page 4, line 24, by deleting that line; and

on page 6, between lines 5 and 6, by inserting:

"(3) A person who is sixty-five years of age or older may engage in recreational fishing by means of recreational gear without holding a CRFL.".

SIGNED RMG
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Redwine 0

SALTWATER FISHING LICENSE FACT SHEET

prepared by the Coastal Conservation Association of North Carolina

Benefits of a Recreational Saltwater Fishing License

- Provides dedicated revenue for resource and habitat enhancement.
- Documents number of anglers for better data collection and management.
- May increase federal assistance (Wallop-Breaux funds) with accurate numbers.
- Better education of recreational fishermen.
- These benefits can only occur as long as there is a healthy fishery.

Economic Impact of Recreational Saltwater Fishing

Estimated Number of Recreational Saltwater Fishermen: 1.2 million

Total Expenditures:	$673,291,743
Economic Impact:	$1,285,277,129
Jobs Created:	19,739

Angler Acceptance

The recreational saltwater fishing license has been endorsed by virtually every saltwater fishing club and organization; the NC Marine Fisheries Commission has endorsed it also. Every state from Texas to Maryland has a saltwater license. There have been two surveys done on angler acceptance of saltwater license:

Division of Marine Fisheries Survey, 1996

When asked "Do you support a saltwater license *if all funds are dedicated*?" **68.3% yes**

Beach and bank anglers supported the license the highest of any group: 72.0% yes

N.C. State University Survey, conducted by Dr. William Clifford and Dr. Thomas Hoban, 1999.

When asked "Do you support a saltwater license *if all funds are dedicated*?" **78.3% yes**

When all respondents totalled together and asked if they would buy an annual or one week license: **84.0% yes**

SUMMARY: Lack of fish, not a saltwater license, is the major threat to the coastal tourist and recreational fishing industry. The license will create a dedicated fund to improve coastal fisheries.

VISITOR REGISTRATION SHEET

House Bill 1434 — 6/22/19

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Deborah Rowe	NC Public Health Assoc.
Lynette Riverdark	American Heart Assoc.
[illegible]	DHHS
Glenn Wells	DHHS / Public Health
Andrew Fisher	9611 Willowglen Tr Charlotte, NC
BILL MANDULAK	1712 DOAN RUN, RALEIGH, NC
Ron McPherson	WSSSFC 1498 Ebert St Winston-Salem 27103
Judith W McPherson	WSSSFC 1498 Ebert St, Winston-Salem, NC 27103
Larry D. Cobb	WSSFC 1331 Cherry Hill Road Mocksville NC 27028
KEITH LEFLER	EASTERN CAROLINA SALTWATER FISHING CLUB 215 CHANGE ST. NEW BERN, N.C. 28560
Donald Willis JR	Custom Marine Fab 2401 HWY 70 E New Bern 28560 CCA/NC
TROY D. HENRY JR	SEA STRIKER INC 158 LITTLE NINE DR MOREHEAD CITY, N.C. 28557
John H. Longaker	POSC 2309 Hickswood Rd High Point NC 27265
Charles Miland	Piedmont Offshore Sport Fishing Club 650
Beth Warren	AG's office
Billy Carl Tillett	P.O. Box 383 Wanchese N.C. 27981
WILLIE R ETHERIDGE	P.O. BOX 69 WANCHESE NC. 27981
Janice M. Smith	811 Smith Dr. Otelia, NC. 28571
JERRY SCHILL	NC FISHERIES ASSOCIATION
PATRICIA Hutchins	Carteret Watermen for Industry, Nature & Education PO Box 593 Harkers Island, NC 28531
Edwin Davis	122 ANN ST. Beaufort N.C. (Twine) (Commerical Fishing)
Pam Davis Morris	Carteret County Fishermen's Assoc PO BOX 171, Davis, NC 28524
Sandra Gaskill	567 Bayview Dr. Harkers Island (Commercial Fisherman)
PAUL Smith	3011 CEDAR ISLAND Rd. CEDAR ISLAND, NC 28520 (No Number)
FRED BONNER	7220 CLEVELAND SCHOOL ROAD, GARNER, NC 27529
MAC CURRIN	801 Westwood Dr., Raleigh, NC 27607
Victor D'Amato	308 Glascock Street, Raleigh, NC 27604
Richard Hamilton	Wildlife Commission

VISITOR REGISTRATION SHEET

House Bill 1434 — 6/22/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
TONY PAYTON	4 VISTA CT. CLAYTON, NC 27520
Preston Pate	NC Marine Fisheries
BERNIE McCANTS	REC. FISHERMAN
Bo Worrell	Rec Fisherman
W.A. Lambeth	Rec "
[illegible]	WCSR/CCA
Joel Arrington	Salt Water Sportsman magazine
Earl Parrish	Raleigh Saltwater Fishing Club & CCA
Bob Black	OAK Island Fishing Club
Colon Byrd	Colon Byrd Properties Morehead City (Rec. Fisherman)
Louise T Beaman	Rec. Fisherperson
Ben Singleton	Rec Fisherman
Mike Wicker	Raleigh ~~South~~ Recreational Fisherman
Lawrence Davis	CCA / Womble Carlyle
Bill Harrell	CCA
Jud Broughton	Raleigh
GARY GARBER	PIEDMONT CHAPTER CCA-NC, BURLINGTON NC
Molly Diggins	Sierra Club
Twila Nelson	—
DAMON TATEM	Gov Appt. ASMFC

North Carolina General Assembly

House of Representatives

State Legislative Building

Raleigh 27611

17 June 1999

MEMORANDUM

TO: Interested Persons

FROM: Representative Pryor Gibson & Representative Nurham Warwick, Chairs
House Committee on Environment and Natural Resources

RE: Notice of Public Hearing on House Bill 1434, Coastal Recreational Fishing License, Tuesday June 22 1999

The House Committee on Environment and Natural Resources will hold a public hearing on House Bill 1434, A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE, at 4:00 p.m. on Tuesday 22 June 1999 in Room 643 of the Legislative Office Building, 300 North Salisbury Street, Raleigh, North Carolina. In the event that the House of Representatives has not adjourned by 4:00 PM, the hearing will begin 10 minutes after the House has adjourned. All persons who wish to be heard must reserve a place on the agenda by contacting Ms. Carolyn Honeycutt, Committee Clerk, Room 419C, Legislative Office Building, telephone (919) 715-3003, by 3:00 p.m. on Monday 21 June.

In order that their statement may be made a part of the record, speakers are encouraged to provide the Committee Clerk with a copy of their prepared remarks at the time of the hearing; however, written remarks are not required. Written statements should be on standard size (8 ½" X 11") paper with sufficient left margin for binding. Speakers are encouraged to bring additional copies of written remarks for the public and press.

Oral presentations will take place in the order determined by the Chair. In general proponents and opponents of the bill will be scheduled alternately and equally unless there is a valid reason to comply with a specific schedule or request. Oral presentations will be strictly limited to a maximum of 2 minutes. Any person who wishes to present additional information to the committee, and any person who cannot be scheduled or heard in the time provided, may submit a copy of his or her statement to the Committee Clerk prior to 3:00 p.m. Monday June 21 1999 for inclusion in the record or waiver by the Chair. Any substantive statistical or analytical material shall be subject to review and approval by the Chair prior to distribution. All oral and written information shall identify any membership, affiliation, or vested interest in any association or organized group potentially affected by the proposed legislation.

As many persons as possible will be scheduled and heard within the time reserved. Because of time limitations, it may not be possible to schedule all who request to speak. Speakers will not be permitted to exchange scheduled times or to transfer their time to another speaker.

Any person who desires additional information about this hearing should contact the Committee Clerk as indicated above.

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES PUBLIC HEARING

HB 1434, "COASTAL RECREATIONAL FISHING LICENSE"
June 22, 1999

MINUTES

The House Committee on Environment and Natural Resources Public Hearing met Tuesday, June 22, 1999, in Room 643 of the Legislative Office Building at 4:00 p.m. Representative Pryor Gibson, Chair, presided. Other members attending were Representatives Mitch Gillespie, Jean Preston, Ronnie Smith, and Scott Thomas. Representative Liston Ramsay was excused.

Chair Gibson called the Public Hearing to order at 4:50 p.m. (It started 50 minutes late because Session ran later than expected.) He informed the audience as to the rules of the Hearing. The speakers had 2 minutes to present their views.

The presenters (Attachment 1) **FOR** and **AGAINST** gave their view on the bill. Their prepared speeches(if they had them) are contained in Attachment 2. The following are major points of each opinion:

1. Mel Broughton - North Carolina is blessed a great natural resource. Seventy to eighty percent polled are for this bill. The is a chance for "saltwater anglers to give back to the resource."
2. Jerry Schill, President, NC Fisheries Association – North Carolina could lose Federal monies the way the bill is formulated. He suggested that this issue be turned over to the Joint Commission for Seafood and AquaCulture.
3. Larry Coble - Fishermen around the State feel the Division of Marine Resources is under funded, and, with proper use of recreational license money, could be successful.
4. Fred Bonner – He has worked on this issue for 30 years. He advocated one universal fishing license for fresh and salt-water fishing. Let's do this right the first time and use a Study Commission on this issue.
5. Ron McPherson - He received a grant from Sea Grant to study this issue. The research team was drawn from NC State, East Carolina, and Coastal Community College. A telephone survey was conducted of 300 salt-water fishing club members, 200 commercial fishermen, and 300 face-to-face surveys at piers, access ramps, beaches, and head boats along the coast. The survey showed that a $15 annual fee and a $5 weekly fee was acceptable to 84 % of the fishermen as long as the money went into a separate fund to improve the resource.
6. Will Etheridge – As a commercial fisherman, he was against any new tax and CCA involvement and history. "What kind of human being would want his pleasure to interfere with another man's livelihood." Commercial fisherman have to release a

blue marlin. "One of our citizens won $500,000 last week for bringing one of these fish to the dock."

7. Judith McPherson – This bill is the continued management of our marine resources, which funds can provide for research, enhancement, education, and enforcement in areas related to the resource.
8. Billy Carl Tillett – As a commercial and recreational fisherman, dealer, and Chairman of the NC Fisheries Assn., he said the bill would only target ½ to 2/3 of its users, which would generate weak data.
9. Doug Hoffman – He is an avid fisherman and works for Grady-White in Greenville which employs 141 and is one of 75 boat building companies in NC--95% of which are family or small businesses employing more than 4,000. Over $70 m was spend last year for recreational boats and motors. This does represent other fishing needs.
10. Marc Kaplan – Sunset Beach Pier operator – The fee proposed in addition to what he pays now would cost him $4,100 in license fees to operate his pier...more than any state on the eastern and gulf coast. Pier owners request that a blanket fee of $500 or no more than $1,000 be charged and repeal the 50 cents per linear foot charged now.
11. Dr. William Lambeth – Saltwater resources are stressed with increase fishing pressures on stocks, technology stresses, and degradation of our environment.
12. Rod Simpkins – Pier and charter boat owners will profit from windfall gains of fees. He suggested a 50 cent to $1 charge per person go to the state.
13. Vic Damato – Represents Sierra Club members who support a $15 fee.
14. Patricia Hutchins – Tarheel Watermen for Nature and Environment, Carteret fisheries opposes the license. The fee of $7.50 is an insult to the taxpayers and commercial fishermen. There should be a vessel fee for all marine vessels. (article provided)
15. Dock Kornegay - He supports scientific management of fisheries.
16. Sandra Gaskill – As a commercial fisherman from Harker's Island, she opposes this bill because it takes their freedoms and law enforcement of this license will not be done properly.
17. Barbara Wyse – As a student at Duke University, she supports the collection of data to make judicious resource management decisions and enhance marine resources.
18. Pam Morris – "Recreational fishing is one of the very few freedoms we have left in this state that we are not taxed for. It will create more bureaucracy." As a surf fisherman, she has seen no decline in fish populations.
19. Charles Milam – As a member of the Piedmont Offshore Fishing Club, we support giving back to the resource.
20. Bo Nowell – Eighteen years ago, the Raleigh Saltwater Fishing Club supported the concept of salt water fishing license, and the money raised to manage the resource.
21. Keith Lefler – We anglers must be stewards and give back to this resource.
22. Donald Willis – As a business owner for tackle and boat tops on Rt. 70 and member of CAA, he support the bill.

Troy Henry – He manufactures fishing equipment and employ 80 people, sales $10 m and $30 m in retail sales and supports putting back of the resource.

23. Bill Harrell – As President of CCA, he said 600,000 anglers fish annually and 600,000 travel to North Carolina to fish. The economic impact of these 1.2 million angles is $1 billion per year. The CCA supports this bill and lauds Representatives Redwine, Lubke, and McComas for this bill.
24. Bob Black – Reiterates protecting salt water fishing resource.
25. Mac Currin – A member of CCA, Saltwater Angles, and Chair of the AquaCulture Study Commission, he recommended the implementation of the license.
26. Bernie McCants – He said the fishermen should pay for the privilege of "harvesting" our public resource and pay to harvest the resource in the future. It is not their intent to put commercial fishermen out of business. Fishermen need bait and seafood when their fishing trips are not successful.
27. Andy Fisher – The Charlotte Sport Fishing Club supports this bill as good stewards.
28. Gary Garber – He supports a recreational license that provides full count of users and better data for better management. Always place the needs of the resource first.
29. Bill Mandulak – He said management of the data would help counting fish catches, and that red drum and many other fish are on the distressed list.
30. Earl Parrish – Supports the bill.
31. Colon Byrd – His father said to him when we a young boy when he asked why they had to show their license,"Son, we're enjoying these waters, we should pay for this." He has fished in many states and abroad and has always had to buy a license. As a commercial fisherman, he gave up because the catch was so bad.

Representative Gibson thanked all the presenters and complimented them on the manner which they conducted themselves. He said it was not an easy issue; nothing worth having, is. He thanked Committee Clerks Carolyn Honeycutt and Shirlyn MacPherson and the members who attended. Representative Smith (who called for the hearing) thanked every one who attended and said this was a tough issue. Representative Thomas commended Chair Gibson for giving this issue a full hearing, which will help in the members' decisions. Representative Preston thanked the citizens at-large across the state for expressing their opinions and appreciated the Chairs' fairness. Chair Gibson said outside the Budget Bill, this bill of the some 2,000 bills has had more hearing than any other bill this Session.

The meeting was adjourned at 6:05 pm.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATTACHMENT 1

SPEAKERS
(Revised PM on June 22, 1999)

PUBLIC HEARING ON HOUSE BILL 1434
"COASTAL RECREATIONAL FISHING LICENSE"

June 22, 1999

FOR	AGAINST
1. **Mel Broughton** Recreational Saltwater Angler Raleigh, NC	2. **Jerry Schill** President North Carolina Fisheries Association New Bern, NC
3. **Larry Coble** President W-S Saltwater Recreational Fishing Club Winston-Salem, NC	4. **Fred Bonner** Syndicated Columnist Garner, NC
5. **Ron McPherson** W-S Salt Water Recreational Fishing Club Winston-Salem, NC	6. **Will Etheridge** Manager, Will L. Etheridge Seafood Co. Owner of 3 Fishing Boats Wanchese, NC
7. **Judith W. McPherson** W-S Salt Water Recreational Fishing Club Winston-Salem, NC	8. **Billy Carl Tillett** Manager of Moon Tillett Fish Co Wanchese, NC
9. **Doug Hoffman** Boat Manufacturing Business Greenville, NC	10. **Marc Kaplan** Owner of Sunset Beach Fishing Pier Sunset Beach, NC
11. **Dr. William Lambeth** Saltwater Fishing Angler Raleigh	12. **Rod Simpkins** Raleigh, NC
13. **Vic DAmato** N. C. Sierra Club Raleigh, NC	14. **Patricia Hutchins** TWINE Carteret County

FOR	AGAINST
15. **Dock Kornegay** North Carolina Wildlife Federation Raleigh, NC	16. **Sandra Gaskill** Harkers Island, NC
17. **Barbara Wyse** Duke Student Intern Environmental Organization Durham, NC	18. **Pam Morris** Davis, NC
19. **Charles Milam** Piedmont Fishing Club Greensboro, NC	
20. **Bo Nowell** Raleigh Sport Fishing Club Raleigh, NC	
21. **Keith Lefler** Eastern Carolina Fishing Club New Bern, NC	
22. Donald ~~Wills~~ Willis Custom Marine Fabrication Co. New Bern, NC	
23. ~~Dick~~ Troy Henry Morehead Sea-striker Lure Co. Morehead City, NC n	
24. **Bill Harrell** President Coastal Conservation Associatio	

FOR	AGAINST
25. Mac Currin Recreational Angler Member of CCA of Raleigh	
26. Bernie McCants Saltwater Recreational Angler Raleigh, NC	
27. Andy Fisher Charlotte Sport Fishing Club Asheboro, NC	
28. Gary Garber Member of a Chapter of CCA Burlington, NC	
29. Bill Mandulak Recreational Saltwater Angler Raleigh, NC	
30. Earl Parrish Member of CCA Selma, NC	
31. Colon Byrd Morehead City, NC	
32. Bob Black Oak Island Fishing Club Fishing Boat Captain Oak Island, NC	

83 DAVID BRADLEY - IN RECORD

ATTACHMENT 3

FOR H 1334

Carolyn Honeycutt (Rep. Warwick)

From: steve.m.jones@ac.com
Sent: Thursday, June 17, 1999 11:47 AM
Rep. Nurham Warwick
ect: recreational fishing license

Representative Gibson:

As a recreational angler and resident of North Carolina, I fully support the proposed saltwater recreational angler license including shore-based anglers. I fish regularly in Brunswick County and, like most recreational anglers, will be more than happy to make this modest contribution to help fund the state's fisheries conservation efforts.

Please do not be run over by the commercial fishing lobby on this issue - this is a recreational angler issue and, quite frankly, the commercial fishermen really have no basis for opposing this proposal.

thank you

Stephen M. Jones
8609 Doe Path Lane
Huntersville, NC 28078

22 June 99

EASTERN DERMATOLOGY & PATHOLOGY

JOHN D. HENDRIX, M.D. • CAMERON L. SMITH, M.D. • W. RAY GAMMON, M.D.
H. KIM PARK, M.D. • VERONICA A. BRENTJENS, M.D.
FRANCES M. CHERRY Clinic Administrator

Ms. Carolyn Honeycutt
Committee Clerk
Legislative Office

Dear Ms. Honeycutt,

I strongly support the proposed coastal recreation fishing license, as do my 2 grown sons and my fishing buddies (about a dozen).

Thanks

1706 WEST SIXTH STREET • BUILDING G - PHYSICIANS QUADRANGLE • GREENVILLE, NORTH CAROLINA 27834-2892 • (919) 752-4124
319 SOUTH BROAD STREET • GASLIGHT SQUARE • EDENTON, NORTH CAROLINA 27932-1933

Carolyn Honeycutt (Rep. Warwick)

From: Tyler Stone [tstone@saltwaterfly.com]
Sent: Monday, June 21, 1999 3:02 PM
[redacted] Carolyn Honeycutt (Rep. Warwick)
[redacted]ect: Commentary on HB1434

To: Representative Pryor Gibson; Co-chair
Representative Nurham Warwick; Co-chair
Members of the House Committee on Environment and Natural Resources
From: Capt. Tyler Stone
President; Intracoastal Angler, Inc.
1900 Eastwood Rd. Suite 7
Wilmington, NC 28403
888-325-4285

Dear Representatives:

As a commercial charter captain and an owner of a tackle shop in Wilmington N.C., I have been watching the progress of HB 1434 and wanted to get my thoughts on the issue to you before the public hearing on Tuesday, June 22. First, I am somewhat amazed that there has been another call for a public hearing on the issue. The issue has been addressed many times in previous hearings and there is strong support for a coastal recreational license among recreational anglers. More importantly, the Moratorium Steering Committee recommended such a license in order to provide much needed data on recreational pressure on our marine resources, and much needed monies for our under funded Marine Fisheries Division. In addition, a recent Sea Grant study showed [redacted]whelming support for the license among resident and non- resident [redacted]eational fisherman, with the strongest support coming from shore based [redacted]sherman.

It is very evident to me and to many others that the opposition to this bill is not from the user group that this bill affects, but from the commercial fishing industry, with which this bill has nothing to do. The commercials say that this recreational license is a precursor to a net ban and that their way of life is threatened if the recreational angler has a say in the management of this public resource. I say that this is a ludicrous argument. Licensing of the recreational user group in other states has not been the cause of net bans in inland waters. Hard decisions regarding the use of indiscriminate commercial gear on fragile inland water ecosystems and the willingness of other state legislative bodies and state agencies to stand up to political pressure from the commercial industry have resulted in gear restrictions and closures in our neighboring states.

This bill is not about commercial fisherman and their resistance to any legislation that they perceive may weaken their hold that they have traditionally held over our salt waters. This bill is about what is right for the resource. Our waters now more than ever need increased care if we are to keep our marine fisheries healthy. Let's allow the largest user group in the state to contribute in a significant manner to the management and protection of this resource that has been placed in the public trust.

I ask you to look hard at the real issues. That is why you are sitting on the House Committee of Environment and Natural Resources. I don't know if the committee has a written charter or not, but you are the appointed stewards of [redacted]ir state's environment and natural resources. The decision to move this bill [redacted]ward should be based on what is best for the resource, and not the political [redacted]aneuverings of a few individuals who have constituents that cannot stand the thought of another user group having some say in future management decisions of this public resource.

ATTACHMENT 4

AGAINST H 1334

Carolyn Honeycutt (Rep. Warwick)

From: STAN JARUSINSKI [STANMAN] [seajay@coastalnet.com]
Sent: Thursday, June 17, 1999 6:43 PM
Rep. Nurham Warwick
ect: Saltwater Fishing License House Bill 1434

I will be unable to attend the meeting on Tuesday, June 22, 1999 and would like to express my views regarding the present structure of the proposed bill.

I am not in favor of only having fishers with boats buying the license. To single out a particular group is discriminatory and should not be considered.

All fishers, that is from boats, bridges, piers, docks, shoreline or surf should be required to purchase the Saltwater License. Charter Boats would purchase an annual license for a fee of about $500 to $1,000 to cover the fishers that fish from their boats. No one should be excluded. Either all pay for the license or dont have a license at all.

I am in favor of a Saltwater License, and I feel strongly that it would improve our resource for many years to come. But please dont single me out and discriminate against me because I have a boat. We have to pay enough fees as it is to own a boat in N. C. and we boaters dont need additional fees unless all participate.

Thank you for listening to me.

A resident of Stella, Onslow County, North Carolina.


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</HEAD>
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proposed bill.</FONT></DIV>
V> </DIV>
V><FONT size=2>I am not in favor of only having fishers with boats buying the
license.  To single out a particular group is discriminatory and should not
be considered.  </FONT></DIV>
<DIV> </DIV>
<DIV><FONT size=2>All fishers, that is from boats, bridges, piers, docks,
shoreline or surf should be required to purchase the Saltwater License. 
Charter Boats would purchase an annual license for a fee of about $500 to $1,000
to cover the fishers that fish from their boats.  No one should be
excluded.  Either all pay  for the license or dont have a license at
all.</FONT></DIV>
<DIV> </DIV>
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to pay enough fees as it is to own a boat in N. C. and we boaters dont need
additional fees unless all participate.</FONT></DIV>
<DIV> </DIV>
<DIV><FONT size=2>Thank you for listening to me.</FONT></DIV>
<DIV> </DIV>
<DIV><FONT size=2>A resident of Stella, Onslow County, North
Carolina.</FONT></DIV></BODY></HTML>
```

Carolyn Honeycutt (Rep. Warwick)

From: Jack Hebenstreit [bear14@interpath.com]
Sent: Thursday, June 17, 1999 4:13 PM
Rep. Nurham Warwick
ject: Salt Water Fishing License

When is comes to polling of recreational salt water fishermen in North Carolina about whether they prefer a salt water fishing license, don't believe the CCA because there so called facts are fabricated. They claim that 84% of the recreational fishing persons in North Carolina favor the fishing license. That is simply untrue and can not be substantiated.

All the meetings that were held in Dare County for the last eight years, I have attended and when asked at these meetings who favored a salt water fishing license, the over all response was a resounding NEGATIVE vote.

I would like the General Assembly to be reasonable about these fabricated figures and get their own substantiated figures , so that the real truth be known.

You folks are in the General Assembly to represent the citizens of this State and do what's best for their pleasure. It should not be influenced by outside pressures that are only thinking about their own power. I would make note to point out that The Cape Hatteras Angler's Club with members of over 600 and a major fishing club in North America have voted to oppose a Salt Water Fishing License in North Carolina

I implore ya'll to give the recreational salt water fishing license serious thought and that such a license would benefit only a few over the majority of your constituents.

Jack Hebenstreit
columnist of Fishing Reports
from Hatteras Island for
the Island Breeze Newspaper

Jack Hebenstreit
P.O. Box 220
Buxton, NC 27920
bear14@interpath.com

Carolyn Honeycutt (Rep. Warwick)

From: Jeffrey W Yontz [jwyontz@duke-energy.com]
Sent: Friday, June 18, 1999 7:13 AM
Rep. Nurham Warwick
ect: HOUSE BILL 1434

---------- Forwarded by Jeffrey W Yontz/Cust/DukePower on 06/17/99 04:20 PM ----------

Jeffrey W Yontz
06/17/99 04:15 PM

To: Nurhamw@ms.ncga.state.nc.us
cc:
Subject: HOUSE BILL 1434

Dear Rep. Warwick,

I am a potential supporter of Coastal Resource Fishing License and would like to submit my concerns and opinions on this proposal.

I feel it is extremely unfair and unethical for the bill to be passed as it was written on April 29, 1999. It is written in such a manner that only a very small amount of the total users of the resource will be licensed and counted. Please do not sacrifice the legislation that would establish a viable recreational coastal fishery in North Carolina by exempting shore bound users of the resource.

I would like to request that users aboard charter/head/dive boats and coastal [redacted]er piers be included in the license. This is a significant percentage of the [redacted]rs of the marine fishery. If this is not an acceptable matter, then at least the owners of the charter/head/dive boats and piers should be required to log the CORRECT number of clients and this number be counted.

I disagree with the proposal of the fees for the charter/head/dive boats and the ocean pier. This group makes a living from using the resource and yet they pay very little for the impact they make. Either the fees need to be much greater or their clients be required to purchase a CRFL.

As it is proposed, the small, private boat owner will carry the lion's share of the proposal. For the true intent of the CRFL to be felt, it MUST be implemented in a fashion that will be as fair as possible. You can not allow the private boat owner and fishermen to be used in this manner, while the commercial charter and head boats pay very little.

Please do not allow your fellow constituents that are being backed and stroked by the commercial interests to make a mockery of these proceedings. I fully understand why some do not want this bill to pass. The numbers will be great and great numbers carry political influence. It is time the recreational interests are heard and this will be the first great step.

I implore you to not let the bill stand as proposed on April 29, 1999. The exemptions are to many and any useful information will be swayed.

In closing, I will support the bill if shore based users are required to be licensed and at the least the commercial boats and piers are required to keep an accurate log of clients.

[redacted]l not support this bill if only private boat fishermen are required to be [redacted]ensed.

I would like for my support, concerns and opinions be entered as part of the record for House Bill 1434.

Carolyn Honeycutt (Rep. Warwick)

From: Ben Shaner [shanerb@ecsu.campuscwix.net]
Sent: Friday, June 18, 1999 12:54 PM
[redacted] Rep. Nurham Warwick
[redacted]ject: Coastal Recreational Fishing License

June 18, 1999
Environment and Natural Resources Committee
419-C Legislative Office
Raleigh , NC 27601

I am very much in favor of a Coastal Recreational Fishing License, however this license should be a requirement of all anglers, from shore, beach, boat, pier, everyone. Any exceptions could be similar to Freshwater License exemptions, children, disabled, etc., and a Boat License at a substantially higher fee, available to anyone with a boat, covering anyone fishing on board that boat. There should not be a subsistence exemption. I feel this would create an easily abused loophole. If a person can afford rods, reels, lures, bait and tackle, transportation, and in many cases a boat, the time away from work, they can certainly afford a few dollars a year for a license. If a subsistence exemption must exist, then it should follow the example set by the Freshwater License exemptions such as only in the county of residence, fishing only with natural bait, and only from shore or a shore based structure. This type of stipulation would truly benefit any legitimate subsistence claim.

Further, all moneys received by the State from a Coastal Recreational Fishing License should not go into a general fund, but should be set aside to be used for enhancement of the marine fisheries resource and enforcement of the Marine Fisheries Regulations.

Sincerely,

[redacted]n Shaner

PO Box 203
Currituck, NC 27929
252-232-2317

Carolyn Honeycutt (Rep. Warwick)

From: Jeffrey Weeks [theweeks@yahoo.com]
Sent: Friday, June 18, 1999 10:13 AM
To: Rep. Nurham Warwick
Subject: Fishing license

I am a NC surf fisherman (non-boat owner) but I very much believe that all saltwater fishermen should be licensed in the new regulations.
Jeffrey Weeks
Carthage, NC

Do You Yahoo!?
Get your free @yahoo.com address at http://mail.yahoo.com

Carolyn Honeycutt (Rep. Warwick)

From: John Sovine [sovine@earthlink.net]
Sent: Sunday, June 20, 1999 9:34 PM
Rep. Nurham Warwick
ject: House Bill No. 1434

Not sure what the intent or rationale is behind limiting the saltwater fishing license requirement to only boat owners but it sure looks like someone is trying to limit the legislative and lobbing power of recreational fishermen by limiting the number of recreational license holders. Additionally, it seems a little discriminatory toward boat owners. Boat owners make up the minority of recreational saltwater fishermen. My vote is for saltwater fishing license for all who take part in the sport whether it is from a boat, pier or beach. Hopefully, House Bill No. 1434 is designed to support our fisheries and not the political agenda of the commercial fishermen and their allies. Do the right thing and pass a fair bill which will support our fisheries.

John W. Sovine, Jr.
Fayetteville, NC

Carolyn Honeycutt (Rep. Warwick)

From: John Maurice [mauri001@acpub.duke.edu]
Sent: Sunday, June 20, 1999 5:02 PM
To: Rep. Nurham Warwick
Subject: NC Saltwater Fishing License Outrage

Dear Sir-

I'm writing to you in outrage on the proposed house bill 1434.

As an avid saltwater fisherman based in NC who has fished all over the world from New Zealand to Costa Rica, I cannot accept the proposal to make only boat fisherman suffer the entire licensing burden.

ALL anglers must share the responsibility of protecting our unique fishery. Heck, where else in the world can you catch this many fish from shore or wading the flats!
The bill as proposed is preposterous.

Thank you for your time,
John Maurice MD

Carolyn Honeycutt (Rep. Warwick)

From: Dennis Luszcz [luszczdc@ncdial.net]
Sent: Sunday, June 20, 1999 10:12 PM
To: Rep. Nurham Warwick
Subject: Salt Water Fishing License

Dear Chairman Nurham:
My family, (3voters) are recreational saltwater fishers. We are in favor of a saltwater license for all salt water fishermen. We are NOT in favor for exemptions for shore fishermen or any one else. We would not support a bill that exempts fishermen or a bill that does not dedicate funds to improvement of the resource. Thank you

Dennis, Karen, and Mike Luszcz

Carolyn Honeycutt (Rep. Warwick)

From: Glenwood Montgonery [downeast47@bmd.clis.com]
Sent: Sunday, June 20, 1999 6:28 PM
To: Rep. Nurham Warwick
Subject: Saltwater License

I am against the proposed Saltwarer fishing license, especially since it only applies to boaters. I would support a state wide fishing license that would apply to everyone. Thank you for listening.

Carolyn Honeycutt (Rep. Warwick)

From: Glenwood Montgonery [downeast47@bmd.clis.com]
Sent: Sunday, June 20, 1999 6:28 PM
To: Rep. Nurham Warwick
Subject: Saltwater License

I am against the proposed Saltwarer fishing license, especially since it only applies to boaters. I would support a state wide fishing license that would apply to everyone. Thank you for listening.

Shirlyn MacPherson (Rep. Gibson)

From: JAGURLEY@aol.com
Sent: Monday, June 21, 1999 1:39 PM
To: Rep. Pryor Gibson
Subject: Saltwater License

Dear Representative Gibson:

I would like to express some concerns regarding a bill you are considering in committee. The bill in question is House Bill 1434.
I returned last evening from a fishing trip to Rockport, Texas. I had to purchase a 5 day license that cost me $27.00. No one asked me if I was going to fish from a boat or from the surf, I had to have a license if I wanted to put a line in the water! I was more than happy to pay the fee to enjoy the pleasures of what effective fisheries management can produce!
The only fair way to license a fisherman in a state is to license everyone that puts a line into the water. I fished for years from the surf or from a pier and caught a lot of fish. I probably caught more that way than I do now that I have a boat. Do not penalize me now, just because I own a boat.
The other issue is the issue of numbers. The Division of Marine Fisheries can get more accurate information to use in developing plans for managing fisheries if shore fisherman are licensed along with those fishing from a boat.
I would like to thank you for looking after ALL saltwater fishermen's interest. I fully support this bill, with the exception of the exclusion of pier and surf fishermen, and I thank you for your support.

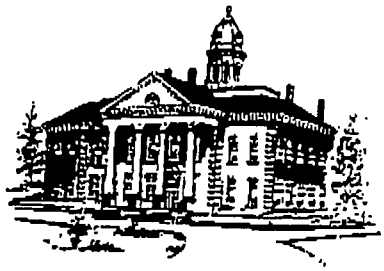
Sincerely,

Jimmy Gurley
JAGURLEY@aol.com
Princeton, N.C.

ATTACHMENT 5

Carteret County Government

Board of Commissioners
Sam Stell, Chairman
Doug Brady, Vice-Chairman
Bettie Bell
Pat Joyce
Jimmy LaShan
Jonathan Robinson
Mac Wells



County Manager
Robert M. Murphy
Tel: (252) 728-8450
Fax: (252) 728-2092

CARTERET COUNTY BOARD OF COMMISSIONERS
RESOLUTION
OPPOSING SALT WATER RECREATIONAL FISHING LICENSE
JUNE 21, 1999

WHEREAS, legislation requiring a salt water fishing license has been proposed and is currently being considered by the North Carolina General Assembly; and

WHEREAS, recreational salt water fishing is a proud tradition in Carteret County and is a leisure activity promoted and encouraged for all our citizens; and

WHEREAS, the fishing resources in North Carolina are held in public trust to be enjoyed by all the citizens of North Carolina, and

WHEREAS, Carteret County's tourism industry is substantially dependent on those who fish recreationally; and

WHEREAS, the proposed saltwater recreational fishing license would be a burden on local businesses and a detriment and added hardship for many of our visitors, and

WHEREAS, there is no biological benefit to implementing a salt water recreational fishing license and the regulation would serve only to create more bureaucracy.

NOW, THEREFORE BE IT RESOLVED that the Carteret County Board of Commissioners strongly opposes the creation and implementation of a salt water recreational fishing license in North Carolina.

ADOPTED, this the 21st day of June, 1999.

W. Douglas Brady

W. Douglas Brady, Vice-Chair
Carteret County Board of Commissioners

Robert M. Murphy, Clerk

SALTWATERFISHING.MSWRES

Post-It® Fax Note 7671	Date 6-22-99	# of pages ▶ 1
To Ronnie Smith	From Robert Murphy	
Co./Dept.	Co.	
Phone #	Phone # 728-8450	
Fax # 733-2599	Fax #	

ATTACHMENT 6

Undercurrents

Published for members and friends of the Coastal Conservation Association of North Carolina • Spring • 1998 • Volume 8 • Issue 1

FROM THE CAPTAIN'S CHAIR

Bill Brown, President CCA-NC

CCA-NC's primary goal for 1998 is the recreational saltwater fishing license. The short session of the North Carolina Legislature is fast approaching and the license represents the "missing link" in the political process. The economic impact of recreational fishermen is estimated to be $1,200,000,000 (yes, that's right, 1.2 billion dollars) annually. The political power of 600,000 recreational fishermen cannot be measured. It will change everyone's perception of the recreational fisherman in North Carolina including legislators, judges, law enforcement, county commissioners, administrators, and government bureaucrats.

We need for every member to call his or her legislator this month to communicate support for the recreational license. We all need to back our legislators both with our vote and with our financial assistance. We absolutely need to act now. The feedback we are getting is that the license will definitely pass the Senate, but not the House at this time. The license represents the second step in the process of improving fisheries in North Carolina. If the recreational license is going to be passed in the short session of the legislature, it is going to be due solely to our effort. If it is going to happen, it is up to us!

The passage of the license will help us to achieve some very important goals. First, the license will change the political scene as far as marine fisheries are concerned forever. Coastal legislators and marine fisheries bureaucrats will have to recognize us as a major player. Politics in coastal counties will experience a 180-degree turn. Recreational fishermen will have instant credibility when they go before county commissioners and local town and city boards. We can finally surface from the underground and become a real force for change in fisheries management.

Secondly, the funds collected from the license will be deposited into an endowment and the use of these funds will be administered by a commission composed of recreational fishermen. The funds will be limited to enhancing fish stocks including fish hatcheries, artificial reefs projects, fish management plans, and other crucial operations. The monies will not go into the general fund; we are absolutely 100% opposed to that option. Another very important point is that no state on the Atlantic and Gulf coasts has enacted any major fisheries reform without first having a recreational license in place. North Carolina and Georgia are the only states from Maryland to Texas that do not have recreational saltwater licenses.

History is a great teacher. We have learned that the recreational saltwater license must be enacted if we are going to make major changes in the fisheries process in North Carolina. The only way things will change is by getting active and forcing the system to change. Join us today in making something positive happen for fisheries in North Carolina.

Thanks,

Bill Brown
President

Conservation Alliance Program Gaining Support

CCA-NC's Conservation Alliance Program (C.A.P.) has recently gained some much needed support. Five new organizations have joined the program with generous contributions to help put a C.A.P. on the destruction of our extremely valuable marine resources. The following organizations are new C.A.P. participants:

United Piece Dye Works, Edenton, NC ..... $ 200.00

Collins and Aikman, Farmville, NC ..... $ 200.00

Glen Raven Mills, Inc., Glen Raven, NC $5,000.00

N.C. Electric Membership Corporation, Raleigh, NC $500.00

Textilease Corporation, Goldsboro, NC $200.00

If your organization is interested in joining to help protect and enhance North Carolina's treasured marine resources, there are two ways to participate:

1) Contributing Participant: Make and annual corporate or foundation contribution of $200.00 or more;

2) Product or Service Donor: Donate your company's product(s) or service(s) for use in raising funds through one or more of our raffles and/or banquet auctions.

Help ensure anglers a future of fish-filled trips to their favorite spots. Participate in C.A.P. today and show your commitment to marine conservation.

Re: brewhaha - but money talks

[Read Responses | Post a New Response | Return to the Index]
[Previous | Previous in Thread | Next in Thread | Next]

*Posted by **BaitWaster** on **Wednesday, 12 May 1999, at 12:07 p.m.***
[REMOTE_HOST: dhcp105119.dcri.duke.edu; REMOTE_ADDR: 152.3.105.130]

In response to Re: brewhaha, posted by Capt. Mark Poirier on Wednesday, 12 May 1999, at 9:11 a.m.

Capt. Mark -

Agree with the principle "the less government, the better". But what if the current government doesn't seem to care squat about you? How do you get to be a player?

Sure, I, among others, paint a "a rosy picture of its (license) potential benefits" from additional moneys to pay the fish managers to do the job they're paid to do but I'm not so naïve to discount "the political realities and money-grubbiness of those involved."

Consider the license a bribe. Money talks and Bravo Sierra walks. By providing the bureaucrats with money to squander, perhaps they will pay attention to some of our concerns. Why do head counts if you don't give the politicos some money to "play with".

My view - optimism mixed of pragmatism with a heavy dollop of cynicism.

Ps - no UNH Hockey photo ops this past weekend. Weather too nice & big pigs not cooperating.

Responses

- Re: brewhaha - but money talks - **Capt. Mark Poirier on Wednesday, 12 May 1999, at 10:53 p.m.**

Post a New Response

Your Name:
E-Mail Address:
Subject: Re: brewhaha - but money talks
Message:

Optional Link URL: http://
Optional Link Title:
Optional Image URL: http://

If you'd like to have the option of deleting your post later,

The Mojo Wire Since: 10/16/97

Fish Mojo Home

The Mojo Wire

Re: North Carolina General Assembly had House Bill 860, in 1995 session To BAN THE NETS

[Read Responses Post a New Response Return to the Index]
[Previous Previous in Thread Next]

Posted by Mo on Friday, 23 January 1998, at 10:33 a.m.

In response to North Carolina General Assembly had House Bill 860, in 1995 session To BAN THE NETS, posted by gowge - Net Free St. Augustine, FLORIDA on Friday, 23 January 1998, at 2:07 a.m.

Right ON!

Some time ago the boneheads had before them a bill that contained the recreational saltwater licensing program. I can't remember the name of the bill(JD or BobACNJ will know and post that info...hint...hint).

Anyway the license was penciled out I believe or some such nonsense.

We need that back in and operating now! Gowge will tell you that was the first step towards a net ban and it always is, which is why the commercial interests are so opposed to it. We need that voice! We need that license program. When the folks that pay for that license(US!)have a voice in this matter conclusion of the issue will follow. Get behind this licensing program and push it through. Support it.

We recreational anglers out number all opposition. When we have that voice we will be able to do what we want and that's the fact of the matter.

I also agree with Gowge and Emmet in that we need to know who is holding up matters and who is behind us. We need to spill that info all over the web and make it common knowledge. This info has to trickle down to the voters of NC if we want to get anywhere with it.

And besides... it's a while before fishing picks up again and we don't have anything else to do until then...:)

Mo

Responses

(No responses to this message have been posted.)

Post a New Response

Your Name: Jerry Schill

E-Mail Address: jschill_ncfish@coastalnet.com

Subject: Re: North Carolina General Assem

Message:

The Mojo Wire Since: 10/16/97

Fish Mojo Home

The Mojo Wire

Re: North Carolina General Assembly had House Bill 860, in 1995 session To BAN THE NETS

[Read Responses Post a New Response Return to the Index]
[Previous Previous in Thread Next]

Posted by BobACNJ on Friday, 23 January 1998, at 10:57 a.m.

In response to Re: North Carolina General Assembly had House Bill 860, in 1995 session To BAN THE NETS, posted by Mo on Friday, 23 January 1998, at 10:33 a.m.

Mo,

The saltwater license was to be a part of the Fisheries Reform Act that was passed last year. However, the SWL never made it that far and with good reason. I'm pretty sure that almost every state that has a saltwater license also has some sort of net ban in place.

Bob

PS. Don't tell Jerry

Responses

(No responses to this message have been posted.)

Post a New Response

Your Name: Jerry Schill

E-Mail Address: jschill_ncfish@coastalnet.com

Subject: Re: North Carolina General Assem

Message:

Optional Link URL: http://

Optional Link Title:

ATTACHMENT 7

MAY, 1998

FISHING FOR A LIVING

by Susan West

The pros and cons of recreational fishing licenses

During the past decade North Carolina has examined and re-examined the benefits of a saltwater recreational fishing license. Citizens and politicians have all weighed in on this issue. Petitioners have gathered signatures and resolutions have been passed. The concept of a recreational fishing license stirs both ardent support and fierce opposition.

Although the recreational license was pulled from last year's fisheries reform legislation, the Joint Legislative Commission on Seafood and Aquaculture, a 15 member mix of elected representatives and private citizens, was instructed to study the issue.

Commission member Mac Currin, a resident of Raleigh and a frequent visitor to the coast, is assisting an advisory committee, made up of commercial and recreational fishermen, in a review of the issues surrounding the license. Outer Banks residents Norman Bradford, Joey Daniels, Murray Fulcher, and Damon Tatem serve on the advisory committee.

Supporters of a recreational license offer two main benefits, increased revenue and increased data, to justify the value of a license to the state. The scope of those anticipated increases, however, is difficult to calculate because there is no agreement over the types of recreational fishermen who might be required to purchase a license.

While some believe that a license should be required of all fishermen, others feel that some classes of people should be exempt from that requirement. Several states with recreational licenses waive the requirement for children, low-income residents, the elderly, and the physically challenged. In past discussions, one member of the Joint legislative commission has argued that waterfront property owners should be exempt.

Charter boat captains and pier owners, who have made it clear that they oppose any provision requiring their customers to buy individual licenses, would prefer to purchase a blanket license covering their clientele. A few other states, such as Georgia, have established blanket licenses for charter boats, requiring the captains to submit trip logs.

Recreational licenses in other states each seem to have their own peculiarities. Maryland requires licenses for anglers fishing in the Chesapeake Bay and its tributaries, but not in the ocean. In Florida, anglers fishing from boats must buy a license but those fishing from the shore don't need a license.

It is anticipated that a license would make North Carolina eligible for a larger share of federal grant money through the Wallop-Breaux Act. Based on a number of factors, including land area, population and licenses sold, Wallop-Breaux provides for the refund of taxes collected on the sale of sporting goods to states for sport fishing enhancement projects. Exemptions to the license requirement would reduce the level of any increase in those federal funds.

With so many possible exemptions to the license requirement floating about, it becomes difficult to estimate the potential revenue from the sale of licenses. In 1993, Bill Hogarth, Director of the Division of Marine Fisheries at the time, estimated that sales could range from $3 to $10 million. Other undetermined factors, such as the price of a license and the administrative processing cost to the Division of Marine Fisheries, complicate calculation of the net profit from license sales.

The range of data provided by recreational fishing licenses will be limited. Information on the number of fishermen, excluding those exempt from the license, along with some demographic data would be available but data coming directly from the license will not tell us anything about landings or fishing practices. Telephone and on-site surveys will continue to be needed.

Supporters and skeptics alike agree that the revenue derived from license sales must go back to the resource for conservation and effective management. Without some guarantee on this point, there is virtually no support for a license. At meeting after meeting speakers have made it clear that they do not trust the state legislature not to raid the funds for other purposes.

Addressing that concern, Senator Marc Basnight introduced the concept of a special trust fund for the revenue from license sales. Study committees have promoted the idea of a Board of Trustees, composed of individuals with expertise in recreational fishing, to oversee expenditures.

However, it appears very unlikely that a Board of Trustees would be possible due

to the Department of Interior's very stringent rules regarding the expenditure of Wallop-Breaux funds. The Department has warned against giving significant authority to a Board of Trustees because any diversion of funds to projects not meeting the Department's strict criteria would threaten all funds to the state.

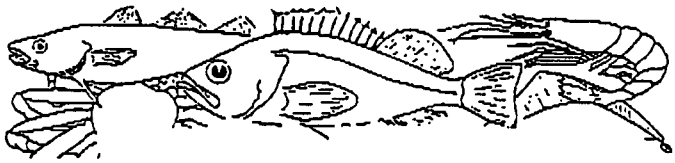
Casual observers of fisheries issues have been surprised that some members of the commercial fishing community have been among the staunchest opponents of a recreational license. This opposition can best be explained by the sentiments contained in a letter appearing in a local newspaper in 1994. Urging anglers to support a license, the author wrote, "A saltwater license has been highly successful in Texas, Louisiana, Florida, etc. Why? Because it gives the recreational fishermen political support. Once our elected officials see how many anglers use the resource and the amount of money they spend on fishing, it packs a powerful political punch."

Commercial netters are painfully aware of the state of fisheries in Texas, Louisiana, and Florida where commercial fishing businesses, families, and communities have all been sacrificed in the name of management. Suggestions, such as that from Representative Frank Mitchell who in 1997 introduced a bill banning commercial nets in internal waters, that funds from a recreational license could be used to buy out commercial fishermen have also stiffened opposition in the commercial community.

[Susan West is vice president of the Hatteras-Ocracoke chapter of the North Carolina Fisheries Association Auxiliary and the wife of a commercial fisherman.]

"NANCY-LEE" FISHING CENTER/CHARTERS

Captain Lee O. Manning
(252) 354-FISH (3474)
(252) 354-3035
(910) 326-4304
(910) 326-DOCK (3625)



Post Office Box 64
Swansboro, NC 28584

June 21, 1999

To: North Carolina House Environment Commission

From: Lee & Nancy Manning, Owners/Operators of the Nancy Lee Fishing Center, Swansboro, NC

Subj: House Bill 1434

We are sorry that we cannot attend the Public Hearing scheduled for Tuesday, June 22, 1999.

In complete opposition to this Bill we would like to make the following facts recordable:

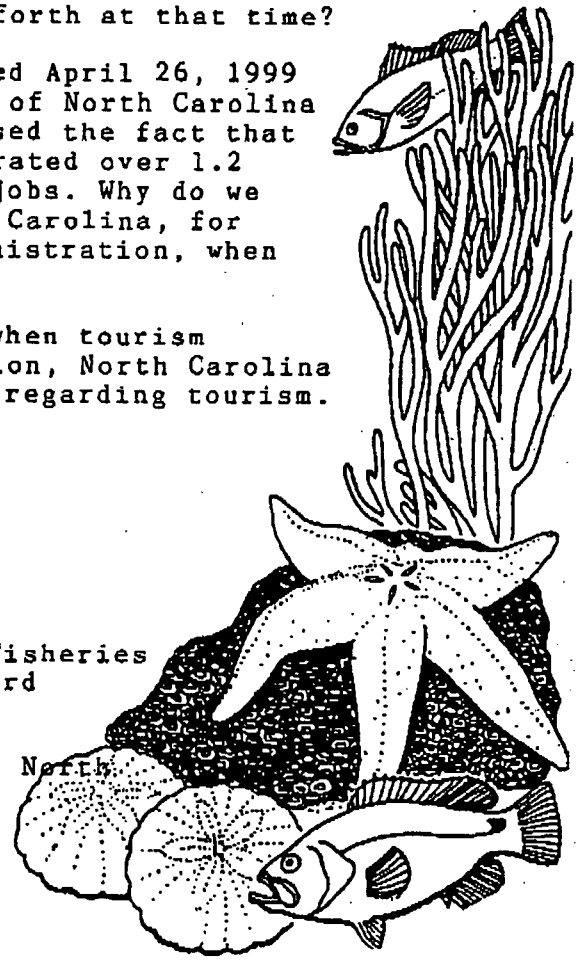
1. Last Year a Special Session of the Legislature was called to discuss disbursement of excess funds to balance North Carolina's Budget. If it is so important under "S 113-174.4 Sealife Enhancement Fund" for resources and habitat enhancement/law enforcement/Marine Fisheries Research/Grants/Administration/Public Education and information - why did you not bring this forth at that time?

2. We have a copy of the letter dated April 26, 1999 from the Coastal Conservation Association of North Carolina (a Non-Profit Organization), which addressed the fact that the recreational saltwater fisheries generated over 1.2 billion dollars and created over 19,000 jobs. Why do we need another source or influence in North Carolina, for which funds would be distributed for Administration, when growth is evident and prosperous?

3. To continuously charge tourist (when tourism is our only industry) is not a wise decision, North Carolina should be a leader rather than a follower regarding tourism.

Lee & Nancy Manning
Owners/Operators

cc: Representative Jean Preston
Representative Ronnie Smith
Jerry Schill, North Carolina Marine Fisheries
Carol Lohr, Tourism & Development Board
Morhead City, NC
Jay L. Kniss, Executive Director
Coastal Conservation Association of North Carolina



JERRY SCHILL, PRESIDENT
NORTH CAROLINA FISHIERS ASSOCIATION

Since I did not have a printed copy of my remarks, here's the summary of the comments I made at yesterday's public hearing:

First of all, thanks to Chairmen Gibson & Warwick and Committee members for scheduling the hearing that was requested by Ronnie Smith.

Thanks to Scott Thomas for offering the "wheres" amendment that address historical fishing practices, and for the committee members supporting the amendment.

My perception is that some committee members feel that we should push this through the committee now and fix it later. That's not good legislating, especially for a committee that prides itself in dotting i's and crossing t's.

The two primary reasons for the license appear to be data and dollars.

The data is worthless with all of the exemptions. As it stands now, only rec fishermen on boats between the ages of 16 and 64 would be required to get a license. That's probably close to 70% excluded.

Dollars to DMF is the age-old government solution that money fixes all. Millions of dollars going to a regulatory agency is supposed to equate to more fish? How often have we heard that? And how often has it failed? History should be a teacher.

The committee has not discussed the concerns about the federal dollars that could be lost by pushing through a license that does not take into account the federal criteria.

Outside of the contentious issues in which there will always be disagreement, there are very serious questions about this license which the committee has not resolved, and in some cases, not even talked about.

Despite the fact that this license has been debated for years, it is closer to passage than ever. If North Carolina is going to have a rec license, it should be a good one. Therefore, NCFA's recommendation is to send this to the Joint Legislative Commission on Seafood & Aquaculture with a charge to bring it back during the short session with and up or down vote, and if it's up what specifics do they recommend.

Do it right, not just for the sake of doing it.

Over the past few days, editorials opposing the license have appeared in newspapers in Jacksonville, New Bern, Shelby, and Gastonia. The Carteret News Times has also printed an editorial opposing the license.

ATTACHMENT 8

Editorials

NEW BERN SUN JOURNAL June 21, 1999

Throwing back saltwater license

■ A recreational saltwater fishing license is a bad idea.

One of the joys for many families when they go to the beach is going fishing.

You may want to go out on a boat, fish from a pier, or just do a little surf fishing. While fishing, you can enjoy the view of a gorgeous sunrise and the beautiful deep blue ocean. You can feel the cool breeze blowing off the sea and rush of water around your feet as your toes sink in the sand. If you get lucky, you might catch enough to slap in the frying pan for the evening dinner.

And, if some lawmakers in Raleigh get their way, you'll have to go to the expense and the inconvenience of having a saltwater fishing license around should a marine fisheries officer happen to come by.

That's right.

Pending in a House committee are proposals that would require anyone 16 or older with a $7.50 a year license to fish in North Carolina's salt waters.

If you just take a one-day fishing trip, you could buy a license for a buck. If you want a week-long license, be prepared to fork out $3.50 apiece.

Supporters of requiring a saltwater fishing license say the money would be used for projects to boost fish stocks and to collect information for fisheries research.

Some of the money would be used for establishing fishery management plans and providing grants for fishing programs and scholarships. Up to 25 percent of the money could go toward fisheries law enforcement.

In other words, the lawmakers want to put the expense and inconvenience on anglers so a bunch of environmentalists groups can conduct a bunch of studies which will be used to further put restrictions on those who want to fish.

Some even suggest that the underlying motive for the new license is for the conservationist groups to gain political clout to push through a ban on certain types of commercial fishing nets in rivers and sounds.

That could result in a loss of jobs for small business fishing operations. Some could be put out of business.

Another likely result would be a decreased shrimp catch in North Carolina waters. So much for buying fresh shrimp from roadside vendors at the beach.

A recreational saltwater fishing license is a bad idea.

Those who like to fish and don't want the extra burden would do well to contact their lawmakers to let them know of their distaste for the idea.

Also, a public hearing will be held on the matter Tuesday afternoon.

We hope lawmakers will vote against the proposed new license. And we hope anglers will keep track of how their legislators vote.

ATTACHMENT 2

SPEAKERS' PRINTED/WRITTEN PRESENTATIONS

June 22, 1999

My name is Mel Broughton and I live in Raleigh. I am very pleased to be here today representing my family. This is my oldest daughter, Virginia, aged 8, Hunter, age 6, and "Baby Mel" age 2 ½ and all boy! Some of you all knew their grandfather, and some of you may have even been cornered by him in those halls next door. I wish he had taught me some of his lobbying secrets.

We here in North Carolina are blessed with a great natural resource and I truly believe we are called upon to be good stewards of this resource. A salt water license will give the state the ability and resources to enhance and preserve our saltwater fishery for many generations for ALL of the people of North Carolina.

- 85% of the people polled on the license are in favor of it, including shore based anglers. Why?? Because they, too, want to enhance and preserve our resources for their children, grandchildren and for the future of all North Carolinians. This is a great opportunity for saltwater anglers to five back to the resource.

This bill is not about "this group" or "that group." This bill is about enhancing a natural resource for generations and generations to come. As you know, North Carolina is a great state and by working together, we can make it even better for all of us. Thank you for your support.

Melville Broughton, III
8 Riddick Drive
Raleigh, NC 27609
(919) 782-7373

Winston-Salem Saltwater Sport Fishing Club

Public Hearing Comments
House Bill 1434
An Act to Establish a Coastal Recreational Fishing License
House Committee on Environment & Natural Resources
June 22, 1999

Good afternoon, Mr. Chairman, members of the Committee. My name is Larry Coble and I am president of Winston-Salem Saltwater Sport Fishing Club and I am here today representing its membership. Our club members have followed this issue and attended public meetings around the state supporting the license effort. We attended meetings of the Moratorium Steering Committee, Saltwater Recreational Fishing Forum, Marine Fisheries Meeting and Public Hearings, Joint Legislative Commission on Seafood and Aquaculture Meetings, etc, etc. We have always supported the recreational license and, in fact, have heard very little opposition from the people, with whom we have come in contact. We were very disappointed that the Moratorium Steering Committee's report, which was finalized in October 1996, has still not been fully adopted. We were and are concerned that the Recreational Fishing License portion was removed from the Fisheries Reform Act of 1997. Fishermen around the State feel that the Division of Marine Resources continues to be under funded by the Legislature; and do not feel that they have the manpower or resources to protect and enhance fisheries in North Carolina. Most fishermen that we contacted have seen the success of Wildlife Resources and think that Marine Fisheries could be another success story for North Carolina with proper use of recreational license money.

Statement of Fred Bonner to the North Carolina House Committee on Environment and Natural Resources regarding HB 1434, the proposed North Carolina Saltwater Fishing License.

Tuesday, June 22, 1999—3:00 p.m.
Room 419C, Legislative Office Building, Raleigh, N.C.

457 Words

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I was recently at St. Simon's Island, Georgia on a fishing trip and, much to my surprise, found that the state of Georgia now requires that saltwater anglers purchase a fishing license. It's not a so called "Saltwater Fishing License", it's a universal fishing license to fish in the territorial waters of the state of Georgia. One fishing license covers it all.

Freshwater anglers in Georgia continue to buy the same fishing license that they have been buying all along. The only difference in Georgia's new license, administered by the Georgia Fish and Wildlife Department, is that that same fishing license now covers saltwater fishing as well. There was no increase in cost or anything, the fishing license requirements were very simply extended to cover saltwater as well as freshwater.

I talked with numerous tackle shop owners and saltwater anglers in Georgia and they told me they're pretty well satisfied with the way the new license requirements are working. They feel that if they must have a so called "saltwater fishing license" that this was the only way to go.

From my conversations with many salt and fresh water anglers here I feel that this is the same type of fishing license that most North Carolina fishermen want to see in our state.

Frankly I wish that we didn't need to have any fishing licenses. Any way you look at it it's just another tax. Unfortunately we do need money to conduct fish and wildlife management programs and the sale of fishing and hunting licenses are the best way to do it.

North Carolina could raise the money for marine resources from the general fund moneys but fishermen (and other citizens) do not feel that would be right. We anglers had far rather pay our own way just as we have been doing for nearly 60 years. Most of us agree that the best way to do this is through a fishing license be it a full-blown "saltwater fishing license" or the more popular "universal fishing license" similar to what the state of Georgia has.

If this entire try at funding our saltwater fishing programs falls through the cracks this time around it's going to be a shame because our North Carolina Division of Marine Fisheries is badly in need of funding to manage our marine resources. However I do feel that in its proposed form HB 1434 does not set too well with many of North Carolina's fishermen and feel that there is a better way to do this.

Perhaps it's time for North Carolina to follow the state of Georgia's lead and adopt a universal fishing license that raises the needed funds and keeps most fresh and salt water anglers happy.

Thank You, Fred Bonner

6/22/99

PUBLIC HEARING COMMENTS ON THE COASTAL RECREATIONAL FISHING LICENSE

Good afternoon. My name is Ron McPherson. I am a member of the Winston-Salem Saltwater Sport Fishing Club (WSSSFC), the Coastal Conservation Association (CCA), the Inland Regional Advisory Committee and a property owner at Atlantic Beach (A.B.)

I have fished in the Morehead City, A.B., Cape Lookout area for over 40 years. I have seen many changes. One that really concerns me is the decline of our fishery stocks.

The Moritorium Steering Commitee's (MSC) proposals were presented in '96 and after many changes became the Fishery Reform Act of '97, but the cornerstone of those proposals was the Coastal Recreational Fishing license (CRFL) and it was not included.

I felt that the CRFL had to happen, if we were going to save our fishery resources.

I applied for and was awarded funds

(over) →

Coastal Recreational Fishing License Comments 6/22/99

page 1

Judith W. McPherson, Winston-Salem, Recreational fisherwoman, member - WS Salt Water Sport Fishing Club, owner - Atlantic Beach property.

- The Coastal Recreational Fishing license is an integral part of the continued management of our marine resources because of the data and funds it can provide for research, enhancement, education, enforcement, and other areas related to the resource.
- Without accurate data, effective Fishery Management Plans cannot be formulated. The Coastal Recreational Fishing license would provide data needed on the number and type of recreational fishermen using the resource.
- All recreational fishermen should be licensed (or counted) for the data to be comprehensive. Shoreline fishermen (an estimated 60% of all recreational fishermen), should be included. Pier and charter boat blanket license holders should be required to collect data on how many fishermen used their services or facilities and what they caught.
- The fees for the license - if placed in a dedicated fund for use for the resource - would provide additional funds for the resource over and above the General Assembly allocation. This would mean that more could be done sooner
- $15 per year or $5 per week (as proposed by the Moratorium Steering Committee) is a very reasonable fee and would not keep recreational fishermen from fishing. They spend that much on a seafood dinner, tackle, bait, or gas.
- Recreational fishermen and their families bring in an enormous amount of income for the coast, BUT the key is that there must be fish to catch!

(over)

GRADY-WHITE

Comments on HB 1434, Coastal Recreational Fishing License
House Committee on Environment and Natural Resources
Tuesday, June 22nd, 1999

Provided By:
Douglas J. Hoffman
Facilities and Compliance Manager
Grady White Boats Inc.

I speak to you today, not only as an avid recreational saltwater fisher, but also as someone who has made a living from the recreational fishing industry for over 20 years. I work for Grady White Boats in Greenville, North Carolina where we employ 450 people and manufacture saltwater fishing boats.

Grady White is one of approximately 75 boatbuilding companies in this state, ninety-five percent of which are family owned and operated small businesses. These companies very conservatively employ over 4,000 craftsmen in our facilities. A large majority of these companies build saltwater fishing boats, many of which are sold to customers right here in North Carolina. According to boat registration data there were 141 new Grady White Boats registered in North Carolina last year or approximately ten percent of our total annual production. This represents approximately 6.6 million dollars in retail sales. An economic impact study done by the American Sportfishing Association shows that in 1996, North Carolina anglers spent over 70 million dollars purchasing recreational saltwater fishing boats and motors. This is an extremely small portion of the total economic impact of boatbuilding in this state and does not represent additional expenditures for trailers, electronics, fishing tackle, and many other accessories.

Anyone who relies on the health of our North Carolina marine fisheries resources as the employees of these boat manufacturers do, will tell you that they support the recreational saltwater fishing license. To put it very simply, the more fishing opportunities there are, the more fishing boats we will sell, and the brighter our economic future will be. The only stipulations would be that the funds generated will be used to enhance the marine fisheries in this state, and will be under the oversight of the user group that provided them. The North Carolina fishery resource is critical to the future of many boatbuilders in this state, and the recreational saltwater license system is a way to ensure that it remains viable for generations to come.

I ask you to vote, and vote favorably on House Bill 1434.

RPSC RALEIGH PLASTIC SURGERY CENTER, INC.

1112 DRESSER COURT
RALEIGH, NORTH CAROLINA 27609
919-872-2616

W. BLAKE GARSIDE, M.D.
VARTAN A. DAVIDIAN, JR., M.D.
WILLIAM A. LAMBETH, III, M.D.
RHETT C. HIGH, M.D.

DIPLOMATES OF
THE AMERICAN BOARD
OF SURGERY
THE AMERICAN BOARD
OF PLASTIC SURGERY

Date: June 21, 1999

TO: House Committee on Environmental and Natural Resources

RE: House Bill 1443 to establish a coastal recreational fishing license

I speak to you today as a native of North Carolina and as one who has had a strong interest in saltwater fishing since my youth. I can remember vividly what the fishery was like forty years ago and how it has changed over the intervening years. There has been a general decline in availability of many species, both inshore and offshore, during this period of time. It is quite evident that our saltwater resource is being stressed in many areas beyond its ability to reproduce itself. This is because of three major factors. The first and foremost cause is increased fishing pressure from both the recreational and commercial fishermen of this state. The second reason is an increase in technology, both in electronic devices for harvesting fish and improved fishing technology. The third factor is the influence of pollution on the environment. The entire fishery has been under the control of the coastal counties and the commercial sector for as long as I can remember. The passage of HB-1097 was the first step in reformation of North Carolina's fisheries. It is extremely important, at this stage, that the recreational fishermen be held accountable for their impact on the saltwater fishery in North Carolina. This license revenue is being set up as a trust fund that will be plowed back into the fishery and not put into the general fund. Over 75% of recreational anglers polled are in favor of such a license. The only significant opposition to the passage of this bill is from commercial fishing interests. It is time for the recreational side of saltwater fishery to be recognized and I strongly urge that this bill be forwarded to the finance committee and avoid further delay.

William A. Lambeth

WILLIAM A. LAMBETH, III, M.D.
RALEIGH PLASTIC SURGERY CENTER, INC.

WAL/ghl

HB 1434 6/22/99 Public Hearing Statement

My name is Victor D'Amato and today I am representing the approximately 14,000 members of the North Carolina Chapter Sierra Club. I am speaking today in support of HB 1434, which would authorize the enactment of a Coastal Recreational Fishing License (CRFL).

The CRFL will benefit North Carolinians and our marine fisheries in a number of ways. First, the data that will be collected from the CRFL is essential for the Division of Marine Fisheries (DMF) to carry out their critical charge of developing Fishery Management Plans (FMP) for important finfish and shellfish species, as authorized under 1997's historic Fishery Reform Act. Second, dedicated funds are needed now more than ever to protect and enhance North Carolina's Marine Fisheries via the proposed Sealife Enhancement Fund and oversight committee proposed in the CRFL bill.

There are several deficiencies in the proposed legislation and we are asking your support to make these essential changes. First, as the bill is currently written, surf and shore fishermen would not be required to carry a CRFL. This provision severely limits the data that will be collected by the license. Surf and shore fishing trips represent 62% of the recreational fishing trips in NC and surf fishermen were found in an independent Sea Grant sponsored poll (the preliminary results of which you should have) to be the user group most in favor of a recreational fishing license.

In the aforementioned Sea Grant study, it was found that 78% of anglers were in favor of purchasing an annual license for $15 and 84% were in favor if a $10.00 weekly license option were added. Obviously, there is overwhelming support for a CRFL in North Carolina, provided that the revenue raised shall be designated for resource protection and enhancement. We support raising the annual license fee to $15 and offering a weekly license for $10.

Please finally note that the recommendation to implement a CRFL in North Carolina has come from independent studies commissioned by the state legislature. The Moratorium Steering Committee recommendations that formed the basis of the 1997 Fisheries Reform Act included a CRFL as a primary recommendation. Last year, another independent study commissioned by the legislature came up with recommended details for the CRFL and presented these to the Joint Legislative Commission on Seafood and Aquaculture. We ask that you follow their recommendations and implement a CRFL bill that does NOT exempt shore-based fishermen and that revises the fee structure accordingly.

Thank you for your time and consideration.

Victor D'Amato
Marine Fisheries Issue Chair
North Carolina Chapter Sierra Club
308 Glascock Street
Raleigh, NC 27604
(919) 834-7899
surffisher@mindspring.com

North Carolina Chapter Sierra Club (office: 833-8467)

Carolyn Honeycutt (Rep. Warwick)

From: Pam D. Morris [pamdmorris@coastalnet.com]
Sent: Wednesday, June 23, 1999 2:07 AM
To: Rep. Nurham Warwick
Subject: recreational fishing license

>Date: Wed, 23 Jun 1999 02:00:43 -0400
>To: Pryorg@ncga.state.nc.us
>From: "Pam D. Morris" <pamdmorris@coastalnet.com>
>Subject: recreational fishing license
>
>Dear Rep. Gibson,
>
>My name is Pam Davis Morris and I am from Davis, NC in Carteret County. I am writing to you in opposition to the proposed Salt Water Fishing License.
>
>The reasons are this: recreational saltwater fishing is one of the few -free-doms the citizens of this state have left. This will be just another tax on the people and will create more burocracy. In addition to that, The data created by this license will be virtually useless since all information will be voluntary therefore inherently faulty. Right now the Saltwater angling survey, conducted by NCDMF, is the second largest on the eastern seaboard (behind Florida).
>
>(2) If any fee is implemented,the price should be nominal and seperate from any other license. Moneys from any possible license should absolutly not go into a trust fund controlled by a small group of people, who will most definitly have their own agenda. It sould go into the general fund as commercial moneies always have. There should be NO blanket license of any kind. This will defeat the whole purpose of doing a number count. In addition to a possible windfall for pier owners/charterboats since they are sure to raise their fees using the additional costs as an excuse.
>
>I am curious how another license will create more fish. The ocean cannot be stocked. There is no boundry, as there is with fresh water, that fish cannot cross. They tend to swim off at will! There is little comparisom between fresh and salt water fishing. If there are any more "artificial reefs" deposited in the ocean or sounds, the water will turn into a virtual trash dump. This is not even considering all of the shipwrecks, hense North Carolina's nickname "The graveyard of the Atlantic." Not all fish use debris or rock formations as their habitat and need some relativly open areas.
>
>(4)I have lived all of my life on the Outer Banks and I love to surf fish. In addition to that, my husband is a fisherman and has been for more than 20 years. I am 37 years old and have seen no decline in any fish populations. They have stayed the same for as long as I can remember. Bear in mind that some years are better than others, fish come and go as they please, that is the nature of fishing. If a person comes here and cannot catch any fish, they are either not much of a fisherman or are not telling the truth for gain.
>
>The bottom line is certain groups want to BUY a way to put a small but hardworking, taxpaying group of citizens (who perform a service to this state and country) out of business, therefore out of their way. I do not feel that the average John Q Public wants an additional fee for fishing! You are being led to believe this by people who have money to burn and can afford "little extras". What about the everyday person with a family? Don't they deserve anything? This license certainly not going to save fish for future generations so why the additional burden?
>
>Thank you so much for your time and consideration! I appreciate it!
>
>Sincerely,
>
>Pam D. Morris
>

Patricia Hutchins
TWINE, Head Cutter
mo

Working Fishermen Decide Lobbyist Needed in Raleigh

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A lobbyist was being sought this week by the North Carolina Fisheries Association to represent commercial fisheries interests in the legislature.

Elmer Willis, Williston, president of the NCFA, appointed a committee to consider employment of a lobbyist. The committee was named Monday night at the monthly NCFA meeting, Holiday Inn, New Bern.

Chairman is W. H. Potter, Beaufort. Committee members are Alvah Ward, Manteo; Garland Fulcher, Oriental; Lonnie Everett, Sneads Ferry, Dan Williamson of Beaufort County and the association's president.

This same committee was authorized to discuss with Governor Moore the advisability of appointing to his staff an advisor on fisheries. This person would be similar to appointees in agriculture.

President Willis said, "I saw that the governor appointed somebody the other day to help the farmer. I keep waiting to see who he's appointed to help us poor fishermen, but I never see it."

Employment of a lobbyist to represent commercial fishermen was decided in the face of a sportsfishing push to put a bill through the legislature restricting certain commercial fishing waters to sportsfishermen only. Petitions are being circulated by sportsfishermen asking that commercial fishermen be banned from ocean waters from the shore three miles outward.

Dr. A. F. Chestnut, director of the UNC Institute of Fisheries Research, Morehead City, likened commercial fishing to commercial mining. Minerals are an irreplaceable resource, as many consider commercial fishing he noted. He said "rockhounds," the folks who hunt for gems [illegible] by, are not trying to stop mining, and the miners do not object to the rockhounds.

President Willis said the state needs sportsfishermen just as it needs commercial fishermen.

W. J. Ipock, Beaufort, commenting on the fishing industry's need for publicity, suggested that the North Carolina Film Board do a documentary on commercial fishing. Mr. Potter, Beaufort, stated that such a film is now being made by the board. (Cameramen have been at work in Carteret County since before Christmas.)

Mr. Potter said that an advertising firm has been retained by menhaden processors to represent them. He advocated "an organized approach" against the sportsfishing assault.

Mr. Potter spoke on the need of opening Ocracoke Inlet. Clayton Fulcher, Atlantic, past president of the NCFA, said that every North Carolina representative in Congress should be phoned to get dredging of the inlet moving.

Representative Thomas Bennett requested that fishermen cooperate in their projects and pledged his help to the association.

Representative Leland Brinson, Pamlico, said that he has seen inaccurate figures on the value of sports and commercial fishing. He said he'd like to see some accurate ones. It has been charged that North Carolina takes 10 million pounds of scrapfish annually "more than all other scrapfish states combined."

Dr. Chestnut said that is not true. "There's no comparison with the scrapfish caught here and that landed at Gloucester, Mass., or Pascagoula, Miss.," he said.

Wilson Wooten, Pamlico County, reported on a recent meeting of crab dealers and packers in Norfolk. The meeting was held to draft plans for getting the crab industry back in control of the dealers and packers.

Independent truckers were reportedly undercutting prices for crabs by making deals by radio with crabbers before the boats came in with their catches.

Willard Riggs, Sneads Ferry, reported that the wildlife people "just about took" his nets and boat over the weekend. He had set his nets in New River and couldn't get to them because of the weather.

Wildlife agents cited him and it cost him "$10 a net," he declared. "I've been fishing in New River 45 years. If they're not going to let us fish those waters, we've got to stop buying licenses.

"We had to move out of good shrimping grounds because of firing. I'm not against the Marines. I've been a serviceman myself, but unless we do something, New River's going to be wiped off the map to commercial fishermen."

"This ought to prove," President Willis said, "that we shouldn't have to get out and beg for support." He advocated the association's membership in the Oyster Institute of North America, of which he is a director.

In answer to a question by an Onslow county fisherman who said he understands that sportsmen are trying to close the sounds to commercial watermen, President Willis said, "This organization is going to see that no commercial fisherman shall be deprived of one nickel he could make for his family."

Garland Fulcher advocated that commercial fishermen "not give an inch." If sportsmen get any of the sounds, eventually they'll have everything, he predicted.

Earl Holton, Vandemere, former president of the association, said the commercial fisherman's greatest weapon is unity. He said the fisherman is disgusted with "upstate farmers" trying to govern fishing. "We don't circulate petitions telling them how they should farm," he declared.

President Willis announced that membership in the association is $3 annually. "We'd rather have a thousand at $3 each than 100 at $30 each," he declared. He asked each member to get five more before the next meeting, which will be Monday, March 1, at 6 p.m. at the Southernaire Restaurant, Snead's Ferry.

Dr. Frank Thomas, State College Food Science Department, said that every agricultural agent in the state was represented at a recent meeting in Raleigh to plan for "a successful 1965." He advocated better use of fish that are caught. "You can pull all of the fish out of the sea, but you have to use them wisely," he remarked.

Charles Davis, Beaufort, was recognized for obtaining 20 new NCFA members and Charles Nonamaker for obtaining 21.

Carteret had the largest number at the meeting. Present in addition to those mentioned were Harry Fulcher, Ottis Purifoy, James Paul Lewis, T. H. Potter, Steve Oakley, Leon Thomas, Dr. James Brown, Wesley Willis, Berkley Simpson, H. G. Simpson, Roger Jones, Billy Smith, Stacy Guthrie, Howard Gaskill, Rupert Smith, Wendell Bennett, Henry D. Smith, Stanley E. Buck and Julian Saunders.

Total attendance was 74.

e Enjoys Record Port Year in 1964

Wilmington
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gress, generally would, of course, not be possible were it not for the shippers and all those allied and interested parties who have teamed with the North Carolina State Ports Authority in a great spirit of cooperation to promote the growth of world trade and waterborne commerce," Mr. Lee notes.

Mr. Lee continues:

Export tonnages at Morehead City show a healthy 13.5 per cent increase. As you may remember, the fishing season in 1962-1963 at Morehead City was ruined by an extended storm, and no fish oil was exported during 1963. The fishing season in 1963-1964 was better and we exported 6,312 tons of fish oil.

The movement of spent glycol is up by 5,560 tons, and is the result of heavier production in textile mills located at Kinston

increase in the over-all import-export tonnage.

Imports are down at Morehead City by 3.1 per cent as compared with 1963. Both the fishmeal and grain operations have been phasing out to make room for the movement of phosphate over the berths now occupied by the old transit shed and grain loader.

Consequently, fishmeal tonnage was 2,781 tons less in 1964 than in 1963, and it is more than probable that we will not handle fishmeal at all during 1965 because of the lack of adequate facilities.

Grain tonnage is down 2,116 tons as compared with 1963, and we will handle no grain in 1965 unless bagged and in transit. Dry milk tonnage was 3,763 tons less than 1963; however, this is government cargo and fluctuates from year to year.

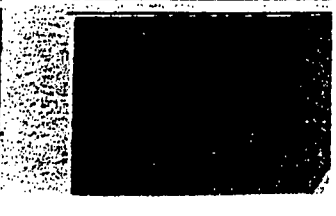
leum, which was 10,352 tons less in 1964 than in 1963. This may improve in 1965 as Humble Oil has leased its black oil tanks to another oil company for operation. The bright side of this picture was an increase of 10,987 tons of asphalt. As you know, we exercise no control whatsoever over the movement of these two cargoes.

In 1964 Morehead City handled 1,832 rail cars, an increase of 10.6 per cent or 176 cars more than handled in 1963. Morehead City also handled 4,179 trucks, an increase of 10.6 per cent or 402 more trucks than in 1963. The number of ships in 1963 was 289 and last year 319, an increase of 20.9 per cent.

The military accounted for the greatest portion of this increase; however, the number of ships

record for the year when gross revenues exceeded for the first time one half million dollars.

There was 20.2 per cent increase in total tonnage through Wilmington as compared with 1963. The total gross revenue at Wilmington for 1964 represents the largest gross revenue year ever and the first time that revenues have exceeded one million dollars.





Patricia Hutchins
PINE Morehead City
—MORRIS—

Carteret County News Times CCNT
2/12/1965

The Fight Over Fish: Each Side Defeats Other, Baffles Onlookers

By ELMER D. WILLIS
President
State Fisheries Association

I noted Monday night, Feb. 1, at a meeting of the North Carolina Fisheries Association, that North Carolina needs both the commercial and sports fisherman.

This was said in light of the current battle shaping up between the North Carolina sports fishermen and the man who earns his living on the water. In connection with this, I call your attention to an article in the 1964 Fisherman's Digest by Hal Lyman, publisher of The Salt Water Sportsman. It is entitled Commercial vs. Sport Fishermen — Silliest Fight Ever.

Copies of this article have been distributed by W. H. Potter, Beaufort, at his own expense, to people directly concerned with the welfare of working fishermen and the man who fishes for fun.

Following are some thoughts from Mr. Lyman's article:

Anglers delight in finding excuses for their lack of success with rod and reel . . . one of the excuses is the weather, but since they can't do anything about the weather, some other factor is sought. This factor, nine times out of ten, is the commercial fisherman.

Once aroused, anglers can become almost hysterical on the subject of commercial fishing. This results in impassioned pleas to legislators to enact laws that would curtail any and all marine activities not connected with rod and reel angling. Oddly enough, such legislation always masquerades under the name of "conservation."

(For example, sports fishermen in this state now are petitioning for a law that would ban all commercial fishing within three miles of the ocean beach.)

Few sportsmen realize the tremendous impact their own angling has upon our fishery resource. Often anglers will scream in protest over the hauls made by a seiner—not realizing that the anglers themselves took approximately 600 million food fish in a single year from ocean surrounding this country.

The 1960 Survey of Hunting and Fishing (US Fish and Wildlife Service) indicated that there were 6.3 million regular saltwater anglers, plus an additional 3½ million who fished occasionally in the ocean. The annual rate of increase in these numbers is 6.7 per cent . . . so pressure on the species which support the sport fisheries is high.

In some cases this pressure threatens the future of a particular sport fishery.

No saltwater fish has ever become EXTINCT as the result of commercial fishing, sport fishing, or both. However, some species have so been reduced in number that profit and pleasure fishing for that species vanish.

Catches of sports fishermen can be classed along—with those of commercial men. More than half of the five billion pounds of fish brought to docks by commercial fishermen are fish not eaten by people.

Included in that catch are shellfish of all kinds. The catch of edible seafood, then, is about two billion pounds a year. Compared with sport-catch estimates, this means that rod and reel fishermen bring in poundage equal to almost three-quarters of the commercial haul.

Anglers who sell their catches in the market are commercial fishermen, although they want to fight anyone who calls them such. It is better to sell excess fish than to leave them to rot. However, those who do, such business should not try to legislate against their fellows who use a different way of taking fish.

Marine anglers are increasing at a rate more than three times that of the national population growth. Commercial fishing techniques are improving. Foreign fleets are working our offshore areas.

THE PROBLEM THEREFORE IS NOT ONE OF CONFLICT BUT ONE OF COOPERATION. How can we reach this highly desirable goal?

- By learning the truth about the way a fish behaves, where he swims, spawns, migrates, how long he lives if not caught. This is called research.
- By each type of fisherman learning more about how the other man fishes, by teaching about fisheries and harvesting in high schools.
- By ignoring rabble-rousers who try to pit the sport fisherman against the commercial fisherman.
- By updating fisheries regulations, both sport and commercial, in the light of new knowledge about the habits of fish.

If both the sport fisherman and commercial fisherman WORK TOGETHER, they have a potential power which lawmakers cannot ignore.

(Note: Mr. Willis is president of a voluntary group of commercial fishermen who joined together a number of years ago to exchange views and present them to the public. The North Carolina Fisheries Association is in no way affiliated with a government agency, state or federal.)

The Readers Write

Route 1
Morehead City
Feb. 10, 1965

To the Editor:

Of course we have had lazy people—with us—from the beginning, but the New Deal came along with PWA and CCC camps and took all the embarrassment out of that laziness and increased the number four-fold. Now the Great Society is underway and

I'm a member of the Raleigh Salt Water Sport Fishing Club.
18 years ago our club members voted to support the concept of a saltwater fishing license – the only stipulation was that the money raised must go to improve the resource. There were no net bans 18 years ago. We supported a license because we believed it would improve saltwater fishing.

A license does not bring about a net ban but history shows that the lack of fish and an angry public will.

The fact is:

- a properly funded license
- with few exemptions
- will help prevent the lack of fish by providing the needed money for fishery management plans and
- help properly manage the resource and reduce the need for a net ban.

A fishing license is a user paid management tool that every state uses. Last year Georgia added a saltwater license based solely on fairness to freshwater anglers. They felt that it matters not where you fish, but that each group pays its fair share.

Licensed freshwater anglers and hunters great fishing and hunting in this state; benefits that result from their license fees.

Yet every year, the Division of Marine Fisheries has to beg the Legislature and compete with other priorities for adequate money to improve saltwater fishing. This year the artificial reef program was put on the cutting block.

You now fund Marine Fisheries with tax money that comes from all taxpayers – many who never use the resource.

We ask that the users – the people who fish saltwater -- be permitted to pay for the improvement of their sport. You made that wise decision years ago for freshwater anglers and it works.

Our extremely successful freshwater user license has done great things for North Carolina.

A saltwater fishing "user license" will make our coastal fishing just as great.

Comments by Bo Nowell – member of the Raleigh Salt Water Fishing Club June 22, 1999

June 22, 1999

P.O. Box 53244
Fayetteville, NC 28305

My name is Charles Harrell and I am a Member of the Fayetteville Sportfishing Club, an organization of over 100 saltwater anglers in the Cumberland County area. I am also a member of the Coastal Conservation Association.

I am here today to speak in support of the proposed recreational Saltwater fishing license.

North Carolina needs this license.

We are blessed with one of the most diverse saltwater fisheries in North America. Angling opportunities abound for every kind of fisherman's pleasure. But while this precious resource is renewable, it can also be taken for granted.

We as anglers must be stewards of this resource. It is everyone's responsiblility who uses this resource, whether recreationally or commercially, to give back and help it renew and grow.

The proposed recreational saltwater license does this.

On behalf of the saltwater anglers in Southeastern North Carolina Legislation, we urge your favorable report and passage.

Give us the right to give back to the resource.

As I will be unable to attend this hearing, please insert my comments into the record as read.

Thank you,

Charles J. Harrell

TO: House Environment Committee

FROM: Mac Currin
801 Westwood Drive
Raleigh, NC 27607
919-881-0049

I am a recreational angler and a board member of CCA. CCA is the only organized group in NC that strives to represent saltwater anglers in the regulatory arena, thus the reason for my membership. As you have heard already, the board of CCA has not resolved to pursue a net-band in this state. I am/was a member of the JLCSA and Chair of the committee that recommended implementation of a saltwater license. Much to my disappointment, the Commission did not act upon the Committee's recommendation

I speak to you today not as a CCA member, but as an angler who is interested in the sustainable future of NC's marine resources. These resources belong to every North Carolinian-- users and non-users alike. It is YOUR duty as elected representatives of the citizens to insure the future health of those resources.

By passing the FRA in 1997 you began a new era for our marine resources by beginning the process of managing our fisheries through Fisheries Management Plans. These Plans provide for the use of scientific data to assure that our marine resources are available for use by ALL users. What you FAILED to do in that Act was to provide the DMF and MFC with ALL the tools necessary to accomplish that onerous task.

You have before you now a bill that goes along way toward accomplishing that goal-- a coastal recreational fishing license. To move this bill forward is a vote for the future of NC's marine resources. To fail to do so is to invite uncertainty in the future of our fisheries, their managers and their users.

A properly structured coastal recreational fishing license has the potential to not only manage fisheries better, but to enhance habitat and fisheries directly with user-fees collected in the process.

There is broad-based statewide support for a license-- just look at the materials given you on recent surveys of anglers. The support is much bigger that CCA and that support is not predicated on the future of any net-ban. The support is predicated on the future of the state's marine resources. Thank you.

Mr. Chairman & members of this committee: my name is Bernie McCants and I live in Raleigh. I am a native North Carolinian and I have been avid saltwater fisherman for 44 of my 50 years. I am member of several saltwater fishing clubs & organizations, some on record for a recreational license, some on record against and some with no official position. I am speaking only for myself

In the Monday, June 21, on-line edition of the Charlotte Observer, Rep. Ronnie Smith, who sits on this committee, is quoted as saying "This is a group of people trying to take control of the situation, take control of the fishery". To Mr. Smith & others who oppose this license, I respectfully submit that this is **not** the case. The 1.2 million recreational anglers simply want to contribute, both in voice and money, to the management process. Our goal is **not** put commercial fishermen out of business. On the contrary, we often rely on them to provide us with bait as well as fresh seafood when our fishing trips are not a successful as planned.

The recreational license is based on a very simple, reasonable principle: You pay to play. Users, **all** users, should be expected to pay for the privilege of harvesting public resources and pay for the management to insure their harvest into the future.

A fishing license should be required if you fish public waters – from a boat in Falls Lake or from a boat in the Pamlico Sound - from the banks of the Yadkin River or from the shore at Emerald Isle. The salinity of the water should not be the determining factor.

You have in saltwater anglers a large group of users who are willing to purchase a license to pay for this privilege provided the money is used appropriately.

The North Carolina Division of Marine Fisheries, charged with managing our public resources for all the citizens of North Carolina, is on record supporting this license.

As my 17-year-old son would say, it's a no brainer.

I urge you to give the saltwater recreational license a favorable vote and amend it to include shore-based anglers.

Bernie McCants
2325 Windy Wood Dr.
Raleigh, NC 27607
919-832-3755

6/22/1999

I want to thank the committee for the opportunity to speak. I spoke at the MFC's public hearing Asheboro in support of the license; the vast majority at this hearing were in support of a license as I continue to be. Saltwater recreational angling and it related economic activities have been a large part of the growth in our coastal regions and are an important part of the economy to communities along the way to the coast also, yet as anglers, we put nothing back into the resource we all love. A conservationist goal is to preserve what we have and enhance it for those who follow, please give us the opportunity to do this with the license. We need a recreational license that includes a full count of the all users to give Preston Pate at DMF what he needs and has asked for. Better data leads to better management, DMF own data now shows many of our major finfish species as stressed or in decline. Where major conservation and management efforts have been concentrated on limited species we have major successes, first with stripped bass and most recently grey trout. As a conversationalist I want to put something back to the resource so we can have more of this sort of thing. A license with a modest fee can give us the means to stop the declines and get on the road to recovery. With a tight budget facing the legislature, recent cuts in funding for ~~the artificial reef program and~~ expanded DMF responsibilities what are your alternative means to finance and halt these declines if the license does not pass? It is the legislature's responsibility to do this yet I have not heard of any alternatives of how this will be accomplished on a broader basis for all the threatened species without a license. Let recreational anglers pay their share by passing a license with full counts with modest fees so we can put something back into the resource to ensure it's enhancement for ourselves and our children.

I have and will continue to ask all legislators that when the going gets tough to always place the need of the resource first. The resource is in trouble, you are charged with the responsibility to change this. Please do the right thing and pass a complete license package that ties the money back to the resource to give MFC and DMF the tools they need to stop the current declines.

Respectfully

Gary A. Garber

2007 Edgewood Ave
Burlington, NC 27215

VISITOR REGISTRATION SHEET

Environment and Natural Resources — June 22, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan K. Harris	SOS
Martha Glass	DOA
John Easton	PRC
Hal Miller	NC ACCT
Kelli Fullenwa	DuPont
Glenise Mercer	Commercial fishing (TWINE)
Patricia Hutchins	" " "
Bill Harrell	CCA-NC
Mac Currin	Raleigh, Rec. Angler - CCA-NC
Bryan Gillikin	Marine Fisheries Comm
Doug Jones	Office of the Lt. Governor
Tonia Nelson	
Buck Robe	NCWRC
Janice Underwood	NCWRC
Dick Hamilton	NCWRC
Beth Warren	AG's Office
Mark Jesson	The Capital Group
JERRY SCHILL	NC FISHERIES ASSOC.
WILLIE R ETHERIDGE III	P.O. BOX 69 WANCHESE N.C. 27981
Billy Carl Tillett	P.O. Box 383 Wanchese N.C. 27981
JEREMIAH JACKSON	NCLCS
Nancy Thompson	NMFC
Thom Mills	OMSS
Dick Brame	CCA
Tom Quaranta	WCSR/CCA
Congressman Davis	WCS&R/CCA
Molly Diggins	NC Sierra Club
[illegible]	TRPA

VISITOR REGISTRATION SHEET

Environment and Natural Resources — June 22, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dewey Botts	DENR
Jeanne Knight	NC Wildlife Fed, NC Sierra Club
Nat Mund	CCNC
Melissa Semer	intern
Barbara Wyse	NC Sierra Club
Vicky Young	OSA
Hayden Childs	Common Sense Foundation
Preston Howard	MCIC
Bill Weatherspoon	NC Petroleum Council
Douglas Harvey	NC Petroleum Marketers Association, Inc.
Sharon S. Berner	NC Petroleum Council
Gary Harris	NC Petroleum Marketers Association, Inc.
Marla Rice-Evans	
[illegible]	Parker Poe, Cobb & Bernstein
Natalie English	NCAC
Jim Newell	OSBM
Jeffrey Jones	WJTL
[illegible]	Bowe & Assoc.
[illegible]	DENR
Ballard Everett	Ballard Everett & Assoc.
Elizabeth Groventstein	OSBM
Charles M. Cook	House Chaplain of the Day (Rep. P. Gibson)
Lou Russell	CYM
Susan Markham	EQHS
Don Beane	The Capital Group
[illegible]	CWG
Ashley Dicks	HELP
Vanessa Sandy	HELP

VISITOR REGISTRATION SHEET

Environment and Natural Resources — June 22, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roy Hicks	HELP
Jerry L Smith	
Karen Priest	ARSI, CCNC, Bladen Environment
Dana M Pate	ASMFC Gov. Appt.
Ebonie Alexander	NCCOI

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Wednesday, June 23, 1999 & Thursday, June 24, 1999**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1434 – Coastal Recreational Fishing License

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 p.m.** on **June 22, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 23, 1999

MINUTES

The House Committee on Environment and Natural Resources met Wednesday, June 23, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives, John Brown, Billy Creech, Arlie Culp, Mitch Gillespie, Dewey Hill, Joe Hackney, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representatives Leo Daughtry and Liston Ramsay were excused.

Chair Gibson called the meeting to order at 12:13 p.m. He reported that the Public Hearing on HB 1434 was held on June 22, 1999, at 4:50 p.m. to 6:05 p.m. It started 50 minutes late because Session ran later than expected. Sixty people attended; 32 presented their comments and 2 submitted their remarks for the record. A folder covering all information presented at the Hearing was passed out to each member. Those who presented For and Against this bill used decorum and proper manners. The Hearing was very instructive and inclusive touching all parts of the bill.

HB 1434, Coastal Recreational Fishing License. Representative Redwine was recognized. He again reiterated why he thought this bill is a good idea.

1. The fairness issues – everyone thinks highly of it and enhances the resource.
2. Will assist the State in drawing Federal monies if the bill is constructed correctly which it is.
3. Most important is the management aspect of tabulating which species need help. With the help of the recreational fishermen through licenses will accomplish this goal—a good way to manage this fishery and make a healthy fishery.
4. Dedicated fund aspect of the bill – the Sea Life Enhancement Fund.

Representative Redwine continued. He said that this proposal is a starting point (or half waypoint) and urged the Committee to keep it on its proper path through the General Assembly and asked the Committee to act favorably on the bill.

Representative Yongue said that his constituents supported the bill and that it was a good bill. He moved to enroll the amendments that the Committee voted on during the June 22 meeting and for a favorable report to the Committee Substitute for HB 1434.

Representative Gillespie thanked the Committee for keeping an open mind on this bill, having the Public Hearing, and helping him make up his mind about the bill. He stated that he had learned a good point from a presenter at the Hearing. A pier owner said that they now have to pay $.50 a foot. With the new bill, there would be a blanket fee of $5.00 a foot. With an average pier of 1,000 feet, the average fee would be $5,000. South Carolina charges $350 per year, and Virginia charges $500 per year. He feels North Carolina's fee is excessive and hopes that an amendment to address this issue be added and taken up in the Finance Committee. Representative Gibson said that the bill sponsors and people on both sides of the bill would look at the pier equity issue and more appropriately address the resources in North Carolina.

The motion was before the Committee Passed; the "ayes" have it. HB 1434 will go to the Finance Committee.

Representative Gibson adjourned the meeting at 12:22 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1434 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to (original bill) (~~Committee Substitute Bill # ~~), (and recommendation that the committee substitute bill ~~# ~~) be re-referred to the Committee on FINANCE.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1434
Proposed Committee Substitute H1434-PCS7259-RT

Short Title: Coastal Recreational Fishing License. (Public)

Sponsors:

Referred to:

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources it is essential that the recreational as well as the commercial fishing sector provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. -- It is unlawful for any person to engage in recreational fishing without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. -- A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. -- Except as provided in G.S. 113-174.2(f)(1) and G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. -- A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. -- It is unlawful for any person to engage in recreational fishing in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. -- The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. -- It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. -- A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of

marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. -- The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. -- The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"§ 113-174.2. Coastal Recreational Fishing License.

(a) License Required. -- Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. -- Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) through (3) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. -- The Division shall issue the following CRFLs:

(1) Standard CRFL. -- $7.50. This license is valid for a period of one year from the date of issuance.

(2) One Week CRFL. -- $3.50. This license is valid for a period of seven days.

(3) One Day CRFL. -- $1.00. This license is valid for a period of 24 hours.

(4) CRFL for SCFL and RSCFL holders. -- Any person who holds a SCFL or a RSCFL may obtain a CRFL to engage in recreational fishing by means of recreational gear. A license issued under this subdivision shall be issued without charge and expires on 30 June of each year.

(5) Subsistence CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant takes fish solely for the purpose of direct consumption by the individual and the members of the individual's household in circumstances where fish constitutes a substantial portion of the diet of the individual and the household. A license issued under this subdivision shall be issued without charge and is valid for one year from the date of issuance.

(6) Lifetime CRFL. -- This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than 6 years of age	$100.00
b.	Between 6 and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00

(7) Lifetime CRFL for Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders. -- Any person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b) may receive a Lifetime CRFL at no charge. This license is valid for the lifetime of the licensee.

(8) Permanently Handicapped or Disabled Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(9) Disabled Veteran Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(10) Legally Blind Lifetime CRFL. -- An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. -- A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot

(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. -- A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is five dollars ($5.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. It shall be unlawful for the owner or operator of an ocean fishing pier who does not hold an Ocean Fishing Pier Blanket CRFL to allow any person on the pier who does not hold a CRFL to engage in recreational fishing by means of recreational gear. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of recreational gear without holding a CRFL.

(2) A person may engage in recreational fishing by means of recreational gear from the shore or from a shore-based structure without holding a CRFL.

(3) A person who is 65 years of age or older may engage in recreational fishing by means of recreational gear without holding a CRFL.

"§ 113-174.3. Recreational Commercial Gear License.

(a) License Required. -- Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use

of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. --

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

"**§ 113-174.4. Sealife Enhancement Fund.**

(a) Definitions. -- As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and

federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. -- The Sealife Enhancement Fund is established as a special fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. -- The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resources and habitat enhancement. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement.

(2) Law enforcement. -- Not more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. -- Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including data collection and the development of Fishery Management Plans.

(4) Grants. -- Not more than ten percent (10%) of the moneys in the Fund shall be distributed to fund coastal fishing programs, projects, and scholarships.

(5) Administration. -- Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. -- Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. -- The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. -- The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) The Department shall compensate license agents by refunding to each license agent six percent (6%) of the value of each license sold by that license agent."

Section 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

Section 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. -- ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the

applicant applies for the license or endorsement regardless of when application is made."

Section 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. -- ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

Section 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

Section 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 7. G.S. 113-169.4 is repealed.

Section 8. G.S. 113-172 is repealed.

Section 9. G.S. 113-173 is repealed.

Section 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

Section 11. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational

fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2000 Regular Session of the 1999 General Assembly.

Section 12. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 13. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 14. Sections 10, 11, and 14 of this act are effective when this act becomes law. All other sections of this act become effective 1 March 2001.

VISITOR REGISTRATION SHEET

Natural + Environmental Resources — 6/23/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Natalie English	NCAC
David Knight	NC Wildlife Fed, NC Sierra Club
Matt Benson	Capitol Group
Sabra Faires	Dept. of Rev
Jerry Schill	NC Fisheries Association
Doug Jones	Lt. Gov.
Kristen Guillory	Lt. Gov. office
Matt Mad[illegible]	CCNR
Barb Rote	NCWRC
Richard Hamilton	NCWRC
Jean Duncan	CCA/WCSK
W.A. Lambeth	Rec Fisherman / CCA
Preston Pate	NC Marine Fish.
Lawrence Davis	CCA / Womble Carlyle
MAC CURRIN	Raleigh, Rec Angler / CCA
Ben Singleton	Raleigh - Rec angler

AGENDA

House Committee on
Environment and Natural Resources

June 29, 1999

Call to Order .....Chair Warwick

BILLS TO BE DISCUSSED:

S 953 Ambient Air Quality Improvements - Senator Clodfelter

S 1049 Neuse River Buffer Amendments - Senator Albertson

Announcements & Adjournment ..... Chair Warwick

-We will meet tomorrow (Wednesday, June 30) 12:00N-2:00pm in Room 643)

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Committee Minutes

Tuesday, June 29, 1999

The House Committee on Environment and Natural Resources met Tuesday, June 29, 1999, in Room 643 of the Legislative Office Building at 12:00 Noon. Representative Pryor Gibson and Nurham Warwick presided. Other members attending were V-Chair Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Don Davis, Mitch Gillespie, Dewey Hill, Joe Hackney, Paul Luebke, Eugene McCombs, Danny McComas, Frank Mitchell, Ronnie Smith, Scott Thomas, Gregg Thompson, Alex Warner, Doug Yongue and Representative Andy Dedmon. Representative Liston Ramsey had an excused absence.

Chair Nurham Warwick opened the meeting at 12:10 P.M. by welcoming all those attending the meeting. Before bill discussion, he outlined the potential schedule for S 953 and S 1049. He stated that S 953 would be heard today for explanation and discussion and probably voted on at the next meeting on Wednesday, June 30. S. 1049 will probably be heard, time permitting, on Wednesday, June 30.

Chair Warwick then recognized Representative Yongue for a motion to consider a Proposed Committee Substitute for S. B. 953 Ambient Air Quality Improvements. The motion was seconded and passed. (A copy of the committee substitute is following as Attachment 1.) Representative Hackney, who is handling the bill for Senator Clodfelter was then recognized to explain the bill. Representative Hackney started his presentation by thanking all involved in formulation of this piece of legislation. He stated that air quality is an important health matter and if we don't begin to control and limit air pollution within the State it will be a greater threat to our citizens. Ozone air pollution adversely affects the health and welfare of the citizens of North Carolina through the impairment of lung function and exacerbation of asthma and other diseases of the lung. It affects numbers of persons showing up at hospitals to be treated, children attending school, workers not on the job and older citizens in great discomfort. From May to September of 1998, EPA recorded the following bad air days: fifty (50) for Mecklenburg County, forty-four (44) Research Triangle Park and (43) forty-three Great Smokey Mountain National Park. All the days were serious to severe warning days for citizens in these areas. This legislation deals with ways to cut down on about 50 % of the deemed sources of this pollution; which is unhealthy emissions mobile sources such as automobiles, trucks and buses. H. B. 323 authorizes the Environmental Management Commission and the Commissioner of the Division of Motor Vehicles to require and enforce vehicle emissions inspection and maintenance programs to improve air quality in counties where the programs are not currently required by federal law and which are not specified in the State Implementation Plan for emissions testing submitted to the federal Environmental Protection Agency. It also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for H.B. 323 additionally authorizes the EMC to regulate the sulfur content of gasoline and provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system. One of the State goals as listed in the legislation is to reduce emissions of nitrogen oxides (NOx) from all sources by at least

twenty-five 25% by July, 2009 and the growth in vehicles miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by July 1, 2009. NCDENR and NCDOT would evaluate progress toward achieving these goals in each fiscal year and would report their findings and recommendations as to any measures they may be needed to achieve these goals to the Environment Review Commission on or before October 1 of each year beginning October 2000. The bill also gives the Governor of our State, if he so determines, the authority to issue an Executive Order setting our the date on which Section 2.1 of this act will be effective; otherwise , Section 2.1 of this act becomes effective January 1, 2004. Section 2.1 says that no person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture , sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. These are Federal Government's EPA Agency rules that were published on May 13, 1999, in the Federal Register, Volume 64. Number 92, Page 26003 et seq. (More details of Section 2.1 is on Page 2 and 3 of the proposed substitute.)

Representative Creech asked what is the present sulfur concentration in gasoline. Representative Hackney said that gasoline presently contains 300 parts per million. He added that this would be a significant change and would gradually, but dramatically, change the quality of air emissions from vehicles. Gas would probably,ultimately, be 2 to 3 cents more per gallon

The following questions were asked relative to inspections: (1) Representative Davis, will tailpipes be inspected during yearly inspection time and will it raise the fee. Representative Hackney said that it would increase the fee we are not sure how much at this time. (2) Representative Creech asked who will set the fee. Response was that the General Assembly would set the fee.

Representative Brown asked if the county improves would they come off the inspection list. Response is that we don't know at this time; but probably not. He further asked about pollution going from one county to the next. This is being studied at this time.

Representative Mitchell stated that it was frightening to him, that in Section 2.1 of the bill, the Governor of this State not later than July 2000 would have the authority to issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective in this State if EPA has not acted at this point. This concerns him in relation to bad air from other states drifting into ours, especially if they have not been mandated to improve as soon as our state. At a national meeting recently, EPA said that they would require these rules in all states by 2004. Representative Hackney said that there is some concern and added that hopefully the date will be the same nationwide. The vehicle industry does want these standards enacted, but need help with the fuel parts and the fuel industry wants these changes but wants them to be more gradual,150 parts standard. He added that places like Atlanta and the Mecklenburg area would have to go to the 50 parts standard to have significant improvement to their air quality. He follows this with an observation that fuel companies would probably not want different fuel make-up in different areas. The 50 parts standard would help the catalytic converters on vehicles operate in a more proficient manner.

Chair Warwick recognized Representative Gibson who introduced an amendment numbered #1 (Attachment 2) that would rewrite on page 9, lines 12 through 16 to read: "program to improve ambient air quality; to require that motor vehicle emissions be monitored while the vehicle is in operation by means of on board diagnostic equipment (OBD) installed by the vehicle manufacturer;

to require manufactures of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor";. The committee adopted the amendment. The Chair asks that the amendment be rolled over into the 2nd version of the committee substitute before the Wednesday, June 29 meeting.

Chairman asked if any one in the audience would like to speak on the proposed committee substitute before the committee. The first speaker was Bill Holman of NCDENR who stated that the Department was in full agreement with the bill as presented in the proposed committee substitute as amended and that it would give the Department the tools by which they could do their part in the improving the quality of air., economy and environment in the State. Representative Davis asked how are we working with other states. Representative Warwick talked briefly about the Governor's Summit on Clear Air in Asheville in April, 1999. This was addressed at that time. (A copy of the Governor's remarks is following as Attachment 3) Mr. Holman added that communication especially with South Carolina and Georgia are very good and both states are taking measures to improve their air quality, which effects the southern part of our state and our mountains. The summit will be an ongoing annual meeting hosted by a different state each year. Hopefully, this will and should increase dialogue among the states.

Representative Warwick recognized Representative Warner for the introduction of an amendment #2 (Attachment 4). Representative Warner moved to amend the proposed committee substitute on page 11, line 19 by adding after the word "plan" on that line: "The plan shall include an analysis of the cost effectiveness of implementing the goal." And on page 11, line 22, by adding at the end of that line: "The Department of Public Instruction shall report to the Environmental Review Commission on the cost effectiveness of the plan by September 1, 2001. If the plan is not cost effective, the Environmental Review Commission may recommend that the General Assembly modify or eliminate the goal."
On request of Representative Warner, explanation, consideration and voting on his amendment were held over until Wednesday, June 30 meeting.

Chair Warwick then adjourned the meeting.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

Attachment 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 953
Proposed House Committee Substitute S953-PCS1768-RT

Short Title: Ambient Air Quality Improvements. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF 1999.

Whereas, the Constitution of North Carolina declares that the policy of this State is to conserve and protect State lands and waters for the benefit of all North Carolina citizens and to control and limit air pollution within the State; and

Whereas, the State has enacted comprehensive statutory and regulatory protections for reducing air pollution from stationary sources; and

Whereas, ozone air pollution adversely affects the health and welfare of the citizens of North Carolina through the impairment of lung function and exacerbation of asthma and other diseases of the lung; and

Whereas, visibility at some of the State's places of beauty, such as the Great Smoky Mountains National Park and the Blue Ridge Mountain range, has been impaired by ozone air pollution that is created by the reaction of nitrogen oxides (NOx) and other chemicals in sunlight; and

Whereas, the decentralized system of inspection stations effectively uses a public-private partnership to enforce motor vehicle pollution controls; and

Whereas, gains in motor vehicle pollution control technology have been offset by increased vehicle use, resulting in greater emissions of nitrogen oxides (NOx) and greater ozone air pollution; and

Whereas, the sulfur contained in gasoline impedes the effectiveness of catalytic converters, the devices that reduce the amount of pollution emitted from vehicle tailpipes, thereby degrading the emission control systems of vehicles; and

Whereas, new motor vehicle pollution control technology is more sensitive to the sulfur content of fuels and will require new emissions inspection methods; and

Whereas, reducing emissions of nitrogen oxides (NOx) from motor vehicles by twenty-five percent (25%) within the next 10 years will complement the State's stationary source control strategy; and

Whereas, reducing the growth of vehicle miles traveled in the State by twenty-five percent (25%) within the next 10 years will complement the State's controls of nitrogen oxide (NOx) emissions from stationary sources; and

Whereas, leaking underground storage tanks and tanker trucks release quantities of volatile organic compounds into the air, which mix with nitrogen oxides (NOx) to form ground level ozone; and

Whereas, clean burning fuels, alternative-fueled vehicles, and low emission vehicle usage should be encouraged statewide; and

Whereas, the State must lead the way in combating ground level ozone pollution from motor vehicles through its own purchases and policies; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. STATEWIDE GOALS

Section 1.1. It shall be the goal of the State to reduce emissions of nitrogen oxides (NOx) from all sources by at least twenty-five percent (25%) by 1 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by 1 July 2009. The Department of Environment and Natural Resources and the Department of Transportation shall evaluate progress toward achieving these goals in each fiscal year and shall report their findings and recommendations as to any measures that may be needed to achieve these goals to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

PART II. SULFUR CONTENT OF MOTOR FUELS

Section 2.1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"**§ 119-26.2. Sulfur content standards.**

(a) No person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. The average concentration of sulfur contained in gasoline shall be determined on the basis of a one-year period established by rule.

(b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section."

Section 2.2. Section 2.1 of this act becomes effective as provided in this section. No later than 1 July 2000, the Governor shall determine whether the United States Environmental Protection Agency has adopted, pursuant to the Notice of Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64, Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold, and offered for sale in this State that limit the sulfur content of gasoline to a concentration equal to or less than the concentration set out in Section 2.1 of this act. If the Governor so determines, the Governor shall issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective, which shall be the date on which the federal regulation becomes effective in this State. Otherwise, Section 2.1 of this act becomes effective 1 January 2004.

Section 2.3. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. ~~Oxygen content standards~~ Content of motor fuels and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the ~~oxygen~~ content of ~~gasoline~~ motor fuels or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section shall not relieve any person from any other penalty or remedy authorized under this Article.

(c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

PART III. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Section 3.1. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.107A. Motor vehicle emissions testing and maintenance program.**

(a) General Provisions. --

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Type of Test Required. -- Motor vehicle emissions inspections shall be performed using the two-mode Acceleration Simulation Mode (ASM) test described in Federal Register, Volume 57, Number 215, (5 November 1992), Pages 52955 to 52996.

(c) Counties Covered. -- Motor vehicle emissions inspections shall be performed only in the following counties: Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake.

(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions testing be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor

vehicle emissions testing be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 3.2. The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002. The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006.

Section 3.3. Effective 1 July 2003, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed ~~only~~ in the following counties: Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Johnston, Mecklenburg, Orange, Rowan, Union, and Wake."

Section 3.4. Effective 1 January 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Section 3.3 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Cabarrus, Catawba, Chatham, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rowan, Stanly, Union, and Wake."

Section 3.5. Effective 1 July 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 and 3.4 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rockingham, Rowan, ~~Stanley,~~ Stanly, Union, and Wake."

Section 3.6. Effective 1 January 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.5 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, ~~Stanley,~~ Stanly, Union, ~~and Wake.~~ Wake, Wayne, and Wilson."

Section 3.7. Effective 1 July 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.6 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, ~~Stanley,~~ Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.8. Effective 1 January 2006, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.7 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, ~~Stanley,~~ Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.9. Sections 3.3 through 3.8 of this act become effective only if G.S. 20-183.7 is amended to increase the fee for motor vehicle emissions inspections no later than 31 December 2000. G.S. 143-215.107A(b), as enacted by Section 3.1 of this act, and Section 3.2 of this act are repealed effective 1 January 2001 unless, prior to 1 January 2001, G.S. 20-183.7 has been amended to increase the fee for motor vehicle emissions inspection.

Section 3.10. The Department of Environment and Natural Resources, with the assistance of the Division of Motor Vehicles of the Department of Transportation and the affected parties, shall study issues related to costs associated with the motor vehicle emissions inspection and maintenance program. The Department shall determine what constitutes a reasonable fee for motor vehicle emissions inspections under the current program and under the enhanced program to be implemented pursuant to G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. In determining what constitutes a reasonable fee, the Department shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an emissions test after repairs to the vehicle have been made, and whether the State should purchase emissions inspection equipment purchased prior to 10 June 1999 for use in the current program but that will be rendered obsolete by the enhanced program. The Department shall report its findings and recommendations to the Environmental Review Commission on or before 1 February 2000. The

Environmental Review Commission, with the assistance of the Fiscal Research Division of the Legislative Services Office, shall evaluate these recommendations. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2000 Regular Session of the 1999 General Assembly.

Section 3.11. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

~~(4) It is powered or designed so that it could be powered by gasoline.~~

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:

(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental~~

~~Protection Agency to conduct emissions testing. The State~~ listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted under G.S. 143-215.107(a)(6).~~ pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.

(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 3.12. G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality

standards. ~~The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission.~~ This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require, as part of the emissions inspection and maintenance program, that motor vehicle emissions be monitored while the vehicle is in operation by means of diagnostic equipment installed on the vehicle by the manufacturer; and to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the ~~oxygen~~ content of ~~gasoline,~~ motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. ~~Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements.~~ Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing

regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's obligations related to the sale and service of analyzers.

(b) Criteria for Standards. -- In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall ~~recognize~~ consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to ~~facilitate accomplishment of the stated~~ improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of State or National Ambient Air Quality Standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article."

PART IV. STATE AGENCY GOALS, PLANS, DUTIES, AND REPORTS; OTHER PROVISIONS

Section 4.1. As used in this Part, alternative-fueled vehicle means a motor vehicle capable of operating on electricity; natural gas; propane; hydrogen; reformulated gasoline; ethanol; other alcohol fuels, separately or in mixtures of eighty-five percent (85%) or more of alcohol by volume; or fuels, other than alcohol, derived from biological materials. For purposes of this Part, a vehicle that has been converted to operate on a fuel other than the fuel for which it was originally designed is not a new or replacement vehicle.

Section 4.2. It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars

and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000. For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR).

Section 4.3. It shall be the goal of the State that on and after 1 January 2004 at least fifty percent (50%) of the new and replacement public school buses purchased for use in counties with a population of at least 100,000, based on the most recent population estimates prepared by the State Planning Officer, will be alternative-fueled or low emission vehicles. The Department of Public Instruction, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. These departments shall invite the North Carolina Association of County Commissioners and the North Carolina School Boards Association to participate in the development of the plan. The Department of Public Instruction shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000.

Section 4.4. It shall be the goal of the State that on and after 1 January 2004 at least fifty percent (50%) of the new and replacement buses purchased to provide public transportation in counties in which motor vehicle emissions inspections are required to be performed under subsections (c) or (d) of G.S. 143-215.107A will be alternative-fueled or low emission vehicles. The Department of Transportation and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. The Department of Transportation shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000.

Section 4.5. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop recommendations for incentives to increase the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets. The Department of Environment and Natural Resources shall submit these recommendations to the Environmental Review Commission on or before 1 February 2000. The Department of Environment and Natural Resources shall report on progress in increasing the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2001.

Section 4.6. The Department of Administration, the Office of State Personnel, the Department of Transportation, and the Department of Environment

and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of carpooling, vanpooling, public transportation, incentives, and other appropriate strategies. The Office of State Personnel shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.7. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by private sector employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of incentives for both private sector employees and employers, carpooling, vanpooling, public transportation, and other appropriate strategies. The Department of Transportation shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.8. The Office of State Personnel shall implement a policy that promotes telework/telecommuting for State employees as recommended by the report of the State Auditor entitled "Establishing a Formal Telework/Telecommuting Program for State Employees" and dated October 1997. It shall be the goal of the State to reduce State employee vehicle miles traveled in commuting by twenty percent (20%) without reducing total work hours or productivity. The Office of State Personnel shall report on progress in implementing this section to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.9. The Environmental Management Commission shall initiate rule making to regulate the emissions of nitrogen oxides (NOx) from complex sources pursuant to G.S. 143-215.109 no later than 1 October 1999. The Environmental Management Commission shall report on the progress of this rule making as a part of each quarterly report the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

Section 4.10. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.

"Planning.

"§ 136-200. Definitions.

As used in this Article:

(1) 'Conformity' means the extent to which transportation plans, programs, and projects conform to federal air quality requirements as specified in 40 Code of Federal Regulations, Part 93, Subpart A (1 July 1998 Edition).

(2) 'Department' means the Department of Transportation.

(3) 'Interface' means a relationship between streams of traffic that efficiently and safely maximizes the mobility of people and goods within and through urbanized areas and minimizes transportation-related fuel consumption and air pollution.

(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134.

(5) 'Regionally significant project' has the same meaning as under 40 Code of Federal Regulations 93.101 (1 July 1998 Edition).

(6) 'Regional travel demand model' means a model of a region, defined in the model, that is approved by the Department and each Metropolitan Planning Organization whose boundaries include any part of the region and that uses socioeconomic data and projections to predict demands on a transportation network.

"**§ 136-201. Plan for intermodal interface.**

When planning a regionally significant transportation project, the Department shall consider design alternatives that will facilitate the cost-effective interface of the project with other existing or planned transportation projects, including highway, airport, rail, bus, bicycle, and pedestrian facilities. The Department of Transportation shall record its consideration of these design alternatives in the planning documents for the project.

"**§ 136-202. Metropolitan planning organizations.**

(a) Each Metropolitan Planning Organization shall base all transportation plans, metropolitan transportation improvement programs, and conformity determinations on the most recently completed regional travel demand model.

(b) Each Metropolitan Planning Organization shall update its transportation plans in accordance with the scheduling requirements stated in 23 Code of Federal Regulations 450.322 (1 April 1999 Edition).

(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust the regions defined in each regional travel demand model at least once every five years and no later than 1 October of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State Planning Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality.

(d) The Department shall report on the evaluation and adjustment of the boundaries of the area served by each Metropolitan Planning Organization to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission no later than 1 November of each year in which the regions are evaluated and adjusted.

"**§ 136-203. Joint study groups.**

The Department and the Department of Environment and Natural Resources shall convene a joint study group to examine options to maximize the positive impacts and minimize the adverse impacts on air quality of transportation investments. A joint study group shall be convened for each major travel corridor in which there has been air quality violations within the previous fiscal year or that affects an area in which there has been air quality violations within the previous fiscal year. Each joint study group shall include at least 10 members, half of whom shall be appointed by the Secretary of Transportation and half of whom shall be appointed by the Secretary of Environment and Natural Resources. Each group shall include representatives from the Department and the Department of Environment and Natural Resources, affected units of local government, private businesses, and nonprofit public interest organizations. The Department and the Department of Environment and Natural Resources shall jointly report on the work, findings, and recommendations of each joint study group to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year."

Section 4.11. The Department of Transportation and the Department of Environment and Natural Resources shall make the first joint report required by G.S. 136-203, as enacted by Section 4.10 of this act, on or before 1 October 2000.

Section 4.12. G.S. 143-215.94T(a) is amended by adding a new subdivision to read:

"(12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests."

Section 4.13. G.S. 143B-282(a)(2)h. reads as rewritten:

"h. Governing underground tanks used for the storage of oil or hazardous substances ~~or oil~~ pursuant to ~~Article 21 or Article 21A~~ Articles 21, 21A, or 21B of Chapter 143 of the General ~~Statutes.~~ Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks."

PART V. MISCELLANEOUS PROVISIONS

Section 5.1. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

Section 5.2. The headings to the Parts of this act are intended as a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 5.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 5.4. Except as otherwise provided in this act, this act is effective when it becomes law.

HOUSE BILL 323:
Ambient Air Quality Improvement/AB

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Rep. Hackney
		Summary by:	Hannah Holm, Research Assistant
Date:	April 20, 1999		
Version:	Proposed Committee Substitute		

SUMMARY: ***HB 323 authorizes the Environmental Management Commission (EMC) and the Commissioner of the Division of Motor Vehicles (DMV) to require and enforce vehicle emissions inspection and maintenance (I/M) programs to improve air quality in counties where the programs are not currently required by federal law and which are not specified in the State Implementation Plan (SIP) for emissions testing submitted to the federal Environmental Protection Agency (EPA). HB 323 also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for HB 323 additionally authorizes the EMC to regulate the sulfur content of gasoline and provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system.***

CURRENT LAW: The current law authorizes the EMC and DMV to adopt and implement emissions testing programs and standards and require I/M programs in certain counties in compliance with federal requirements. It also states that a vehicle must be powered or designed so that it could be powered by gasoline in order to be subject to emissions testing.

BILL ANALYSIS: HB 323, as introduced, authorizes the EMC to designate counties where I/M programs must be implemented and adopt different standards and I/M programs for different counties as necessary and appropriate to improve ambient air quality, without reference to federal requirements. The bill also authorizes the Commissioner of DMV to implement and ensure the enforcement of rules governing I/M programs in the counties where the programs are required by the EMC. In addition, the bill broadens the class of vehicles subject to emissions inspections to include vehicles not powered by gasoline or designed to be powered by gasoline. The **Proposed Committee Substitute** for HB 323 contains all the provisions of the bill as introduced and additionally:

- Authorizes the EMC to regulate the sulfur content of gasoline.
- Provides that an exhaust emissions analysis may consist of either an analysis of the exhaust emitted by the vehicle by means of an emissions analyzer or, if required by the EMC, an analysis of data collected by diagnostic equipment that monitors the vehicle's emissions while the vehicle is in operation.
- Authorizes every agency to which the act applies to adopt temporary rules to implement the provisions of the act and provides that this authorization shall remain valid until all rules necessary to implement the act have become effective as either temporary or permanent rules.

BACKGROUND: The Proposed Committee Substitute for HB 323 includes portions of the air quality initiative announced by Governor. Hunt at the Summit for Mountain Air Quality in Asheville April 6-7.

EFFECTIVE DATE: The Proposed Committee Substitute for HB 323 is effective when it becomes law.

Attachment #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 953

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S953V1-ART-001.01

Date ,1999

Comm. Sub. [YES]
Amends Title [NO]
First Edition S953-PCS1768-RT

Representative Gibson

moves to amend the bill on page 9, lines 12 through 16, by rewriting those lines to read:

"program to improve ambient air quality; to require that motor vehicle emissions be monitored while the vehicle is in operation by means of on board diagnostic equipment (OBD) installed by the vehicle manufacturer; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor"; and

on page 10, between lines 31 and 32, by inserting:

"Section 3.13. G.S. 20-183.8F reads as rewritten:

'**§ 20-183.8F. Requirements for giving ~~certain emissions~~ license holders notice of violations and for taking summary action.**

(a) Finding of Violation. -- When an auditor of the Division finds that ~~an emissions~~ a violation has occurred that could result in the suspension or revocation of an ~~emissions~~ inspection station license, ~~an emissions~~ a self-inspector license, or ~~an emissions~~ a mechanic license, the auditor must give the affected license holder written notice of the finding. The notice must be given within five business days after the violation occurred. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.

(b) Notice of Charges. -- When the Division decides to charge an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic with a violation that could result in the suspension or revocation of the person's ~~emissions~~ license, an auditor of the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of this right, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. -- The right granted by subsection (b) of this section to have a hearing before ~~an emissions~~ a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review.'"

Section 13.14 reads as rewritten:

'**§ 20-183.8G. Administrative and judicial review.**

(a) Right to Hearing. -- A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

(1) The Division denies the person's application for a license or registration.
(2) The Division delivers to the person a written statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's ~~emissions~~ license.
(3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.
(4) The Division assesses a civil penalty against the person.
(5) The Division issues a warning letter to the person.
(6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. -- When ~~an emissions~~ a license holder receives a statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the

Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within three business days after receiving the request unless the person requesting the hearing asks for additional time to prepare for the hearing. A person may ask for no more than seven additional business days to prepare. If the additional time requested is within this limit, the Division must grant a person the additional time requested. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. -- When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. -- When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request.

(e) Review by Commissioner. -- The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 953

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S953V1-ART-001.01

(f) Decision. -- A decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III emissions violation by an emissions license holder must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision contains a finding that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. A decision made after a hearing on any other action may uphold or modify the action.

(g) Judicial Review. -- Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section.'".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Attachment #3

Excerpted Remarks by Gov. Jim Hunt
Governors' Summit on Clear Air
Asheville, NC
April 7, 1999

These are the oldest mountains in the world. They were formed and shaped over millions of years to develop into the awesome landscape we know today. For most of that time, their only enemy was the forces of nature.

But since the Industrial Revolution, all that has changed. You don't need to look any farther than our highest peak, Mount Mitchell, to realize that something is seriously wrong. Many of you have been up there, and you've seen the dead trees. Somehow, humans are contributing.

And since we've caused the problem, it's our job to find the solution to air pollution that obscures our great vistas, harms our environment, threatens our health and hurts our tourism industry.

A week ago marked the start of the "ozone season" in the South. It's that period of during our warm months when our climate cooks the emissions from cars and smokestacks and creates ozone, a lung irritant and a known enemy of plants and crops.

When the summer heats up and ozone is created, the public's health is at risk. Not just the elderly and little children and the sick. Even healthy athletes out for a jog, and people who work outdoors are affected. It's a serious problem, and it's time we faced up to it.

Here in North Carolina, we take great pains to monitor our air quality. We don't always like what we find, but it's better than not knowing. But we know that half of our ozone pollution comes from vehicle emissions -- as much as 90 percent in our cities.

We're a growing state, with more and more people coming here all the time for our quality of life here in the mountains, and in our great Piedmont urban areas, and along our coastline. But the number of miles we travel in our cars is growing at a rate three times faster than our population is growing. That means more ozone-causing emissions, and more public-health threats.

Today, I'm announcing my Administration's coordinated strategy to fight back against ozone. It's focused on vehicle emissions, because they're our biggest problem. But it also includes industrial emissions, because all elements of the problem have to be addressed.

Our ozone-reduction plan will include seven key elements:

1) Expand and toughen vehicle emissions inspections. We'll expand into more counties than ever and require that dirty cars be fixed or get off the road. We'll test for nitrogen oxide, the building block of ozone.

2) Require that only low-sulfur gas be sold in North Carolina to improve the performance of pollution-control equipment on cars.

3) Provide incentives to encourage the use of alternative fuel vehicles that use electricity, natural gas and other clean fuels.

4) Continue to expand the ozone awareness programs in our state. This proposal recognizes that we're all in this together, and there are things we can do in our daily lives to reduce pollution.

5) Expand funding for mass transit and rail projects in our state. I proposed more than $56 million over the next two years to upgrade our rail lines, plan for urban mass transit systems, and contribute to operating costs for rural, small urban and regional urban transit systems.

6) Cut emissions by two thirds over the next four years in our state's five largest power plants, with further cutbacks likely for other utilities and industries at a later date.

7) And to protect our economic base while we clear the air, we'll establish an emissions trading program. It will allow companies that clean their emissions ahead of schedule to "bank" their emissions credits. They then could sell the credits to new or expanding businesses that must find offsets for their emissions to meet clean air requirements.

This isn't a quick fix. Getting out of the hole we've dug for ourselves won't be easy. And we'll all need to work to get this plan in place.

We all know what great things we can accomplish in this state when we work together. We've already begun to clean up our rivers and streams in Western North Carolina. And we can do our part to clean up our air with the same cooperative effort.

There's also a regional aspect to this problem, and that's why we're here today. Air pollution doesn't respect state boundaries. All of us represented here today are part of the problem and can be part of the solution. So let's get down to business.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Amendment 2

Attachment #4

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 953 Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S953-PCS1768-RT

Rep.) Warner

Sen.)

moves to amend the bill on page 11, line 19,

( ) WHICH CHANGES THE TITLE

by adding after the word "plan." on that line:

"The plan shall include an analysis of the cost effectiveness of implementing the goal."

and on page 11, line 22,

by adding at the end of that line:

"The Department of Public Instruction shall report to the Environmental Review Commission on the cost effectiveness of the plan by September 1, 2001. If the plan is not cost effective, the Environmental Review Commission may recommend that the General Assembly modify or eliminate the goal."

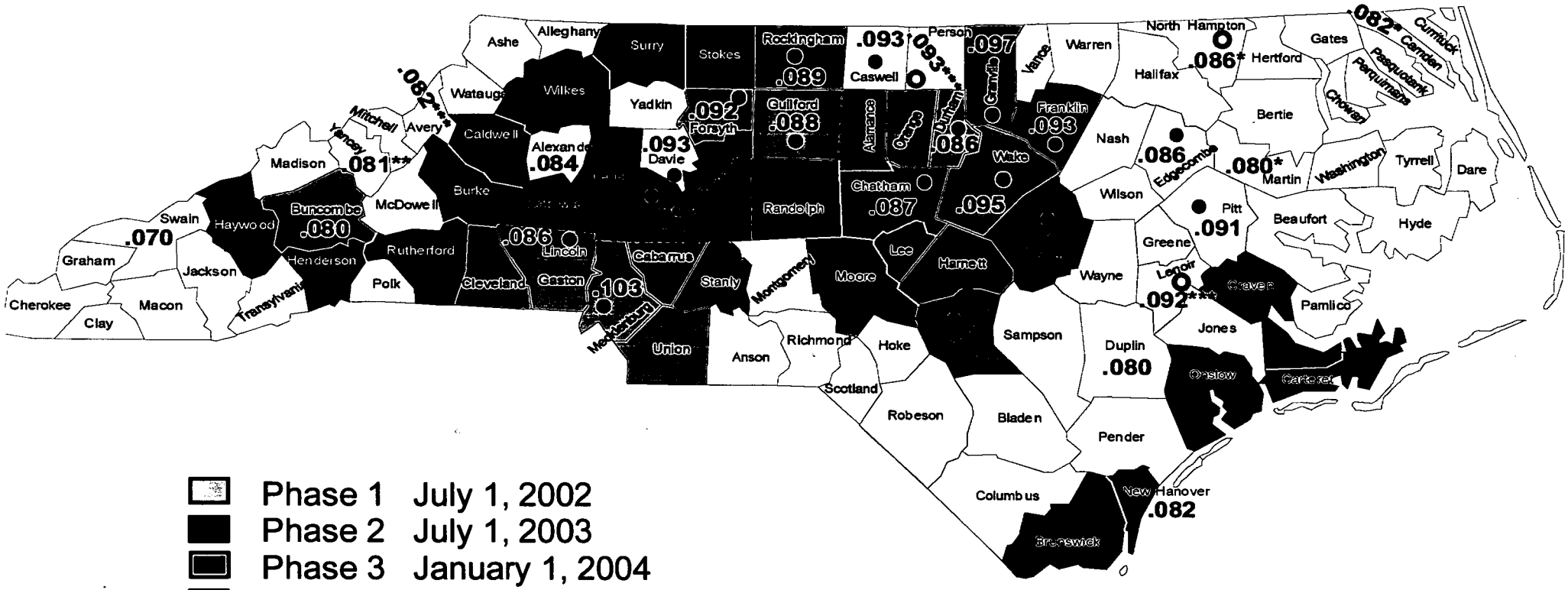
SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

I/M County Phase-In



- Phase 1 July 1, 2002
- Phase 2 July 1, 2003
- Phase 3 January 1, 2004
- Phase 4 July 1, 2004
- Phase 5 January 1, 2005
- Phase 6 July 1, 2005
- Phase 7 January 1, 2006

Not To Scale
06/29/99

NCDENR

JAMES B. HUNT JR.
GOVERNOR

WAYNE MCDEVITT
SECRETARY

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

June 22, 1999

MEMORANDUM

TO: The Honorable Pryor Gibson, Co-Chair
The Honorable Nurham Warwick, Co-Chair
Members of House Committee on Environment & Natural Resources

The Honorable Charlie Albertson, Chair
Members of Senate Committee on Agriculture, Environment & Natural Resources

FROM: Bill Holman

RE: Low Sulfur Gasoline

HB 323/SB 593, The Clean Air Act Amendments of 1999, introduced by Representative Hackney and Senator Miller and incorporating the Governor's Clean Air Package, will enable the state to develop a comprehensive approach to reducing emissions from vehicles, power plants and factories. Specifically, the legislation addresses low sulfur gasoline, vehicle emissions and inspections tests, and incentives for alternative fuels.

Gasoline today contains about 340 parts per million (ppm) of sulfur. Sulfur impedes the performance of the catalytic converter pollution equipment on vehicles and causes increased emissions of nitrogen oxide (NOx). The new low emission vehicle technology being developed by automakers depends upon use of low sulfur gasoline. Governor Hunt is working with Governor Barnes of Georgia, and other southeastern states to create a regional market to phase in the sale of low sulfur (30 ppm) gasoline. Georgia will require low sulfur gasoline on April 1, 2003.

The U.S. Environmental Protection Agency has proposed requiring the sale of low sulfur (30 ppm) gasoline nationwide in January 2004. Oil refiners oppose both the southeast state's proposal and EPA's proposal. Earlier this year BP/Amoco announced that it would sell low sulfur gasoline in 40 markets over the next two years.

Reducing sulfur from 340 ppm to 30 ppm from gasoline in N.C. will:

- Eliminate 38.9 tons of nitrogen oxide (NOx) emissions per day.
- Reduce NOx emissions by more than half from mobile sources.
- Immediately reduce emissions, offering a low cost method for reducing emissions from older cars, which typically emit the most pollutants.
- Not only reduce ozone, but also carbon monoxide, particulate emissions and haze.

CLEAN AIR FOR NORTH CAROLINA
for healthy citizens, a healthy economy and a healthy environment.

P.O. BOX 27687, RALEIGH NC 27611-7687 / 512 NORTH SALISBURY STREET, RALEIGH NC 27604
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VISITOR REGISTRATION SHEET

NER Committee — 6/29

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan McLawhorn	DENR
Chandler Vataula	Durham, NC Governor's Page
[illegible]	NC DOA
[illegible]	NMU
[illegible]	IGO NC
[illegible]	NC SSA
Adam Briggs	S.O.S.
[illegible]	DOSS
Ned Mud	ECNC
Stephen Treinel	aide to Senator Kinnaird
Doug Howey	NCPMA
Deborah Lamm	Commerce - Energy
Bill McAulay	PSNC
BENJAMIN SLOAN	NORTH CAROLINA COMM. COL. FACULTY ASSOC.
Mark Davis	NC Sierra Club
Craig Deaton	DENR Legislative & Intergovernmental Affairs
Ryke Longest	NCDOT - Env'l Division - Air & Nat'l Resources Section
Bantam Gillespie	
Kristen Guillory	Lt. Gov. office
Lyle Overcash	Commerce
Preston Howard	NCIC
Sandra Birkhead	GlaxoWellcome
Alan Klimek	NC DENR - DAQ
John McAlister	Duke Energy
George Everett	Duke Energy
Jeff Cherry	Hunton & Williams
Jay Cratt	NCASA
Sharon Brewer	NCPC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Hofmann	City of Fayetteville
Leanne Winner	NCSBA
Brock Nicholson	DENR-DAQ
David Knight	NC Sierra Club, NC Wildlife Fed
Melissa Spencer	Intern - Sen. Kinnaird
Barbara White	NC Sierra Clubs
Russell Hageman	DENR-DAQ
Tom Mather	DENR - DAQ
V L McBride	[illegible]
[illegible]	[illegible]
Rhodes Arbeit	NCDOT
Kathy Sawyer	Commerce

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Wednesday, June 30, 1999**

TIME: **12:00 noon to 2:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 323 Clean Air Act Amendment of 1999
HB 1099 Low Sulfur Fuel
SB 953 Ambient Air Quality Improvement

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 p.m.** on **June 29, 1999**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

AGENDA

House Committee on
Environment and Natural Resources

Wednesday, June 30, 1999

Call to Order ..... .Chair Warwick

BILLS TO BE DISCUSSED:

S 953 Ambient Air Quality Improvements - Rep. Hackney & Senator Clodfelter

Speaker:

Mr. Gary F. Harris, Executive Vice President
NC Petroleum Marketers Association

S 1049 Neuse River Buffer Amendments - Senator Albertson

Announcements & Adjournment ..... Chair Warwick

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 30, 1999

MINUTES

The House Committee on Environment and Natural Resources met Wednesday, June 30, 1999, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, Billy Creech, Joe Hackney, Paul Luebke, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representatives Leo Daughtry and Liston Ramsay were excused.

Chair Gibson called the meeting to order at 12:10 p.m. Representative Yongue recognized former Representative Foyle Hightower, a member of this Committee for many years. The courtesies of the Committee floor were extended to Representative Hightower.

(Pages attending, but not announced: Nathan Cooper, Wake; Ashley Curtis, Mcdowell; and Caroline Collins, Alamance.)

SB 953 - Ambient Air Quality Improvements - Representative Hackney moved that the new Committee Substitute (Attachment 1) be adopted that was presented at the June 29, 1999, meeting. He explained that there were three changes; two are on page 13 to satisfy the schools, counties and cities over their concern of new or replacement of school buses. The new substitute calls for a plan to be submitted to access the costs. When the plan comes back, a decision will be made. "It was a goal; now it is a plan." The petroleum representatives requested a slightly higher sulfur content than 30 parts per million. This Committee Substitute was put in for them. If, nationally, a different standard was adopted and the State was out of sync with the national standard, we would come back and re-examine it again. Representative Hackney said that the benefits of the lower sulfur level would be like taking 53 million vehicles off the road entirely.

Representative Hackney moved that the Committee Substitute be given a favorable report.

Representative Mitchell asked if the removal of sulfur would affect the older engines. Representative Hackney said that there is no performance loss, and sulfur is nothing but a hindrance to the catalytic converters. He said auto industry is delighted. The line they used in their literature: "We build world class cars; now we need world class fuel to go in them."

Representative Creech asked about the Warner amendment. It was noted that the amendment expanded in the last 24 hours and now included public transportation buses. Representative Warner moved for a favorable report for the Warner amendment and the bill itself. George Givens, Staff Counsel, read Representative Hackney's diesel amendment—page 5, line 20, changing the inspection date for diesel powered vehicles until July 1, 2001 (Attachment 2). Representative Hackney moved that the "diesel amendment" be rolled into the PCS #2 and be given a favorable report.

Representative Allred, Alamance County, did not have a strong objection to a low sulfur content. However, he objected to motor vehicle emission inspections. It is an excercize in futility. This State cannot make the out-of-state vehicles—all passing through his district onI-85 and I-40 – get inspected; they are just passing through. Their traffic through Alamance County is what is causing the pollution. His understanding is that the emission inspections were going to cost $30 to $40 a year, which would create an economic hardship and burden on the vehicles and owners in Alamance County. He absolutely does not support that part of the bill.

Chair Gibson called out for anyone else to speak. He pointed out that there had been over 10 meeting of this work group and often 35 people in the work group. Chairmen Warwick and Gibson were proud that everyone "stayed at the table." It is a great start and complimented the work that was done.

Representative Hackney's motion before the Committee for a favorable for the Proposed Committee Substitute. Passed unanimously.

The meeting was adjourned at 12:20 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 953
Proposed House Committee Substitute S953-PCS3846-RT

Short Title: Ambient Air Quality Improvements. (Public)

Sponsors: CLODFELTER

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF 1999.

Whereas, the Constitution of North Carolina declares that the policy of this State is to conserve and protect State lands and waters for the benefit of all North Carolina citizens and to control and limit air pollution within the State; and

Whereas, the State has enacted comprehensive statutory and regulatory protections for reducing air pollution from stationary sources; and

Whereas, ozone air pollution adversely affects the health and welfare of the citizens of North Carolina through the impairment of lung function and exacerbation of asthma and other diseases of the lung; and

Whereas, visibility at some of the State's places of beauty, such as the Great Smoky Mountains National Park and the Blue Ridge Mountain range, has been impaired by ozone air pollution that is created by the reaction of nitrogen oxides (NOx) and other chemicals in sunlight; and

Whereas, the decentralized system of inspection stations effectively uses a public-private partnership to enforce motor vehicle pollution controls; and

Whereas, gains in motor vehicle pollution control technology have been offset by increased vehicle use, resulting in greater emissions of nitrogen oxides (NOx) and greater ozone air pollution; and

Whereas, the sulfur contained in gasoline impedes the effectiveness of catalytic converters, the devices that reduce the amount of pollution emitted from vehicle tailpipes, thereby degrading the emission control systems of vehicles; and

Whereas, new motor vehicle pollution control technology is more sensitive to the sulfur content of fuels and will require new emissions inspection methods; and

Whereas, reducing emissions of nitrogen oxides (NOx) from motor vehicles by twenty-five percent (25%) within the next 10 years will complement the State's stationary source control strategy; and

Whereas, reducing the growth of vehicle miles traveled in the State by twenty-five percent (25%) within the next 10 years will complement the State's controls of nitrogen oxide (NOx) emissions from stationary sources; and

Whereas, leaking underground storage tanks and tanker trucks release quantities of volatile organic compounds into the air, which mix with nitrogen oxides (NOx) to form ground level ozone; and

Whereas, clean burning fuels, alternative-fueled vehicles, and low emission vehicle usage should be encouraged statewide; and

Whereas, the State must lead the way in combating ground level ozone pollution from motor vehicles through its own purchases and policies; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. STATEWIDE GOALS

Section 1.1. It shall be the goal of the State to reduce emissions of nitrogen oxides (NOx) from all sources by at least twenty-five percent (25%) by 1 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by 1 July 2009. The Department of Environment and Natural Resources and the Department of Transportation shall evaluate progress toward achieving these goals in each fiscal year and shall report their findings and recommendations as to any measures that may be needed to achieve these goals to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

PART II. SULFUR CONTENT OF MOTOR FUELS

Section 2.1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"**§ 119-26.2. Sulfur content standards.**

(a) No person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. The average concentration of sulfur contained in gasoline shall be determined on the basis of a one-year period established by rule.

(b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section."

Section 2.2. Section 2.1 of this act becomes effective as provided in this section. No later than 1 July 2000, the Governor shall determine whether the United States Environmental Protection Agency has adopted, pursuant to the Notice of Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64, Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold, and offered for sale in this State that limit the sulfur content of gasoline to a concentration equal to or less than the concentration set out in Section 2.1 of this act. If the Governor so determines, the Governor shall issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective, which shall be the date on which the federal regulation becomes effective in this State. Otherwise, Section 2.1 of this act becomes effective 1 January 2004. If the United States Environmental Protection Agency promulgates a regulation that imposes a limit on the concentration of sulfur in gasoline other than that set out in G.S. 119-26.2, as enacted by Section 2.1 of this act, it is the intention of the General Assembly to review the limit established in G.S. 119-26.2. In that event, the Environmental Review Commission shall review the limit on the concentration of sulfur in gasoline and report its findings and recommendations, if any, to the General Assembly.

Section 2.3. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. ~~Oxygen content standards~~ Content of motor fuels and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the ~~oxygen~~ content of ~~gasoline~~ motor fuels or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section

shall not relieve any person from any other penalty or remedy authorized under this Article.

(c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

PART III. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Section 3.1. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.107A. Motor vehicle emissions testing and maintenance program.**

(a) General Provisions. --

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Type of Test Required. -- Motor vehicle emissions inspections shall be performed using the two-mode Acceleration Simulation Mode (ASM) test described in Federal Register, Volume 57, Number 215, (5 November 1992), Pages 52955 to 52996.

(c) Counties Covered. -- Motor vehicle emissions inspections shall be performed only in the following counties: Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake.

(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and

the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions testing be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions testing be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 3.2. The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002. The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006.

Section 3.3. Effective 1 July 2003, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed ~~only~~ in the following counties: Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Johnston, Mecklenburg, Orange, Rowan, Union, and Wake."

Section 3.4. Effective 1 January 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Section 3.3 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Cabarrus, Catawba, Chatham, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rowan, Stanly, Union, and Wake."

Section 3.5. Effective 1 July 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 and 3.4 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rockingham, Rowan, Stanly, Union, and Wake."

Section 3.6. Effective 1 January 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.5 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland,

Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Stanly, Union, ~~and Wake.~~ Wake, Wayne, and Wilson."

Section 3.7. Effective 1 July 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.6 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.8. Effective 1 January 2006, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.7 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.9. Sections 3.3 through 3.8 of this act become effective only if G.S. 20-183.7 is amended to increase the fee for motor vehicle emissions inspections no later than 31 December 2000. G.S. 143-215.107A(b), as enacted by Section 3.1 of this act, and Section 3.2 of this act are repealed effective 1 January 2001 unless, prior to 1 January 2001, G.S. 20-183.7 has been amended to increase the fee for motor vehicle emissions inspection.

Section 3.10. The Department of Environment and Natural Resources, with the assistance of the Division of Motor Vehicles of the Department of Transportation and the affected parties, shall study issues related to costs associated with the motor vehicle emissions inspection and maintenance program. The Department shall determine what constitutes a reasonable fee for motor vehicle emissions inspections under the current program and under the enhanced program to be implemented pursuant to G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. In determining what constitutes a reasonable fee, the Department shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an emissions test after repairs to the vehicle have been made, and whether the State should purchase emissions inspection equipment purchased prior to 10 June 1999 for

use in the current program but that will be rendered obsolete by the enhanced program. The Department shall report its findings and recommendations to the Environmental Review Commission on or before 1 February 2000. The Environmental Review Commission, with the assistance of the Fiscal Research Division of the Legislative Services Office, shall evaluate these recommendations. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2000 Regular Session of the 1999 General Assembly.

Section 3.11. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

~~(4) It is powered or designed so that it could be powered by gasoline.~~

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:

(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted under G.S. 143-215.107(a)(6).~~ pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.

(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 3.12. G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. ~~The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission.~~ This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the onboard diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the ~~oxygen~~ content of ~~gasoline,~~ motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. ~~Rules adopted under this subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area,~~

~~achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements.~~ Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. -- In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall ~~recognize~~ consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to ~~facilitate accomplishment of the stated~~ improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article."

Section 3.13. G.S. 20-183.8F reads as rewritten:

"**§ 20-183.8F. Requirements for giving ~~certain emissions~~ license holders notice of violations and for taking summary action.**

(a) Finding of Violation. -- When an auditor of the Division finds that ~~an emissions~~ a violation has occurred that could result in the suspension or revocation of an ~~emissions~~ inspection station license, ~~an emissions~~ a self-inspector license, or ~~an emissions~~ a mechanic license, the auditor must give the affected license holder

written notice of the finding. The notice must be given within five business days after the violation occurred. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.

(b) Notice of Charges. -- When the Division decides to charge an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic with a violation that could result in the suspension or revocation of the person's ~~emissions~~ license, an auditor of the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of this right, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. -- The right granted by subsection (b) of this section to have a hearing before ~~an emissions~~ a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review."

Section 13.14. G.S. 20-183.8G reads as rewritten:

"**§ 20-183.8G. Administrative and judicial review.**

(a) Right to Hearing. -- A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

(1) The Division denies the person's application for a license or registration.

(2) The Division delivers to the person a written statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's ~~emissions~~ license.

(3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.

(4) The Division assesses a civil penalty against the person.

(5) The Division issues a warning letter to the person.

(6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. -- When ~~an emissions~~ a license holder receives a statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within three business days after receiving the request unless the person requesting the hearing asks for additional time to prepare for the hearing. A person may ask for no more than seven additional business days to prepare. If the additional time requested is within this limit, the Division must grant a person the additional time requested. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. -- When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. -- When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request.

(e) Review by Commissioner. -- The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

(f) Decision. -- A decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III emissions violation by an emissions license holder must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision contains a finding that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. A decision made after a hearing on any other action may uphold or modify the action.

(g) Judicial Review. -- Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section."

PART IV. STATE AGENCY GOALS, PLANS, DUTIES, AND REPORTS; OTHER PROVISIONS

Section 4.1. As used in this Part, alternative-fueled vehicle means a motor vehicle capable of operating on electricity; natural gas; propane; hydrogen; reformulated gasoline; ethanol; other alcohol fuels, separately or in mixtures of eighty-five percent (85%) or more of alcohol by volume; or fuels, other than alcohol, derived from biological materials. For purposes of this Part, a vehicle that has been converted to operate on a fuel other than the fuel for which it was originally designed is not a new or replacement vehicle.

Section 4.2. It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000. For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR).

Section 4.3. The Department of Public Instruction, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of school buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement public school buses purchased for use in counties with a population of at least 100,000, based on the most recent population estimates prepared by the Office of State Planning, will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air quality. The Department of Public Instruction shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.4. The Department of Transportation and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement buses purchased to provide public transportation in counties in which motor vehicle emissions inspections are required to be performed under subsection (c) or (d) of G.S. 143-215.107A will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air quality. The Department of Transportation shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.5. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop recommendations for incentives to increase the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets. The Department of Environment and Natural Resources shall submit these recommendations to the Environmental Review Commission on or before 1 February 2000. The Department of Environment and Natural Resources shall report on progress in increasing the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2001.

Section 4.6. The Department of Administration, the Office of State Personnel, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of carpooling, vanpooling, public transportation, incentives, and other appropriate strategies. The Office of State Personnel shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.7. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by private sector employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of incentives for both private sector employees and employers, carpooling, vanpooling, public transportation, and other appropriate strategies. The Department of Transportation shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.8. The Office of State Personnel shall implement a policy that promotes telework/telecommuting for State employees as recommended by the report of the State Auditor entitled "Establishing a Formal Telework/Telecommuting Program for State Employees" and dated October 1997. It shall be the goal of the State to reduce State employee vehicle miles traveled in commuting by twenty percent (20%) without reducing total work hours or productivity. The Office of State Personnel shall report on progress in implementing this section to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.9. The Environmental Management Commission shall initiate rule making to regulate the emissions of nitrogen oxides (NOx) from complex sources pursuant to G.S. 143-215.109 no later than 1 October 1999. The Environmental Management Commission shall report on the progress of this rule making as a part of

each quarterly report the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

Section 4.10. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.

"Planning.

"**§ 136-200. Definitions.**

As used in this Article:

(1) 'Conformity' means the extent to which transportation plans, programs, and projects conform to federal air quality requirements as specified in 40 Code of Federal Regulations, Part 93, Subpart A (1 July 1998 Edition).

(2) 'Department' means the Department of Transportation.

(3) 'Interface' means a relationship between streams of traffic that efficiently and safely maximizes the mobility of people and goods within and through urbanized areas and minimizes transportation-related fuel consumption and air pollution.

(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134.

(5) 'Regionally significant project' has the same meaning as under 40 Code of Federal Regulations 93.101 (1 July 1998 Edition).

(6) 'Regional travel demand model' means a model of a region, defined in the model, that is approved by the Department and each Metropolitan Planning Organization whose boundaries include any part of the region and that uses socioeconomic data and projections to predict demands on a transportation network.

"**§ 136-201. Plan for intermodal interface.**

When planning a regionally significant transportation project, the Department shall consider design alternatives that will facilitate the cost-effective interface of the project with other existing or planned transportation projects, including highway, airport, rail, bus, bicycle, and pedestrian facilities. The Department of Transportation shall record its consideration of these design alternatives in the planning documents for the project.

"**§ 136-202. Metropolitan planning organizations.**

(a) Each Metropolitan Planning Organization shall base all transportation plans, metropolitan transportation improvement programs, and conformity determinations on the most recently completed regional travel demand model.

(b) Each Metropolitan Planning Organization shall update its transportation plans in accordance with the scheduling requirements stated in 23 Code of Federal Regulations 450.322 (1 April 1999 Edition).

(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust the regions defined in each regional travel demand model at least once every five

years and no later than 1 October of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State Planning Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality.

(d) The Department shall report on the evaluation and adjustment of the boundaries of the area served by each Metropolitan Planning Organization to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission no later than 1 November of each year in which the regions are evaluated and adjusted.

"**§ 136-203. Joint study groups.**

The Department and the Department of Environment and Natural Resources shall convene a joint study group to examine options to maximize the positive impacts and minimize the adverse impacts on air quality of transportation investments. A joint study group shall be convened for each major travel corridor in which there has been air quality violations within the previous fiscal year or that affects an area in which there has been air quality violations within the previous fiscal year. Each joint study group shall include at least 10 members, half of whom shall be appointed by the Secretary of Transportation and half of whom shall be appointed by the Secretary of Environment and Natural Resources. Each group shall include representatives from the Department and the Department of Environment and Natural Resources, affected units of local government, private businesses, and nonprofit public interest organizations. The Department and the Department of Environment and Natural Resources shall jointly report on the work, findings, and recommendations of each joint study group to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year."

Section 4.11. The Department of Transportation and the Department of Environment and Natural Resources shall make the first joint report required by G.S. 136-203, as enacted by Section 4.10 of this act, on or before 1 October 2000.

Section 4.12. G.S. 143-215.94T(a) is amended by adding a new subdivision to read:

"(12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests."

Section 4.13. G.S. 143B-282(a)(2)h. reads as rewritten:

"h. Governing underground tanks used for the storage of oil or hazardous substances ~~or oil~~ pursuant to ~~Article 21 or Article 21A~~ Articles 21, 21A, or 21B of Chapter 143 of the General ~~Statutes.~~ Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks."

PART V. MISCELLANEOUS PROVISIONS

Section 5.1. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

Section 5.2. The headings to the Parts of this act are intended as a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 5.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 5.4. Except as otherwise provided in this act, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT ATTACHMENT 2

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 30 June 1999

S. B. No. 953 Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Hackney

moves to amend the bill on page 5, line 20

( ) WHICH CHANGES THE TITLE

by adding at the end of that line:

"The Environmental Management Commission shall not require a motor vehicle emissions inspection for diesel powered vehicles prior to 1 July 2001.

SIGNED _____

ADOPTED In Comm. Hrg. FAILED _____ TABLED _____

30 June 1999

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 953
Proposed House Committee Substitute S953-PCS3848-RT

Short Title: Ambient Air Quality Improvements. (Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

AN ACT TO ENACT THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF 1999.

Whereas, the Constitution of North Carolina declares that the policy of this State is to conserve and protect State lands and waters for the benefit of all North Carolina citizens and to control and limit air pollution within the State; and

Whereas, the State has enacted comprehensive statutory and regulatory protections for reducing air pollution from stationary sources; and

Whereas, ozone air pollution adversely affects the health and welfare of the citizens of North Carolina through the impairment of lung function and exacerbation of asthma and other diseases of the lung; and

Whereas, visibility at some of the State's places of beauty, such as the Great Smoky Mountains National Park and the Blue Ridge Mountain range, has been impaired by ozone air pollution that is created by the reaction of nitrogen oxides (NOx) and other chemicals in sunlight; and

Whereas, the decentralized system of inspection stations effectively uses a public-private partnership to enforce motor vehicle pollution controls; and

Whereas, gains in motor vehicle pollution control technology have been offset by increased vehicle use, resulting in greater emissions of nitrogen oxides (NOx) and greater ozone air pollution; and

Whereas, the sulfur contained in gasoline impedes the effectiveness of catalytic converters, the devices that reduce the amount of pollution emitted from vehicle tailpipes, thereby degrading the emission control systems of vehicles; and

Whereas, new motor vehicle pollution control technology is more sensitive to the sulfur content of fuels and will require new emissions inspection methods; and

Whereas, reducing emissions of nitrogen oxides (NOx) from motor vehicles by twenty-five percent (25%) within the next 10 years will complement the State's stationary source control strategy; and

Whereas, reducing the growth of vehicle miles traveled in the State by twenty-five percent (25%) within the next 10 years will complement the State's controls of nitrogen oxide (NOx) emissions from stationary sources; and

Whereas, leaking underground storage tanks and tanker trucks release quantities of volatile organic compounds into the air, which mix with nitrogen oxides (NOx) to form ground level ozone; and

Whereas, clean burning fuels, alternative-fueled vehicles, and low emission vehicle usage should be encouraged statewide; and

Whereas, the State must lead the way in combating ground level ozone pollution from motor vehicles through its own purchases and policies; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. STATEWIDE GOALS

Section 1.1. It shall be the goal of the State to reduce emissions of nitrogen oxides (NOx) from all sources by at least twenty-five percent (25%) by 1 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles traveled in the State by at least twenty-five percent (25%) of that growth that would otherwise occur by 1 July 2009. The Department of Environment and Natural Resources and the Department of Transportation shall evaluate progress toward achieving these goals in each fiscal year and shall report their findings and recommendations as to any measures that may be needed to achieve these goals to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

PART II. SULFUR CONTENT OF MOTOR FUELS

Section 2.1. Article 3 of Chapter 119 of the General Statutes is amended by adding a new section to read:

"**§ 119-26.2. Sulfur content standards.**

(a) No person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. The average concentration of sulfur contained in gasoline shall be determined on the basis of a one-year period established by rule.

(b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section."

Section 2.2. Section 2.1 of this act becomes effective as provided in this section. No later than 1 July 2000, the Governor shall determine whether the United States Environmental Protection Agency has adopted, pursuant to the Notice of Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64, Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold, and offered for sale in this State that limit the sulfur content of gasoline to a concentration equal to or less than the concentration set out in Section 2.1 of this act. If the Governor so determines, the Governor shall issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective, which shall be the date on which the federal regulation becomes effective in this State. Otherwise, Section 2.1 of this act becomes effective 1 January 2004. If the United States Environmental Protection Agency promulgates a regulation that imposes a limit on the concentration of sulfur in gasoline other than that set out in G.S. 119-26.2, as enacted by Section 2.1 of this act, it is the intention of the General Assembly to review the limit established in G.S. 119-26.2. In that event, the Environmental Review Commission shall review the limit on the concentration of sulfur in gasoline and report its findings and recommendations, if any, to the General Assembly.

Section 2.3. G.S. 119-26.1 reads as rewritten:

"**§ 119-26.1. ~~Oxygen content standards~~ Content of motor fuels and reformulated gasoline.**

(a) Rules adopted pursuant to G.S. 143-215.107(a)(9) to regulate the ~~oxygen~~ content of ~~gasoline~~ motor fuels or to require the use of reformulated gasoline shall be implemented by the Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board. Such rules shall be implemented within any area specified by the Environmental Management Commission when the Commission certifies to the Commissioner of Agriculture that implementation:

(1) Will improve the ambient air quality within the specified county or counties;

(2) Is necessary to achieve attainment or preclude violations of the National Ambient Air Quality Standards; or

(3) Is otherwise necessary to meet federal requirements.

(b) The Department of Agriculture and Consumer Services and the Gasoline and Oil Inspection Board may adopt rules to implement this section. Rules shall be consistent with the implementation schedule and rules adopted by the Environmental Management Commission.

(c) The Commissioner of Agriculture may assess and collect civil penalties for violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action for injunctive relief to restrain, abate, or prevent a violation or threatened violation of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S. 143-215.114C. The assessment of a civil penalty under this section and G.S. 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section

shall not relieve any person from any other penalty or remedy authorized under this Article.

(c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) The Commissioner of Agriculture may delegate his powers and duties under this subsection to the Director of the Standards Division of the Department of Agriculture and Consumer Services."

PART III. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Section 3.1. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.107A. Motor vehicle emissions testing and maintenance program.**

(a) General Provisions. --

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Type of Test Required. -- Motor vehicle emissions inspections shall be performed using the two-mode Acceleration Simulation Mode (ASM) test described in Federal Register, Volume 57, Number 215, (5 November 1992), Pages 52955 to 52996.

(c) Counties Covered. -- Motor vehicle emissions inspections shall be performed only in the following counties: Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake.

(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and

the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions testing be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions testing be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 3.2. The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002. The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006. The Environmental Management Commission shall not require motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001.

Section 3.3. Effective 1 July 2003, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed ~~only~~ in the following counties: Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Iredell, Johnston, Mecklenburg, Orange, Rowan, Union, and Wake."

Section 3.4. Effective 1 January 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Section 3.3 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Cabarrus, Catawba, Chatham, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rowan, Stanly, Union, and Wake."

Section 3.5. Effective 1 July 2004, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 and 3.4 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph, Rockingham, Rowan, Stanly, Union, and Wake."

Section 3.6. Effective 1 January 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.5 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Stanly, Union, ~~and Wake.~~ Wake, Wayne, and Wilson."

Section 3.7. Effective 1 July 2005, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.6 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.8. Effective 1 January 2006, G.S. 143-215.7A(c), as enacted by Section 3.1 of this act and amended by Sections 3.3 through 3.7 of this act, reads as rewritten:

"(c) Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

Section 3.9. Sections 3.3 through 3.8 of this act become effective only if G.S. 20-183.7 is amended to increase the fee for motor vehicle emissions inspections no later than 31 December 2000. G.S. 143-215.107A(b), as enacted by Section 3.1 of this act, and Section 3.2 of this act are repealed effective 1 January 2001 unless, prior to 1 January 2001, G.S. 20-183.7 has been amended to increase the fee for motor vehicle emissions inspection.

Section 3.10. The Department of Environment and Natural Resources, with the assistance of the Division of Motor Vehicles of the Department of Transportation and the affected parties, shall study issues related to costs associated with the motor vehicle emissions inspection and maintenance program. The Department shall determine what constitutes a reasonable fee for motor vehicle emissions inspections under the current program and under the enhanced program to be implemented pursuant to G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. In determining what constitutes a reasonable fee, the Department shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an

emissions test after repairs to the vehicle have been made, and whether the State should purchase emissions inspection equipment purchased prior to 10 June 1999 for use in the current program but that will be rendered obsolete by the enhanced program. The Department shall report its findings and recommendations to the Environmental Review Commission on or before 1 February 2000. The Environmental Review Commission, with the assistance of the Fiscal Research Division of the Legislative Services Office, shall evaluate these recommendations. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2000 Regular Session of the 1999 General Assembly.

Section 3.11. G.S. 20-183.2 reads as rewritten:

"**§ 20-183.2. Description of vehicles subject to safety or emissions inspection; definitions.**

(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.

(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

~~(4) It is powered or designed so that it could be powered by gasoline.~~

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:

(1) Emissions county. -- A county ~~in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State~~ listed in G.S. 143-215.107A(c) or designated by the Environmental Management Commission ~~establishes the emissions counties pursuant to rules adopted under G.S. 143-215.107(a)(6).~~ pursuant to G.S. 143-215.107A(d) and certified to the Commissioner of Motor Vehicles as a county in which the implementation of a motor vehicle emissions inspection program will improve ambient air quality.

(2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency."

Section 3.12. G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

(4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the

nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. ~~The standards may be applied uniformly to the State as a whole or to any area of the State designated by the Commission.~~ This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To ~~adopt, when necessary and practicable, a program for testing emissions from motor vehicles and to adopt motor vehicle emission standards in compliance with applicable federal regulations.~~ adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the onboard diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(9) To regulate the ~~oxygen~~ content of ~~gasoline;~~ motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. ~~Rules adopted under this~~

~~subdivision may specify standards for a particular area of the State that differ from standards specified for other areas as may be necessary to improve ambient air quality within a particular area, achieve attainment or preclude violations of the National Ambient Air Quality Standards, or to meet other federal requirements.~~ Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. -- In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall ~~recognize~~ consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to ~~facilitate accomplishment of the stated~~ improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article."

Section 3.13. G.S. 20-183.8F reads as rewritten:

"**§ 20-183.8F. Requirements for giving ~~certain emissions~~ license holders notice of violations and for taking summary action.**

(a) Finding of Violation. -- When an auditor of the Division finds that ~~an emissions~~ a violation has occurred that could result in the suspension or revocation of an ~~emissions~~ inspection station license, ~~an emissions~~ a self-inspector license, or ~~an emissions~~ a mechanic license, the auditor must give the affected license holder written notice of the finding. The notice must be given within five business days after the violation occurred. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.

(b) Notice of Charges. -- When the Division decides to charge an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic with a violation that could result in the suspension or revocation of the person's ~~emissions~~ license, an auditor of the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of this right, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. -- The right granted by subsection (b) of this section to have a hearing before ~~an emissions~~ a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an ~~emissions~~ inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review."

Section 13.14. G.S. 20-183.8G reads as rewritten:

"**§ 20-183.8G. Administrative and judicial review.**

(a) Right to Hearing. -- A person who applies for a license or registration under this Part or who has a license or registration issued under this Part has the right to a hearing when any of the following occurs:

(1) The Division denies the person's application for a license or registration.

(2) The Division delivers to the person a written statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's ~~emissions~~ license.

(3) The Division summarily suspends or revokes the person's license following review and authorization of the proposed adverse action by a judge.

(4) The Division assesses a civil penalty against the person.

(5) The Division issues a warning letter to the person.

(6) The Division cancels the person's registration.

(b) Hearing After Statement of Charges. -- When ~~an emissions~~ a license holder receives a statement of charges of ~~an emissions~~ a violation that could result in the suspension or revocation of the person's license, the person can obtain a hearing by

making a request for a hearing. The person must make the request to the Division within 10 days after receiving the statement of the charges. A person who does not request a hearing within this time limit waives the right to a hearing.

The Division must hold a hearing requested under this subsection within three business days after receiving the request unless the person requesting the hearing asks for additional time to prepare for the hearing. A person may ask for no more than seven additional business days to prepare. If the additional time requested is within this limit, the Division must grant a person the additional time requested. The hearing must be held at the location designated by the Division. Suspension or revocation of the license is stayed until a decision is made following the hearing.

If a person does not request a hearing within the time allowed for making the request, the proposed suspension or revocation becomes effective the day after the time for making the request ends. If a person requests a hearing but does not attend the hearing, the proposed suspension or revocation becomes effective the day after the date set for the hearing.

(c) Hearing After Summary Action. -- When the Division summarily suspends a license issued under this Part after judicial review and authorization of the proposed action, the person whose license was suspended or revoked may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person was notified of the summary action. The Division must hold a hearing requested under this subsection within 14 days after receiving the request.

(d) All Other Hearings. -- When this section gives a person the right to a hearing and subsection (b) or (c) of this section does not apply to the hearing, the person may obtain a hearing by filing with the Division a written request for a hearing. The request must be filed within 10 days after the person receives written notice of the action for which a hearing is requested. The Division must hold a hearing within 90 days after the Division receives the request.

(e) Review by Commissioner. -- The Commissioner may conduct a hearing required under this section or may designate a person to conduct the hearing. When a person designated by the Commissioner holds a hearing and makes a decision, the person who requested the hearing has the right to request the Commissioner to review the decision. The procedure set by the Division governs the review by the Commissioner of a decision made by a person designated by the Commissioner.

(f) Decision. -- A decision made after a hearing on the imposition of a monetary penalty against a motorist for an emissions violation or on a Type I, II, or III emissions violation by an emissions license holder must uphold any monetary penalty, license suspension, license revocation, or warning required by G.S. 20-183.8A or G.S. 20-183.8B, respectively, if the decision contains a finding that the motorist or license holder committed the act for which the monetary penalty, license suspension, license revocation, or warning was imposed. A decision made after a hearing on any other action may uphold or modify the action.

(g) Judicial Review. -- Article 4 of Chapter 150B of the General Statutes governs judicial review of an administrative decision made under this section."

PART IV. STATE AGENCY GOALS, PLANS, DUTIES, AND REPORTS; OTHER PROVISIONS

Section 4.1. As used in this Part, alternative-fueled vehicle means a motor vehicle capable of operating on electricity; natural gas; propane; hydrogen; reformulated gasoline; ethanol; other alcohol fuels, separately or in mixtures of eighty-five percent (85%) or more of alcohol by volume; or fuels, other than alcohol, derived from biological materials. For purposes of this Part, a vehicle that has been converted to operate on a fuel other than the fuel for which it was originally designed is not a new or replacement vehicle.

Section 4.2. It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000. For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR).

Section 4.3. The Department of Public Instruction, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of school buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement public school buses purchased for use in counties with a population of at least 100,000, based on the most recent population estimates prepared by the Office of State Planning, will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air quality. The Department of Public Instruction shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.4. The Department of Transportation and the Department of Environment and Natural Resources shall jointly develop a draft plan for the purchase of buses under which, beginning 1 January 2004, at least fifty percent (50%) of the new and replacement buses purchased to provide public transportation in counties in which motor vehicle emissions inspections are required to be performed under subsection (c) or (d) of G.S. 143-215.107A will be alternative-fueled or low emission vehicles. These departments shall invite interested parties to participate in the development of the draft plan. The draft plan will consider the infrastructure requirements that would be needed to fuel and maintain these buses and the costs and benefits of implementation of the plan, including the impact on ambient air

quality. The Department of Transportation shall submit the draft plan to the Environmental Review Commission on or before 1 September 2000.

Section 4.5. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop recommendations for incentives to increase the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets. The Department of Environment and Natural Resources shall submit these recommendations to the Environmental Review Commission on or before 1 February 2000. The Department of Environment and Natural Resources shall report on progress in increasing the use of alternative-fueled and low emission light duty cars and trucks in privately owned fleets to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2001.

Section 4.6. The Department of Administration, the Office of State Personnel, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by State employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of carpooling, vanpooling, public transportation, incentives, and other appropriate strategies. The Office of State Personnel shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.7. The Department of Transportation, the Department of Commerce, and the Department of Environment and Natural Resources shall jointly develop and periodically update a plan to reduce vehicle miles traveled by private sector employees and vehicle emissions resulting from job-related travel, including commuting to and from work. The plan shall consider the use of incentives for both private sector employees and employers, carpooling, vanpooling, public transportation, and other appropriate strategies. The Department of Transportation shall report on the development and implementation of the plan to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.8. The Office of State Personnel shall implement a policy that promotes telework/telecommuting for State employees as recommended by the report of the State Auditor entitled "Establishing a Formal Telework/Telecommuting Program for State Employees" and dated October 1997. It shall be the goal of the State to reduce State employee vehicle miles traveled in commuting by twenty percent (20%) without reducing total work hours or productivity. The Office of State Personnel shall report on progress in implementing this section to the Environmental Review Commission on or before 1 October of each year beginning 1 October 2000.

Section 4.9. The Environmental Management Commission shall initiate rule making to regulate the emissions of nitrogen oxides (NOx) from complex sources pursuant to G.S. 143-215.109 no later than 1 October 1999. The Environmental

Management Commission shall report on the progress of this rule making as a part of each quarterly report the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).

Section 4.10. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 16.
"Planning.

"§ 136-200. Definitions.

As used in this Article:

(1) 'Conformity' means the extent to which transportation plans, programs, and projects conform to federal air quality requirements as specified in 40 Code of Federal Regulations, Part 93, Subpart A (1 July 1998 Edition).

(2) 'Department' means the Department of Transportation.

(3) 'Interface' means a relationship between streams of traffic that efficiently and safely maximizes the mobility of people and goods within and through urbanized areas and minimizes transportation-related fuel consumption and air pollution.

(4) 'Metropolitan Planning Organization' or 'MPO' means an agency that is designated as a Metropolitan Planning Organization in accordance with 23 U.S.C. § 134.

(5) 'Regionally significant project' has the same meaning as under 40 Code of Federal Regulations 93.101 (1 July 1998 Edition).

(6) 'Regional travel demand model' means a model of a region, defined in the model, that is approved by the Department and each Metropolitan Planning Organization whose boundaries include any part of the region and that uses socioeconomic data and projections to predict demands on a transportation network.

"§ 136-201. Plan for intermodal interface.

When planning a regionally significant transportation project, the Department shall consider design alternatives that will facilitate the cost-effective interface of the project with other existing or planned transportation projects, including highway, airport, rail, bus, bicycle, and pedestrian facilities. The Department of Transportation shall record its consideration of these design alternatives in the planning documents for the project.

"§ 136-202. Metropolitan planning organizations.

(a) Each Metropolitan Planning Organization shall base all transportation plans, metropolitan transportation improvement programs, and conformity determinations on the most recently completed regional travel demand model.

(b) Each Metropolitan Planning Organization shall update its transportation plans in accordance with the scheduling requirements stated in 23 Code of Federal Regulations 450.322 (1 April 1999 Edition).

(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust

the regions defined in each regional travel demand model at least once every five years and no later than 1 October of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State Planning Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality.

(d) The Department shall report on the evaluation and adjustment of the boundaries of the area served by each Metropolitan Planning Organization to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission no later than 1 November of each year in which the regions are evaluated and adjusted.

"**§ 136-203. Joint study groups.**

The Department and the Department of Environment and Natural Resources shall convene a joint study group to examine options to maximize the positive impacts and minimize the adverse impacts on air quality of transportation investments. A joint study group shall be convened for each major travel corridor in which there has been air quality violations within the previous fiscal year or that affects an area in which there has been air quality violations within the previous fiscal year. Each joint study group shall include at least 10 members, half of whom shall be appointed by the Secretary of Transportation and half of whom shall be appointed by the Secretary of Environment and Natural Resources. Each group shall include representatives from the Department and the Department of Environment and Natural Resources, affected units of local government, private businesses, and nonprofit public interest organizations. The Department and the Department of Environment and Natural Resources shall jointly report on the work, findings, and recommendations of each joint study group to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on or before 1 October of each year."

Section 4.11. The Department of Transportation and the Department of Environment and Natural Resources shall make the first joint report required by G.S. 136-203, as enacted by Section 4.10 of this act, on or before 1 October 2000.

Section 4.12. G.S. 143-215.94T(a) is amended by adding a new subdivision to read:

"(12) Tank tightness testing procedures and certification of persons who conduct tank tightness tests."

Section 4.13. G.S. 143B-282(a)(2)h. reads as rewritten:

"h. Governing underground tanks used for the storage of oil or hazardous substances ~~or oil~~ pursuant to ~~Article 21 or Article 21A~~ Articles 21, 21A, or 21B of Chapter 143 of the General ~~Statutes.~~ Statutes, including inspection and testing of these tanks and certification of persons who inspect and test tanks."

PART V. MISCELLANEOUS PROVISIONS

Section 5.1. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

Section 5.2. The headings to the Parts of this act are intended as a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 5.3. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 5.4. Except as otherwise provided in this act, this act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 953 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DISTRIBUTE FUNDS FROM THE WETLANDS RESTORATION FUND AND TO CONVEY INTERESTS IN REAL PROPERTY ACQUIRED UNDER THE WETLANDS RESTORATION PROGRAM TO FEDERAL AND STATE AGENCIES, LOCAL GOVERNMENTS, AND PRIVATE NONPROFIT CONSERVATION ORGANIZATIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to ~~Senate committee substitute~~ original bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

Natural and Environ. Res. — 6/30/99
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Dow	Lt. Gov.
Sandra Birkhead	Glaxo Wellcome
Claire Ver	DENR
David Fonvielle	HMcCC&C PA
Bill Holman	NCSSA
Anita S Watkins	DENR
Brock Nicholson	DENR-DAQ
Alan Klimek	DENR-DAQ
Jeff Cherry	Hunton & Williams
Tom Mather	DENR-DAQ
Russell Hageman	DENR-DAQ
Jim Kuszaj	NCET
Jan Rivers	NCASA
Anne Belcher	SBE
Jeanne Winner	NCSBA
Sara Robertson	P.O. Box 850 Knightdale 27545
Cam Cryer	BPM&L
Linda Alcock	Commerce
Sheila Smith Stuart	DENR
Eddie Caldwell	HMcCC&C, PA
Thom Mills	OAHS
ALAN BRIGGS	S.O.S.
Molly Diggins	Sierra Club
Kristen Guillory	Lt. Gov. office
Ruth Salisbury	NCDOT
Lenny Pollock	DMV
John Robinson, Jr.	NC DMV
Sherol Barnes	NCPC

VISITOR REGISTRATION SHEET

THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON HUMAN RESOURCES

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

	NAME	FIRM OR AGENCY
1.	Cam Cover	BPMHG
2.	RuAnn Coe	Farmers for Farmers
3.	Natalie English	NC Agribusiness Council
4.	Sherol Broman	NC Petroleum Council
5.	Jim Speed	visitor
6.	Alex Hall	
7.	Lisa Martin	Upper Neuse River Basin assn.
8.	Bob Slocum	NC Forestry Assoc.
9.	John McAlister	Duke Energy
10.	JERRY SCHILL	NC Fisheries ASSOC.
11.	Kim Hibbard	NCLM
12.	Mark Benson	Capital Group
13.	PRESTON HOWARD	MCIC
14.	George Everett	Duke Energy
15.	JUNE SYKES	NC ELECTRIC MEMBERSHIP CORP
16.	Nat Munn	CCNC
17.	Tommy Stevens	DWQ
18.	Alan Briggs	SOS
19.	[illegible]	DENR
20.	Molly Diggins	NC Sierra Club
21.	Marion Smith	Neuse River Foundation

AGENDA

House Committee on
Environment and Natural Resources

Thursday, July 8, 1999

Call to Order ..... Chair Gibson

Pages

BILL TO BE DISCUSSED:

S 1049 Neuse River Buffer Amendments - Senator Albertson

Announcements & Adjournment ..... Chair Gibson

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

Committee Minutes

Thursday, July 8, 1999

Chair Gibson called the meeting to order at 12 Noon. He welcomed everyone to the clean-up session for the Committee on Environment and Natural Resources.

Present: Chair Gibson, V-Chair Cox, Representatives Bonner, Brown Creech, Culp, Hill, Luebke, McCombs, McLawhorn, McMahan, Mitchell, Thomas, Tolson, Tucker, and Yongue. Representatives Ramsey and Chair Warwick had excused absences.

Chair Gibson recognized Representative Yongue to explain S.B. 1049 for Senator Albertson. Representative Yongue then recognized Staff Attorney George Givens to give some background on this legislation. Last session Representative Creech sponsored H.B. 1049 that addressed the buffer situation on the Neuse River. Part of this legislation created a 23-member panel/stakeholders group that was sent off to work on some issues that were left unresolved on the buffers. The primary issues were compensatory mitigation, which is where a buffer has to be destroyed under certain circumstances whereas the person who destroys a buffer can compensate for that. Then the matter of delegating the state buffer program to local government was also left to this new stakeholders group. The stakeholders met the end of last year and the beginning of this year and presented their recommendation to the Environmental Management Commission who in-turn made their recommendation to the Environmental Review Commission and then to the General Assembly in the form of the language in this bill before the Committee. S.B. 1049 amends and codifies elements of SL 1998-221 (Neuse River Basin Rule/Other Environmental amendments) that (1) provide for compensatory mitigation as an alternative to maintaining riparian buffers and (2) authorizes the Environmental Management Commission to delegate responsibility for the implementation of riparian buffer protection requirements to local governments. (Copy of the bill is following as Attachment # 1. Representative Brown asked if the counties have to pay for administering this. Staff Attorney Givens said that they do not get paid. but some will take it on as a convenience to local citizens. Rep. Brown asked who would look after if the local government does not. Staff Attorney Givens said that the Water Quality Division of DEHNR will do this, if not local government. Representative Culp asked who decides the size of the buffer. Givens replied that this is done by rule of the Commission. Basically the buffers are 50 feet in two tiers. Representative Creech spoke to the amount of work that the stakeholders did, to come to the recommendations in the bill. Representative Creek then moved that the Committee Substitute for S.B. 1049 be approved as presented. and then re-referred to the Finance Committee. The Committee

then voted to pass the Committee Substitute for S.B. 1049 as presented (Attachment #1) and then be re-referred to the Finance Committee.

Representative Bonner moved that the Proposed Committee Substitute for SB 1161 be considered. The Committee passed the motion and Chair Gibson asked the staff to distribute copies of the Committee Substitute for S.B. 1161. Representative Yongue then called on staff to explain this Committee Substitute. This bill was formally called the "grease trap bill". The original content of this bill was removed and replaced with the language from H.B. 955 sponsored by Representative Creech. The replacement language in the bill would: (1) made land that the Environmental Management Commission requires to be preserved as a riparian buffer exempt from property taxes; (2) provided that local governments shall be reimbursed for the resulting loss of property taxes from the Clean Water Management Trust Fund. After a discussion, the committee voted to pass the House Committee Substitute for S.B. 1161 as presented to the committee and re-refer the bill to the House Finance Committee. (A copy of the Proposed Committee for SB 1161 is following the minutes as Attachment 2, along with a brief summary.)

Chair Gibson then turned the meeting over to V-Chair Cox who presided while Representative Gibson explained the House Proposed Committee Substitute for S.B. 777, which was before the Committee for consideration. The new language in the bill made technical changes to the Dry-Cleaning Solvent Cleanup Program established by the legislature in 1997 in the Department of Environment and Natural Resources. The amendments to this program allowed the Department to contract directly with private companies to assess and remediate dry-cleaning solvent contamination. The original act required launderers to conduct cleanup and seek reimbursement from DENR. DENR indicated that the amendments would allow it greater control over cleanup activities, thereby improving the effectiveness and efficiency of the program. The North Carolina Association of Launderers and Cleaners supported the change as presented. Following a brief discussion of the bill, the committee voted to pass the Committee Substitute as presented. (A copy of the Proposed House Committee Substitute, Attachment # 3, and a summary is following the minutes).

The meeting was then adjourned.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

Attachment #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1049
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/27/99
Finance Committee Substitute #2 Adopted 5/20/99

Short Title: Neuse River Buffer Amends. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND AND CODIFY THE LAW THAT PROVIDES FOR COMPENSATORY MITIGATION AS AN ALTERNATIVE TO THE MAINTENANCE OF RIPARIAN BUFFERS AND THAT AUTHORIZES THE ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE RESPONSIBILITY FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE STATE'S RIPARIAN BUFFER PROTECTION REQUIREMENTS TO LOCAL GOVERNMENTS, AS RECOMMENDED BY THE NEUSE RIVER BUFFER RULES STAKEHOLDER ADVISORY COMMITTEE AND REQUESTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

Whereas, in 1996 the General Assembly established a goal to reduce the average annual load of nitrogen delivered from point and nonpoint sources to the Neuse River Estuary by a minimum of thirty percent (30%) of the average load for the period 1991 through 1995 by the year 2001 and directed the Environmental Management Commission to develop and adopt a plan to achieve this goal; and

Whereas, in 1997 the General Assembly directed the Environmental Management Commission to develop and implement a basinwide water quality plan for each of the State's 17 major river basins; and

Whereas, in 1997, in response to these legislative mandates, the Environmental Management Commission adopted a Neuse River Nutrient Sensitive Waters Management Strategy as temporary and permanent rules and adopted revisions to these rules in 1998; and

Whereas, in 1998 the General Assembly enacted legislation to disapprove 15A NCAC 2B.0233 (Neuse River Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Riparian Areas with Existing Forest Vegetation) as a permanent rule while continuing this rule in effect as a temporary rule with certain modifications until the Environmental Management Commission adopted a revised temporary and permanent rule; and

Whereas, the 1998 legislation established a Stakeholder Advisory Committee to assist the Environmental Management Commission with the development of (i) a revised temporary rule, (ii) rules and recommended legislation to provide for compensatory mitigation as an alternative to the maintenance of riparian buffers, and (iii) rules and recommended legislation to authorize the Environmental Management Commission to delegate responsibility for the implementation and enforcement of the State's riparian buffer protection requirements to local governments; and

Whereas, the Stakeholder Advisory Committee, after many hours of work, submitted a report and recommendations to the Environmental Management Commission; and

Whereas, that report included recommended legislation pertaining to compensatory mitigation and delegation to local governments; and

Whereas, at its meeting on 8 April 1999, the Environmental Management Commission accepted these recommendations and forwarded them to the Environmental Review Commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding two new sections to read:

"**§ 143-214.20. Riparian Buffer Protection Program: Alternatives to maintaining riparian buffers; compensatory mitigation fees.**

(a) The Commission shall establish a program to provide alternatives for persons who would otherwise be required to maintain riparian buffers and who can demonstrate that they have attempted to avoid and minimize the loss of the riparian buffer and that there is no practical alternative to the loss of the buffer. This program is intended to allow these persons to perform compensatory mitigation in lieu of complying with laws and rules that require that riparian buffers be protected and maintained. Alternatives shall include, but are not limited to:

(1) Payment of a compensatory mitigation fee into the Riparian Buffer Restoration Fund.

(2) Donation of real property or of an interest in real property to the Department, another State agency, a unit of local government, or a private nonprofit conservation organization if both the donee organization and the donated real property or interest in real property are approved by the Department. The Department may approve a donee organization only if the donee agrees to maintain the real property or interest in real property as a riparian buffer. The Department may approve a donation of real property or an

interest in real property only if the real property or interest in real property either:

a. Is a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost; or

b. Will be used to restore, create, enhance, or maintain a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

(3) Restoration or enhancement of an existing riparian buffer that is not otherwise required to be protected, or creation of a new riparian buffer, that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(4) Construction of an alternative measure that reduces nutrient loading as well or better than the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(b) Compensatory mitigation is available for loss of a riparian buffer along an intermittent stream, a perennial stream, or a perennial waterbody.

(c) The Commission shall establish a standard schedule of compensatory mitigation fees. The compensatory mitigation fee schedule shall be based on the area of the riparian buffer that is permitted to be lost and the cost to provide equivalent or greater protection of water quality in the same river basin as that provided by the riparian buffer this is lost by:

(1) Restoration or enhancement of existing riparian buffers.

(2) Acquisition of land for and creation of new riparian buffers.

(3) Maintenance and monitoring of restored, enhanced, or created riparian buffers over time.

(4) Construction of alternative measures that reduce nutrient loading.

(d) The Commission may adopt rules to implement this section.

"**§ 143-215.23. Riparian Buffer Protection Program: Delegation of riparian buffer protection requirements to local governments.**

(a) The Commission may delegate responsibility for the implementation and enforcement of the State's riparian buffer protection requirements to units of local government that have the power to regulate land use. A delegation under this section shall not affect the jurisdiction of the Commission over State agencies and units of local government. Any unit of local government that has the power to regulate land use may request that responsibility for the implementation and enforcement of the State's riparian buffer protection requirements be delegated to the unit of local government. To this end, units of local government may adopt

ordinances and regulations necessary to establish and enforce the State's riparian buffer protection requirements.

(b) Within 90 days after the Commission receives a complete application requesting delegation of responsibility for the implementation and enforcement of the State's riparian buffer protection requirement, the Commission shall review the application and notify the unit of local government that submitted the application whether the application has been approved, approved with modifications, or disapproved. The Commission shall not approve a delegation unless the Commission finds that local implementation and enforcement of the State's riparian buffer protection requirements will equal implementation and enforcement by the State.

(c) If the Commission determines that a unit of local government is failing to implement or enforce the State's riparian buffer protection requirements, the Commission shall notify the unit of local government in writing and shall specify the deficiencies in implementation and enforcement. If the local government has not corrected the deficiencies within 90 days after the unit of local government receives the notification, the Commission shall rescind delegation and shall implement and enforce the State's riparian buffer protection program. If the unit of local government indicates that it is willing and able to resume implementation and enforcement of the State's riparian buffer protection requirements, the unit of local government may reapply for delegation under this section.

(d) The Department shall provide technical assistance to units of local government in the development, implementation, and enforcement of the State's riparian buffer protection requirements.

(e) The Department shall provide a stream identification training program to train individuals to determine the existence of surface water for purposes of rules adopted by the Commission for the protection and maintenance of riparian buffers. The Department may charge a fee to cover the full cost of the training program. No fee shall be charged to an employee of the State who attends the training program in connection with the employee's official duties.

(f) The Commission may adopt rules to implement this section."

Section 2. G.S. 143-214.21 reads as rewritten:

"§ 143-214.21. Riparian Buffer Protection Program: Riparian Buffer Restoration Fund.

The Riparian Buffer Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Riparian Buffer Restoration Fund shall provide a repository for monetary contributions to promote projects for the restoration, enhancement, or creation of riparian buffers or to construct approved alternative measures that reduce nutrient loading as well or better than the riparian buffer that is lost and for compensatory mitigation fees paid to the Department. The Fund shall be administered by the Division of Water Quality within the Department. ~~Monies [Moneys]~~ Moneys shall be expended from the Fund only for those purposes directly related to the restoration, acquisition, creation, enhancement, and maintenance of riparian buffers or to

construct approved alternative measures that reduce nutrient loading as well or better than the riparian buffer that is lost to offset the benefits to water quality, including the removal of nutrients, lost through the loss of buffers. Compensatory mitigation fees paid into the Fund in connection with the loss of riparian buffers in a river basin and the interest earned on those fees may be used only for projects in that river basin."

Section 3. The catch line to G.S. 143-214.22 reads as rewritten:

"**§ 143-214.22. Riparian Buffer Protection Program: Department may accept donations of real property.**"

Section 4. This act is effective when it becomes law.

SENATE BILL 1049:
Neuse River Buffer Amendments

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Albertson
		Summary by:	Hannah Holm, Research Assistant
Date:	July 8, 1999		
Version:	Third Edition		

SUMMARY: ***SB 1049 amends and codifies elements of SL 1998-221 (Neuse River Basin Rule/ Other Environmental Amendments) that 1) provide for compensatory mitigation as an alternative to maintaining riparian buffers and 2) authorize the Environmental Management Commission (EMC) to delegate responsibility for the implementation of riparian buffer protection requirements to local governments.***

CURRENT LAW: SL 1998 – 221 gave the EMC specific instructions on implementing and revising the Neuse River Basin Rule, which protects water quality in the Neuse River Basin by protecting riparian buffers. SL 1998-221 also created a stakeholder committee to advise the EMC in revising the rule and recommending related legislation.

BILL ANALYSIS: SB 1049 reflects the EMC's recommendations for legislation related to the implementation of the Neuse River Basin Rule. These recommendations are based on the Neuse River Buffer Stakeholder Committee's report to the EMC.

Compensatory mitigation: SB 1049 codifies the requirement that the EMC establish a program to allow persons who can demonstrate no practical alternative to destroying a buffer to perform compensatory mitigation in lieu of complying with laws to preserve buffers. These alternatives shall include:

- Payment of a compensatory mitigation fee.
- Donation of real property or an interest in real property to a State agency, a unit of local government, or a private nonprofit for the maintenance or restoration of a buffer.
- The establishment, restoration, or enhancement of a buffer that is not otherwise required to be protected.
- The construction of an alternative mechanism to reduce nutrient loading.

All compensatory mitigation activities must provide water quality protection that is equal to or greater than the protection provided by the lost buffer and must be conducted in the same river basin as the lost buffer.

SB 1049 further provides that compensatory mitigation is available for the loss of a riparian buffer along an intermittent stream, perennial stream, or perennial waterbody. SL 1998-221 allowed compensatory mitigation only for the loss of a riparian buffer along an intermittent stream.

The compensatory mitigation fee schedule established by the EMC shall be based on the cost to provide equivalent or greater water quality protection as that provided by the lost buffer by one of the following measures:

- Restoring existing riparian buffers.
- Acquiring riparian land and creating new riparian buffers.

- Monitoring and maintaining the restored or created buffers.
- Constructing an alternative mechanism to reduce nutrient loading.

Delegation to local governments: SB 1049 defines the procedure by which the EMC may delegate the responsibility for implementing riparian buffer protection requirements to a local government. SB 1049 also provides that the EMC shall rescind the delegation if it determines that a local government is failing to implement or enforce the requirements. SB 1049 further provides that DENR shall provide technical assistance to local governments in the development, implementation and enforcement of the State's riparian buffer protection requirements. DENR shall also provide a training program for the identification of surface waters for the purpose of implementing the buffer protection requirements.

Rulemaking authority: SB 1049 authorizes the EMC to adopt rules to implement the act.

BILL HISTORY

The first edition of SB 1049 was blank.

The committee substitute adopted in the Senate Agriculture, Environment and Natural Resources Committee (SAENR) differs from SL 1998 – 221 in that it allows compensatory mitigation for buffers lost along perennial streams as well as intermittent streams.

The committee substitute adopted in the Senate Finance Committee added a provision to make the construction of an alternative mechanism to provide equal or greater water quality protection as a lost buffer an authorized option for compensatory mitigation. This provision was inadvertantly left out of the version of the committee substitute considered by SAENR. Both of these changes were recommended by the EMC in response to the stakeholders' report.

Attachment #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1161
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/27/99
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1161-CSRT/SB-001
11:53:10 EZT / 8-JUL-99

ATTENTION: Line numbers may change after adoption.

Short Title: (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX RESTRICTED RIPARIAN BUFFERS AND TO REIMBURSE LOCAL GOVERNMENTS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-275 is amended by adding a new subdivision to read:

"(12a) Restricted riparian buffers. -- A restricted riparian buffer is real property that the Environmental Management Commission requires to be maintained in established, undisturbed forest vegetation to serve as a riparian buffer."

Section 2. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-275.3. Reimbursement of localities for exclusion of restricted riparian buffers.

(a) On September 1 of each year, the tax collector of each county and the tax collector of each city must provide the

Secretary of Revenue a list containing the name and address of each person who qualifies for that year for exclusion of restricted riparian buffers under G.S. 105-275. The list must contain for each name the total appraised value of property excluded, the tax rate the property is subject to, and the product obtained by multiplying these two numbers. Each list must be accompanied by an affidavit attesting to its accuracy and be on a form prescribed by the Secretary of Revenue.

(b) The Secretary of Revenue may, for cause, grant an extension for the submission of a list required by this section.

(c) Before May 31 of each year, the Secretary of Revenue must distribute to the county or city an amount equal to the total for the entire list provided pursuant to subsection (a) of this section of the product obtained by multiplying the value of excluded property for each taxpayer times the applicable tax rate.

(d) Any funds received by any county or city pursuant to this section because the county or city was collecting taxes for another unit of government or special district must be credited to the funds of that other unit or district in accordance with regulations issued by the Local Government Commission.

(e) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of administering the reimbursement, the Secretary of Revenue must draw from the Clean Water Management Trust Fund established in Article 13A of Chapter 113 of the General Statutes an amount equal to the reimbursement and the cost of administration. If sufficient funds are not available in the Clean Water Management Trust Fund, the Secretary must draw the remainder from income tax collections received under Part 1 of Article 4 of this Chapter."

Section 3. G.S. 113-145.3 reads as rewritten:

"**§ 113-145.3. Clean Water Management Trust Fund: established.**

(a) Fund Established. -- There is established a Clean Water Management Trust Fund in the State Treasurer's Office that shall be used to finance projects to clean up or prevent surface water pollution in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. -- The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. ~~Payments~~ The Secretary of Revenue may draw funds from the Fund as provided in G.S. 105-275.3. All other payments from the Fund

shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. -- Moneys from the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff.

(10) To encourage the establishment of restricted riparian buffers by reimbursing local governments under G.S. 105-275.3 for their loss of tax revenue due to exclusion of these buffers from the property tax base under G.S. 105-275.

(d) Limit on Operating and Administrative Expenses. -- No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of eight hundred fifty thousand dollars ($850,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff."

Section 4. G.S. 105-282.1(a)(3) reads as rewritten:

"(3) After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or exclusion under G.S. 105-275(3), (7), (8), (12), (12a), (17) through (19), (21) or (39), G.S. 105-277.1, or G.S. 105-278 has applied for exemption or exclusion and the exemption or exclusion has been approved, the owner is not required to file an application in subsequent years ~~except in the following circumstances:~~ unless either of the following occurs:

a. New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the ~~property; or~~ property.

b. There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion."

Section 5. Sections 1 through 4 of this act are effective for taxes imposed for taxable years beginning on or after 1 July 2000. The remainder of this act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for #2
S.B. 1049 A BILL TO BE ENTITLED AN ACT TO AMEND AND CODIFY THE LAW THAT PROVIDES FOR COMPENSATORY MITIGATION AS AN ALTERNATIVE TO THE MAINTENANCE OF RIPARIAN BUFFERS AND THAT AUTHORIZES THE ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE RESPONSIBILITY FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE STATE'S RIPARIAN BUFFER PROTECTION REQUIREMENTS TO LOCAL GOVERNMENTS, AS RECOMMENDED BY THE NEUSE RIVER BUFFER RULES STAKEHOLDER ADVISORY COMMITTEE AND REQUESTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☒ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

SENATE BILL 1161:
Riparian Buffers Tax Exempt

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Sen. Hagan/ Rep. Creech
Date:	July 8, 1999	**Summary by:**	Hannah Holm, Research Assistant
Version:	Proposed Committee Substitute		

BILL ANALYSIS: The **Proposed Committee Substitute** for SB 1161:

- Makes land that the Environmental Management Commission requires to be preserved as a riparian buffer exempt from property taxes.
- Provides that local governments shall be reimbursed for the resulting loss of property taxes from the Clean Water Management Trust Fund.

BILL HISTORY: SB 1161, as introduced and passed by the Senate, was entitled "Water Pretreatment Consultation" directed the Department of Environment and Natural Resources (DENR) to work with the food service industry to assure the equity and effectiveness of rules governing local oil and grease pretreatment programs.

The **Proposed Committee Substitute** for SB 1161 replaces the provisions of SB 1161 as introduced with the provisions of HB 955 (Riparian Buffers Tax Exempt), which was introduced by Representative Creech.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for #2
S.B. 1049 A BILL TO BE ENTITLED AN ACT TO AMEND AND CODIFY THE LAW THAT PROVIDES FOR COMPENSATORY MITIGATION AS AN ALTERNATIVE TO THE MAINTENANCE OF RIPARIAN BUFFERS AND THAT AUTHORIZES THE ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE RESPONSIBILITY FOR THE IMPLEMENTATION AND ENFORCEMENT OF THE STATE'S RIPARIAN BUFFER PROTECTION REQUIREMENTS TO LOCAL GOVERNMENTS, AS RECOMMENDED BY THE NEUSE RIVER BUFFER RULES STAKEHOLDER ADVISORY COMMITTEE AND REQUESTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☒ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☒ Committee Substitute for
S.B. 1161 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND REPRESENTATIVES OF THE FOOD SERVICE INDUSTRY TO REVIEW THE RULES AND GOVERNING LOCAL OIL AND GREASE WATER PRETREATMENT PROGRAMS TO DETERMINE WHETHER THOSE PROGRAMS ARE EQUITABLE, EFFECTIVE, AND ECONOMICALLY MANAGEABLE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House Committee Substitute Bill (# 2),☒ which changes the title, unfavorable as to Senate Committee Substitute Bill # 1 and recommendation that House Committee Substitute #2 be re-referred to the Committee on Finance.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

Attachment # 3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 777
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/19/99
Proposed House Committee Substitute S777-PCS7710-SG

Short Title: Dry-Cleaning Program Amends. (Public)

Sponsors:

Referred to:

April 7, 1999

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES AND TO MAKE OTHER CHANGES TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.104D(a) is amended to add a new subdivision to read:

"(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites."

Section 2. G.S. 143-215.104F(c) reads as rewritten:

"(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreement authorizing the Commission or its agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being

conducted in compliance with this Part and any assessment agreement or remediation agreement."

Section 3. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section 4. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Section 5. This act is effective when it becomes law.

State-Lead Amendments to DSCA

Section X1. G.S. 143-215.104D(a) is amended to add a new subdivision to read:

"(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites."

Section X2. G.S. 143-215.104F(c) reads as rewritten:

"(c) Requirement for Property Owners. -- In addition to the information required by subsection (b) of this section, a petitioner who is the owner of the property on which the dry-cleaning solvent contamination identified in the petition is located shall provide the Commission a written agreeement authorizing the Commission or its agent to have access to the property for purposes of conducting assessment or remediation activities or determining whether assessment or remediation activities are being conducted in compliance with this Part and any assessment agreement or remediation agreement."

Section X3. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section X4. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meanding of G.S. 150B021.1. The Environmental Management Commission may adopt temporary rules to implement this act until ~~1 January 1999.~~ 30 June 2000."

Explanation

The proposed legislation makes technical changes to the Dry-Cleaning Solvent Cleanup Program established by the legislature in 1997 in the Department of Environment and Natural Resources. The amendments will allow the Department to contract directly with private companies to assess and remediate dry-cleaning solvent contamination. The Act originally required launderers to conduct cleanup and seek reimbursement from DENR. DENR has indicated that the amendments will allow it greater control over cleanup activities, thereby improving the effectiveness and efficiency of the program. The North Carolina Association of Launderers and Cleaners supports this change.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☒ Committee Substitute for
S.B. 1161 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND REPRESENTATIVES OF THE FOOD SERVICE INDUSTRY TO REVIEW THE RULES AND GOVERNING LOCAL OIL AND GREASE WATER PRETREATMENT PROGRAMS TO DETERMINE WHETHER THOSE PROGRAMS ARE EQUITABLE, EFFECTIVE, AND ECONOMICALLY MANAGEABLE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (# 2),☒ which changes the title, unfavorable as to Senate committee substitute bill # 1re-referred to the Committee on Finance.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, Warwick** for the Committee on **Environment & Natural Resources.**

☒ Committee Substitute for
S.B. 777 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill, ☒ which changes the title, unfavorable as to Senate committee substitute bill.

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☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

Natural & Environmental Resources — July 8, 1999
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Lucius Pullen	Attorney
Nancy Thompson	NCIC
Kim Hibbard	NCLM
Jim Kuszaj	NCEI
Paul Wilms	NCHBA
Stephen Treivel	intern Senator Kinnaird
Jan Tyl	NICALC
Charles Case	Hunton & Williams
PB	NFIB
David Hoyt	NC Sierra Club, NC Wildlife Fed
Preston Howard	MCIC
R Rogers	DENR
L E Hartsell	NC Bar Association
S. Mounun	NCAR
Laura DeVivo	DENR

VISITOR REGISTRATION SHEET

Natural & Environmental Resources — Name of Committee

July 8, 1999 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

★NAME	★FIRM OR AGENCY AND ADDRESS
Raine Lee	CWG
Kevin Leonard	Rep. Morgan
Allyson K Duncan	Kilpatrick Stockton
Anthony Brannon	Sen. Lucas Legal Staff.
Natalie English	NCAC
Amy Fullbright	Hunton & Wms.

2000

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MINUTES

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURCES

1999-2000

CHAIRS

REPRESENTATIVE PRYOR GIBSON

REPRESENTATIVE NURHAM WARWICK

Committee Assistant

Carolyn Honeycutt

Shirlyn MacPherson

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

1999-2000



Rep. Pryor Gibson
Chair



Rep. Nurham Warwick
Chair



Rep. Leslie Cox
Vice Chair



Rep. Donald Bonner



Rep. John Brown



Rep. Billy Creech



Rep. Arlie Culp



Rep. Leo Daughtry

Environment & Natural Resources 1999-2000
Membership List
Page 2


Rep. Don Davis


Rep. Mitch Gillespie


Rep. Joe Hackney


Rep. Dewey Hill


Rep. Paul Luebke


Rep. Danny McComas


Rep. Eugene McCombs


Rep. Marian McLawhorn


Rep. Edwin McMahan


Rep. Frank Mitchell


Rep. Jean Preston


Rep. Liston Ramsey


Rep. Ronnie Smith


Rep. Scott Thomas


Rep. Gregg Thompson


Rep. Joe Tolson


Rep. Russell Tucker


Rep. Alex Warner


Rep. Douglas Yongue

ATTENDANCE

House Committee on Environment & Natural Resources

(Name of Committee)

DATES	5/23	5/30	6/6	6/8	6/20	6/22	6/27	6/28	6/29	6/30	7/5	7/6	7/6		
WARWICK, Nurham **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
GIBSON, Pryor **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
COX, Leslie **VICE CHAIR**	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓		
BONNER, Donald	✓	✓	✓	✓		✓	✓	✓	✓			✓			
BROWN, John	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓		
CREECH, Billy		✓	✓	✓	✓	✓	✓	✓	✓			✓	✓		
CULP, Arlie		✓		✓	✓	✓	✓	✓		✓	✓	✓	✓		
DAUGHTRY, Leo	✓	✓	✓	Excused	✓		✓				✓	✓	✓		
DAVIS, Don		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		
GILLESPIE, Mitch	✓	✓	✓			✓	✓	✓	✓	✓		✓	✓		
HACKNEY, Joe		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓			
HILL, Dewey	✓		✓		✓	✓	✓	✓	✓			✓	✓		
LUEBKE, Paul	✓	✓	✓	✓			✓	✓	✓			✓			
MCCOMAS, Danny	✓	✓	✓				✓		✓	✓		✓			
MCCOMBS, Eugene	✓		✓		✓	✓	✓		✓			✓	✓		
MCLAWHORN, Marian	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
MCMAHAN, Edwin	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	•				
MITCHELL, Frank	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓			
PRESTON, Jean	✓		✓	✓		✓	✓	✓				✓	✓		
RAMSEY, Liston	Excused →														
SMITH, Ronnie			✓		✓		✓	✓	✓	✓	✓	✓	✓		
THOMAS, Scott		✓	✓		✓				✓		✓	✓	✓		
THOMPSON, Gregg	✓	✓	✓	✓	✓	✓	✓	✓		•		✓	✓		
TOLSON, Joe	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓		
TUCKER, Russell	✓	✓	✓	✓	✓	✓	✓	Ex	✓		Ex		✓		
WARNER, Alex	✓	✓	✓	✓	✓		✓		✓			✓	✓		
YONGUE, Douglas	✓		✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		

ATTENDANCE

House Committee on Environment & Natural Resources

(Name of Committee)

Ex-officio	5/30 ✓	6/8 ✓												
BADDOUR, Phillip														
CUNNINGHAM, Peter														
DEDHAM, Andrew														
EARLE, Beverly														
~~**HACKNEY, Joe**~~														

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — HOUSE: ENVIRONMENT & NATURAL RESOURCES — Valid Through 22-AUG-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 215=	PRESTON	EXTEND CORE SOUND MORATORIUM	*H -RE-REF COM ON FINANCE	03-02-99	04-21-99
H 323=	HACKNEY	AMBIENT AIR QUALITY IMPROVEMENT	H -REF TO COM ON ENVIRON	03-04-99	
H 352=	MOSLEY	IMPROVE ENFORCEMENT OF LITTERING	HF-POSTPONED INDEFINITELY	03-08-99	
H 571	REDWINE	BRUNSWICK MENHADEN RESTRICTIONS	HF-REPTD UNFAV	03-23-99	04-21-99
H 746=	BAKER	NEW RIVER STATE PARK/ACREAGE LIMIT	*S -REF TO COM ON AGRICUL&	03-31-99	04-21-99
H 978	NYE	DAMAGED PIERS/BOAT STALLS/WHITE LAKE	*R -CH. SL 99-0459	04-12-99	04-23-99
H1002	WARWICK	ENVIRONMENTAL IMPACT STUDY/FUNDS	*H -RE-REF COM ON ENVIRON	04-27-99	
H1008=	COX	SEDIMENTATION ACT/EXCAVATION	*R -CH. SL 99-0082	04-13-99	04-21-99
H1039	REDWINE	BEACH MANAGEMENT STRATEGY	*S -REF TO COM ON AGRICUL&	04-14-99	04-22-99
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	*R -CH. SL 99-0379	04-15-99	06-14-99
H1099	HACKNEY	SULFUR CONTENT LIMITS FOR GASOLINE	H -REF TO COM ON ENVIRON	04-15-99	
H1108	THOMAS	DENR BURNING PERMITS STUDY	HF-POSTPONED INDEFINITELY	04-15-99	04-21-99
H1125	HACKNEY	CONFORM DEFINITION OF HAZ. SITE	R -CH. SL 99-0083	04-15-99	04-23-99
H1127=	SMITH	REVISE CERTAIN LODGING RULES	R -CH. SL 99-0077	04-21-99	04-23-99
H1128	SMITH	MORATORIUM ON DISCHARGING SYSTEMS	H -REF TO COM ON ENVIRON	04-15-99	
H1160=	HACKNEY	CLEAN WATER ACT OF 1999	*R -CH. SL 99-0329	04-15-99	04-23-99
H1183	WRIGHT	STATE AGENCIES COMPLY WITH CAMA	H -REF TO COM ON ENVIRON	04-15-99	
H1211	HACKNEY	IMPROVED ANIMAL WASTE TECHNOLOGY	H -REF TO COM ON ENVIRON	04-15-99	
H1218=	GIBSON	AMEND ENVIRONMENTAL LAWS	*R -CH. SL 00-0172	04-15-99	04-21-99
H1232=	TUCKER	WETLANDS REIMBURSE/LOCAL TAX BASE	H -REF TO COM ON ENVIRON	04-15-99	
H1234	HUNTER	EXTEND MORATORIA/INACTIVE LAGOONS	H -REF TO COM ON ENVIRON	04-15-99	
H1241=	CREECH	PROTECT/RESTORE RIPARIAN BUFFERS	H -REF TO COM ON ENVIRON	04-15-99	
H1273=	LUEBKE	FEDERAL CMAQ FUNDS USE/PUB. TRANS.	H -RE-REF COM ON ENVIRON	06-10-99	
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	*S -REF TO COM ON AGRICUL&	04-29-99	06-23-99
H1562=	EDWARDS	INCREASE RCGL GILL NET	R -CH. SL 00-0139	00-05-17	00-05-24
H1562=	EDWARDS	INCREASE RCGL GILL NET	R -CH. SL 00-0139	00-06-19	
H1577=	BAKER	BULLHEAD MOUNTAIN STATE NAT. AREA	*R -CH. SL 00-0017	00-05-18	00-05-24
H1580	GIBSON	ENVIRONMENTAL EXCELLENCE AGREEMENT-1	H -REF TO COM ON ENVIRON	00-05-18	
H1581=	GIBSON	DELEGATION OF ENV. PROGRAM AUTHORITY	H -REF TO COM ON ENVIRON	00-05-18	
H1583=	GIBSON	NONHAZ. DRY-CLEANING INC/INVESTMENT	*R -CH. SL 00-0160	00-05-23	00-06-20

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.
BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium — HOUSE: ENVIRONMENT & NATURAL RESOURCES — Valid Through 22-AUG-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H1584=	GIBSON	PETROLEUM DISCHARGE AMENDS-1	H -REF TO COM ON ENVIRON	00-05-18	
H1586=	GIBSON	DRY-CLEANING SOLVENT CLEANUP AMENDS	H -REF TO COM ON ENVIRON	00-05-18	
H1602=	GIBSON	STORMWATER UTILITY FEES	*R -CH. SL 00-0070	00-05-18	00-06-06
H1603=	GIBSON	MOUNTAINS TO SEA STATE PARK TRAIL	H -REF TO COM ON ENVIRON	00-05-18	
H1614=	HACKNEY	ADD. NOTICE/MINING PERMIT APPLICATIO	*HF-POSTPONED INDEFINITELY	00-05-18	00-06-28
H1617=	WARWICK	LEA ISLAND NAT. AREA/STATE PROPERTY	R -CH. SL 00-0102	00-05-18	00-06-12
H1618=	WARWICK	PETROLEUM DISCHARGES/DE MINIMIS REPT	R -CH. SL 00-0054	00-05-18	00-06-12
H1625=	THOMAS	REMOVAL OF ABANDONED VESSELS	*R -CH. SL 00-0074	00-05-18	00-06-22
H1631	GIBSON	CULLASAJA RIVER DESIGNATION	H -REF TO COM ON ENVIRON	00-05-18	
H1632=	GIBSON	FLOOD HAZARD PREVENTION ACT OF 2000	H -RE-REF COM ON ENVIRON	00-05-23	
H1633=	BADDOUR	MILLION ACRE OPEN SPACE GOAL	H -REF TO COM ON ENVIRON	00-05-18	
H1638=	HACKNEY	I/M TECHNOLOGY AMENDS/CMAQ FUNDS	*R -CH. SL 00-0134	00-05-23	00-06-06
H1858	**CULPEPPER**	**LOCAL WATER QUALITY PLANS**	**H -REF TO COM ON ENVIRON**	**00-05-30**	
S 249=	ALBERTSON	CORE SOUND MORATORIUM/CRAB LICENSE	*R -CH. SL 99-0209	03-29-99	04-21-99
S 710	ODOM	HUNTERSVILLE DEVELOPMENT	HF-POSTPONED INDEFINITELY	04-28-99	05-19-99
S 777=	ALBERTSON	DRY-CLEANING PROGRAM AMENDS	S -RE-REF COM ON AGRICUL&	04-23-99	07-09-99
S 872=	FOXX	NEW RIVER STATE PARK/ACREAGE LIMIT	*R -CH. SL 99-0147	04-27-99	05-20-99
S 953	CLODFELTER	AMBIENT AIR QUALITY IMPROVEMENTS	*R -CH. SL 99-0328	04-28-99	06-30-99
S1047	ALBERTSON	PROTECT CERTAIN CULTCH PLANTING AREA	*R -CH. SL 99-0143	04-27-99	05-20-99
S1048	ALBERTSON	AMEND FISHERY RESOURCE GRANT PROGRAM	*R -CH. SL 99-0162	04-27-99	05-20-99
S1049	ALBERTSON	NEUSE RIVER BUFFER AMENDS	*R -CH. SL 99-0448	05-27-99	07-08-99
S1127	HORTON	STATE NATURE AND HISTORIC PRESERVE	*R -CH. SL 99-0268	04-27-99	06-15-99
S1132=	ODOM	REGULATORY FLEXIBILITY AGREEMENTS	*HF-POSTPONED INDEFINITELY	04-28-99	00-07-07
S1139	HORTON	NATURE & HISTORIC PRESERVE	*R -CH. RES 99-18	04-27-99	06-15-99
S1159	PLYLER	LAND-USE/CONTAMINATED SITES	*R -CH. SL 99-0198	04-27-99	05-27-99
S1161	HAGAN	EXTEND BILLBOARD MORATORIUM	*HF-POSTPONED INDEFINITELY	04-28-99	07-08-99
S1252=	ODOM	BROWNFIELDS TAX INCENTIVE	R -CH. SL 00-0158	00-06-29	00-07-05
S1272=	JORDAN	SCFL HOLDERS TAKE CRABS/CRC TEMP RUL	*R -CH. SL 00-0142	00-06-14	00-07-07
S1279=	PLYLER	PETROLEUM DISCHARGE AMENDS-1	R -CH. SL 00-0051	00-06-12	00-06-20
S1311=	LEE	MOUNTAINS TO SEA STATE PARK TRAIL	R -CH. SL 00-0157	00-06-26	00-06-28

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BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE SUMMARY REPORT

1999-2000 Biennium HOUSE: ENVIRONMENT & NATURAL RESOURCES Valid Through 22-AUG-2000

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S1328=	ODOM	MILLION ACRE OPEN SPACE GOAL	R -CH. SL 00-0023	00-06-05	00-06-12
S1329=	ODOM	ADD.NOTICE/MINING PERMIT APPLICATION	*R -CH. SL 00-0116	00-06-30	00-06-30
S1341=	ALBERTSON	FLOOD HAZARD PREVENTION ACT OF 2000	*R -CH. SL 00-0150	00-06-19	00-06-30
S1479	KINNAIRD	DEEPRIVER HERITAGE CORRIDOR	*H -REF TO COM ON ENVIRON	00-06-28	

NOTES- = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
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BOLDED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **May 23, 2000**

TIME: **Tuesday, 12:00 Noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1562 - Expand Crab Fishery
HB 1577 - Bullhead Mountains State Natural Area
HB 1583 - Nonhazardous Dry-cleaning Tech. Incentive
HB 1617 - Lea Island State Natural Area
HB 1618 - Petroleum Discharges/de Minimus Reports
HB 1602 - Stormwater Utility Fees

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **5:30 p.m.** on **May 17, 2000**.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, May 30**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

HB 1617 - Lea Island State Natural Area
HB 1602 - Storm Water Utility Systems

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **9:00 a.m.** on **May 25, 1999.**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 6**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

HB 1602 - Storm Water Utility Systems
HB 1638 - I/M Technology and Fee Amends
HB 1617 - Lea Island State Natural Area

The following bills will be considered (Bill # & Short Title):

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **May 31, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

CORRECTION

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, June 8, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

SB 1328 - Million Acre Open Space Goal
HB 1617 - Lea Island State Natural Area
HB 1618 - Petroleum Discharges/De Minimis Reporting
HB 1583 - Nonhazardous Dry-Cleaning Tech. Incentive

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 p.m.** on **June 7, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 13, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1583 - Nonhazardous Dry-Cleaning Tech. Incentive

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **5:00 p.m.** on **June 8, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

CANCELLED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 13, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1583 - Nonhazardous Dry-Cleaning Tech. Incentive

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **5:00 p.m.** on **June 8, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

CORRECTED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 20, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1583 - Nonhazardous Dry-Cleaning Tech. Incentive
HB 1584 - Petroleum Discharge Amends-1
SB 1279 - Petroleum Discharge Amends-1

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **2:30 p.m.** on **June 15, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

AMENDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, June 22, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1625 - Removal of Abandoned Vessels
HB 1562 - Amend Fisheries Law

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **3:00 p.m.** on **June 21, 2000**

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Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, June 22, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1625 - Removal of Abandoned Vessels
HB 1614 - Add. Notice/Mining Permit Application
HB 1562 - Amend Fisheries Law

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 a.m.** on **June 21, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

PLEASE EXPEDITE

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Tuesday, June 27, 2000**

TIME: **2:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1614 - ADD. NOTICE/MINING PERMIT APPLICATION
HB 1632 - FLOOD HAZARD PREVENTION ACT OF 2000

AS PER THE ANNOUNCEMENT ON THE HOUSE FLOOR YESTERDAY, THE COMMITTEE WILL MEET AT 2:00 P.M. FOR DISCUSSION ON THE ABOVE BILLS. THERE WILL BE NO VOTE TAKEN.

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 p.m.** on **June 27, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

ADVISED NOTE: TIME CHANGE

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Thursday, June 29, 2000**

TIME: **2:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1632 - FLOOD HAZARD PREVENTION ACT OF 2000

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **5:30 p.m.** on **June 28, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

AGENDA FOR TODAY

(corrected)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **July 5, 2000**

TIME: **11:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

SB 1252 - Brownfields Tax Incentive(please note SB)
HB 1580 - Regulatory Flexibility Agreements
(For discussion only)

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at on

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Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **July 6, 2000**

TIME: **12:00 noon**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1580 - Regulatory Flexibility Agreements

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at **1:00 p.m.** on **July 5, 2000.**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 23, 2000

MINUTES

The House Committee on Environment and Natural Resources met May 23, 2000, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Leo Daughtry, Mitch Gillespie, Dewey Hill, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Jean Preston, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay was excused.

Chair Warwick called the meeting to order at 12:10. Pages Becca Lee from Wayne County and Gray Harris, Moore County, were introduced. Also introduced were guests from Representative Warwick's home county. Chair Gibson then presided.

HB 1562 - Expand Crab Fishery. Representative Zeno Edwards explained that his bill was a recommendation from the Joint Legislative Commission on Seafood and AquaCulture. The title is self-explanatory. It changes the date from October 1, 2000 to July 1, 2000 by with a holder of a standard commercial or retired standard commercial fishing license to be allowed to take crabs. It replaces the interim license that was required until October 1, 2000. It also opens up the fishery to more people. Representative Douglas Yongue moved to give the bill a favorable report. Passed.

HB 1577 - Bullhead Mountains State Natural Area. Representative Rex Baker explained that this bill would allow the Bullhead Mountain State Natural Area to be incorporated in the State Parks System. It was bought by private concerns and will be donated to the State with no expenditure of public money. Some technical changes in punctuation and wording will be made. Representative John Brown moved to give this bill a favorable report with Proposed Committee Substitute. Passed.

Chair Gibson explained that the remaining bills on the agenda: HB 1583 was in Finance and will be sent to the Committee; HB 1617 and HB 1618 will be on the agenda very shortly. Agenda item HB 1602, Stormwater Utility Fees, was on the agenda to prepare folks for its debate next week. He asked the members to talk with their municipalities before the next meeting.

Representative Gibson adjourned the meeting at 12:22 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Tuesday, May 23, 2000

12:00 NOON

WELCOME ----------	**CO-CHAIRS** **Rep. Pryor Gibson &** **Rep. Nurham Warwick**

BILL TO BE PRESENTED:

HB 1562	**Expand Crab Fishery** ----------	**Rep. Zeno Edwards**
HB 1577	**Bullhead Mountains State Natural Area** ----------	**Rep. Rex Baker**
HB 1583	**Nonhazardous Dry-cleaning Tech. Incentive** ------	**Rep. Pryor Gibson**
HB 1617	**Lea Island State Natural Area** ----------	**Rep. Nurham Warwick**
HB 1618	**Petroleum Discharges/de Minimus Reports** --------	**Rep. Nurham Warwick**
HB 1602	**Stormwater Utility Fees** ----------	**Rep. Pryor Gibson**

ADJOURN

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1562*

Short Title: Date by Which SCFL Holders Take Crab. (Public)

Sponsors: Representatives Edwards, Wainwright; and Smith.

Referred to: Environment and Natural Resources.

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE OR A RETIRED STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

"Section 4.(b) SCFL ~~Not~~ Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina."

Section 2. This act is effective July 1, 2000. Section 4.(b) of S.L. 1999-209, as amended by Section 1 of this act, expires October 1, 2000.

HOUSE BILL 1562:
Date by which SCFL Holders Take Crab

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Edwards and Wainwright
Date:	May 23, 2000	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	First Edition		

*SUMMARY: **House Bill 1562 would authorize the holders of the Standard Commercial Fishing License to begin taking crab on July 1, 2000 rather than October 1, 2000.***

CURRENT LAW: Under current law, only the holders of an Interim Crab License may take crab. This provision is set to expire on October 1, 2000, at which time the holders of the Standard Commercial Fishing License will be allowed to take crab.

BILL ANALYSIS: House Bill 1562 would change the date by which SCFL holders may take crab from October 1, 2000 to July 1, 2000. The October 1, 2000 expiration of the Interim Crab License would remain unchanged.

BACKGROUND: House Bill 1562 was recommended to the Joint Legislative Commission on Seafood and Aquaculture by the Marine Fisheries Commission. The Marine Fisheries Commission requested this change so that the participation of SCFL holders in the crab fishery would coincide with the data collection efforts of the Division of Marine Fisheries for the Blue Crab Fishery. The Joint Legislative Commission on Seafood and Aquaculture recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: This act would become effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1577*
Proposed Committee Substitute H1577-PCS7343-SG

Short Title: Bullhead Mountain State Natural Area. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Bullhead Mountain in Alleghany County contains examples of outstanding scenic beauty; is a key component of a major hawk migration corridor through North Carolina; would provide outstanding opportunities for the public to observe the natural phenomenon of bird migration; and has been found to possess biological, scenic, and recreational resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Bullhead Mountain and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Bullhead Mountain State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1577*
Proposed Committee Substitute H1577-PCS7343-SG

Short Title: Bullhead Mountain State Natural Area. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Bullhead Mountain in Alleghany County contains examples of outstanding scenic beauty; is a key component of a major hawk migration corridor through North Carolina; would provide outstanding opportunities for the public to observe the natural phenomenon of bird migration; and has been found to possess biological, scenic, and recreational resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Bullhead Mountain and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Bullhead Mountain State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1562 A BILL TO BE ENTITLED AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE OR A RETIRED STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1577 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#);~~ ☐ ~~which changes the title,~~ unfavorable as to (original bill) ~~(Committee Substitute Bill #),~~ ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

VISITOR REGISTRATION SHEET

643 Environmental Natural Resources 5/23/2000
12 Pm
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lu-Ann Cole	NCABC
Steve Woodson	NC Farm Bureau Federation
VL McBride	YMCA
Becca Lee	Wayne County
Patrice Randle	NCACC
Jim Blackburn	NCACC
Gray Fullbright	Hunton & Williams
PB	NC FB
L Polaris	DENR
David Meredith	N.C. State Grange
Terry Hardesty	NC Pork Council
Kim Hibbard	NCLM
Linda Miles	City Attorney — City of Greensboro
George House	Brooks, Pierce, McLendon - City of Greensboro
Jay Mayo	Womble Carlyle
James E. Martin	County of Cumberland
Grey Carlson	Fayetteville-Cumberland Co.
George Everett	Duke Energy
BOB COGSWELL	Fayetteville
Carol Tingley	DENR - Parks & Recreation
Matthew Burton	Parks & Rec Intern
Lisa Tracy	Intern, Sierra Club
Doug Kent	NC Sierra Club
Robin Smith	DENR
Dan Miller	DENR
Laura Davis	DENR
Chris Pate	DMF
Penny Bitts	DENR

VISITOR REGISTRATION SHEET

Environment & Natural Resources — 5/23/00

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Kim Hibbard	NCLM
[illegible]	NCCBA
Karl Knapp	City of Winston-Salem
Gary Harris	NCPMA
Doug Howey	NCPMA

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Tuesday, May 30, 2000

Committee Minutes

The House Committee on Environment and Natural Resources met Tuesday, May 30, 2000, in Room 643 of the Legislative Office Building at 12:00 noon.

Representative Nurham Warwick presided at the meeting. Chair Gibson and Vice-Chair Cox were in attendance along with the following members: Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Paul Luebke, Dan McComas, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Liston Ramsey (excused), Scott Thomas, Joe Tolson, Russell Tucker, Alex Warner.

Chair Warwick called the meeting to order 12:05 p.m. The Chair stated that even though HB 1617 Lea Island State Natural Area bill is on our agenda for today's meeting, it will not be discussed because requested information on the bill is not ready.

Chair Warwick then call on Representative Pryor Gibson to explain **STORMWATER UTILITY FEES** which is the first bill to come before the committee. He explained his bill as an act to clarify that stormwater utility fees may be used to fund all costs of stormwater management programs, as recommended by the Environmental Review Commission. He further stated that this act clarifies that local units of government and soil and water conservation districts may use stormwater utility fees to fund all costs associated with their stormwater management programs, including administrative costs. The law is effective retroactively. The Chair then recognized Rick Zechini, Committee Council, who gave some history on the bill. He stated that the federal Clean Water Act requires an operator of a municipal storm sewer system serving 100,000 people or more to develop a stormwater management program. He added that in the future, federal law would also require an operator of a smaller municipal storm sewer system to develop a stormwater management program. Rep. Brown stated that he did not know any counties would be effected by this and thought it would be just certain cities. He then asked what county or counties are effected? Mr. Zechini stated that Cumberland County operates such a program. Rep. Brown then asked where does the water go from the drainage system. Chair Warwick then asked Jim Blackburn, NC County Commissioners Association, to respond to that question. Mr. Blackburn stated that the water on his street goes into the lake in the park near his home. He further stated, in response to the first question, that Mecklenburg and Cumberland Counties in Phase 1 stormwater and Phase 2 will effect at least 24 counties. Linda Miles, City Attorney for the city of Greensboro, stated that stormwater in North Carolina usually goes to lakes and streams. Kim Hibbard, NC League of Municipalities, stated that Phase 1 of the Federal Stormwater Regulations

went into effect in 1994 including all those municipalities over 100,000 in population (Raleigh, Greensboro Winston-Salem, Charlotte, Fayetteville/Cumberland County. and Durham). Phase 2 that has just been adopted by the Federal Government include any number of additional cities and counties. There is various criteria, population density being one, would allow the states to develop their own criteria which will allow more city and county governments to come under this program (probably several hundred will be added). Representative McComas asked if it would involve a fee or really a tax called a fee. Representative Gibson said it is his interpretation that it is really a fee and that the bill will need to go to Finance Committee if it passes committee. Representative McComas asked if other states called it a tax? Representative Gibson says that staff does not know and he will find out and respond to the question. Representative Creech asked if other states are collecting fees and if so how much? Representative Gibson says he is almost sure other states are charging fees, but is sure that the Finance Committee will do their job and look into the fees and charges and how or if it effects the budget. In response to several questions on fees, Andy Romelie, General Counsel of the North Carolina League of Municipalities, made the following statement: the Federal Government has told counties and municipalities in the more populated areas of the state that they have to manage their stormwater drainage. He added that this water runs off into streams and rivers and eventually carries to the coast. The management consists of more than just putting it in a drainpipe, but you have to test the quality as well as the quantity of the drainage. He continued that local governments have looked at what other states are doing and hired consultants and judiciously decided on an equitable way of doing what they were mandated to do. They decided they would charge a fee, as other states do, and charge that fee on services such as parking lots. The cities are just asking the General Assembly to put the law back the way the cities and town thought it was when the law was passed in 1989 and let the municipalities decide how they will run the program. Mr. Skip Stam, attorney for several landowners, made comments on the bill. He is not in favor of the bill and does not think every municipality equitably charges the fee. Representative Daughtry moved that the committee adjourn, rather than take a vote on the bill. Rep. Culp seconded the motion. The motion carried on a voice vote and action on the bill was carried over to the next meeting.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Tuesday, May 30, 2000

12:00 NOON

WELCOME ----------	**CO-CHAIRS** **Rep. Pryor Gibson &** **Rep. Nurham Warwick**

BILL TO BE PRESENTED:

HB 1617 Lea Island State Natural Area ----------	**Rep. Nurham Warwick**
HB 1602 Stormwater Utility Fees ----------	**Rep. Pryor Gibson**

ADJOURN

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1617*

Short Title: Lea Island State Natural Area. (Public)

Sponsors: Representatives Warwick, Wright; Barefoot, Nye, and Smith.

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Lea Island in Pender County is one of the few remaining undeveloped barrier islands on the North Carolina coast; contains examples of high quality coastal natural communities; provides excellent breeding and migration habitat for wildlife, including several rare species; and has been found to possess biological and scenic resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Lea Island and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Lea Island State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1602

Short Title: Stormwater Utility Fees. (Public)

Sponsors: Representatives Gibson, McMahan, Adams, Insko, Jarrell; and Jeffus.

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-274 reads as rewritten:

"**§ 153A-274. Public enterprise defined.**

As used in this Article, 'public enterprise' includes:

(1) Water supply and distribution ~~systems,~~ systems.

(2) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems,~~ systems.

(3) Solid waste collection and disposal systems and ~~facilities,~~ facilities.

(4) ~~Airports,~~ Airports.

(5) Off-street parking ~~facilities,~~ facilities.

(6) Public transportation ~~systems,~~ systems.

(7) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 2. G.S. 153A-277 reads as rewritten:

"**§ 153A-277. Authority to fix and enforce rates.**

(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public

enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county. A county may include a fee relating to subsurface discharge wastewater management systems and services on the property tax bill for the real property where the system for which the fee is imposed is located.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management programs and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local

government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or

(2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system."

Section 3. G.S. 160A-311 reads as rewritten:

"**§ 160A-311. Public enterprise defined.**

As used in this Article, the term 'public enterprise' includes:

(1) Electric power generation, transmission, and distribution ~~systems;~~ systems.

(2) Water supply and distribution ~~systems;~~ systems.

(3) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems;~~ systems.

(4) Gas production, storage, transmission, and distribution systems, where systems shall also include the purchase ~~and/or~~ or lease of natural gas fields and natural gas reserves, the purchase of natural gas supplies, and the surveying, drilling and any other activities related to the exploration for natural gas, whether within the State or ~~without;~~ without.

(5) Public transportation ~~systems;~~ systems.

(6) Solid waste collection and disposal systems and ~~facilities;~~ facilities.

(7) Cable television ~~systems;~~ systems.

(8) Off-street parking facilities and ~~systems;~~ systems.
(9) ~~Airports;~~ Airports.
(10) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 4. G.S. 160A-314 reads as rewritten:

"**§ 160A-314. Authority to fix and enforce rates.**

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government

may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons.

(b) A city shall have power to collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A city may also discontinue service to any customer whose account remains delinquent for more than 10 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the city to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the owner of the premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter.

(2) Charges made for use of a sewage system are billed separately from charges made for the use of a water distribution system.

(e) Nothing in this section shall repeal any portion of any city charter inconsistent herewith."

Section 5. This act is effective when it becomes law and applies retroactively to 15 July 1989.

HOUSE BILL 1602:
Stormwater Utility Fees

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Reps. Gibson, McMahan, Adams, Insko, and Jarrell
Date:	May 23, 2000	**Summary by:**	Rick Zechini Committee Counsel
Version:	First Edition		

SUMMARY: House Bill 1602 authorizes counties and municipalities to establish and operate stormwater management programs as public enterprises and charge fees for the use of or services provided by these programs.

CURRENT LAW: The federal Clean Water Act requires an operator of a municipal storm sewer system serving 100,000 people or more to develop a stormwater management program. In the near future, federal law will also require an operator of a smaller municipal storm sewer system to develop a stormwater management program.

BACKGROUND: The North Carolina General Assembly responded to these federal requirements by enacting legislation (S.L. 1989-642) designed to allow counties and municipalities to establish and operate stormwater systems as public enterprises and charge fees for the services provided by these stormwater systems. In Smith Chapel Baptist Church v. City of Durham, 350 NC 805 (1999) the North Carolina Supreme Court interpreted the legislation enacted in 1989. The court found that the definition of public enterprise as it pertained to stormwater systems was a grant of authority limited to the physical infrastructure, structural or natural, for servicing stormwater. The court concluded that the City of Durham could not operate a stormwater management program as a public enterprise. Thus, the city could only charge fees to fund the construction, maintenance, and operation of the physical infrastructure of the stormwater system and not to administer the stormwater management program.

BILL ANALYSIS: House Bill 1602 amends the definition of "public enterprise" in the county and municipal statutes to explicitly include stormwater management programs. The bill also makes conforming changes to the statutes that allow counties and municipalities to charge fees for the use of and services provided by public enterprises.

The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: This act is effective when it becomes law and applies retroactively to July 15, 1989.

VISITOR REGISTRATION SHEET

ENVIRONMENT AND NATURAL RESOURCES — **5-30-00**

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McAlister	Duke Energy
RW Kaylor	Kaylor Law Firm
Lu-Ann Cole	NCABC
Kim Hibbard	NCLM
Jim Blackburn	NC Assoc. County Commrs
Patrice Roesler	" " " "
Steve Woodson	NC Farm Bureau Federation
Kelli Kukuna	DuPont
Nancy Thompson	MCIC
Ellen Murphy	Hunton & Williams
Jimmy Fulbright	Hunton & WMC
Natalie English	Charlotte Chamber
PG	NCFB
[illegible]	650
Dave Canaan	Mecklenburg County
JIM KUSZAJ	MCIC
David Meredith	N.C. State Grange
[illegible]	NC Park Council
John Adams	Fannie
Bob Cogswell	Fayetteville
Grey Cuison	Fayetteville - Cumberland Co.
Grainger Barrett	Cumberland County
George N. Goddard	PEPSI BOTTLING VENTURES, RALEIGH, NC
Butch Gunnells	NC Soft Drink Assoc.
ANTHONY BRANNON	GMA, Food / Snacks
Emily Meeker	CCNC
Wes Frank	NC Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT AND NATURAL RESOURCES 5-30-00

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Knight	NC Sierra Club
Neal Mould	Conservation Council of NC
Gary Harris	NC Petroleum Marketers
Doug Howey	NC Petroleum Marketers
Hank Fordham	Stam Fordham & Davis for Smith Chapel Baptist Church and Childrens Home Society
Paul Stam	"
A. Brannon	"
George House	City of Greensboro
[illegible]	"
[illegible]	"
Lisa Martin	Upper Neuse River Basin Assn.
Bob Slocum	NC Forestry Assoc.
Karl Knapp	City of Winston-Salem
Kim Hibbard	NCLM
Nancy Dunn	Intern for Rep. Hackney

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 6, 2000

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, June 6, 2000, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Dewey Hill, Danny McComas, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 12:10 p.m. Pages were Cara Allison (Cumberland), Damon Houghton (Jackson), and Stephen Eldridge (Rowan).

Continuing from last week's agenda:

HB 1602 - Stormwater Utility Fees (Attachments 1 & 1A) - Representative Gibson explained that this bill simply allows existing entities that have storm water utility systems carry out programs for stormwater management. He recognized Rick Zechini, Staff. Mr. Zechini stated that the Supreme Court said that counties and municipalities have the authority to establish utilities and charge fees for these utilities as it pertains to stormwater systems only for the infrastructure of the system (the construction, operation, and maintenance). Cities and counties were operating under the impression that they had the authority to have these utilities do more than that these directives and were charging fees for such. This bill would explicitly grant them the authority to have the utilities implement all facets of the stormwater management program and charge fees for such. Mr. Zechini replied to Representative Davis' question. The bill allows these utilities to comply with the mandates of Federal law which require certain sized counties and municipalities to have programs to educate the public, eliminate illicit connections, monitoring, etc. and charge fees for those programs.

Bradley Bennett, NC Division of Water Quality (Stormwater and General Permit Unit) said that Federal mandates do pertain to the larger municipalities in North Carolina. The Federal requirements have recently changed to impact smaller municipalities, which target 85 cities and counties in North Carolina and perhaps more through some designation criteria that Federal rule mandates. There now are six minimum measures local governments have in their permits including: educational programs, illicit connections, new development activities, sources reduction and pollution prevention alternatives in their own facilities. Representative Gibson clarified a question over fees for this service. He said that the bill does nothing to increase or decrease fees; this bill

simply allows the stormwater utility system to finance the program side of stormwater management, and the bill does not speak to whether a city or county can increase the utility fee.

Representative Creech introduced an amendment to the bill changing the wording on Page 5, Section 5 to read: "This act is effective when it becomes law."

Mr. George House, Litigation Attorney for the City of Greensboro, and Mr. Paul Stam, Durham, discussed litigate issues. However, Representative Gibson stated that this bill "simply allows current utility programs to charge, in their fee structure, the cost of those programs." It is not a litigation issue, and the retroactivity of fees has no effect on this. The bill is not in response to any lawsuits -- it is a bill to clarify what the intent of the 1989 General Assembly, which was introduced by Representative Payne and Senator Block. The intent was to make sure the cities would treat stormwater utilities in a correct and proper manner.

Andy Robinet, General Council for the League of Municipalities, explained that the League asked for authority in 1989 to comply with the Federal mandate to use a combination of fees or taxes in order to avoid litigation. HB 1602 does what the bill in 1989 did not do to comply with the Federal mandate.

Representative McComas asked if this bill had a similarity with what has happened with the Intangibles Tax and retirements of the Federal retirees to avoid future litigation and settlements. Staff George Givens said that this is an effort to clarify what the 1989 bill's intent was; it is not exactly parallel to the Intangibles Tax cases. It is more a matter of statutory interpretation than fundamental constitutional law, but it is an attempt to repair some potential damage in advance. Representative Hackney further explained that this bill protects those cities and counties with stormwater policies from litigation and/or refunding fees. They can still collect the fee and have a program.

A vote was taken on the Amendment by Representative Creech (Attachment 2): Ayes - 5, Nos - 19. The amendment failed.

Representative McMahan moved and seconded for a favorable report to HB 1602 and re-referred to the Finance Committee. Passed.

HB 1638 - I/M Technology and Fees Amends (Attachment 3) - Representative Hackney, bill sponsor, explained that this is the clean air bill for this Session and had been brought up last Session, and he moved to adopt the Proposed Committee Substitute (Attachment 4). Representative Davis moved to adopt the Proposed Committee Substitute. Passed and adopted. Representative Hackney said that the Committee had thoroughly discussed air quality in our urban areas during the past Session, and work has been done to combat

this problem. The Vehicle Inspection Plan was enacted last time, and it was contemplated that another bill would be enacted to further help with air quality. Safety inspections are required in all 100 counties, but only 9 counties have vehicle emission inspection: Cabarrus, Durham Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake Counties. This consists of a visual inspection and checking the emissions control devices and analysis of the exhaust (a so-called "tail pipe test"). The major thing that it does is move the State to the OBD System (On Board Diagnostic System). There is a developing consensus that the OBD System is the way to go in the future. This will be keyed into all engine diagnostic equipment on engines since 1996 and will be on all future engines developed. The EPA directives are moving this way. The Bill Analysis (Attachment 4A) shows the timetable for emissions inspection program for those counties listed. The timetable shows the visual and OBD timetable and longer tailpipe test phased out. OBD equipment runs about $5,000. ERC will continue to study these issues. It does not address the fees, but the fees will have to be addressed next Session. The nine counties now in the program will continue to follow this program, and those who have the program do not have to have both to be in the program. Counties coming into the system will have to buy the less expensive OBD equipment. There are no fees to this bill so it will not have to go to Finance.

Representative Hackney moved for a favorable report. Passed.

Representative Warwick adjourned at 12:53 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Tuesday, June 6, 2000

12:00 NOON

WELCOME ----------	**CO-CHAIRS** **Rep. Pryor Gibson &** **Rep. Nurham Warwick**

BILL TO BE PRESENTED:

HB 1602 Stormwater Utility Fees ----------	**Rep. Pryor Gibson**
HB 1617 Lea Island State Natural Area ----------	**Rep. Nurham Warwick**
HB 1638 Inspect./Maintenance Technology & Fee Amend ----	**Rep. Joe Hackney**

ADJOURN

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1602

Short Title: Stormwater Utility Fees. (Public)

Sponsors: Representatives Gibson, McMahan, Adams, Insko, Jarrell; and Jeffus.

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-274 reads as rewritten:

"**§ 153A-274. Public enterprise defined.**

As used in this Article, 'public enterprise' includes:

(1) Water supply and distribution ~~systems,~~ systems.

(2) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems,~~ systems.

(3) Solid waste collection and disposal systems and ~~facilities,~~ facilities.

(4) ~~Airports,~~ Airports.

(5) Off-street parking ~~facilities,~~ facilities.

(6) Public transportation ~~systems,~~ systems.

(7) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 2. G.S. 153A-277 reads as rewritten:

"**§ 153A-277. Authority to fix and enforce rates.**

(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public

enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county. A county may include a fee relating to subsurface discharge wastewater management systems and services on the property tax bill for the real property where the system for which the fee is imposed is located.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The county's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management programs and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local

government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or

(2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system."

Section 3. G.S. 160A-311 reads as rewritten:

"**§ 160A-311. Public enterprise defined.**

As used in this Article, the term 'public enterprise' includes:

(1) Electric power generation, transmission, and distribution ~~systems;~~ systems.

(2) Water supply and distribution ~~systems;~~ systems.

(3) Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or ~~systems;~~ systems.

(4) Gas production, storage, transmission, and distribution systems, where systems shall also include the purchase ~~and/or~~ or lease of natural gas fields and natural gas reserves, the purchase of natural gas supplies, and the surveying, drilling and any other activities related to the exploration for natural gas, whether within the State or ~~without;~~ without.

(5) Public transportation ~~systems;~~ systems.

(6) Solid waste collection and disposal systems and ~~facilities;~~ facilities.

(7) Cable television ~~systems;~~ systems.

(8) Off-street parking facilities and ~~systems;~~ systems.
(9) ~~Airports;~~ Airports.
(10) ~~Structural~~ Stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types."

Section 4. G.S. 160A-314 reads as rewritten:

"**§ 160A-314. Authority to fix and enforce rates.**

(a) A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to classes of service, and different schedules may be adopted for services provided outside the corporate limits of the city.

(a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for stormwater management programs and structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

(2) The fees established under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The city's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

(3) No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government

may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a ~~single~~ stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a2) A fee for the use of a disposal facility provided by the city may vary based on the amount, characteristics, and form of recyclable materials present in solid waste brought to the facility for disposal. This section does not prohibit a city from providing aid to low-income persons to pay all or part of the cost of solid waste management services for those persons.

(b) A city shall have power to collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A city may also discontinue service to any customer whose account remains delinquent for more than 10 days. When service is discontinued for delinquency, it shall be unlawful for any person other than a duly authorized agent or employee of the city to do any act that results in a resumption of services. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises, but this restriction shall not apply when the premises are occupied by two or more tenants whose services are measured by the same meter.

(c) Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the person contracting for them, and shall in no case be a lien upon the property or premises served, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal obligations of the owner of the premises served when:

(1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter.

(2) Charges made for use of a sewage system are billed separately from charges made for the use of a water distribution system.

(e) Nothing in this section shall repeal any portion of any city charter inconsistent herewith."

Section 5. This act is effective when it becomes law and applies retroactively to 15 July 1989.

ATTACHMENT 1A

HOUSE BILL 1602:
Stormwater Utility Fees

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Reps. Gibson, McMahan, Adams, Insko, and Jarrell
Date:	June 6, 2000	**Summary by:**	Rick Zechini Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 1602 authorizes counties and municipalities to establish and operate stormwater management programs as public enterprises and charge fees for the use of or services provided by these programs.***

CURRENT LAW: The federal Clean Water Act requires an operator of a municipal storm sewer system serving 100,000 people or more to develop a stormwater management program. In the near future, federal law will also require an operator of a smaller municipal storm sewer system to develop a stormwater management program.

BACKGROUND: The North Carolina General Assembly responded to these federal requirements by enacting legislation (S.L. 1989-643) designed to allow counties and municipalities to establish and operate stormwater systems as public enterprises and charge fees for the services provided by these stormwater systems. In Smith Chapel Baptist Church v. City of Durham, 350 NC 805 (1999) the North Carolina Supreme Court interpreted the legislation enacted in 1989. The court found that the definition of public enterprise as it pertained to stormwater systems was a grant of authority limited to the physical infrastructure, structural or natural, for servicing stormwater. The court concluded that the City of Durham could not operate a stormwater management program as a public enterprise. Thus, the city could only charge fees to fund the construction, maintenance, and operation of the physical infrastructure of the stormwater system and not to administer the stormwater management program.

BILL ANALYSIS: House Bill 1602 amends the definition of "public enterprise" in the county and municipal statutes to explicitly include stormwater management programs. The bill also makes conforming changes to the statutes that allow counties and municipalities to charge fees for the use of and services provided by public enterprises.

The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: This act is effective when it becomes law and applies retroactively to July 15, 1989.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT ATTACHMENT 2

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1602 DATE 6 JUNE 2000

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Creech
~~Sen.~~)

moves to amend the bill on page 5, lines 41 AND 42

( ) WHICH CHANGES THE TITLE

by rewriting those lines to read:

"Section 5. This act is effective when it becomes law."

SIGNED Billy Creech

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ATTACHMENT 3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1638*

Short Title: I/M Technology and Fee Amends. (Public)

Sponsors: Representatives Hackney, Gray, Gibson, and Miner.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO INCREASE THE FEES THAT ARE CHARGED FOR MOTOR VEHICLE SAFETY AND EMISSIONS INSPECTIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a)(6) reads as rewritten:

"(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; ~~to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer;~~ to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the ~~onboard~~ on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission

shall implement this subdivision as provided in G.S. 143-215.107A."

Section 2. G.S. 143-215.107A(b) is repealed.

Section 3. G.S. 143-215.107A(d) reads as rewritten:

"(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

"Section 3.2. ~~The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002.~~ The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006. The Environmental Management Commission shall not require motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

Section 5. Section 3.9 of S.L. 1999-328 is repealed.

Section 6. Effective 1 July 2002, G.S. 20-128(c) reads as rewritten:

"(c) No motor vehicle registered in this State ~~which~~ that was manufactured after model year 1967 shall be operated in this State unless it is equipped with ~~such emission control~~ emissions control devices ~~to reduce air pollution as~~ that were installed on the vehicle at the time ~~of manufacture, provided the foregoing requirement~~ the vehicle was manufactured and these devices are properly connected.

(d) The requirements of subsection (c) of this section shall not apply ~~where such~~ if the emissions control devices have been removed for the purpose of converting the

motor vehicle to operate on natural or liquefied petroleum gas or other modifications have been made in order to reduce air ~~pollution, further provided that such modifications shall have first been~~ pollution and these modifications are approved by the Department of Environment and Natural Resources."

Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

(4) Repealed by Session Laws 1999-328, s. 3.11.

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(6) It is not licensed at the farmer rate under G.S. 20-88(b)."

Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

"**§ 20-183.3. Scope of safety inspection and emissions inspection.**

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

(1) Brakes, as required by G.S. 20-124.

(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.

(3) Horn, as required by G.S. 20-125(a).

(4) Steering mechanism, as required by G.S. 20-123.1.

(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to

the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.

(6) Directional signals, as required by G.S. 20-125.1.

(7) Tires, as required by G.S. 20-122.1.

(8) Mirrors, as required by G.S. 20-126.

(9) Exhaust system, as required by G.S. 20-128. ~~For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's emission control devices is included in the emissions inspection rather than the safety inspection.~~

(b) Emissions. -- An emissions inspection of a motor vehicle consists of ~~a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and~~ an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that would cause an increase in the emission of pollutants by the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. ~~To pass an emissions inspection a vehicle must pass both the visual inspection and the exhaust emissions analysis.~~ When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 9. Effective 1 July 2003, G.S. 20-183.2(b) reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a ~~1975~~ 1996 or later model.

(4) Repealed by Session Laws 1999-328, s. 3.11.
(5) It meets any of the following descriptions:
a. It is required to be registered in an emissions county.
b. It is part of a fleet that is operated primarily in an emissions county.
c. It is offered for rent in an emissions county.
d. It is a used vehicle offered for sale by a dealer in an emissions county.
e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.
(6) It is not licensed at the farmer rate under G.S. 20-88(b)."

Section 10. Effective 1 July 2003, G.S. 20-183.3 reads as rewritten:

"**§ 20-183.3. Scope of safety inspection and emissions inspection.**

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:
(1) Brakes, as required by G.S. 20-124.
(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
(3) Horn, as required by G.S. 20-125(a).
(4) Steering mechanism, as required by G.S. 20-123.1.
(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
(6) Directional signals, as required by G.S. 20-125.1.
(7) Tires, as required by G.S. 20-122.1.
(8) Mirrors, as required by G.S. 20-126.
(9) Exhaust system, as required by G.S. 20-128.

(b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An emissions inspection of a 1975 or later model motor vehicle in the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the

Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that would cause an increase in the emission of pollutants by the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(b1) Emissions. -- An emissions inspection of a motor vehicle consists of an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that would cause an increase in the emission of pollutants by the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3) reads as rewritten:

"(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later model."

Section 12. Effective 1 January 2006, G.S. 20-183.3(b) is repealed.

Section 13. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection ~~because it passes the visual inspection part of the inspection but fails the exhaust emissions analysis part of the inspection.~~ but passes the safety inspection, including the visual inspection of emissions control devices required by G.S. 20-183.3(9).

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection ~~because it passes the visual inspection part of the inspection but fails the exhaust emissions analysis part of the inspection.~~ but passes the safety inspection, including the visual inspection of emissions control devices required by G.S. 20-183.3(9).

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 14. Effective 1 July 2000, G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ ~~8.25~~ 9.75	$ ~~1.00~~ 1.25
Safety Only, With After-Factory Tinted Window	~~18.25~~ 19.75	~~1.00~~ 1.25
Emissions and Safety Without After-Factory Tinted Window	~~17.00~~ 20.75	~~2.40~~ 3.00
Emissions and Safety With After-Factory Tinted Window	~~27.00~~ 30.75	~~2.40.~~ 3.00.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 15. Effective 1 July 2002, G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-Factory Tinted Window	$ 9.75	$ 1.25
Safety Only, With After-Factory Tinted Window	19.75	1.25
Emissions and Safety Without After-Factory Tinted Window	~~20.75~~ 21.30	~~3.00~~ 4.60
Emissions and Safety With After-Factory Tinted Window	~~30.75~~ 31.30	~~3.00.~~ 4.60.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for

performing an inspection of a vehicle with a tinted window applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint.

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee."

Section 16. Except as otherwise provided in this act, this act is effective when it becomes law.

ATTACHMENT-9

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1638*
Proposed Committee Substitute H1638-PCS2427-RT/SB001

Short Title: I/M Technology Amends/CMAQ Funds. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.107(a)(6) reads as rewritten:

"(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; ~~to require that motor vehicle emissions be monitored while the vehicle is in operation by means of onboard diagnostic equipment (OBD) installed by the vehicle manufacturer;~~ to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the ~~onboard~~ on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions

inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A."

Section 2. G.S. 143-215.107A(b) is repealed.

Section 3. G.S. 143-215.107A(d) reads as rewritten:

"(d) Additional Counties. -- The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State Planning Officer. The Commission may not require that motor vehicle emissions ~~testing~~ inspections be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

"Section 3.2. ~~The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules shall become effective on 1 July 2002.~~ The Environmental Management Commission shall not require that motor vehicle emissions inspections be performed in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1 July 2006. The Environmental Management Commission shall not require motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

Section 5. Section 3.9 of S.L. 1999-328 is repealed.

Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

"**§ 20-128. ~~Prevention of noise, smoke, etc.; muffler cut-outs regulated.~~ Exhaust system and emissions control devices.**

(a) No person shall drive a motor vehicle on a highway unless such motor vehicle is equipped with a muffler, or other exhaust system of the type installed at the time of manufacture, in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens.

(b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a highway.

(c) No motor vehicle registered in this State ~~which~~ that was manufactured after model year 1967 shall be operated in this State unless it is equipped with ~~such emission control~~ emissions control devices ~~to reduce air pollution as~~ that were installed on the vehicle at the time ~~of manufacture, provided the foregoing requirement~~ the vehicle was manufactured and these devices are properly connected.

(d) The requirements of subsection (c) of this section shall not apply ~~where such~~ if the emissions control devices have been removed for the purpose of converting the motor vehicle to operate on natural or liquefied petroleum gas or other modifications have been made in order to reduce air ~~pollution, further provided that such modifications shall have first been~~ pollution and these modifications are approved by the Department of Environment and Natural Resources."

Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) It is a 1975 or later model.

(4) Repealed by Session Laws 1999-328, s. 3.11.

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(6) It is not licensed at the farmer rate under G.S. 20-88(b)."

Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

"**§ 20-183.3. Scope of safety inspection and emissions inspection.**

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

(1) Brakes, as required by G.S. 20-124.
(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
(3) Horn, as required by G.S. 20-125(a).
(4) Steering mechanism, as required by G.S. 20-123.1.
(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.
(6) Directional signals, as required by G.S. 20-125.1.
(7) Tires, as required by G.S. 20-122.1.
(8) Mirrors, as required by G.S. 20-126.
(9) Exhaust ~~system,~~ system and emissions control devices, as required by G.S. 20-128. For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's ~~emission control~~ emissions control devices is included in the emissions inspection rather than the safety inspection.

(b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's ~~emission~~ emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~ and, if the vehicle is a 1975 through 1995 model, the exhaust emissions ~~analysis.~~ analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the

inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section 7 of this act, reads as rewritten:

"(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

(1) It is subject to registration with the Division under Article 3 of this Chapter.

(2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.

(3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a ~~1975~~ 1996 or later model.

(4) Repealed by Session Laws 1999-328, s. 3.11.

(5) It meets any of the following descriptions:

a. It is required to be registered in an emissions county.

b. It is part of a fleet that is operated primarily in an emissions county.

c. It is offered for rent in an emissions county.

d. It is a used vehicle offered for sale by a dealer in an emissions county.

e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.

f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(6) It is not licensed at the farmer rate under G.S. 20-88(b)."

Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8 of this act, reads as rewritten:

"**§ 20-183.3. Scope of safety inspection and emissions inspection.**

(a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the following equipment to determine if the vehicle has the equipment required by Part 9 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

(1) Brakes, as required by G.S. 20-124.

(2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.

(3) Horn, as required by G.S. 20-125(a).

(4) Steering mechanism, as required by G.S. 20-123.1.

(5) Windows and windshield wipers, as required by G.S. 20-127. To determine if a vehicle window meets the window tinting restrictions, a safety inspection mechanic must first determine, based on use of an automotive film check card or knowledge of

window tinting techniques, if after-factory tint has been applied to the window. If after-factory tint has been applied, the mechanic must use a light meter approved by the Commissioner to determine if the window meets the window tinting restrictions.

(6) Directional signals, as required by G.S. 20-125.1.

(7) Tires, as required by G.S. 20-122.1.

(8) Mirrors, as required by G.S. 20-126.

(9) Exhaust system and emissions control devices, as required by G.S. 20-128. For a vehicle that is subject to an emissions inspection in addition to a safety inspection, a visual inspection of the vehicle's emissions control devices is included in the emissions inspection rather than the safety inspection.

(b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that would cause an increase in the emission of pollutants by the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emission control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and the exhaust emissions analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well.

(c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has been repaired after failing an inspection is the same as the original inspection unless the vehicle is presented for reinspection within 30 days of failing the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was a safety inspection, the reinspection is limited to an

inspection of the equipment that failed the original inspection. If the vehicle is presented for reinspection within this time limit and the inspection the vehicle failed was an emissions inspection, the reinspection is limited to the portion of the inspection the vehicle failed and any other portion of the inspection that would be affected by repairs made to correct the failure."

Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by Section 9 of this act, reads as rewritten:

"(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later model."

Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by Sections 8 and 10 of this act, is repealed.

Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

"**§ 20-183.4A. License required to perform emissions inspection; qualifications for license.**

(a) License Required. -- An emissions inspection must be performed by one of the following methods:

(1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.

(2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. -- An applicant for a license as an emissions inspection station must meet all of the following requirements:

(1) Have a license as a safety inspection station.

(2) Have an emissions analyzer approved by the Environmental Management ~~Commission.~~ Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(3) Have equipment to transfer information on emissions inspections to the Division by electronic means.

(4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

(c) Mechanic Qualifications. -- An applicant for a license as an emissions inspection mechanic must meet all of the following requirements:

(1) Have a license as a safety inspection mechanic.

(2) Have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution ~~problem,~~ problem; the purpose of the emissions inspection ~~program,~~ program; the vehicle emission standards established by the ~~federal~~ United States Environmental Protection ~~Agency,~~ Agency; the emission control devices on ~~vehicles,~~ vehicles; how to conduct an emissions inspection using an emissions

analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both; and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. -- An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.

(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.

(3) Have, or have a contract with a person who has, an emissions analyzer approved by the Environmental Management ~~Commission.~~ Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section 13 of this act, reads as rewritten:

"**§ 20-183.4A. License required to perform emissions inspection; qualifications for license.**

(a) License Required. -- An emissions inspection must be performed by one of the following methods:

(1) At a station that has an emissions inspection station license issued by the Division and by a mechanic who is employed by the station and has an emissions inspection mechanic license issued by the Division.

(2) At a place of business of a person who has an emissions self-inspector license issued by the Division and by an individual who has an emissions inspection mechanic license.

(b) Station Qualifications. -- An applicant for a license as an emissions inspection station must meet all of the following requirements:

(1) Have a license as a safety inspection station.

(2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, have an emissions analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(2a) Have equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

(3) Have equipment to transfer information on emissions inspections to the Division by electronic means.

(4) Regularly employ at least one mechanic who has an emissions inspection mechanic license.

(c) Mechanic Qualifications. -- An applicant for a license as an emissions inspection mechanic must meet all of the following requirements:

(1) Have a license as a safety inspection mechanic.

(2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution problem; the purpose of the emissions inspection program; the vehicle emission standards established by the United States Environmental Protection Agency; the emission control devices on vehicles; how to conduct an emissions inspection using an emissions analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both; and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(2a) Have successfully completed an eight-hour course approved by the Division that teaches students about the causes and effects of the air pollution problem, the purpose of the emissions inspection program, the vehicle emission standards established by the United States Environmental Protection Agency, the emission control devices on vehicles, how to conduct an emissions inspection using equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, and any other topic required by 40 C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-Inspector Qualifications. -- An applicant for a license as an emissions self-inspector must meet all of the following requirements:

(1) Have a license as a safety self-inspector.

(2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.

(3) ~~Have,~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a contract with a person who has, an emissions analyzer approved by the Environmental Management Commission, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission, or both.

(3a) Have, or have a contract with a person who has, equipment to analyze data provided by the on-board diagnostic (OBD) equipment approved by the Environmental Management Commission.

(4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet."

Section 15. Effective 1 January 2006, subdivision (2) of subsection (b), subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S. 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~ or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection ~~part of the inspection~~ but fails the analysis of exhaust emissions ~~analysis part of the inspection.~~ or the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by Section 16 of this act, reads as rewritten:

"(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

(1) Fails an emissions inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver

amount is seventy-five dollars ($75.00) if the vehicle is a pre-1981 model and is two hundred dollars ($200.00) if the vehicle is a 1981 or newer model.

(3) Is reinspected and again fails the inspection because it passes the visual inspection but fails ~~the analysis of exhaust emissions or~~ the analysis of data provided by the on-board diagnostic (OBD) equipment.

(4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

"**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions ~~analyzer.~~ analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:
a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) Put an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

(4) Fail to put the required information on an inspection sticker in a legible manner using ink.

(5) Fail to put the required information on an inspection receipt in a legible manner.

(6) Fail to maintain ~~an emissions analyzer~~ a maintenance ~~log.~~ log for an emissions analyzer or for equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by Section 18 of this act, reads as rewritten:

"**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

(4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.

(6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.

(7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access ~~to an emissions analyzer or~~ to equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.

(3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:

a. Catalytic converter.
b. PCV valve.
c. Thermostatic air control.
d. Oxygen sensor.
e. Unleaded gas restrictor.
f. Gasoline tank cap.
g. Air injection system.
h. Evaporative emissions system.
i. Exhaust gas recirculation (EGR) valve.

(4) Put an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.

(5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(3) Fail to post emissions information required by federal law to be posted.

(4) Fail to put the required information on an inspection sticker in a legible manner using ink.

(5) Fail to put the required information on an inspection receipt in a legible manner.

(6) Fail to maintain a maintenance log ~~for an emissions analyzer or~~ for equipment to analyze data provided by on-board diagnostic (OBD) equipment.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

Section 20. During the period 1 July 2002 through 31 December 2005, in the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, an emissions inspection station, an emissions inspection mechanic, and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment. This section shall not be construed to authorize an emissions inspection station or an emissions self-inspector to perform an emissions inspection on a vehicle of a model year for which the emissions inspection station or emissions self-inspector does not have the equipment necessary to perform an emissions inspection of vehicles of that model year. This section shall not be construed to authorize an emissions inspection mechanic to perform an emissions inspection on a vehicle unless the emissions inspection mechanic has successfully completed a course, as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the use of the equipment necessary to perform an emissions inspection on vehicles of that model year.

Section 21. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission and the Division of

Motor Vehicles of the Department of Transportation may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

"(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and both State and federal-aid funds expended under the Transportation Improvement Program, other than federal congestion mitigation and air quality improvement program funds appropriated to the State by the United States pursuant to 23 U.S.C. § 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in G.S. 136-180 and funds received through competitive awards or discretionary grants through federal appropriations either for local governments, transportation authorities, transit authorities, or the Department, shall be distributed throughout the State in accordance with this section.

(1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

(2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

(3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.

(4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.

(5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.

(6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

(7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey."

Section 23. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, the Division of Motor Vehicles of the Department of Transportation, the affected parties, and the Fiscal Research Division of the Legislative Services Office shall study issues related to the costs associated with the motor vehicle safety and emissions inspection and maintenance program. The Commission shall determine what constitutes a reasonable fee for motor vehicle inspections under the current program and under

the enhanced inspection and maintenance program to be implemented pursuant to G.S. 20-183.3, as amended by Sections 8, 10, 11, and 12 of this act. In determining what constitutes a reasonable fee, the Commission shall consider the cost of emissions inspection equipment, the useful life of the equipment, the average period of time during which a purchaser of this equipment is able to amortize this cost, telephone charges incurred in connection with the registration denial program, whether a fee should be charged to reinspect a vehicle that fails an emissions inspection after repairs to the vehicle have been made, the cost of the safety inspection program in relation to the emissions inspection program, and any other factors that the Commission determines to be relevant. The Commission may also evaluate strategies to ensure an efficient and orderly implementation of the enhanced inspection and maintenance program required by Part III of S.L. 1999-328 and this act. The Environmental Review Commission shall recommend legislation to amend G.S. 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001 General Assembly.

Section 24. Except as otherwise provided in this act, this act is effective when it becomes law.

ATTACHMENT 4A

HOUSE BILL 1638:
I/M Technology Amendments/CMAQ Funds

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Hackney
Date:	June 6, 2000	**Summary by:**	Jeff Hudson, Committee Counsel; Hannah Holm, Research Assistant for Environmental Issues
Version:	H1638-PCS2427-RT/SB001 for First Edition		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1638 provides for the use of on-board diagnostic equipment in the motor vehicle emissions inspection and maintenance program. The Proposed Committee Substitute also excludes federal congestion mitigation and air quality funds from the distribution formula for funds expended on transportation construction projects.***

CURRENT LAW AND BACKGROUND INFORMATION:

Vehicle Inspections: Under current law, vehicle safety inspections are required in all 100 counties in North Carolina. The safety inspection consists of an inspection of various types of vehicle equipment to determine if the vehicle has the required equipment and the equipment is in a safe operating condition. Vehicle emissions inspections are required in nine counties (Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake). The emissions inspection consists of a visual inspection of a vehicle's exhaust system and emissions control devices and an analysis of the exhaust emissions of the vehicle while it idles (the "tailpipe" or "idle" test).

CMAQ Funds: Congestion mitigation and air quality (CMAQ) funds are federal funds appropriated to states for projects that reduce transportation-related emissions of air pollutants. Under current law, CMAQ funds are distributed by the State according to the formula set out in G.S. 136-17.2A. This is the distribution formula for the majority of the State's transportation construction funding. The State received approximately $18 million in CMAQ funds in the 1999-2000 fiscal year.

S.L. 1999-328 (Ambient Air Quality Improvement Act of 1999): The Ambient Air Quality Improvement Act of 1999 (Act) contained a number of provisions designed to improve air quality in the State, mainly focusing on measures related to the emissions of air pollutants from vehicles. The Act specifically provided that the inspection and maintenance (I/M) program would be enhanced by replacing the currently used emissions test, which measures the emissions of a vehicle while it idles, with a test that simulates acceleration while measuring emissions (ASM). The Act also provided that the I/M program would be expanded to include additional counties according to the schedule set out in the following table.

EMISSIONS INSPECTION PROGRAM EXPANSION SCHEDULE (New Test)	
July 1, 2002	Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, Wake *(counties where emissions tests are already required)*
July 1, 2003	Catawba, Cumberland, Davidson, Iredell, Johnston, Rowan
January 1, 2004	Alamance, Chatham, Franklin, Lee, Lincoln, Moore, Randolph, Stanley
July 1, 2004	Buncombe, Cleveland, Granville, Harnett, Rockingham
January 1, 2005	Edgecombe, Lenoir, Nash, Pitt, Robeson, Wayne, Wilson
July 1, 2005	Burke, Caldwell, Haywood, Henderson, Rutherford, Stokes, Surry, Wilkes
January 1, 2006	Brunswick, Carteret, Craven, New Hanover, Onslow

The Act further provided that the I/M program would use the new ASM testing and be expanded to additional counties only if the General Assembly increased the fee for a motor vehicle emissions inspection prior to January 1, 2001. The Act directed the Department of Environment and Natural Resources (DENR) to consult with the Division of Motor Vehicles in the Department of Transportation (DMV) and the affected parties to determine a reasonable fee for motor vehicle emissions inspections under the current I/M program and under the enhanced I/M program set out in the Act. DENR was directed to report its findings and recommendations to the Environmental Review Commission (ERC). The ERC was directed to recommend legislation to increase the fee for a motor vehicle emissions inspection to the 2000 Regular Session of the 1999 General Assembly.

DENR Proposal, ERC Recommendation, and House Bill 1638 (First Edition): The Secretary of Environment and Natural Resources reported the results of DENR's study of the I/M fee issue and presented a proposal to the Environmental Review Commission on April 25, 2000. The DENR proposal would require that vehicle emissions be analyzed using the on-board diagnostic (OBD) systems of 1996 and later models. In counties where emissions testing currently occurs, the "tailpipe" test would continue to be required for 1975 through 1995 model vehicles, while the OBD test would be required for 1996 and later model vehicles. In counties where emissions testing will be phased in, the OBD test would be the only test required and would only apply to 1996 and later model vehicles.

The OBD test equipment is less expensive than the ASM test equipment required by SL 1999-328. Due to this factor, DENR recommended a fee that is lower than the range of fees predicted during the debate on SL 1999-328. Under the DENR proposal, the fee for a combined safety and emissions inspection would rise from the current price of $19.40 to $23.75 on July 1, 2000 and to $25.90 on July 1, 2002.

The ERC recommended the DENR proposal and the proposal was introduced in the House of Representatives by Representative Hackney as House Bill 1638 (First Edition) and was introduced in the Senate by Senator Miller as Senate Bill 1317 (First Edition).

CMAQ Proposal: The ERC and the Joint Legislative Transportation Oversight Committee also recommended a proposal to exclude CMAQ funds from the State transportation construction funds distribution formula. This proposal was introduced in the House of Representatives by Representative Saunders as House Bill 1513 (First Edition) and was introduced in the Senate by Senator Gulley as Senate Bill 1196 (First Edition).

CHANGES IN PROPOSED COMMITTEE SUBSTITUTE: The primary changes to House Bill 1638 (First Edition) are the removal of the fee provisions and the addition of the CMAQ proposal summarized at the bottom of the preceding page.

ANALYSIS OF PROPOSED COMMITTEE SUBSTITUTE: The Proposed Committee Substitute for House Bill 1638 (First Edition) provides for the following changes to the I/M program:

Effective July 1, 2002: Emissions inspections in the current nine emissions inspection counties (Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake) would consist of a visual inspection of the vehicle's emissions control devices and, if the vehicle is a 1975 through 1995 model, a "tailpipe" test or, if the vehicle is a 1996 or later model, an OBD test.

Effective July 1, 2003: Emissions inspections in the current nine emissions inspection counties would remain the same. Emissions inspections in the expansion counties would consist of a visual inspection of the vehicle's emissions control devices and an OBD test for 1996 or later model vehicles. The emissions inspection requirement for expansion counties would only apply to those counties as they are phased in according to the table at the top of the preceding page.

Effective July 1, 2006: Emissions inspections in the current nine emissions inspection counties and all of the expansion counties would consist of a visual inspection of the vehicle's emission control devices and an OBD test for 1996 or later model vehicles. The "tailpipe" test would no longer be required for any counties.

The Proposed Committee Substitute also:

- Exempts farm vehicles from the emissions inspection program.
- Provides that inspection stations may provide "tailpipe" testing, OBD testing, or both.
- Directs the ERC to study issues related to the costs associated with the safety inspection and I/M program to determine a reasonable fee for the inspections under the current program and under the enhanced I/M program. The ERC is directed to recommend legislation to increase the fee to the 2001 General Assembly.
- Repeals the provision of SL 1999-328 that would repeal the enhanced and expanded I/M program established by that act if the General Assembly does not increase the fee for a motor vehicle inspection prior to January 1, 2001.
- Excludes CMAQ funds from the State transportation construction funds distribution formula.
- Makes other technical and conforming changes.

VISITOR REGISTRATION SHEET

Env. & Nat. Resources
Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NC Soft Drink Ass'n.
Bradley Bennett	DENR - DWQ
Mike Coughlin	Wake County Env. Services Dept.
Russell Hageman	DENR - DAQ
Brock Nicholson	DENR - DAQ
Paul Gorocy	DENR. DAQ
Elizabeth Ouzts	NCPIRG
R. Rogers	NCDENR
[illegible]	CP&L
[illegible]	[illegible]
Greg Carson	Fayetteville - Cumberland Co. Storm Water

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BOB COGSWELL	City of Fayetteville
ELLIS HANKINS	NCLM
Grainger Barrett	Cumberland County Attorney
Jim Kuszaj	MCIC
Natalie English	Charlotte Chamber
George Everett	Duke Energy
SCOTT BRYANT	City of Greensboro
Lisa Martin	Upper Neuse River Basin Assoc.
Karen Siddall	City of Durham
W Dave Canaan	Mecklenburg County
Kim Hibbard	NCLM
Linda Smith	City Atty - Jamestown

VISITOR REGISTRATION SHEET

Environment & Natural Resources 6/16/2000

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry M Lancaster	NCLM
Preston Howard	MCIC
D. Hoins	DENR
Ruth Sappie	NCDOT
Frank Fordham	Smith Chapel et al
Paul Stam	Smith Chapel et al
Sue Burke	City of Durham
Floyd B. McKissick Jr	Dist Hom City Council
Wia France	Sierra Club
Emily Meeker	CCNC
Nat Reed	CCNC

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Derek Allen	Brooks Pierce Law Firm / City of Greensboro
Cam Cowie	BPMHL
Karl Knapp	City of Winston-Salem
Boyd Cauble	City of Charlotte
Ed Rego	N.C. Assoc. of G. Comm
Ann Mangum	City of [illegible]
Molly Diggins	NC Sierra Club
Bob Brown	NC Forestry Assoc.
Charles Case	Hunton & Williams
Amy Fullbright	Hunton & Williams
Andy Romanet	NCLM

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	County Commissioners Association
Jim Phillips	G'SO
Tommy Hand	NCADA
Kim Wilson	Leadership Anson
Robert Barr	"
Drew Sexpin	"
Rebecca Christ	"
Cathy Greenhaw	"
Jessica Wise	"
Marilyn Pruitt	"
Bryan Leggett	"

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stephanie Williams	Federation of Teachers
Frances Bowman	" " "
Debbie Smith	" " "
Tanya Capeluto	" " "
Joanne Larsen	" " "
Shirley March	" " "
Lee Gloster	" " "
Grace Place	" " "
Scott Collins	" " "
Elbert Marshall	" " "
Al Davis	NCSSA / AUTO PRO

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT AND NATURAL RESOURECE.**

☐ Committee Substitute for
H.B. 1638 A BILL TO BE ENTITLED AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1602 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☒ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

HOUSE COMMITTEE ON ENVIRONMENT& NATURAL RESOURCES

Thursday, June 8, 2000

Committee Minutes

The House Committee on Environment and Natural Resources met Thursday, June 8, 2000, in Room 643 of the Legislative Office Building at 12:00 noon.

CoChairs Nurham Warwick & Pryor Gibson presided at the meeting. Present: Vice-Chair Cox, Donald Bonner, Billy Creech, Arlie Culp, Leo Daughtry (excused), Don Davis, Joe Hackney, Paul Luebke, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Liston Ramsey (excused), Jean Preston, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner, and Doug Yongue.

Chair Warwick called the meeting to order 12:05 p.m. Chair Warwick asks Cochair Gibson to preside at the meeting so that he could present his bills.

Cochair Gibson called on Representative Warwick to present his first bill **HB 1618 PETROLEUM DISCHARGES/DE MINIMIS REPORTS.** This bill would provide an exemption from reporting requirements for small petroleum spills that can be quickly cleaned up and do not pose an immediate threat to surface waters. The bill would amend the statutes governing oil pollution and hazardous substance control. It would exempt any release of petroleum to the environment from current reporting requirements if the release meets all of the following conditions: 1) is less than 25 gallons; 2) is cleaned up in less that 24 hours; 3) does not cause a sheen on nearby surface water; 4) does not occur within 100 feet of surface water. Representative Luebke was concerned about petroleum spills not being reported. The staff attorney and Represented Warwick assured him that all 4 requirements mentioned above would have to be met, meaning the oil would have to be cleaned up, or the present reporting procedures would go into effect. DEHNR is in favor of this bill. It would cut down on paper work for the department and the public as long as the requirement have been met and the spill cleaned up. Representative Creech moved that the bill be given a favorable report. The motion was passed and the bill given a favorable report. (A copy of the bill is included with the minutes.)

Representative Warwick then presented **HB 1617 LEA ISLAND STATE NATURAL AREA** bill. He stated that this bill authorizes the addition of Lea Island State Natural Area to the State Parks System. He went on to say that Lea Island is an undeveloped barrier island containing approximately 200 acres and is located between Topsail Beach and Figure Eight Island in Pender County. The island contains excellent breeding and migration habitat for wildlife, especially colonial nesting birds. The NC Office of the National Audubon Society and the NC Parks are both very much in favor of this island

being a part of the state parks system and the Audubon Society is trying to raise private funds to purchase the property. Dr. Phil McKnelly, Director of the Parks Division of DEHNR stated that this project is eligible for money from the Natural Heritage Trust Fund and the Clean Water Trust Fund. No new State money will be needed for the purchase. Representative Creech was concerned about Clean Water Trust Fund money being used for purchase of land. He was assured by the DEHNR and Representative Warwick that the Audubon Society would try to raise the money for purchase of the land from private money and or also convince landowners to donate some of the land. Dr. McNulley said if State money had to be used, they would go to the Natural Heritage Trust Fund first. Dr. McNulley also assured Representative Tolson that buildings would not be constructed on this land by the State. Staff Attorney said that technical changes needed to be made to the bill by adding 3 commas. Representative McLawhorn moved that the original bill not be given a favorable report and a committee substitute be prepared incorporating the technical changes needed (3 commas) and the proposed committee substitute be given a favorable report. The motion passed and (to be prepared) proposed committee substitute was given a favorable report. The original bill was given an unfavorable report. (A copy of both is included with the minutes.)

Representative Phil Baddour presented **SB 1328 MILLION ACRE OPEN SPACE GOAL** bill. This bill establishes a State goal of permanently protecting an additional one million acres of farmland, open space, and conservation lands by December 31, 2009. Representative Baddour said that Governor Hunt very much wants this and it was his idea to preserve over 1 million acres of open land through volunteer means. These lands are to be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organization or private entities. DEHNR will be required to report to the Governor and the Environmental Review Commission annually beginning on September 1, 2000, on the State's progress towards attaining the million acre protection goal. Representative Preston asked if some of the land that was rendered unusable by Hurricane Floyd flood could be designated for this program. Secretary Holman of DEHNR expressed his approval of this idea. Secretary Holman also said that is the goal was reached, that this would bring the public held land up to 10% of the total land that is in sometime of conservation ownership. It is not the intent of the bill for all the land be owned by the state and federal government but be in private stewardship (farmland/forest land). Representative Baddour hopes that DEHNR will do a lot of educating/informing the public on the advantages of conservation easements and tax incentives for putting public land in conservation programs. A motion was made for a favorable report for the bill. The motion passed and the bill was given a favorable report. The meeting was adjourned at 12:55 PM. (A copy of the bill is included with the minutes.)

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Thursday, June 8, 2000

12:00 NOON

WELCOME ----------	**CO-CHAIRS** **Rep. Pryor Gibson &** **Rep. Nurham Warwick**

BILL TO BE PRESENTED:

H 1618 Petroleum Discharges/De Minimis Reporting ----------	**Rep. Nurham Warwick**
H 1617 Lea Island State Natural Area ----------	**Rep. Nurham Warwick**
S 1328 Million Acre Open Space Goal ----------	**Senator Fountain Odom**

ADJOURN

HOUSE BILL 1618:
Petroleum Discharges/ De Minimis Reports

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Warwick
		Summary by:	Hannah Holm, Research Assistant
Date:	June 8, 2000		
Version:	First Edition		

SUMMARY: House Bill 1618 would provide an exemption from reporting requirements for small petroleum spills that can be quickly cleaned up and do not pose an immediate threat to surface waters.

CURRENT LAW: Under the statutes that govern oil pollution and hazardous substances control, any illegal release of oil or other substance to the environment must be immediately reported to the Department of Environment and Natural Resources (DENR). Under the statutes that govern petroleum underground storage tanks (USTs), there is an exemption from the release reporting requirement for spills and overfills of petroleum from USTs of less than 25 gallons if the release is cleaned up within 24 hours.

BILL ANALYSIS: House Bill 1618 would amend the statutes governing oil pollution and hazardous substances control to exempt any release of petroleum to the environment from current reporting requirements if the release meets all of the following conditions:

- The release is less than 25 gallons.
- The release is cleaned up in less than 24 hours.
- The release does not cause a sheen on nearby surface water.
- The release does not occur within 100 feet of surface waters.

The bill would become effective when it becomes law and would apply to petroleum releases that occur on or after that date.

BACKGROUND: House Bill 1618 was recommended by the Environmental Review Commission.

Favorable report

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1618*

Short Title: Petroleum Discharges/De Minimis Reports. (Public)

Sponsors: Representatives Warwick; and Morris (Primary Sponsors).

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.85 reads as rewritten:

"**§ 143-215.85. Required notice.**

(a) ~~Every~~ Except as provided in G.S. 143-215.94E(a1) and subsection (b) of this section, every person owning or having control over oil or other substances discharged in any circumstances other than pursuant to a rule adopted by the Commission, a regulation of the U. S. Environmental Protection Agency, or a permit required by G.S. 143-215.1 or the Federal Water Pollution Control Act, upon notice that such discharge has occurred, shall immediately notify the Department, or any of its agents or employees, of the nature, location and time of the discharge and of the measures which are being taken or are proposed to be taken to contain and remove the discharge. The agent or employee of the Department receiving the notification shall immediately notify the Secretary or such member or members of the permanent staff of the Department as the Secretary may designate. If the discharged substance of which the Department is notified is a pesticide regulated by the North Carolina Pesticide Board, the Department shall immediately inform the Chairman of the Pesticide Board. Removal operations under this Article of substances identified as pesticides defined in G.S. 143-460 shall be coordinated in accordance with the Pesticide Emergency Plan adopted by the North Carolina Pesticide Board; provided that, in instances where entry of such hazardous substances into waters of the State is

imminent, the Department may take such actions as are necessary to physically contain or divert such substance so as to prevent entry into the surface waters.

(b) As used in this subsection, 'petroleum' has the same meaning as in G.S. 143-215.94A. A person who owns or has control over petroleum that is discharged into the environment shall immediately take measures to collect and remove the discharge, report the discharge to the Department within 24 hours of the discharge, and begin to restore the area affected by the discharge in accordance with the requirements of this Article if the volume of the petroleum that is discharged is 25 gallons or more or if the petroleum causes a sheen on nearby surface water or if the petroleum is discharged at a distance of 100 feet or less from any surface water body. If the volume of petroleum that is discharged is less than 25 gallons, the petroleum does not cause a sheen on nearby surface water, and the petroleum is discharged at a distance of more than 100 feet from all surface water bodies, the person who owns or has control over the petroleum shall immediately take measures to collect and remove the discharge. If a discharge of less than 25 gallons of petroleum cannot be cleaned up within 24 hours of the discharge or if the discharge causes a sheen on nearby surface water, the person who owns or has control over the petroleum shall immediately notify the Department."

Section 2. This act is effective when it becomes law and applies to any discharge of petroleum into the environment that occurs on or after that date.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Warwick & Gibson** for the Committee on **Environment & Natural Resources** .

☐ Committee Substitute for
H.B. 1618 A BILL TO BE ENTITLED AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

Favorable report as to com. sub.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1617*
Proposed Committee Substitute H1617-PCS2433-SG

Short Title: Lea Island State Natural Area. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Lea Island in Pender County is one of the few remaining undeveloped barrier islands on the North Carolina coast; contains examples of high quality coastal natural communities; provides excellent breeding and migration habitat for wildlife, including several rare species; and has been found to possess biological and scenic resources of statewide significance; and

Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Lea Island and is willing to partner with the State to provide long-term management for the site; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Lea Island State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

unfavorable original bill

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1617*

Short Title: Lea Island State Natural Area. (Public)

Sponsors: Representatives Warwick, Wright; Barefoot, Nye, and Smith.

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Lea Island in Pender County is one of the few remaining undeveloped barrier islands on the North Carolina coast; contains examples of high quality coastal natural communities; provides excellent breeding and migration habitat for wildlife, including several rare species; and has been found to possess biological and scenic resources of statewide significance; and

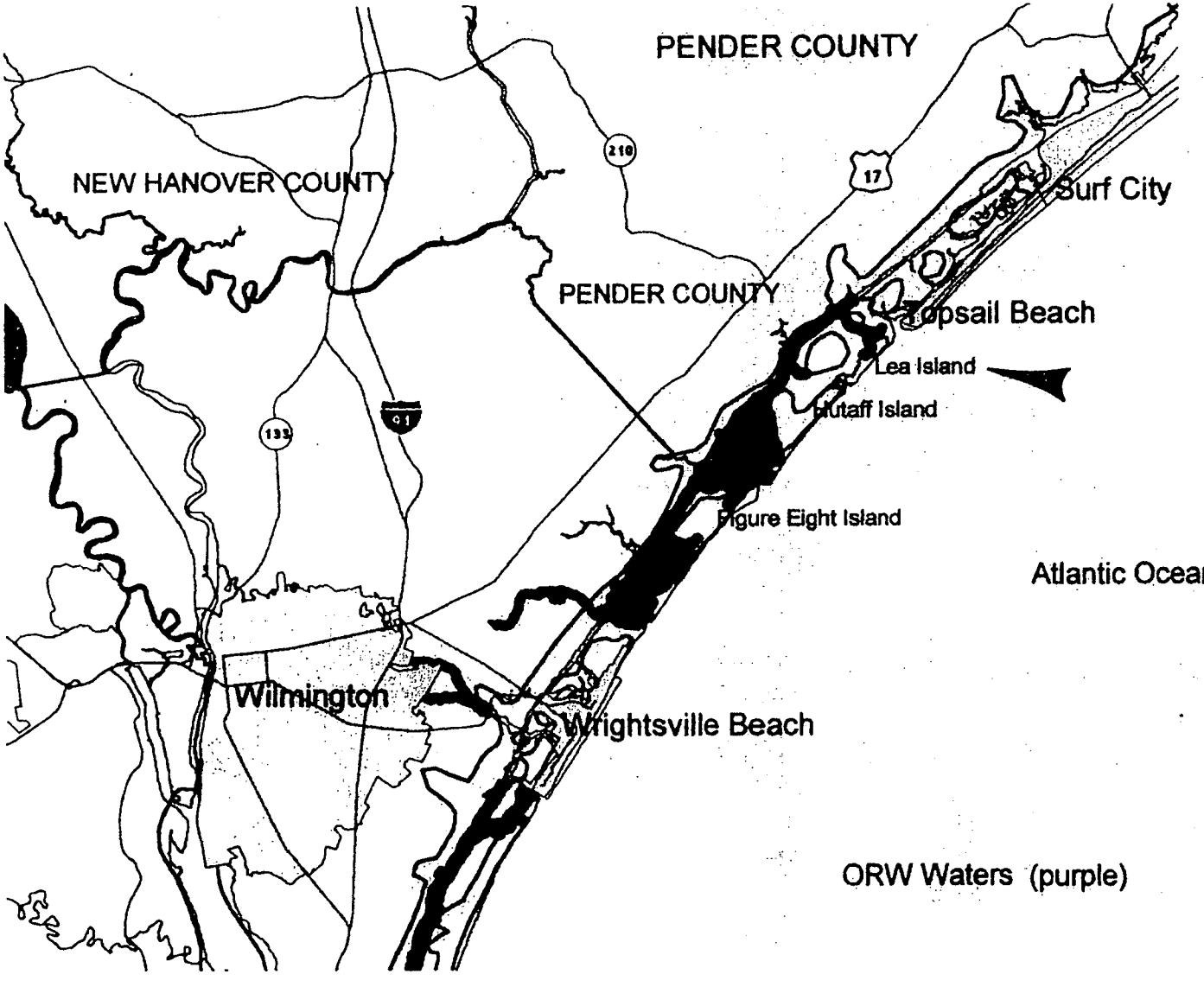
Whereas, the North Carolina State Office of the National Audubon Society has expressed particular interest in the protection of Lea Island and is willing to partner with the State to provide long-term management for the site; Now, therefore,

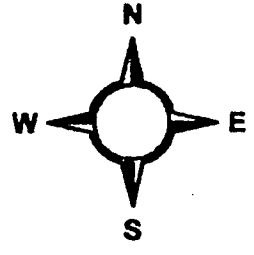
The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Lea Island State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

Section 2. This act is effective when it becomes law.

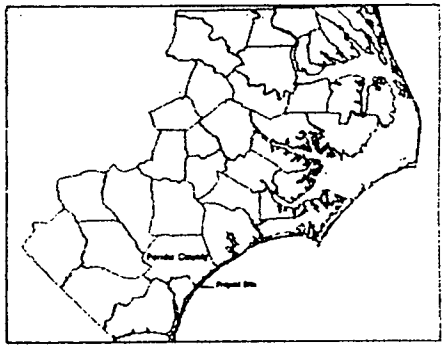
General Location of Lea Island





ORW Waters (purple)

Eastern North Carolina



2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Warwick & Gibson** for the Committee on **Environment & Natural Resources.**

☒ Committee Substitute for
H.B. 1617 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

SENATE BILL 1328:
Million Acre Open Space Goal

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
		Summary by:	Rick Zechini Committee Counsel
Date:	June 8, 2000		
Version:	First Edition		

SUMMARY: ***Senate Bill 1328 establishes a State goal of permanently protecting an additional one million acres of farmland, open space, and conservation lands by December 31, 2009.***

BILL ANALYSIS AND BACKGROUND: Senate Bill 1328 provides that it is the intent of the General Assembly to support land conservation and protection programs, to find means to fund these programs, to support the long-term management of these programs, to improve the coordination of the various State and local land protection programs, and to protect the State's lands in a manner that minimizes any adverse impacts on the ability of local governments to carry out their broad mandates. The bill establishes a State goal of permanently protecting an additional one million acres of farmland, open space, and conservation lands by December 31, 2009. These lands are to be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or private entities. Senate Bill 1328 also directs the Secretary of Environment and Natural Resources to report to the Governor and the Environmental Review Commission annually beginning on September 1, 2000, on the State's progress towards attaining the million acres protection goal.

The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: Senate Bill 1328 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1328

Short Title: Million Acre Open Space Goal. (Public)

Sponsors: Senators Odom; Albertson, Ballance, Carrington, Carter, Clodfelter, Cooper, Dalton, Dannelly, Foxx, Garrou, Hagan, Harris, Hartsell, Horton, Hoyle, Jordan, Kerr, Kinnaird, Lee, Lucas, Martin of Guilford, Martin of Pitt, Metcalf, Miller, Perdue, Plyler, Purcell, Reeves, Robinson, Soles, Warren, Weinstein, and Wellons.

Referred to: Agricultue/Environment/Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE, SUPPORT, AND ACCELERATE THE PERMANENT PROTECTION OF FARMLAND, FORESTLAND, PARKLAND, GAMELAND, WETLANDS, OPEN SPACE, AND CONSERVATION LANDS IN NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the citizens of North Carolina have committed themselves to conserve and protect their lands and waters in numerous ways. This commitment is stated in Article XIV, Section 5 of the North Carolina Constitution and finds expression in the many State, local, and private programs that provide for the acquisition and protection of lands to protect the water quality, wetlands, drinking water sources, natural beauty, and ecological diversity of North Carolina as well as provide opportunities for public recreation; and

Whereas, despite these many disparate programs, the General Assembly finds that the quality of life that North Carolinians have come to expect is threatened by the continued alteration and development of the State's natural areas, the loss of its farmlands and forests, the shrinking amount of open space in its urban areas, and the loss of cultural and historic sites. As the State's population continues to expand, loss of open spaces to development will continue to increase, damaging North Carolina's economy and environment; and

Whereas, the General Assembly further finds that additional permanent protection of lands for environmental protection and public use is needed to complement our State's economic growth and to meet our citizens' needs for generations to come; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly reaffirms the strong desire of the State and its citizens to conserve and protect the lands needed to provide a high-quality environment for present and future generations, while also preserving, to the maximum extent possible, the liberty of each individual to pursue their interests.

Section 2. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Conservation, Farmland, and Open Space Protection and Coordination.

"§ 113A-240. Intent.

(a) It is the intent of the General Assembly to continue to support and accelerate the State's programs of land conservation and protection, to find means to assure and increase funding for these programs, to support the long-term management of conservation lands acquired by the State, and to improve the coordination, efficiency, and implementation of the various State and local land protection programs operating in North Carolina.

(b) It is the further intent of the General Assembly that the State's lands should be protected in a manner that minimizes any adverse impacts on the ability of local governments to carry out their broad mandates.

"§ 113A-241. State to Preserve One Million Acres.

(a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009. These lands shall be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or by private entities that are organized to receive and administer lands for conservation purposes.

(b) The Secretary of Environment and Natural Resources shall lead the effort to add one million acres to the State's protected lands and shall plan and coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes."

Section 3. The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission annually beginning on September 1, 2000, on the State's progress towards attaining the goal established in Section 2 of this act.

Section 4. This act is effective when it becomes law.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Warwick & Gibson** for the Committee on **Environment & Natural Resources.**

☐ Committee Substitute for
H.B. 1328 A BILL TO BE ENTITLED AN ACT TO ENCOURAGE, SUPPORT, AND ACCELERATE THE PERMANENT PROTECTION OF FARMLAND, FORESTLAND, PARKLAND, GAMELAND, WETLANDS, OPEN SPACE, AND CONSERVATION LANDS IN NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

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☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

Million Acre Plan

For North Carolina

Executive Summary

Governor Hunt's Challenge to North Carolina



North Carolina's economic vitality is encouraging unprecedented growth – another 2 million people will be added to the state's current population of 7.6 million by 2020. Our state needs a green infrastructure of protected open space and farmland to complement this growth and development and to maintain our high quality of life. Therefore, Governor Hunt has challenged North Carolina to add one million acres to North Carolina's current assemblage of permanently conserved open space and farmland by the end of the year 2009.

Background

Figure 1 shows the lands currently preserved in North Carolina, most of which are concentrated in the mountains and coastal areas. The majority of the 2.8 million acres preserved (8.6 percent of the state's land area) is owned by the federal government, with the remaining acreage under ownership of the state and local governments and non-profit organizations as shown in Figure 2. The Million Acres Initiative would increase North Carolina's acreage of protected lands by 35 percent over a ten-year period, so a total of 12 percent of the state's land area would be permanently set aside. Currently, the State of North Carolina spends over $30 million per year on permanent open space protection. Such funding is complemented by investments of the federal and local governments -- including a number of recent local bond issues -- as well as private stewardship and donations.

Figure 1. All Preserved Lands in North Carolina

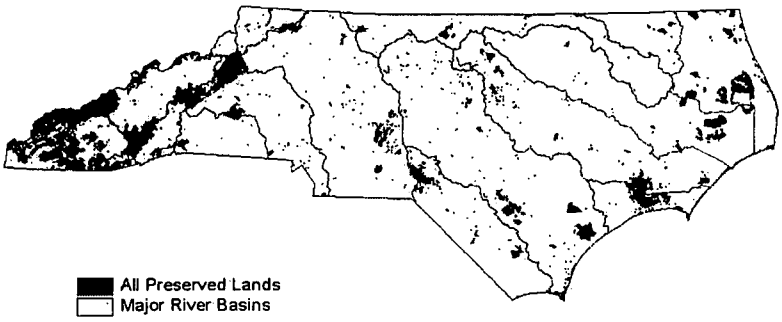
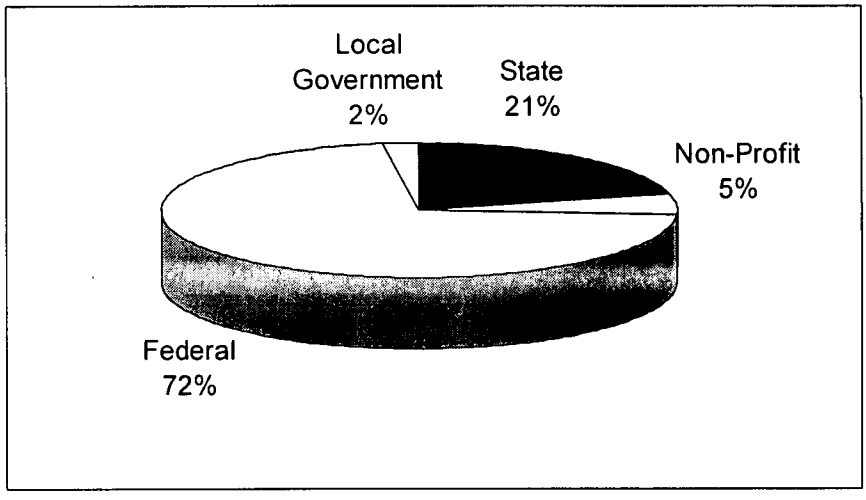


Figure 2. Land Conserved in North Carolina by Owner



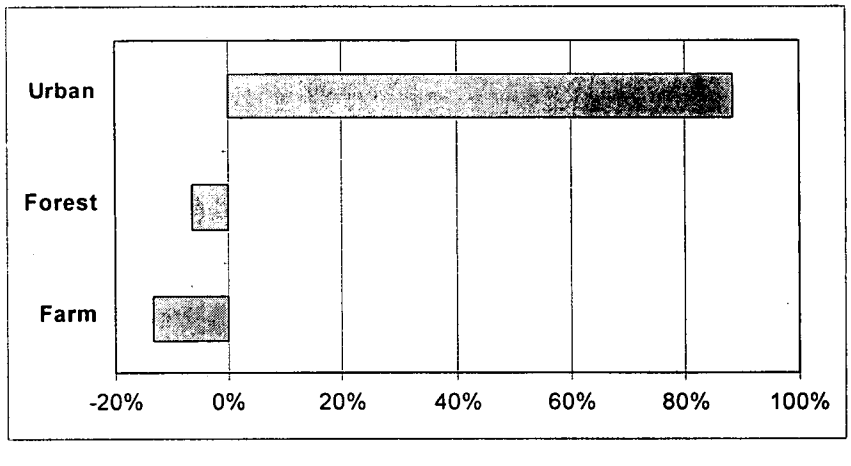
In 1999, Governor Hunt's Interagency Task Force on Smart Growth found, through a series of public meetings across the state, that open space preservation was a primary citizen concern. The results of these public meetings led Governor Hunt to make his million acre challenge at the NC Smart Growth Commission on January 31, 2000. Developed in collaboration with a broad base of interested parties both inside and outside of state government, this Million Acre Plan presents a strategy for meeting Governor Hunt's challenge.

Need

The cost of open space conservation grows higher each year. Increasing open space conservation efforts now will help North Carolina to meet its economic, environmental, and quality of life goals. In particular, the need for open space conservation is demonstrated by the following facts:

- **Population.** North Carolina's population is expected to grow by 26% over the next 20 years, creating tremendous pressures to develop the open spaces of the state. At the same time, an expanding population also increases demand for open space and outdoor recreation opportunities.
- **Development of Open Spaces.** Forest and farms are being lost to development as shown in Figure 3, with an 88% increase in the urban areas of the state over a 15-year period. The average annual conversion rate of forests, farms and rural lands between 1992-1997 was 156,300 acres a year -- a 67% increase in the rate of land conversion recorded from 1982 to 1992. By 1997, 14.7% of North Carolina's land area was developed (USDA, 1999)

Figure 3. Percent Change in NC Land Use, 1982 - 1997



- **Environmental Loss.** 34 percent of North Carolina's coastal wetlands have been altered in some way and no longer fulfill their natural function to protect water quality. Loss of open space around water supplies can put drinking water at risk. More pavement and impervious surfaces increases run-off water pollution. More than 50 percent of the Significant Natural Heritage Areas in North Carolina remain unprotected. Scenic vistas, wildlife habitat, biodiversity, and greenspace in urban areas are all being lost to development.
- **Economic Loss.** North Carolina's agriculture industry, including food, fiber, and forestry, is dependent on open spaces, and it contributes more than $46 billion dollars to the state's economy and employs 22 percent of the state's workforce. Additionally, the 100-year flood plains of North Carolina's rivers are better left undeveloped as illustrated by Hurricane Floyd flooding which caused billions of dollars in damage to lives and property. Over-development of open space and cultural sites also harms the 10-billion dollar tourist industry in North Carolina.

Defining the Initiative

This initiative will focus on lands permanently protected through voluntary acquisition of fee title interest or conservation easements by federal, state, local, or private non-profit land managing organizations.

Objectives

The Million Acre Initiative provides an alternative to unfettered conversion of farmland and forests to sprawl and development to meet the environmental, economic, and quality of life objectives listed below.



- Protect the quality of streams, rivers, lakes, estuaries, sounds, and coastal waters.
- Protect significant or sensitive natural areas, rare species, and wildlife habitat,
- Protect wetlands and riparian buffers.
- Protect drinking water supplies.
- Reduce risks to people and businesses from flooding.
- Protect forestland from conversion to non-forest uses.
- Protect farmland, especially small family farms, from conversion to non-farming uses.
- Provide public access to outdoor recreation including public waters.
- Protect scenic beauty.
- Protect significant archaeological, cultural, and historic sites.
- Protect urban greenspaces.

As North Carolina works toward this million acre goal, the state can conserve either a patchwork of lands or lands that are related to each other in a logical way. A statewide plan cannot be prescriptive about which objectives should be most important to a community, and thus, priorities for open space acquisition need to be set at the local or regional scale. For example, coastal communities may be most concerned about flood mitigation, piedmont communities may be most concerned about urban greenspaces, and mountain communities may be most concerned about scenic beauty. Priorities may also differ between urban and rural communities.

Unlike other trust funds and conservation programs, the farmland preservation program is relatively undeveloped. Thus, Governor Hunt and the NC Smart Growth Commission have afforded farmland preservation special attention. A proposal to expand the farmland preservation infrastructure for North Carolina is currently being jointly developed by DENR, the Department of Agriculture and Consumer Services, and Cooperative Extension. The Farmland Preservation Trust Fund should fund the conservation of both farmland and forestland.

State Role

The Million Acre Initiative depends on widespread participation by numerous parties inside and outside of government to be successful. The State's role in the Million Acre Initiative should be as follows:

- **Encourage Private Stewardship.** The state should work with local governments, private land trusts, and others to educate landowners on the environmental and financial benefits of conserving their lands.
- **Support Existing Programs and Facilitate Coordination.** Many state and federal agencies, local governments, private organizations, and individuals have already initiated creative and productive efforts to preserve open space and farmland. The State's first priority should be to support, enhance, accelerate, and coordinate these successful programs, rather than to create new programs.



- **Infuse Capital into Existing Programs.** The State should take a leadership role in conserving open space by increasing funding to existing natural resource trust funds and by supporting the operational costs for management and coordination. However, the acquired lands should not be entirely state-funded. All parties must seek and use many sources of public and private funding as well as financial incentives. Also, North Carolina has a tremendous, and often untapped, financial resource in the potential for donations of lands and easements as a result of the stewardship ethic held by many landowners across the state.

- **Encourage Ownership of Land and Easements by Appropriate Parties.** The acquired lands and easements should not all be state-owned, as local or federal governments are at times in a better position to own and manage land. Often land can remain in private hands with easements owned by government agencies or non-profit land trusts.

Major Recommendations

The Million Acre Plan identifies a number of recommendations to help North Carolina achieve open space conservation goals. These recommendations have grown out of a set of principles developed in collaboration with a broad range of interested parties. As North Carolina needs to take steps now to enhance its land conservation efforts, some recommendations need to be acted upon in the near term, including the Short Session of the 2000 General Assembly. Other recommendations could be implemented over a longer time frame. The major recommendations identified in the Million Acre Plan are listed below.

Short Term Recommendations

- **Facilitate Coordination.** The Governor should establish a Million Acre Advisory Panel and direct DNR to coordinate and staff all aspects of the Million Acre Initiative, including information sharing, data tracking, management of a central website, and education.
- **Codify Million Acre Goal.** The General Assembly should put the Million Acre Goal into law to provide a source of common inspiration for the citizens of North Carolina and guidance for future sessions, and the legislature should require annual progress reports starting September 2000.
- **Farmland Preservation.** The General Assembly should increase the funding for Farmland Preservation to at least $1 million dollars during the 2000 session. Such funds would provide farmers an option to keep their land as working farms while protecting their property from development. This trust fund will need a larger and dedicated funding source in future years to meet an increasing demand by farmers.
- **Clean Water Management Trust Fund.** The Clean Water Management Trust fund should be increased from a floor of $30 million today to $100 million over the next three years. The General Assembly should not reallocate funds from any of the state trust funds for other uses. Additionally, the Clean Water Management Trust Fund should review its policies on buffer requirements to ensure that conservation of land to protect water quality can be coordinated with other open space protection objectives.
- **Dedicated Funding Source.** The Governor and the General Assembly should work together to identify dedicated state and local revenue sources to fund permanent conservation efforts. The menu of potential funding sources could include the deed stamp tax, impact fees, transfer taxes, severance taxes, and others that could complement tax incentives and private stewardship. Revenues generated should support farmland preservation, increased funding levels for existing state trust funds, and the Conservation Grant Fund to cover the costs of transactions for donating lands and educating landowners.

- **Center for Geographic Information and Analysis** (CGIA). CGIA and DENR should be supported to create and maintain a GIS database of layered land use maps in North Carolina which could be used by all parties to identify lands for conservation and track the progress toward the million acre goal.

Long Term Recommendations

- **Financial Opportunity Assessment.** DENR and the UNC Environmental Finance Center should conduct an assessment to shed light on the combination of funding sources that could enable North Carolina to achieve the million acre goal. The results of this assessment should be reported to the North Carolina Smart Growth Commission so the report can be used by the 2001 General Assembly.
- **Retaining Open Spaces through Smart Growth.** To complement the Million Acre Initiative, the NC Smart Growth Commission should explore policies to retain open spaces in North Carolina in addition to the permanent strategies outlined in the Million Acre Plan. The Commission should evaluate transfer development rights and Governor Hunt's goal of setting aside 20% of land for open space in new greenfield developments.
- **Tracking Progress.** The Department of Environment and Natural Resources should provide an annual report to the Governor and General Assembly on progress towards meeting the quantitative goal as well as meeting higher environmental, economic, and quality of life objectives.
- **Million Acre Bond.** Many states have infused large sums of money into open space conservation by the issuance of revenue bonds and/or general obligation bonds. These funding sources should be explored for North Carolina by the 2001 General Assembly.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON ENVIRONMENT & HUMAN RESOURCES **6-8-00**

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michelle Cook	Weyerhaeuser
Nancy Thompson	MCIC
Amy Fullbright	Hunton & Williams
Steve Woolson	NC Farm Bureau
Carter	B&A
Gary Harris	NC Petroleum Marketers
Kelli Kukura	DuPont
Preston Howard	MCIC
Jerry Hardesty	NC Pork Council
Garth Boyd	Murphy Farms Inc.
Nat Mund	CCNC
Brandon Poole	Governor's office
Glenn McNairy	Governor's office
Marsha Thompson	visitor
Carol Tingley	DENR - DPR
Matthew Gerken	DENR - DPR
Rick McKnelly	DENR / DPR
L. Rogers	DENR
[illegible]	DENR
[illegible]	DENR
Robin Smith	DENR
Dan Mantan	DENR
Laura DeVine	DENR
Sara Leigh	Governor's Office
	/

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 20, 2000

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, June 20, 2000, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Joe Hackney, Dewey Hill, Eugene McCombs, Marian McLawhorn, Ed McMahan, Frank Mitchell, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 12:10 p.m. Pages were Bennie Raindrop, Onslow County; Jeff and Elizabeth Womble, Wake County.

SB 1279 Petroleum Discharge Amends (Attachment 1) - Representative Gibson presented the bill for Senator Aaron Plyler. He explained that this is a "fix" to a bill that was passed last Session. Last Session the Rules Committee noted that the Petroleum Tank Fund would be in serious jeopardy based on rules and interpretation. During the interim, Senator Plyler and Representative Gibson worked on this bill in the Environmental Review Commission (ERC). The bill would exclude the underground tank storage language that was in HB 1159. It is a good solution to avoid unintentional consequences. The people with underground tank interests have agreed to come to the table before next year and work out a long-range solution. Representative Gibson moved for a favorable report. (No second) Passed. Representative Hackney requested that the minutes record that he did not vote on this bill.

HB 1583 - Nonhazardous Dry-Cleaning Tech. Incentive (Attachment 2) - Representative Gibson moved to adopt the committee substitute for HB 1583 for consideration (Attachment 3). Passed. Representative Smith moved to amend the bill to reflect a date change on Page 2, Line 12 by deleting "January 1, 2001" and substituting "July 1, 2001." (Attachment 4). This amendment removes the fiscal impact out of the current budget. Representative Yongue moved to approve the amendment and put it into the new PCS. The amendment carries. Representative Gibson explained that this bill is good for the environment and has been debated thoroughly in ERC. He said there is a need to look to business and technology innovations to improve the environment. This bill allows new technologies, but principally, it allows new carbon dioxide technology and a tax credit for that equipment to improve the environment. Staff Rick Zechini further explained that this bill provides a tax credit, as an incentive for dry cleaners to adopt or buy equipment that is environmentally friendly. It provides a tax credit equal to 35 percent of the cost of the equipment. The credit can be spread out over a 5-year period of time and applied to qualified dry cleaning equipment that do not use hazardous substances at any time in the

process. There are current processes that may qualify for the tax credit. The PCS tightens the bill and has a provision that requires those who receive tax credits to get certification from DENR that the equipment is qualified. This credit certificate will be filed with their tax return. DENR must look at the substances in the processes so that they do not pose threat to human health or the environment. Representative Culp asked what the two cleaning processes were. Mr. Zechini explained that the Micell process is being used by a handful of facilities in the State, and Green Earth has a facility in Apex or Morrisville. Representative Davis moved that the amendment be incorporated into a new PCS and the PCS be given a favorable report and re-referred to Finance Committee. Passed unanimously.

HB 1584 was taken off the agenda today.

Representative Warwick adjourned the meeting at 12:22 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Thursday, June 20, 2000

12:00 NOON

WELCOME ..... **CO-CHAIRS**
Rep. Pryor Gibson &
Rep. Nurham Warwick

BILL TO BE PRESENTED:

H 1583 Nonhazardous Dry-Cleaning Tech. Incentive ..... **Representative Pryor Gibson**

H 1584 Petroleum Discharge Amends ..... **Representative Pryor Gibson**

S 1279 Petroleum Discharge Amends ..... **Senator Aaron Plyler**

ADJOURN

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 1

SENATE BILL 1279

Short Title: Petroleum Discharge Amends-1. (Public)

Sponsors: Senators Plyler and Purcell.

Referred to: Agriculture/Environment/Natural Resources.

May 25, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN REQUIREMENTS RELATED TO LAND-USE RESTRICTIONS THAT APPLY GENERALLY TO RISK-BASED ENVIRONMENTAL CLEANUPS DO NOT APPLY TO CLEANUPS OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO CONTINUE TO STUDY THE APPLICATION OF LAND-USE RESTRICTIONS TO THE CLEANUP OF ENVIRONMENTAL DAMAGE FROM THESE TANKS THROUGH A STAKEHOLDER NEGOTIATION PROCESS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-279.9 reads as rewritten:

"**§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.**

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. ~~If~~ Except as provided in subsection (b) of this section, if the

remedial action is risk-based or will not require that the site meet current standards, as defined in G.S. 130A-310.31, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

(b) Subsection (a) of this section shall not apply to a risk-based remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

Section 2. G.S. 143B-279.10(f) reads as rewritten:

"(f) A Notice of Contaminated Site filed pursuant to this section ~~may,~~ shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been ~~eliminated.~~ eliminated or remediated to current standards, as defined in G.S. 130A-310.31. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been ~~eliminated~~ eliminated, or that the contamination has been remediated to current standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

Section 3. The Environmental Review Commission shall continue to study the application of land-use restrictions to the cleanup of environmental damage resulting from discharges and releases of petroleum from underground storage tanks

through a stakeholder negotiation process. As a part of this study, the Commission shall consider issues related to notice to current and future users of real property of any restrictions on the current and future use of the property, mechanisms to ensure compliance with those restrictions, notice to current and future users of real property of the existence of contamination in excess of current standards, and issues related to recordation in the register of deeds office of this information. The Commission shall report its findings and recommendations, including any legislative proposals, to the 2001 General Assembly.

Section 4. Sections 1 and 2 of this act are effective retroactively to 1 October 1999. Sections 3 and 4 of this act are effective when this act becomes law. Section 1 of this act expires 1 September 2001.

SENATE BILL 1279: PETROLEUM DISCHARGE AMENDS - 1

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senators Plyler and Purcell
Date:	June 20, 2000	**Summary by:**	Hannah Holm, Research Assistant
Version:	First Edition		

BILL ANALYSIS

SB 1279 would exempt sites contaminated by leaking petroleum underground storage tanks (USTs) and remediated to risk-based standards from the land-use restrictions and deed recordation requirements imposed by SL 1999-198 (SB 1159) on all contaminated sites remediated to risk-based, rather than pristine, standards. The exemption would apply retroactively to October 1, 1999 and would expire September 1, 2001.

SB 1279 would also direct the Environmental Review Commission to continue studying issues related to the application of land-use restrictions to UST sites that are remediated to risk-based standards through a stakeholder negotiation process. The study provision would become effective when the bill becomes law.

BACKGROUND

Imposing land-use restrictions on contaminated property is a means of protecting public health and the environment from contamination without cleaning up the property to pristine standards. SL 1999-198 authorized DENR to allow the imposition of land-use restrictions on contaminated property to protect public health or the environment in all programs for the remediation of contaminated sites. Prior to the passage of SL 1999-198, the Department of Environment and Natural Resources (DENR) had the authority to use risk-based, rather than pristine, standards and to impose land-use restrictions on contaminated property under legislation on Brownfields (G.S. 130A-310.32 and G.S. 130A-310.35) and Oil Discharge Controls (G.S. 143-215.84(f) and G.S. 143-215.85A). This authority did not, however, extend to other DENR programs for the remediation of contaminated sites.

SL 1999-198 also made the imposition of land-use restrictions mandatory in any remedial action plan that would result in a "less-than-pristine" cleanup and required that these restrictions be filed in the appropriate register of deeds office. The restrictions must then be referenced in any instrument of transfer if the property is leased or changes ownership. Whether to require land-use restrictions on properties that had undergone risk-based clean-ups had previously been left to DENR's discretion.

The provision of SL 1999-198 that made the imposition of land-use restrictions mandatory in all risk-based remedial action plans had unanticipated consequences for DENR's UST Program. Risk-based remediation of UST sites had previously been permitted, but no land-use restrictions or deed recordation had been required. Concerns were raised about the additional burden the new requirement placed on property owners. Concern was also raised that the new requirement could negatively impact the UST Trust Fund, which provides reimbursements for cleanup actions, because owners of UST sites could be less willing to accept risk-based remediation. Risk-based remediation is less expensive than remediation to pristine standards.

SB 1279 and its companion bill, HB 1584, were recommended by the Environmental Review Commission. During the discussion of the proposal, Commission members noted that the September 1, 2001 sunset on the exemption would encourage stakeholders to continue discussing how to best provide prospective buyers of UST sites with adequate notice of remaining contamination without overburdening current property owners.

ATTACHMENT #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1583*

Short Title: Nonhazardous Dry-Cleaning Tech. Incentive. (Public)

Sponsors: Representatives Gibson; Morris and Culp.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING AND WET-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES AS SOLVENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16C. Credit for investing in dry-cleaning or wet-cleaning equipment that does not use hazardous substances as solvents.**

(a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning or wet-cleaning equipment places it in service in this State for commercial purposes during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the equipment. No credit is allowed under this section to the extent the cost of the equipment was paid with public funds. A taxpayer that claims any other credit allowed under this Chapter with respect to qualified dry-cleaning or wet-cleaning equipment may not take the credit allowed in this section with respect to the same equipment.

(b) Definitions. -- The following definitions apply in this section:

(1) Hazardous solvent. -- A solvent any portion of which consists of a chlorine-based solvent, a hydrocarbon-based solvent, a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the

Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, or any substance determined by the Administrator of the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health to possess either carcinogenic potential to humans or bioaccumulative properties.

(2) Qualified dry-cleaning or wet-cleaning equipment. -- Equipment that is designed primarily to dry-clean or wet-clean clothing and other fabric and that does not use any hazardous solvent as the process solvent."

Section 2. This act is effective for taxable years beginning on or after January 1, 2001.

ATTACHMENT 2A

HOUSE BILL 1583:
Nonhazardous Dry Cleaning Tech. Incentive

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Sponsor:**	Rep. Pryor Gibson
Date:	June 20, 2000	**Analysis by:**	Rick Zechini, Committee Counsel
Version:	Proposed Committee Substitute for First Edition		

SUMMARY: ***The proposed committee substitute for House Bill 1583 provides a tax credit for commercial dry-cleaners who invest in environmentally friendly dry-cleaning equipment, effective 1/1/2001.***

BILL ANALYSIS: The proposed committee substitute for House Bill 1583 adds a new section to Article 3B of Chapter 105 of the General Statutes, which currently provides tax credits for investing in general business property, renewable energy property, and low-income housing. The new section provides a tax credit for commercial dry-cleaners who buy or lease "qualified dry-cleaning equipment." "Qualified dry-cleaning equipment" is defined as dry-cleaning equipment that does not use any of the following:

- A chlorine-based solvent.
- A hydrocarbon-based solvent.
- A hazardous substance as defined in the federal Comprehensive Environmental Response, Compensation, and Liability Act.
- A substance determined by the Environmental Protection Agency or the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.
- A substance that the Department of Environment and Natural Resources (DENR) determines to pose a threat to human health or the environment.

It is estimated that 99% of the State's dry-cleaners currently use chlorine-based or hydrocarbon-based solvent. Use of these solvents has lead to soil and groundwater contamination.

The new credit, which is similar to the renewable energy credit that was enacted in 1999, provides a credit for equipment placed in service in this State equal to 35% of the taxpayer's cost. Like the other credits in Article 3B, it may be taken against corporate or individual income tax or corporate franchise tax, at the taxpayer's choice; it may not exceed 50% of the taxpayer's tax liability in any given year; and any excess over this limit may be carried forward for up to five years. Article 3B requires the taxpayer to maintain and make available in case of audit any records necessary to determine and verify the amount of the credit to which the taxpayer is entitled.

The proposed committee substitute for House Bill 1583, First Edition, amends the bill as introduced in the following ways:

- It amends the definition of "qualified dry-cleaning equipment" to exclude dry-cleaning equipment that uses a substance that DENR determines to pose a threat to human health or the environment.

- It requires a taxpayer claiming the credit allowed under the new section to file with the tax return certification by DENR that the equipment purchased or leased by the taxpayer is "qualified dry cleaning equipment."
- It amends the bill to exclude wet-cleaning equipment from qualifying for the tax credit.
- **EFFECTIVE DATE:** The proposed committee substitute for House Bill 1583 is effective for taxable years beginning on or after January 1, 2001.

ATTACHMENT 2B

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1583 (First Edition)

SHORT TITLE: Nonhazardous Dry-Cleaning Tech. Incentive

SPONSOR(S): Representative Gibson, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES					
General Fund	($207,900)	($814,275)	($740,250)	($888,300)	($1,094,100)
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2001.

BILL SUMMARY: This bill provides a tax credit equal to 35% of the cost of purchasing or leasing nonhazardous dry cleaning or wet cleaning equipment. To qualify as nonhazardous, the equipment must not use chlorine-based solvents, hydrocarbon-based solvents, or any other regulated hazardous substance. In addition to not using any hazardous solvent, the equipment must be designed primarily to dry-clean or wet-clean clothes.

ASSUMPTIONS AND METHODOLOGY:

SOLVENTS

Hazardous dry cleaning solvents include hydrocarbon or petroleum based products and chlorine based solvents such as perchloroethylene. According to the National Institute of Environmental Health Sciences, 80% to 85% of the dry cleaners in the U.S. use perchloroethylene (commonly called perc). The Executive Director of the North Carolina Association of Launderers and Cleaners estimates that 84% of the dry cleaners in this state use perc and 15% use petroleum products. The remaining 1% of the state's dry cleaners use nonhazardous materials such as liquid carbon dioxide, Rynex, silicon based Green Earth, and water (wet cleaning). Although regulated

as a hazardous material by the EPA, perc has been the solvent of choice because it can be used on all common textiles and fibers without risk of fabric shrinkage or faded dyes. Perc is also very effective at removing fats, oils and grease out of clothes. While remaining the dominant dry cleaning solvent, perc use has declined 70% over the past decade due to innovations in equipment design, better operation and maintenance of equipment, and better training of employees.

NC DRYCLEANING MARKET

Growth in the dry cleaning industry was stagnant in the 1990's and is not expected to improve in the next five years. Economic census reports reveal that from 1992 to 1997, the number of dry cleaning plants in NC grew .56% a year. Meanwhile, the state's population grew 1.75% a year in the same five-year period. An analyst with the International Fabricare Institute said there were too many cleaners in the industry making the business very competitive. This was confirmed by the EPA Office of Compliance Sector Notebook Project: Profile of the Dry Cleaning Industry when it reported in September 1995 that "commercial dry cleaning is not a high profit business and many dry cleaners are barely able to stay in business." Sixty three percent of dry cleaners in 1993 had annual revenue of $113,000 or less. Sole proprietorship returns in 1997, showed that 74.3 % of dry cleaners were profitable and the net income for dry cleaners was $12,432 a year (Summer 1999 SOI Bulletin).

In 1997, the US Census Bureau published an Economic Census for North Carolina that listed 696 dry cleaning plants in the state. The Executive Director of the North Carolina Association of Launderers and Cleaners estimates that the average number of dry cleaning machines per facility is 1.1 due to the large number of small operations. Using the 696 plants reported in 1997 times 1.1 yields an estimated 766 dry cleaning machines in North Carolina. The estimated life span of these machines is 12 to 15 years. Assuming an equal number of machines are retired each year, then between 51 (every 12 years) and 64 machines (every 15 years) will be purchased. This projection is in line with the Association of Launderers and Cleaners' estimate that 50 to 60 dry cleaning machines will be replaced in each of the next five years. Some of the replacement equipment may go into large central operations as the result of consolidation among smaller shops.

SWITCH TO NONHAZARDOUS SOLVENTS

As mentioned above, nonhazardous dry cleaners make up about 1% of the dry cleaning market. A Raleigh dry cleaner is one of 32 test sites in the world for silicone based Green Earth solution. Micell Technologies uses liquid carbon dioxide in its Hangers franchises in Wilmington, Morrisville, and Greensboro. Under a license agreement with Global Technologies, Sail Star USA will begin assembly of carbon dioxide dry cleaning machines in Charlotte this year. No advance orders have been received from North Carolina dry cleaning plants.

While nonhazardous dry cleaning machines are available, there has been no stampede to invest in the new technologies. Price is one obstacle. Given the low profit margins of many dry cleaning operations, many cannot afford the new technology. The cost of a new perc machine can range from $35,000 to $60,000, with an average of $50,000 for a 50 pound load machine. The carbon dioxide machines offered by Micell Technologies have an average cost of $165,000 plus a franchise requirement that cost $25,000 and a pledge of 5% of gross revenue as a royalty. The

carbon dioxide machines built by Sail Star USA will cost between $80,000 to $120,000, but can be purchased without franchise obligations. Green Earth machines are not yet in full production but are estimated to cost between $40,000 to $60,000. (Hydrocarbon machines can be retrofitted to use Green Earth solution for less than $5000.)

Another obstacle to conversion to new technologies is the reluctance to invest in a technology that does not have a proven track record. Dr. Manfred Wentz, visiting professor at N.C. State University College of Textiles, said the new technologies have not reached maturity and that skeptics abound in the dry cleaning industry. A dry cleaning equipment dealer in Raleigh said the new technologies need a two or three year "shake out period" and that many dry cleaning operators may wait to see if the prices go down. The CEO of the Neighborhood Cleaners Institute said that carbon dioxide machines "have promise", but that the technology is "not all there yet". Some cleaners use wet cleaning in conjunction with their dry cleaning operation. Research by the International Fabricare Institute found "that up to 40 percent of garments could be wetcleaned quite readily but that it takes a serious commitment to proper training of employees to clean 60 to 80 percent of all garments." Wet cleaning machines can clean most garments but cannot adequately dissolve lipophilic stains such as oils, greases, fats and waxes.

Another hurdle to conversion in the short run is that many dry cleaning operators have invested in new perc machines in response to EPA regulations on hazardous solvents. These operators will get the maximum use of these machines before buying a new one. These new machines have reduced solvent use while providing the operators with the best and most consistent cleaner.

TAX CREDIT

In the short run, Micell Technologies seems to be the only nonhazardous solvent dry cleaning equipment company in position to capture a share of the new and replacement market of dry cleaning machines. Micell Technologies has estimated that it will sell 10 machines in North Carolina in 2001, 8 in 2002, and 7 in 2003 without the tax credit. With the tax credit, the company expects a 50% boost in sales to 15 in 2001, 12 in 2002, and 11 in 2003. Bank of America's announcement on April 22, 2000 that it would finance the purchase of Hangers franchises in conjunction with the Small Business Administration should make Micell's market projections more achievable.

By 2003 and 2004, the other nonhazardous solvent equipment manufacturers will have completed several years of tests and should produce enough machines to be more price competitive with perc and petroleum machines. Sail Star USA in Charlotte projects total production for the US market will increase from 150 units in year 2000 to maximum of 4000 units in 2003. By 2003, the cost of each Sail Star unit could be as low as $60,000, a price competitive with perc. By 2003, Green Earth machines will have had three to four years of market experience and if the results are positive, the machine's $50,000 price tag will make it competitive in the market place.

This fiscal note assumes that 60 dry cleaning machines will be purchased each year from 2000 to 2005. The note assumes that Micell machines will be the only nonhazardous solvent machines sold until 2003. Beginning in 2003, it is assumed that all new and replacement dry cleaning machines will use nonhazardous solvents due to EPA and state environmental regulations. It is

assumed that half of these dry cleaning machines will be purchased in the first six months of the fiscal year and half will be purchased in the second half of the fiscal year. The dry cleaning companies will deduct the 35 % tax credit from quarterly estimated income tax payments. In order to calculate fiscal year impact, it is assumed that 45% of the tax credit will be taken within the first 6 months (two quarters) of the purchase and 55% in the following two quarters. It is assumed that the companies purchasing Micell equipment and Hangers franchise will be able to use the full tax credit in the year the equipment is purchased or leased. (For leased property, the tax credit is applied to eight times the annual rental rate.) For those purchasing or leasing other equipment, primarily replacement machines, it is assumed that they will be small businesses that do not have sufficient income to absorb the full tax credit and thus the credit will be carried forward for five years. To calculate the impact by fiscal year, the credit is divided equally over a five-year period. The chart below shows how the fiscal impact was calculated.

		FY 2000-01		FY 2001-02		FY 2002-03	
		July-Dec 2000	Jan - June 2001	July-Dec 2001	Jan - June 2002	July-Dec 2002	Jan - June 2003
Micell							
Cost/ #machines	$165,000	0	8	7	6	6	6
35% tax credit	$57,750		$462,000	$404,250	$346,500	$346,500	$346,500
Estimated payments			$207,900	$436,013	$378,263	$346,500	$346,500
Green Earth/ Sail Star/other							
Cost/ #machines	$60,000	0	0	0	0	0	25
35% tax credit	$21,000						$525,000
Estimated payments							$236,250
5 year carry forward							$47,250
Sum			$207,900	$436,013	$378,263	$346,500	$393,750
Fiscal Year Total			$207,900		$814,275		$740,250

	FY 2003-04		FY 2004-05		FY 2005-06	
	July-Dec 2003	Jan - June 2004	July-Dec 2004	Jan - June 2005	July-Dec 2005	Jan - June 2006
Micell						
#machines	5	6	5	6	5	6
35% tax credit	$288,750	$346,500	$288,750	$346,500	$288,750	$346,500
Estimated payments	$320,513	$314,738	$320,513	$314,738	$320,513	$314,738
Green Earth/ Sail Star/other						
#machines	24	25	24	25	24	25
35% tax credit	$504,000	$525,000	$504,000	$525,000	$504,000	$525,000
Estimated payments	$515,550	$513,450	$515,550	$513,450	$515,550	$513,450
5 year carry forward		$47,250		$47,250		$47,250
	$103,110		$103,110		$103,110	
		$102,690		$102,690		$102,690
			$103,110		$103,110	

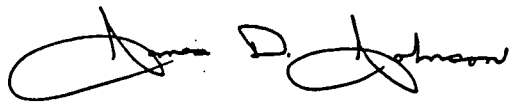
				$102,690		$102,690
					$103,110	
						$102,690
Sum	$423,623	$464,678	$526,733	$567,368	$629,843	$670,058
Fiscal Year Total		$888,300		$1,094,100		$1,299,900

TECHNICAL CONSIDERATIONS:
The Department of Revenue does not have the technical expertise to determine whether dry cleaning equipment is eligible for this credit. The Department of Environment and Natural Resources (DENR) could determine eligibility by (1) publishing a list of eligible equipment each tax year, or (2) directly certifying that the equipment purchased by a dry cleaner is eligible. Certification is the method used for the "Tax Incentives for New and Expanding Businesses" in Chapter 105, Article 3A. The Department of Commerce issues a certificate of eligibility that the taxpayer submits with his tax return to receive a tax credit.

On page 2, line 7, there is a concern about the definition of the word primarily in the sentence "designed primarily to dry clean or wet clean". Should this be term be quantified or described in more detail in order to reduce future tax administration problems?

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson



DATE: May 30, 2000

ATTACHMENT #3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1583*
Proposed Committee Substitute H1583-PCS2434-SG004

Short Title: Nonhaz. Dry-Cleaning Technology Incentive. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16C. Credit for investing in dry-cleaning equipment that does not use a hazardous substance.**

(a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning equipment places it in service in this State for commercial purposes during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the cost of the equipment. To support the credit allowed by this section, the taxpayer must file with the tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the equipment purchased or leased by the taxpayer is qualified dry-cleaning equipment.

(b) Restrictions. -- No credit is allowed under this section to the extent the cost of the equipment was paid with public funds. A taxpayer that claims any other credit allowed under this Chapter with respect to qualified dry-cleaning equipment may not take the credit allowed in this section with respect to the same equipment.

(c) Definitions. -- The following definitions apply only in this section:

(1) Hazardous solvent. -- A solvent any portion of which consists of a chlorine-based solvent, a hydrocarbon-based solvent, a hazardous substance as defined in G.S. 130A-310(2), or any substance determined by the Administrator of the Environmental Protection Agency or the Director of the National Institute of Occupational Safety and Health to possess carcinogenic potential to humans.

(2) Qualified dry-cleaning equipment. -- Equipment that is designed and used primarily to dry-clean clothing and other fabric and does not use any hazardous solvent or any other substance that the Department of Environment and Natural Resources determines to pose a threat to human health or the environment."

Section 2. This act is effective for taxable years beginning on or after January 1, 2001.

ATTACHMENT #4

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. First

H. B. No. 1583 DATE

S. B. No. Amendment No.
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE

(Rep.) Smith
Sen.)

moves to amend the bill on page 2, line 12

( ) WHICH CHANGES THE TITLE

by deleting "January 1, 2001." and

substituting "1 July 2001."

SIGNED

ADOPTED FAILED TABLED

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
SB 1279 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CERTAIN REQUIREMENTS RELATED TO LAND-USE RESTRICTIONS THAT APPLY GENERALLY TO RISK-BASED ENVIRONMENTAL CLEANUPS DO NOT APPLY TO CLEANUPS OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO CONTINUE TO STUDY THE APPLICATION OF LAND-USE RESTRICTIONS TO THE CLEANUP OF ENVIRONMENTAL DAMAGE FROM THESE TANKS THROUGH A STAKEHOLDER NEGOTIATION PROCESS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1583 A BILL TO BE ENTITLED AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR INVESTING IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) (~~Committee Substitute Bill # ~~), (and recommendation that the committee substitute bill #) be re-referred to the Committee on FINANCE.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	SB 1279	**Sponsor**	Plyler, Purcell, Gibson
Favorable	✓	**Motion by**	
Unfavorable		**Motion by**	
Amended	~~Amended~~	**Motion by**	Smith, Yongue
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill	HB 1583	**Sponsor**	Gibson, Davis
Favorable	✓	**Motion by**	
Unfavorable		**Motion by**	
Amended	~~Amended~~	**Motion by**	Smith, Yongue
Comm. Sub.	✓	**Motion by**	
Original Bill			
Re-referred	Finance	**Motion by**	
Other Action			

****

Bill		**Sponsor**	
Favorable		**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

****

Bill		**Sponsor**	
Favorable		**Motion by**	
Unfavorable		**Motion by**	
Amended		**Motion by**	
Comm. Sub.		**Motion by**	
Original Bill			
Re-referred		**Motion by**	
Other Action			

VISITOR REGISTRATION SHEET

Environment + Natural Resources — 6/20/2000

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hasije P. Harris	NC-DOR (Corp./Fran Division)
[signature]	NC Van
Preston Howard	MCIC
Bruce Nicholson	NC DENR / DWM
Lisa Tabor	NC DENR / DWM
Laura DeVivo	DENR
Dan McLawhorn	DENR
LTryce Slade	DENR
Jerry Schill	NC Fisheries Assoc.
Alex Kennaugh	NC CenNet
[signature]	CCNC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Meeker	CCNC
Kelli Kukuna	DuPont
Dr. Holmes	DENR
R. Rogers	DENR
Jon Hamm	
Bill Weathersbee	NC Petroleum Council
George Everett	Duke Energy
Glenn Dunn	Poyner & Spruill for Micell
Mac Mumford	Poyner & Spruill
Dr. Jim McClain	Micell Technologies
Jane Cantrell	" "
L Coe	NCABC

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steven Levitas	Brooks, Pierce
Leon M Talbert	Moore & Van Allen
R. Rod Wilms	NCAJA
~~Elizabeth Womble~~	~~Wake~~
PG	NCFB

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURES

Thursday, June 22, 2000

Committee Minutes

Chair Gibson called the meeting to order at 12 Noon. He welcomed everyone to the meeting of the House Committee on Environment and Natural Resources.

Present: Cochairs Gibson and Warwick, V-Chair Cox, Representatives Bonner, Brown Creech, Culp, Daughtry, Davis, Gillespie, Hackney, Hill, McCombs, McLawhorn, McMahan, Mitchell, Preston, Ramsey (excused), Thompson, Tolson, and Tucker.

Chair Gibson recognized Representative Zeno Edwards who presented the **Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/13/00 for HB 1562 AMEND FISHERIES LAWS.** This bill would authorize the holders of the Standard Commercial Fishing License to begin taking crab on July 1, 2000 rather than October 1, 2000. Representative Edwards stated that the Senate Committee Substitute for HB 1562 was a complete change from the original intent of the bill. He stated that these changes were not acceptable to the House. Representative Creech moved that the Committee do not concur in the Senate Committee Substitute for HB 1562. The motion carried and the committee do not concur in the Senate Committee Substitute adopted 6/13/00. (A copy of the Senate Committee Substitute for HB 1562 is included with the minutes.)

Chair Gibson called on Representative Scott Thomas to present his bill before the committee. Representative Thomas presented a **Proposed Committee Substitute for HB 1625 REMOVAL OF ABANDONED VESSELS.** This is an act to establish a pilot program for the removal of abandoned vessels in the Neuse River Basin. . Representative Creech moved that the committee substitute could be brought before the committee. The motion passed Representative Thomas stated that under the pilot program, the Department of Environment and Natural Resources would be authorized to remove vessels that have been left unattended or substantially dismantled for more than 90 days in coastal fishing waters or upon submerged lands. In answer to inquiries about accountability of those who have abandoned these vessels, Representative Thomas assured the members of the Committee that in the legislation it states that, if the owner of the vessel does not remove said vessel/vessels in the specified time, the Department can remove the vessel, restore the affected area, and institute an action in Superior Court to recover the costs of removal and restoration from the owner. Representative Tolson moved that the original bill be given an unfavorable report and the committee substitute for HB 1625 be given a favorable report. Representative Tolson motion carried and the

committee substitute was given a favorable report, unfavorable as to original bill. (A copy of the House Committee Substitute is included with the minutes.)

The meeting was then adjourned.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Thursday, June 22, 2000

12:00 NOON

WELCOME ..... **CO-CHAIRS**
Rep. Pryor Gibson &
Rep. Nurham Warwick

BILL TO BE PRESENTED:

H 1625 Removal of Abandoned Vessels .....**Representative Thomas**

H 1562 Amend Fisheries Laws ..... **Representative Edwards**

ADJOURN

do not concur in Senate Com. Sub. adopted 6/13/00

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1562*
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/13/00

Short Title: Amend Fisheries Laws. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE, TO PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING FEES FOR CERTAIN PERMITS, TO ABOLISH CERTAIN EXISTING PERMIT FEES, AND TO INCREASE THE AMOUNT OF GILL NET AUTHORIZED FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

"Section 4.(b) SCFL ~~Not~~ Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina."

Section 2. Beginning July 1, 2000, and ending October 1, 2000, a person who holds an interim crab license established under Section 4 of S.L. 1999-209 may apply for a Standard Commercial Fishing License (SCFL) from the pool of available licenses established under Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, as provided in this section. Notwithstanding subsections (c), (e),

and (f) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, the Marine Fisheries Commission shall increase the number of SCFLs in the pool of available licenses to the extent necessary to allow the Division of Marine Fisheries to issue a SCFL to each person who holds an interim crab license; who applies for a SCFL during the period July 1, 2000, through October 1, 2000; and who qualifies for a SCFL under the eligibility criteria established pursuant to subsection (h) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225. The Division of Marine Fisheries may issue only one SCFL to a person under this section regardless of the number of interim crab licenses the person holds. The duration of and fee for a SCFL issued pursuant to this section shall be as provided in G.S. 113-168.1 and G.S. 113-168.2, regardless of when the SCFL is issued.

Section 3. G.S. 113-169.1 reads as rewritten:

"**§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a fee for each permit in an amount that compensates the Division for the actual administrative costs associated with the permit but that does not exceed fifty dollars ($50.00) per permit.~~"

Section 4. Any fee established by the Marine Fisheries Commission pursuant to G.S. 113-169.1, as amended by Section 3 of this act, shall expire July 1, 2000.

Section 5. G.S. 113-173(c) reads as rewritten:

"(c) Authorized Commercial Gear. --

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.

(2) A person who holds a RCGL may use up to 200 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a combined 400 yards of gill net to take fish for recreational purposes. No more than 400 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons holding RCGLs aboard the vessel."

Section 6. This act becomes effective July 1, 2000.

HOUSE BILL 1562:
Amend Fisheries Laws

BILL ANALYSIS

Committee:	Senate Agriculture, Environment, and Natural Resources	**Introduced by:**	Representative Edwards
Date:	June 13, 2000	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	Proposed Senate Committee Substitute (H1562-CSSBX-006) for House Bill 1562, First Edition		

House Bill 1562, First Edition

SUMMARY: House Bill 1562 would authorize the holders of the Standard Commercial Fishing License to begin taking crab on July 1, 2000 rather than October 1, 2000.

CURRENT LAW: Under current law, only the holders of an Interim Crab License may take crab. This provision is set to expire on October 1, 2000, at which time the holders of the Standard Commercial Fishing License will be allowed to take crab.

BILL ANALYSIS: House Bill 1562 would change the date by which SCFL holders may take crab from October 1, 2000 to July 1, 2000. The October 1, 2000 expiration of the Interim Crab License would remain unchanged.

BACKGROUND: House Bill 1562 was recommended to the Joint Legislative Commission on Seafood and Aquaculture by the Marine Fisheries Commission. The Marine Fisheries Commission requested this change so that the participation of SCFL holders in the crab fishery would coincide with the data collection efforts of the Division of Marine Fisheries for the Blue Crab Fishery. The Joint Legislative Commission on Seafood and Aquaculture recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: This act would become effective July 1, 2000.

Proposed Senate Committee Substitute for House Bill 1562, First Edition)

SUMMARY: The Proposed Senate Committee Substitute for House Bill 1562 contains the provisions of House Bill 1562, First Edition. The Proposed Committee Substitute also contains provisions that would allow an interim crab license holder to obtain a Standard Commercial Fishing License, prohibit the Marine Fisheries Commission from establishing fees for certain permits, abolish existing fees for these permits, and increase the amount of gill net authorized for use under a Recreational Commercial Gear License.

Section 1: Change the date by which SCFL holders may take crab.

Section 1 of the Proposed Committee Substitute (PCS) for House Bill 1562 contains the provisions of House Bill 1562, First Edition.

Section 2: Allow a person who holds an interim crab license to obtain a SCFL

Under current law, the interim crab license will expire on October 1, 2000. At that time, only the holder of a Standard Commercial Fishing License (SCFL) will be eligible to participate in the crab fishery. A person who holds an interim crab license could apply for a SCFL from the pool of available licenses. Since there is a cap on the number of SCFLs available through the pool of available licenses, there is no guarantee that the pool will contain enough licenses so that all persons who hold an interim crab license would receive a SCFL.

Section 2 of the PCS would direct the Marine Fisheries Commission to increase the number of SCFLs in the pool of available licenses so that the Division of Marine Fisheries could issue a SCFL to each interim crab license holder who applies between July 1, 2000 and October 1, 2000, and who qualifies under the Commission's eligibility criteria. The Division may issue only one SCFL to a person under this section regardless of the number of interim crab licenses the person holds. The fee for a SCFL issued under this section would be the full fee of $200.00 for residents and between $200.00 and $800.00 for nonresidents, regardless of when the SCFL is issued. The duration for a SCFL issued under this section would be the regular license year, July 1 through June 30, regardless of when the SCFL is issued.

Sections 3 and 4. Prohibit MFC from establishing fees for certain permits and abolish existing fees

Under G.S. 113-169.1, the Marine Fisheries Commission is authorized to establish permits for certain types of fishing activities. This statute also directs the Commission to establish a fee for each permit that compensates the Division of Marine Fisheries for the administrative costs associated with the permit, not to exceed $50.00. Section 3 of the PCS would remove the statutory provision directing the Marine Fisheries Commission to establish fees to cover administrative costs. This would effectively prohibit the Commission from establishing an administrative fee for any permit established under G.S. 113-169.1. Section 4 would abolish any existing fees established under G.S. 113-169.1. Sections 3 and 4 would not affect the statutorily established fees for commercial and recreational fishing licenses.

Section 5: Increase the amount of gill net that may be used under a RCGL

Under rules adopted by the Marine Fisheries Commission, the holder of a Recreational Commercial Gear License (RCGL) is limited to using no more than 100 yards of gill net under the license. This limitation applies even if there are multiple holders of the RCGL fishing from a single vessel. Section 5 of the PCS would increase the amount of gill net that may be used under a RCGL. Under Section 5:

- A person who holds a RCGL would be authorized to use up to ~~250~~ 200 yards of gill net.
- Two persons who each hold a RCGL and who are fishing from a single vessel would be authorized to use up to a combined ~~500~~ yards of gill net.
- No more than ~~500~~ 400 yards of gill net would be authorized regardless of the number of persons holding RCGLs aboard a single vessel.

Section 6. This act would become effective July 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 2

HOUSE BILL 1562*
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/13/00

Short Title: Amend Fisheries Laws. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE, TO PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING FEES FOR CERTAIN PERMITS, TO ABOLISH CERTAIN EXISTING PERMIT FEES, AND TO INCREASE THE AMOUNT OF GILL NET AUTHORIZED FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE.

The General Assembly of North Carolina enacts:

Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

"Section 4.(b) SCFL ~~Not~~ Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina."

Section 2. Beginning July 1, 2000, and ending October 1, 2000, a person who holds an interim crab license established under Section 4 of S.L. 1999-209 may apply for a Standard Commercial Fishing License (SCFL) from the pool of available licenses established under Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, as provided in this section. Notwithstanding subsections (c), (e),

and (f) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, the Marine Fisheries Commission shall increase the number of SCFLs in the pool of available licenses to the extent necessary to allow the Division of Marine Fisheries to issue a SCFL to each person who holds an interim crab license; who applies for a SCFL during the period July 1, 2000, through October 1, 2000; and who qualifies for a SCFL under the eligibility criteria established pursuant to subsection (h) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225. The Division of Marine Fisheries may issue only one SCFL to a person under this section regardless of the number of interim crab licenses the person holds. The duration of and fee for a SCFL issued pursuant to this section shall be as provided in G.S. 113-168.1 and G.S. 113-168.2, regardless of when the SCFL is issued.

Section 3. G.S. 113-169.1 reads as rewritten:

"**§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

The Commission may adopt rules to establish permits for gear, equipment, and specialized activities, including commercial fishing operations that do not involve the use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a fee for each permit in an amount that compensates the Division for the actual administrative costs associated with the permit but that does not exceed fifty dollars ($50.00) per permit.~~"

Section 4. Any fee established by the Marine Fisheries Commission pursuant to G.S. 113-169.1, as amended by Section 3 of this act, shall expire July 1, 2000.

Section 5. G.S. 113-173(c) reads as rewritten:

"(c) Authorized Commercial Gear. --

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.

(2) A person who holds a RCGL may use up to 200 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a combined 400 yards of gill net to take fish for recreational purposes. No more than 400 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons holding RCGLs aboard the vessel."

Section 6. This act becomes effective July 1, 2000.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Warwick, Gibson** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☒ Committee Substitute for
H.B. 1562 A BILL TO BE ENTITLED AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS, TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE, TO PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING FEES FOR CERTAIN PERMITS, TO ABOLISH CERTAIN EXISTING PERMIT FEES, AND TO INCREASE THE AMOUNT OF GILL NET AUTHORIZED FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

Favor com. sub. Unfavorable orig. bill

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1625*
Proposed Committee Substitute H1625-PCS2439-RT004

Short Title: Removal of Abandoned Vessels. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PILOT PROGRAM FOR THE REMOVAL OF ABANDONED VESSELS IN THE NEUSE RIVER BASIN.

The General Assembly of North Carolina enacts:

Section 1.(a) As used in this act:

(1) "Abandoned vessel" means a vessel that, for more than 90 consecutive days, is left either unattended or in a wrecked, junked, or substantially dismantled condition in coastal fishing waters, as defined in G.S. 113-129, or upon submerged lands, as defined in G.S. 146-64.

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

(3) "Vessel" means any watercraft or structure, including seaplanes, used or capable of being used as a means of transportation or habitation on or under the water. "Vessel" does not include any shipwreck, vessel, cargo, tackle, or underwater archaeological artifact that is within the exclusive dominion and control of the State pursuant to G.S. 121-22 or to artificial reefs managed by the Department.

Section 1.(b) The Department shall implement a pilot program for the removal of abandoned vessels in the Neuse River Basin, as defined in G.S. 143-215.22G, as provided in this act during the period 1 July 2000 through 1 January 2003.

Section 1.(c) The Department may remove an abandoned vessel as provided in this act. The Department shall notify the owner of record of a vessel, as provided in Rule 4 of the Rules of Civil Procedure, that the Department has determined that the vessel is abandoned. The notice shall state that unless the owner submits a plan for the removal of the abandoned vessel and for the restoration of the affected area within 15 days of the date that notice is served on the owner and removes the abandoned vessel and restores the affected area within 45 days of the date that notice is served, the Department may remove the abandoned vessel, restore the affected area, and charge the costs of removal and restoration to the owner. If the owner of the abandoned vessel cannot be determined, the Department shall give notice by publication as provided in Rule 4 of the Rules of Civil Procedure, G.S. 1A-1, except that, if the Department determines that the value of the abandoned vessel is less than two hundred fifty dollars ($250.00), the Department may publish the notice only once.

Section 1.(d) If the owner of the abandoned vessel does not remove the abandoned vessel and restore the affected area within 45 days of the date on which notice is served, the Department may remove the abandoned vessel. The Department may use staff, equipment, and material under its control or provided by any cooperating federal, State, or local government or agency; may authorize or contract with any private agent or contractor it deems appropriate; or may authorize or contract with any federal, State, or local government or agency for the removal, storage, or disposal of an abandoned vessel and restoration of the affected area. The method of removal, storage, and disposal of the abandoned vessel, whether by the owner, a third party, or the State, must comply with all applicable federal and State laws, regulations, and rules.

Section 1.(e) The owner of an abandoned vessel is liable for all costs incurred by or on behalf of the State to remove, store, and dispose of the abandoned vessel and to restore the affected area. The Department may request the Attorney General to institute a civil action in the superior court of the county where the vessel is located, where the owner of the vessel resides, or where the owner has his or her principal place of business to recover the amount of these costs.

Section 1.(f) The Department is authorized to sell or dispose of an abandoned vessel and its cargo, tackle, and equipment as provided in Article 4 of Chapter 116B of the General Statutes. The net proceeds of the sale shall be used to reimburse the State for costs incurred to remove, store, and dispose of the abandoned vessel and to restore the affected area. Any excess proceeds shall be refunded to the owner or, if the owner cannot be identified or located shall be transferred to the Escheat Fund administered under Article 1 of Chapter 116B of the General Statutes.

Section 1.(g) This act shall not be construed to limit any other civil or criminal action or remedy that may be available to the State, any other agency of government, or any person.

Section 2. The Department shall submit an interim report on the implementation of this act to the Environmental Review Commission no later than 1 January 2002 and shall submit a final report no later than 1 January 2003. The

reports shall include the number of abandoned vessels removed under the pilot program, the removal process for each abandoned vessel, the cost to the State for each removal, and the amount of funds recovered for each removal. The report due on 1 January 2003 shall also include recommendations as to whether the pilot program should be extended, expanded, modified, or made permanent.

Section 3. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department is authorized to implement this act using funds otherwise appropriated or available to the Department.

Section 4. This act becomes effective 1 July 2000 and expires 1 January 2003. An action to recover costs incurred pursuant to this act shall not abate due to the expiration of this act.

HOUSE BILL 1625:
Removal of Abandoned Vessels

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Thomas
		Summary by:	Jeff Hudson, Committee Counsel
Date:	June 22, 2000		
Version:	Proposed Committee Substitute for House Bill 1625, First Edition		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1625, First Edition, establishes a pilot program for the removal of abandoned vessels in the Neuse River Basin.***

CURRENT LAW: There are a number of existing statutory provisions that regulate the placement and removal of objects in State waters. G.S. 76-40 prohibits the deposition or placement of trash, medical waste, unpermitted signs, and abandoned structures in navigable waters. G.S. 77-12, G.S. 77-13, and G.S. 77-14 prohibit the obstruction of rivers, streams, and drainage ditches. There are no statutory provisions, however, that specifically establish a procedure for the removal of abandoned vessels and the recovery of removal costs.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1625, First Edition, establishes a pilot program for the removal of abandoned vessels in the Neuse River Basin. The pilot program is effective July 1, 2000 and expires January 1, 2003.

Under the pilot program, the Department of Environment and Natural Resources (Department) is authorized to remove vessels that have been left unattended or substantially dismantled for more than 90 days in coastal fishing waters or upon submerged lands. Prior to removal, the Department must attempt to notify the owner of a vessel that the vessel has been determined to be abandoned and give the owner 45 days within which to remove the abandoned vessel and restore the affected area. If the owner does not remove the vessel within 45 days, the Department may remove the vessel, restore the affected area, and institute an action in Superior Court to recover the costs of removal and restoration from the owner. The Department may also sell an abandoned vessel and apply the net proceeds to the costs of removal and restoration.

The Department is authorized to implement the pilot program using funds otherwise appropriated and available to the Department. The Department is also directed to report on the pilot program to the Environmental Review Commission no later than January 1, 2002 and January 1, 2003.

EFFECTIVE DATE: This act becomes effective July 1, 2000 and expires January 1, 2003. The Department may continue an action to recover costs for the removal of an abandoned vessel after the expiration of the pilot program.

PROPOSED COMMITTEE SUBSTITUTE: The Proposed Committee Substitute for House Bill 1625, First Edition, narrows the scope of the bill as introduced to a pilot program that applies only to the Neuse River Basin and that lasts only until January 1, 2003.

unfavorable

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1625*

Short Title: Removal of Abandoned Vessels. (Public)

Sponsors: Representatives Thomas; Bowie, Bridgeman, Cox, Culpepper, Dedmon, Edwards, Gibson, Gillespie, Hackney, Hensley, Horn, Justus, McLawhorn, Melton, Nye, Owens, Redwine, Rogers, Setzer, Smith, Teague, Tolson, Tucker, Wainwright, Warren, and Warwick.

Referred to: Environment and Natural Resources.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO ABANDON VESSELS IN COASTAL WATERS AND TO AUTHORIZE THE REMOVAL OF ABANDONED VESSELS AND THE RECOVERY OF COSTS FOR REMOVAL, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 5 of Chapter 76 of the General Statutes is amended by adding a new section to read:

"**§ 76-40.1. Removal of abandoned vessels.**

(a) For purposes of this section, the term 'vessel' means any watercraft or structure, including seaplanes, used or capable of being used as a means of transportation or habitation on or under the water. For purposes of this section, the term 'vessel' does not include any shipwreck, vessel, cargo, tackle, or underwater archaeological artifact that is within the exclusive dominion and control of the State pursuant to G.S. 121-22 or to artificial reefs managed by the Department of Environment and Natural Resources.

(b) It shall be unlawful for any person, firm, or corporation to abandon or cause to be abandoned, any vessel in or upon the coastal fishing waters of the State or upon State-owned submerged lands. The last owner of record of a vessel at the time it was abandoned shall be presumed to be the person who abandoned the vessel or caused its abandonment.

(c) A vessel shall be presumed to be abandoned in violation of this section when the vessel is either left unattended for more than 30 consecutive days or the vessel is left in a wrecked, junked, or substantially dismantled condition without the consent of the Secretary of Environment and Natural Resources.

(d) Any person, firm, or corporation who violates the provisions of subsection (b) of this section shall be guilty of a Class 2 misdemeanor. After the expiration of 30 days from the receipt or publication of notice by the Secretary under subdivision (e)(2) of this section, each day the vessel remains in violation of this section shall constitute a separate offense. It is a defense to prosecution for a violation of this section if all of the following requirements are satisfied:

(1) The vessel was abandoned due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight.

(2) The vessel has been removed from the waters of the State in compliance with subdivision (e)(2) of this section.

(3) The affected area has been restored to the satisfaction of the Secretary.

(e) The Department may investigate a report that a vessel has been abandoned in violation of this section and may remove or require the removal of an abandoned vessel as provided in this subsection.

(1) If the Secretary determines that an abandoned vessel is a hazard to safety, navigation, human health, or the environment, the owner of the vessel shall be deemed to have appointed the Secretary his or her agent for the purposes of removal of the vessel. If the Secretary determines that the vessel constitutes an imminent hazard to safety, navigation, human health, or the environment, the Secretary may immediately remove the vessel from waters of the State prior to giving the notice required by subdivision (2) of this subsection.

(2) The Department may require removal of the vessel by giving notice to the registered owner of the vessel or other responsible party. The notice shall require the owner or other responsible party to respond within 10 days and to remove the vessel from the waters of the State within 30 days of the receipt of the notice. Notice shall be given by certified mail, return receipt requested, or as provided in G.S. 1A-1, Rule 4(j) of the Rules of Civil Procedure. The notice shall be in writing to the person in whose name the vessel was last registered or other responsible party at the last address of record. If the value of the vessel is more than one hundred dollars ($100.00) and the identity of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the county where the vessel is located shall be sufficient to meet all requirements of notice. After giving the

required notice, the Secretary may proceed to remove the vessel from waters of the State.

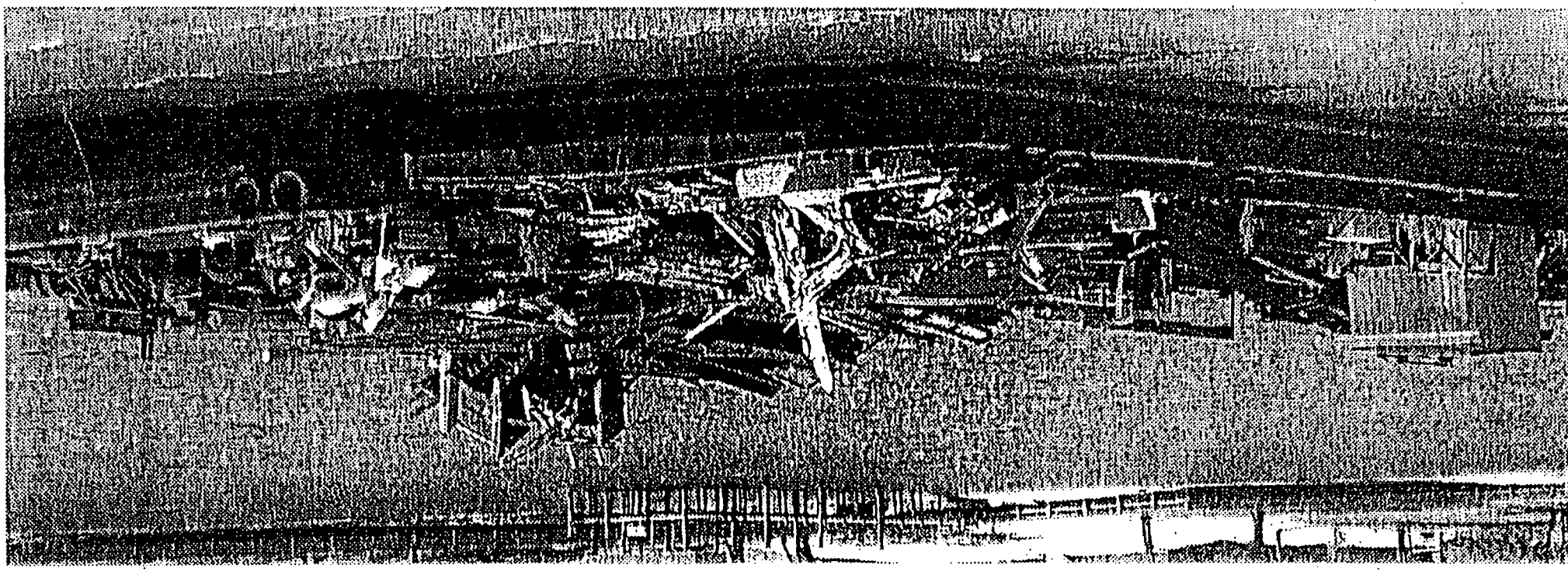
(3) The owner of the abandoned vessel or responsible party shall be liable for any and all costs incurred by the State in removing the vessel, including costs to restore any damage to marine, estuarine, or fisheries resources or lands held by the State in public trust. The Secretary may authorize or contract with any federal, State, county, or municipal authority or private enterprise for removal of abandoned vessels, restoration of resources, or any other services necessary to remove, store, or dispose of abandoned vessels and restore affected areas. The method of removal, storage, and disposal of the abandoned vessel, whether by the owner, a third party, or the State, must comply with all applicable federal and State laws, regulations, and rules.

(4) The Secretary is authorized to sell abandoned vessels, their cargo, tackle, and equipment. The Secretary may provide for a public sale of the property, including public notice of the description of the property prior to the time set for sale. The procedure may include turning the property to be sold over to some other agency for sale, provided that there is proper accounting for the net proceeds of the sale. In the case of property that cannot lawfully be sold or is unlikely to sell for a sufficient amount to offset the costs of sale, the Secretary may provide either for destruction or disposal of the property or legitimate utilization of the property by some public agency. Net proceeds of the sale shall be used to reimburse the State for costs incurred in removal, storage, and sale of the vessel, notification of the owner, and restoration of the environment. Any excess proceeds shall be refunded to the registered owner, if his or her identity and address is known. Prior to sale, the registered owner of the abandoned vessel or any person with an interest in the property may redeem the property by reimbursing the State for all costs incurred in removing and storing the vessel, notifying the owner, and restoring the environment.

(f) The Secretary may, either before or after the institution of proceedings under subsection (e) of this section, institute a civil action in the superior court in the county where the vessel is located or where the owner or other responsible party resides for removal of the vessel, damages, injunctive relief, recovery of the costs of removal, storage and sale of the vessel, and other relief as the court may deem proper, to prevent or recover for any damage to any lands or property which the State holds in public trust and to restrain any violation of this section.

(g) The provisions of this section shall be implemented by the Department of Environment and Natural Resources in cooperation with the Wildlife Resources Commission."

Section 2. This act is effective when it becomes law.



2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☒ Committee Substitute for
H.B. 1625 A BILL TO BE ENTITLED AN ACT TO MAKE IT UNLAWFUL TO ABANDON VESSELS IN COASTAL WATERS AND TO AUTHORIZE THE REMOVAL OF ABANDONED VESSELS AND THE RECOVERY OF COSTS FOR REMOVAL, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

VISITOR REGISTRATION SHEET

Environment & Nat. Res — 6-22-00

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	County Commissioners Assoc
Andy Romanet	NCLM
Andy Ellington	NCRMA
Jill Dorsett	Omega Policy
Perry Schill	NC Fisheries Assoc.
L'Tryce Slade	DENR
Dan McLawhorn	DENR
Laura DeVivo	DENR
Michelle Cook	Weyerhaeuser
Crissy Porter	Tom A Associates

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 27, 2000

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, June 27, 2000, in Room 643 of the Legislative Office Building at 2:00 p.m. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Dewey Hill, Paul Luebke, Eugene McCombs, Marian McLawhorn, Frank Mitchell, Jean Preston, Ronnie Smith, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 2:25 p.m. and announced that, due to a computer problem crash, the PCS for HB 1632 and other materials have not been prepared. Therefore, no vote would be taken. He also reiterated that action would be taken on all bills in committee before the Session ends.

HB 1632 - Flood Hazard Prevention Act of 2000 - Rep. Gibson said that this bill is an excellent planning tool. Hurricane Floyd gave North Carolina a reality check that the State was not doing what it should for flood and hazard protection and prescriptive planning. The nation that helped North Carolina in time of this natural disaster must see that we are being responsible. We need to look at natural disasters as a state, and we have responsibility as a body to be proactive. This bill will provide the opportunity to save up to 65 % on flood hazard insurance. The complex issues of this bill cannot be discussed in legislation that will address all the aspects of this issue, but we must start someplace.

Staff George Givens explained the bill analysis on HB 1632. This bill was recommended by the Environmental Review Commission (ERC) and recommended that it not be a completed project, but eligible for discussion. There is concern that, if North Carolina has another hurricane and go back to the Congress again for Federal aid, the Emergency Management Staff has said that, if we do not show preparedness for the future, it will be more difficult to request additional money. The Federal government will look at state policy makers to see to what extent should state monies be used to repair or replace structures that are placed in a flood plain. This bill attempts to limit the extent of new construction in an area likely to be hit by a flood in the future. Hannah Holm, staff, explained the bill analysis on HB 1632 (Attachment 1). She noted that certain communities with more current studies of their flood plains could amend their ordinances accordingly and set a different elevation requirement. The one-foot structure elevation over the 100-year flood plain maps takes into consideration that current maps are out of date and tend to underestimate the actual flood risk that exists. (Please note major changes made by the PCS on page 3.) Rep. Gibson pointed out that this body would have

to provide funding for accurate and complete hydrology for flood mapping. He reiterated that there was only one thing worse than what happened to North Carolina last year with the flood; it would be going before those same people when it happens again and saying that the Legislature didn't do anything.

Eric Tolbert, Director of State Emergency Management (SEMA), discussed the ramifications from a public safety management and risk standpoint. He said the eyes of the nation are watching us to see what we do about effective risk reductions based on what we have learned from Hurricane Floyd. In the12 counties most impacted by the hurricane: 9,226 homes had an excess of 2' of water within the structure of the home; ninety-four counties and 321 municipalities participated on the National Flood Insurance Program; twelve have joined since Hurricane Floyd; 6 mapped counties with risk identified by FEMA do not participate; 192 communities in the state have low risk which do not need flood management; $11.8 billion in insured risk in 88,000 policies in effect. Since 1978, the state has had $529 million in claims against that program--the flood presented $140 million in claims. All 100 counties and 326 municipalities currently have flood maps--47% are over 10 years old, 71% are over 5 years old, and 29% are less than 5 years old. The benefits of this legislation would reduce the loss of life, reduce impact from future flooding, and reduce the impact on property damage.

Those who choose to act responsibly and maintain flood insurance (in the AE zones--100-year flood plain), would enjoy a 46% reduction based on the 1' free board requirement in this legislation. In coastal homes, there would be a 29% reduction. Seventy-one percent of the communities that currently participate in the National Flood Insurance Program already have exceeded minimum Federal standards--71 communities have already identified the need to do this. Many communities have free board requirements above the requirement from 1/2 foot to 5.7 feet in communities that have better updated maps and are managing their risk. Most communities have exceeded by going 2 feet above the exceeded limits. The biggest problem is that current maps do not reflect future development that is an area they continue to work on. Current map studies only look at current land use. These maps do not address future growth. Frequency of hurricanes and prediction of more frequent hurricanes is a major problem. The prediction has been for 12 major storms with 8 of hurricane force with 4 major hurricanes. There is a 52% probability that the East Coast this year will experience a land fall of a major hurricane in a category 3 or above. The eyes of the country are on North Carolina.

Robin Smith, Assistant Secretary for Environmental Protection, DENR, said the Department strongly supports the proposed legislation environmentally. She reiterated that salvage yards and chemical facilities were in the 100-year flood plain and their flooding was too close to surface waters, which is an issue of public health. The legislation encourages local governments to identify these specific uses prohibited in the

100-flood plain, which also helps in siting similar future new facilities in the flood plain. It will prevent the contamination we had after Hurricane Floyd.

Mr. Tolbert said that the flood maps were provided by FEMA with minimum commitment of funding. However, this year FEMA proposed a $30 million increase in flood plain mapping across the country. At the direction of the Governor, the State is working with FEMA and to investigate other options for updating flood plain maps with the best available technology using elevation data and radar. This would serve as the Flood Insurance Rate Map.

A question was raised of the cost to re-map North Carolina and how long would it take, Marvin Dorman, State Budget, said a plan to map the entire state should be finished by mid-August. The estimated time to map would be 4 years; the cost would be $60 million. FEMA and other agencies have shown interest for technical and financial assistance. The hope is that the plan would be done by North Carolina and acceptable to FEMA so that the state could not have to wait for approval from them to begin the mapping. Local governments who already have map capabilities, which meet FEMA regulations, would use their systems. A question was raised and answered that the bill says that the county commissioners would have active involvement in the delineation of the flood plain.

A discussion concerning A Zones, A-E Zones, and A Zone (100 year flood plain delineate, see Attachment 2). Issuing a variance would make a property ineligible for any disaster relief assistance. Mentioning variances in the bill could mislead local governments into thinking they could potentially issue variances that were okay with this law that might put at risk their eligibility for the National Flood Insurance Program. Thus, variances are not mentioned in this bill and some of the punitive issues were removed from the original bill. Priority should not be given to the counties to the east over counties in the west. There is not an exact area that will be mapped; the main critical concern is of the unmapped areas. 36.8% damage occurred within the HUD flood hazard areas--64% occurred outside of that special flood hazard area which may be attributed to the unmapped areas which have experienced development. Land values would not be affected. This bill does not prohibit new development within the area; it simply requires that it be built to a higher standard with a higher standard of elevation based on the study information. According to Mr. Tolbert, there has not been any appreciable decrease in land value and have maintained a fairly good value. This does not establish an unfunded mandate and does not require that a local government undertake mapping. It simply requires them to build to higher standard until the maps are updated. Ms. Smith noted that the proposed bill has provided priority points to communities who update their ordinances to reflect the interim standards that this bill provides. The bill requests that local governments update their flood hazard ordinances to meet these standards which provide a safety net until the re-mapping can be completed. The priority points for the loans and grants from the Clean Water Trust Fund are not tied to the mapping, but to amend the ordinances to incorporate these existing

ordinances. DENR is urging the communities to adopt the additional elevation requirement of 1' and to prohibit the identified uses as junk yards in the 100 year flood plain as amendments to their existing flood ordinances which would provide the priority points for loans and grants programs. Mr. Tolbert said that 69% of the local governments that participate in the flood insurance program already meet this 1' free board standard--69% are already in compliance. A "General Definitions" sheet was passed out to the Committee (Attachment 2).

Representative Warwick adjourned the meeting at 3:40 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Tuesday, June 27, 2000

2:00 P.M.

WELCOME ..... **CO-CHAIRS**
Rep. Pryor Gibson &
Rep. Nurham Warwick

BILL TO BE PRESENTED:

H 1614 ADD. NOTICE/MINING PERMIT APPLICATION .....Representative Hackney

H 1632 FLOOD HAZARD PREVENTION ACT OF 2000..... Representative Gibson
(For discussion only)

ADJOURN

ATTACHMENT - V

HOUSE BILL 1632 (PCS): Flood Hazard Prevention Act of 2000

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Hannah Holm, Research Assistant for Environmental Issues
Date:	June 27, 2000		
Version:	PCS for First Edition		

SUMMARY: ***The Proposed Committee Substitute for the First Edition of House Bill 1632 sets minimum standards for development in the 100-year floodplain and encourages local governments to adopt ordinances that meet or exceed the minimum standards by making such an ordinance a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The act also authorizes the Department of Crime Control and Public Safety to prepare maps that identify the 100-year floodplain for areas where floodplain maps are inadequate or out-of-date.***

CURRENT LAW: Current law authorizes local governments to designate floodways and to adopt ordinances that regulate development in floodways and floodplains, but sets no minimum statewide standard for such ordinances. Current law also bans the location of certain uses in the 100-year floodplain, including large swine farms.

BILL ANALYSIS: The Proposed Committee Substitute for the First Edition of House Bill 1632 (PCS) amends the existing floodway statute to prohibit certain uses in the 100-year floodplain, set minimum standards for local government ordinances that regulate development in the floodplain, and authorize the Department of Crime Control and Public Safety (Department) to map the 100-year floodplain in areas where the maps are inadequate or out-of-date. The PCS also makes adoption of an ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants may receive grants and loans from the Clean Water Revolving Loan and Grant Fund.

Minimum Standards. The PCS sets minimum elevation requirements and designates uses that are allowed and uses that are prohibited within the 100-year floodplain, as shown on the most current maps prepared pursuant to the National Flood Insurance Program or approved by the Deparment (official maps).

Elevation. The PCS requires that the lowest floor of any new or substantially improved structure located in the 100-year floodplain be at least one foot above the 100-year flood elevation unless the local government has conducted a study of the 100-year floodplain within the previous five years that considered anticipated development and revised its floodplain development ordinance to reflect the results of the study. The term structure, to which this minimum elevation requirement applies, does not include any of the following:

- An electric distribution or transmission facility.
- A gas pipeline, transmission, or distribution facility, including a compressor station or related facility.
- A water treatment or distribution facility, including a pump station.
- A wastewater collection or treatment facility, including a lift station.
- Processing equipment used in connection with a mining operation.

Uses allowed The PCS provides that the following uses are allowed in areas subject to floodplain development regulations without a permit under this act:

- General farming, pasture, outdoor plant nursery, horticulture, forestry, mining, wildife sanctuary, game farm, and other similar agriculture, wildlife, and related uses.
- Ground level loading areas, parking areas, rotary aircraft ports, and other similar ground level area uses.
- Recreational uses such as lawns, play areas, golf courses, tennis courts, picnic grounds, and parks.

Prohibited uses The PCS prohibits the following uses in the 100-year floodplain, as shown on the most current official maps, unless the local government finds that the use meets all of the criteria listed under "exceptions" following the list of prohibited uses:

- Solid waste disposal facilities.
- Hazardous waste management facilities.
- Salvage Yards.
- Chemical storage facilities (does not include storage tanks that serve permitted uses, provided the tanks are located one foot above the the 100-year flood elevation or designed to be flood-resistant).

Exceptions A local government may permit a use listed above under "prohibited uses" in the 100-year floodplain, as shown on the most current official maps, if the local government finds all of the following:

- The use serves a critical need in the community.
- No feasible location exists for the uses outside the 100-year floodplain.
- The lowest floor of any structure is elevated one foot above the the 100-year flood elevation or is designed to be flood-resistant.
- The use complies with all other applicable laws and regulations.

Delineation of floodplains If the Department determines that the 100-year floodplain should be mapped and the uses regulated as provided in this act, and the 100-year floodplain is not identified on an official map prepared within the previous five years, the Department may map the 100-year floodplain. Any such mapping must be done in accordance with standards established by the Federal Emergency Management Agency (FEMA). Prior to conducting the mapping, the Department must notify all affected local governments, and upon completion of the maps, the maps must be provided to the local governments and submitted for FEMA approval.

Local Government Powers. The PCS authorizes local governments to delineate "flood hazard areas" and adopt ordinances to regulate development in these areas.

Contents of flood development ordinances A local flood hazard ordinance must conform to the minimum elevation requirements and use prohibitions described above under "minimum standards."

Delineation of flood hazard areas A local government may request assistance from federal and state agencies for the purpose of delineating a flood hazard area. A flood hazard area must include, but may exceed, the 100-year floodplain, as shown on the most current official maps. The Department must provide advice and assistance to any local government that seeks to regulate floodplain development. A local government may delineate a flood hazard area by showing it on a map, by a written description, or by reference to a map prepared pursuant to the National Flood Insurance Program.

Procedures in issuing permits In determining whether to issue a permit for a use under a flood hazard ordinance pursuant to this act, a local government may consider the potential impact on anticipated development, as well as current development.

Exercise of powers A municipality may exercise the powers granted by this act within its corporate limits and within its extra-territorial jurisdiction (ETJ). A county may exercise these powers in any area of the county outside the zoning jurisdiction of a municipality and anywhere within the zoning jurisdiction of a municipality in agreement with the municipality.

Priority for Water and Sewer Grants and Loans. The PCS makes the existence of a flood hazard ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The PCS also provides that the demonstration that no portion of the applicant's jurisdiction lies within the 100-year floodplain is an equivalent criterion for prioritizing which applicants will receive loans and grants under the program.

Effective Dates. The PCS makes the provision regarding priority for grants and loans from the Clean Water Revolving Loan and Grant Fund effective January 1, 2001. The PCS makes all other provisions effective when the act becomes law.

BACKGROUND: House Bill 1632, as introduced, was recommended by the Environmental Review Commission. The bill has since been the subject of a stakeholder working group that included representatives of State agencies, local governments, agricultural interests, developers, the mining industry, and environmental advocates.

The major changes made by the PCS are as follows:

- The PCS drops the minimum elevation requirement for structures in the 100-year floodplain from two feet to one foot, and adds the provision that allows a local government to set a different elevation requirement if it has recently re-studied the 100-year floodplain and amended its flood hazard ordinance accordingly.
- The PCS removes a provision that would make a local government that fails to adopt a flood hazard ordinance consistent with this act ineligible for State disaster relief for damage from flooding.
- The PCS replaces a provision that would authorize the Department to designate a flood hazard area in the absence of local government action with a provision that authorizes the Department to map the 100-year floodplain in areas where the 100-year floodplain is not mapped or the maps are out-of-date.
- The PCS clarifies that a number of uses are not considered "structures" or "artificial obstructions" and are therefor not subject to the minimum standards for development in the 100-year floodplain set out in this act.
- The PCS adds mining to the list of uses that may be located in the 100-year floodplain without a permit issued under the act.
- The PCS adds the exceptions that allow uses otherwise prohibited in the 100-year floodplain, provided the local government finds that the use is vital to the community, no feasible alternative location exists, and any structures are elevated one foot above the 100-year flood elevation.
- The PCS clarifies that the storage of chemicals and fuel incidental to uses allowed in the 100-year floodplain is not prohibited.
- The PCS removes references to variances.

ATTACHMENT 1A

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H 1

HOUSE BILL 1632*

Short Title: Flood Hazard Prevention Act of 2000. (Public)

Sponsors: Representative Gibson.

Referred to: Ways and Means.

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PREVENT INAPPROPRIATE DEVELOPMENT IN THE ONE HUNDRED-YEAR FLOODPLAIN AND TO REDUCE FLOOD HAZARDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the hurricanes and associated flooding experienced in Eastern North Carolina in 1999 caused over six billion dollars in damage; and

Whereas, some of the structural damage resulting from the floods could have been prevented by requiring development in the floodplain to be elevated above the 100-year floodplain; and

Whereas, harm to the environment could have been minimized by prohibiting certain inappropriate uses in the floodplain; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 21 of Chapter 143 of the General Statutes reads as rewritten:

"Part 6. ~~Floodway~~ Floodplain Regulation.

"**§ 143-215.51. Preamble.**

(a) The purpose of this Part is ~~to specify means for regulation of artificial obstructions in floodways.~~ to:

(1) Minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage.

(2) Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.

(3) Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

It is hereby declared that the channel and ~~a portion of~~ the adjoining 100-year floodplain of all the State's streams will be designated as a ~~floodway, in which artificial obstructions may not be placed~~ flood hazard area. Structures and other artificial obstructions may not be placed in the channel of a stream or in the adjoining floodplain, except in accordance with the provisions of this Part. ~~The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas.~~

"§ 143-215.52. Definitions.

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

(1) 'Artificial obstruction' means any obstruction which is not a natural obstruction, including any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

(1a) 'Base flood' or '100-year flood' means the flood which has a one percent (1%) chance of being equalled or exceeded in any given year. The term 'Base flood' is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

(1b) 'Base floodplain' or '100-year floodplain' means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the most current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department.

(1c) 'Department' means the Department of Crime Control and Public Safety.

(1d) 'Flood hazard area' means the portion of the floodplain designated by a local government or by the Department, pursuant to this Part, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

(1e) 'Floodplain' means the lowland and relatively flat areas adjoining inland and coastal waters, including the base floodplain.

(2) 'Floodway' means that portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.

(3) 'Local government' means any county or municipal corporation.

(4) 'Natural obstruction' includes any rock, tree, gravel, or ~~analogous~~ other natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

(5) 'Stream' means a watercourse that collects surface runoff from an area of one square mile or greater. ~~This does not include flooding due to tidal or storm surge on estuarine or ocean waters.~~

"**§ 143-215.53. ~~Artificial obstruction prohibited.~~ Floodplain development regulated.**

~~The placement of~~ Except as provided in G.S. 143-215.54 and G.S. 143-215.57, no person shall place any artificial obstruction in the floodway of any stream or construct any structure in a flood hazard area after the ~~floodway~~ flood hazard area has been delineated pursuant to ~~G.S. 143-215.56~~ G.S. 143-215.56. ~~is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

"**§ 143-215.54. ~~Floodway~~ Flood hazard area uses.**

(a) ~~Local governments are empowered to~~ A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of ~~the floodways~~ flood hazard areas that are consistent with the ~~purposes~~ requirements of this ~~Part and for purposes which the State does not regulate either by a permit or a formal approval system.~~ Part.

(b) The following uses may be made of ~~floodways~~ flood hazard areas as a matter of right without a permit issued under this Part:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;

(3) Lawns, gardens, play areas and other similar uses;

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(c) The lowest habitable floor of a structure in the 100-year floodplain must be constructed at least two feet above the base flood elevation.

(d) Salvage yards, chemical storage facilities, and other uses involving potentially large quantities of hazardous materials or solid waste disposal may not be located in the 100-year floodplain.

"**§ 143-215.55. ~~Existing artificial obstructions.~~ Acquisition of existing structures.**

~~Artificial obstructions existing in a floodway on July 1, 1971, shall not be considered to be in violation of this Part. However, they may not be enlarged or replaced in part or in whole, without a permit, as provided by this Part in the case of a proposed artificial obstruction. Local governments are empowered to~~ A local government may acquire, by purchase, exchange, or condemnation ~~such existing~~

~~artificial obstructions if deemed necessary by the responsible local government for the purpose of avoiding flood damages.~~ an existing structure located in a flood hazard area in the area regulated by the local government if the local government determines that the acquisition is necessary to prevent damage from flooding. The procedure in all condemnation proceedings pursuant to this section shall conform as nearly as possible to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"§ 143-215.56. Delineation of ~~floodway;~~ flood hazard areas; powers of ~~Commission and~~ Department; powers of local governments.

(a) For the purpose of delineating ~~the floodway~~ a flood hazard area and evaluating the possibility of flood damages, ~~responsible local governments are empowered to:~~ a local government may:

(1) Request technical assistance from the competent federal agencies, including the Army Corps of Engineers, the Soil Conservation Service, the Tennessee Valley Authority, and the U.S. Geological Survey, or successor ~~agencies, and~~ agencies.

(2) Utilize the reports and data supplied by federal and State agencies as the basis for the exercise by local ordinance or resolution of the powers and responsibilities conferred on responsible local governments by this Part.

(b) The Department ~~shall be empowered to render~~ may provide advice and assistance to any local government having responsibilities under this Part. In exercising this function it shall specifically be authorized to furnish manuals, suggested standards, plans, and other technical data; to conduct training programs; and to give advice and assistance with respect to ~~handling of particular applications;~~ delineation of flood hazard areas and the development of appropriate ordinances; but it shall not be limited to such activities. The Department shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

(c) A local government may delineate any ~~floodway~~ flood hazard area subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. A local government may also delineate a flood hazard area by reference to a map prepared pursuant to the National Flood Insurance Program. The ~~Commission~~ Department may delineate a ~~floodway,~~ flood hazard area, in the same manner and subject to the same requirement, when the reach of a stream in which a ~~floodway~~ flood hazard area is determined by the ~~Commission~~ Department to be needed exceeds the jurisdiction of a single local government. Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to such map or description. Such entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of such map or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or

description. A local government or the ~~Commission~~ Department may provide for the redrawing of any such map. A redrawn map shall supersede for all purposes the earlier map or maps which it is designated to replace upon the filing and approval thereof as designated and provided above.

(d) If the ~~Commission~~ Department determines that the ~~floodway~~ flood hazard area of any stream or stream segment should be delineated and the use thereof controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the ~~floodway~~ flood hazard area or controlled uses therein, the ~~Commission~~ Department shall advise the local governments of its intent to delineate the ~~floodway,~~ flood hazard area, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date of ~~a rule of the Commission establishing any floodway,~~ the delineation by the Department of any flood hazard area, notice of the effective date and copies of the rule shall be delivered to every affected local ~~government along with copies of all maps and plans delineating the floodway.~~ government. Public notice of the ~~rule~~ delineation shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules, the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.

"§ 143-215.57. Procedures in issuing permits.

(a) ~~Responsible local governments are empowered to~~ A local government may establish application forms and require such maps, plans, and other information as necessary for the issuance of permits in a manner consonant with the objectives of this Part. For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development. They shall consider the effects of a proposed artificial obstruction in a ~~floodway~~ stream in creating danger to life and property by:

(1) ~~By water~~ Water which may be backed up or diverted by such ~~obstruction;~~ obstruction.

(2) ~~By the~~ The danger that the obstruction will be swept downstream to the injury of ~~others; and~~ others.

(3) ~~By the~~ The injury or damage at the site of the obstruction itself.

~~For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.~~

(a1) Prior to issuing a permit for a structure in a floodplain, a local government shall ensure that the lowest habitable floor of the structure is elevated at least two feet above the 100-year floodplain.

(a2) A local government shall not permit the establishment of a salvage operation, chemical storage facility, or other use involving potentially large quantities of hazardous materials or solid waste disposal within the 100-year floodplain.

(b) In prescribing standards and requirements for the issuance of permits under this Part, and in issuing such permits, responsible local governments shall proceed as in the case of an ordinance for the better government of the county or municipality, as the case may be. A municipality may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county outside the zoning jurisdiction of any municipalities in the county. The county may regulate territory within the zoning jurisdiction of any municipality whose governing body, by resolution, agrees to such regulation; provided, however, that any such municipal governing body may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

(c) The local governing body is hereby empowered to adopt such regulations as it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. Such regulations may provide for the issuance of permits under this Part by the local governing body or by such agency as may be designated by said body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of any such appeal, no action shall be taken which would be unlawful in the absence of a permit issued under this Part.

"**§ 143-215.58. Violations and penalties.**

(a) Any willful violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor.

(a1) A local government may use all of the remedies available for the enforcement of zoning ordinances under Chapter 160A and Chapter 153 of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted (or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each ~~10 days~~ day that such failure continues after written notice from the county or municipal governing body.

(c) In addition to or in lieu of other remedies, the county or municipal governing body may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation which has committed any such violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction.

"**§ 143-215.59. Other approvals required.**

(a) The granting of a permit under the provisions of this Part shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.

(b) No permit for the construction of any structure to be located within a ~~floodway~~ flood hazard area shall be granted by a political subdivision unless the applicant has first obtained the permit required by this Part.

"**§ 143-215.60. Liability for damages.**

No action for damages sustained because of injury or property damage caused by ~~an~~ a structure or obstruction for which a permit has been granted under this Part shall be brought against the State or any political subdivision of the State, or their employees or agents.

"**§ 143-215.61. Floodplain management.**

The provisions of this Part shall not preclude the imposition by responsible local governments of land use controls and other regulations in the interest of floodplain management for the floodplain or the floodway."

Section 2. Part 6 of Article 21 of Chapter 143 is amended by adding a new section to read:

"**§ 143-215.62. Failure to implement; approval of variances.**

(a) A local government that has not adopted and implemented an ordinance consistent with the requirements of this Part shall not be eligible for State disaster assistance until the local government adopts and implements an ordinance consistent with the requirements of this Part.

(b) Issuance by a local government of a variance from the minimum elevation requirement of a local ordinance that is consistent with the requirements of this Part shall make the structure's owner ineligible for State disaster assistance for loss or damage from flooding to the structure permitted pursuant to the variance.

(c) The responsible local government shall give notice of the provisions of subsection (b) of this section to any petitioner for a variance from the minimum elevation requirements of a local ordinance that is consistent with the requirements of this Part prior to issuing a permit pursuant to the variance and shall obtain the petitioner's signature on a form that waives the petitioner's claim to any State disaster assistance for loss or damage from flooding to the structure permitted pursuant to the variance.

(d) A local government must demonstrate that it has adopted and implemented an ordinance consistent with the requirements of this Part in order to be eligible for State grants and loans for infrastructure improvements, including the development or expansion of a wastewater treatment system, drinking water treatment system, or associated collection or distribution system."

Section 3. A structure or use existing in the 100-year floodplain prior to July 1, 2000, or for which a building permit was issued prior to July 1, 2000, is not in violation of G.S. 143-215.54. On or after July 1, 2000, development in the base

floodplain must at a minimum be consistent with the standards set out in G.S. 143-215.4.

Section 4. Notwithstanding G.S. 150B-21.1(a)(2), the Department of Crime Control and Public Safety is authorized to adopt temporary rules to implement this act.

Section 5. Sections 1, 3, 4, and 5 are effective when this act becomes law. Section 2 becomes effective January 1, 2001.

1A

To: Members, NC General Assembly
From: David Knight, NC Sierra Club, NC Wildlife Federation
Nat Mund, Conservation Council of NC
Date: June 27, 2000
Re.: SB 1337/HB 1632 Flood Hazard Prevention

MONDAY, JUNE 26,2000 • • •

The Charlotte Observer

FOR THE RECORD

Strengthen flood-hazard laws

By ERIC TOLBERT
Special to The Observer

Floods cause enormous human suffering. The initial shock associated with loss of homes, jobs and human lives is only the beginning. It takes months, or even years for flood victims to fully recover. Apart from the emotional toll of those losses, flood damage places a tremendous financial burden on flood victims and on every level of government involved in the flood recovery effort.

Flooding causes a number of immediate environmental and public health concerns. Growth of mold in flooded buildings can lead to respiratory problems; drinking water wells may become contaminated by floodwaters carrying bacteria and harmful chemicals.

The long-term effects on groundwater and on aquatic life are still unknown.

In the meantime, the state's economy has been expanding and its population growing. The additional development that comes with growth has changed the landscape in many parts of the state. The grading, paving and filling that accompanies new construction also alter drainage patterns and increase runoff.

In many communities, floodplain maps are too old to reflect those changes and, as a result, the maps underestimate the actual extent of the flood hazard. The result can be new construction in flood hazard areas that is not built to withstand flood damage; in short, more structures in harm's way.

The North Carolina General Assembly is considering a bill to help alleviate these risks. If passed, the law would encourage local governments to require that all structures in the 100-year floodplain be elevated above the 100-year flood elevation and prohibit junkyards, landfills, hazardous waste management facilities and chemical storage facilities in the 100-year floodplain.

Requiring new buildings to be built above the base flood elevation (100-year flood height), which is the current minimum national standard, will provide a margin of safety until flood maps can be updated. Keeping hazardous substances out of the floodplain greatly reduces the environmental and public health risks carried with rising floodwaters.

There is another important benefit to strengthening our local flood hazard ordinances: lower flood insurance rates for our residents.

Most North Carolina communities are eligible to participate in the federal flood insurance program, but only about 35 percent of structures in the 100-year floodplain have flood insurance.

By increasing our elevation requirements for structures in the 100-year floodplain, we can lower flood insurance premiums by up to 65 percent and make flood insurance more affordable for North Carolinians.

Ultimately, passage of stronger flood hazard ordinances will remain a local decision, and I am confident that local governments will act responsibly by adopting and enforcing the higher standards.

Communities that choose to strengthen their ordinances will benefit from the incentives in the legislation: continued state payment of the non-federal share for local government disaster relief (the "match" money required to received federal disaster funds) and priority for state grant money for water and sewer projects.

Sound public policy requires us to avoid subsidizing unsafe and inappropriate development in high-risk areas.

Experience has taught us how to minimize flood damage and better protect our residents. I am convinced that the expert forecasts of increased hurricane and flooding activity over the next two decades are well founded, and we must act now to reduce the impact of future disasters.

The floodplain management bill under consideration by the General Assembly proposes some important steps that will reduce the damage and heartbreak from storms to come.

Eric Tolbert is director of the N.C. Division of Emergency Management

THE NEWS & OBSERVER
SUNDAY, JUNE 25, 2000

Why won't we act against the next flood?

BY DAVID R. GODSCHALK
CHAPEL HILL

What does it take to convince our elected leaders in North Carolina of their responsibility to protect the public safety? To show them that the old ways of coping with flood hazards no longer work?

A reasonable person might think that suffering over $6 billion in damage and over 50 deaths from Hurricane Floyd last year would make an impression. Or that having to raid the state budget for $800 million to pay for recovery from the Floyd disaster would indicate that something needed to be done to protect us from inevitable future floods.

It's hard to believe that the General Assembly might adjourn without taking any action to reduce the dangers of future floods. Yet the present short session is winding down and no mitigation legislation has been enacted. Will the pattern of inaction following Hurricane Fran be repeated after Hurricane Floyd?

The issue is simple. All of North Carolina is prone to damage and injury from floods and hurricanes. There have been many in the past, including Floyd in 1999 and Fran and Bertha in 1996, and there will be many more in the future.

Disaster experts have warned the state over and over about our vulnerability to natural hazards. Our Natural Hazards Working Group at UNC-Chapel Hill has recommended Smart Growth policies to mitigate flood hazards. We know that "higher and drier" development is not only safer, but also less expensive for taxpayers in the long run.

Our state's development patterns, geography and exposure to the Atlantic Ocean, along with an increasing number of extreme weather events, make our disasters particularly expensive. North Carolina ranks with Florida, Texas and Alabama as the states with the highest number of billion-dollar weather disasters during the past two decades.

POINT OF VIEW

We can turn our backs on these facts, sticking our heads in the sand and pretending that we don't have to worry about tomorrow. Or we can face the reality with political courage and common sense, and take action to protect ourselves.

The Flood Hazard Prevention Act of 2000 now before the General Assembly is a step in the right direction. Within floodplains, this bill encourages local governments to prohibit unsafe land uses, such as junkyards and chemical storage facilities, and to elevate new buildings above the expected water level during the next major flood (the so-called 100-year flood).

This is not a far-reaching bill, but it does put the state on record as supporting mitigation. It does not say that all new development should be kept out of the floodplains, or that all development currently in the floodplain should be relocated to higher ground, or that all owners of houses in the floodplain must get flood insurance.

The bill simply calls on local governments to act responsibly by not allowing dangerous substances to be placed in areas subject to flooding and by elevating new development well above the expected flood level. Any local government that does not accept this basic responsibility should not expect to be bailed out by the state's taxpayers after the next flood.

While the state organization representing cities is objecting to the Flood Hazard Prevention Act of 2000, some individual cities are doing the right thing on their own. Two examples of local governments that have shouldered their responsibility for floodplain management are Kinston and Charlotte.

Kinston's Smart Growth Plan relocates 700 families from damaged houses from its floodplain to designated growth and development areas on safe high ground within the city. In line with Smart Growth principles, the plan projects a compact land use pattern that uses existing infrastructure capacity. Kinston also adopted a 2-foot elevation above the base-flood level for new construction and substantial improvements to existing structures in the floodplain.

Charlotte and Mecklenburg County are proactively re-mapping their floodplains and calculating the anticipated losses based on the new information. Within their pilot study watershed, they found that their old 1975 floodplain maps underestimated the amount of potential damage to current structures by over 50 percent, and underestimated the amount of damage at buildout by almost 200 percent.

But action by individual cities is not enough. Floodplains are connected systems, and every city's actions impact its sister cities. State agency actions also affect floodplains. We need to enact the Flood Hazard Prevention Act of 2000 now and to follow-up with further actions to:

- Reduce future damage and injury from flooding.
- Maintain the natural functions of floodplains to absorb flood waters.
- Decrease the need to spend public and private funds for disaster recovery.
- Map hazard areas to inform decision-makers and prospective property buyers about current risks.

At every disaster conference I attend, people ask what the state is doing to protect people from future floods. We should not expect to go back to the federal government year after year for disaster recovery aid, while doing nothing to change our state's unsafe land-use practices.

It's time for North Carolina to make a commitment to smart floodplain management. To do less is to collaborate with future disasters.

David R. Godschalk is Stephen Baxter professor of planning at UNC-Chapel Hill.

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The North Carolina General Assembly is considering a bill to help alleviate these risks. If passed, the law would encourage local governments to require that all structures in the 100-year floodplain be elevated above the 100-year flood elevation and prohibit junkyards, landfills, hazardous waste management facilities and chemical storage facilities in the 100-year floodplain.

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Experience has taught us how to minimize flood damage and better protect our residents. I am convinced that the expert forecasts of increased hurricane and flooding activity over the next two decades are well founded, and we must act now to reduce the impact of future disasters.

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Eric Tolbert is director of the N.C. Division of Emergency Management

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Strengthen flood-hazard laws

FOR THE RECORD

By ERIC TOLBERT
Special To The Observer

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Flooding causes a number of immediate environmental and public health concerns. Growth of mold in flooded buildings can lead to respiratory problems; drinking water wells may become contaminated by floodwaters carrying bacteria and harmful chemicals.

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In the meantime, the state's economy has been expanding and its population growing. The additional development that comes with growth has changed the landscape in many parts of the state. The grading, paving and filling that accompanies new construction also alter drainage patterns and increase runoff.

In many communities, floodplain maps are too old to reflect those changes and, as a result, the maps underestimate the actual extent of the flood hazard. The result can be new construction in flood hazard areas that is not built to withstand flood damage; in short, more structures in harm's way.

Published: Saturday, June 24, 2000

Editorial: . . . guarding flood plains

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Common sense was hammered by development and local government interests as they attacked a measure in the General Assembly that would encourage cities and counties to pass flood-resistant construction standards. The bill says that local communities would lose some state disaster relief money -- for water and sewer improvements -- if they refused to ban new landfills, junkyards, hazardous chemical warehouses and other major polluters in flood plain. They also would be required to pass regulations elevating by two feet new buildings constructed in 100-year flood plains.

Local government officials mainly have sounded miffed that Governor Hunt didn't consult them before proposing the bill. Paul Wilms, lobbyist for the N.C. Home Builders Association, questioned whether two feet is precisely the right elevation the state ought to be specifying. Perhaps that's a reasonable question, but the builders seem to be motivated at least in part by an instinctive resistance to regulation, not lessons taught the hard way by Hurricane Floyd.

The bill prudently looks after state tax dollars, which rightly are spent to aid people after big storms sweep by. The governor has accepted a constructive compromise that would let local officials adopt standards of less than two feet, if they show that those standards afford the same protections. This legislation represents progress for North Carolina.

Editorial: Killing fields of home
Editorial: Greasing federal rails. . .
Editorial: . . . guarding flood plains
Editorial: Good morning
Barry Saunders: This time, the condemned man didn't play his part
Letter: Questionable evidence...
Letter: ...It's anti-GOP politics
Letter: ...We gained nothing
Letter: Sheriff acted correctly in defusing potential threat at Broughton High School
Letter: Aiming at Christianity
Letter: Faith restored
Letter: Private prayer
Letter: There's waste, and need...
Letter: ...Remember the students
Letter: ...A job for city police
Letter: ...N.C.'s weak sea hunt
Letter: McGrory runs scared
Letter: Unequal facilities

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FLOOD HAZARD PREVENTION ACT OF 2000

Bill Provisions

Elevated Structures

The first floor of all buildings constructed in the 100-year floodplain must be at least 1 foot above the 100-year flood elevation. Once floodplain maps for the community have been updated, structures must be at least one foot above the 100-year elevation. This applies to new construction only.

Hazardous Substances

Junkyards, landfills, chemical storage facilities and other sources of hazardous materials may not be located in the 100-year floodplain. This applies to new facilities only.

Incentives

Local governments will choose whether or not to enact and enforce ordinances with these minimum standards. Those that do will qualify for priority consideration for state grants for water and wastewater system improvements. Governments have until July 1, 2001 to put these requirements into place.

The Need

Cost of Recovery

The long-term cost of recovery from floods is astronomical. North Carolina cannot continue to subsidize unsafe development at taxpayer expense. The added cost of elevating a structure during construction is minor compared to the cost of demolition, reconstruction and elevating existing buildings. The cost of cleanup and buyout of landfills and other hazardous material sources is much greater than locating these facilities outside of the floodplain.

Environmental and Public Health Threat

Hazardous substances from flooded landfills, junkyards and chemical storage facilities contaminate surface waters and flooded drinking water wells. Mold that grows in the carpet, sheetrock, insulation and furniture of flooded homes and businesses causes respiratory disease in the occupants. Demolition debris takes up space in landfills.

Floodplain Maps

The majority of communities' floodplain maps are severely outdated because of the rapid population growth in the state. Grading and filling that takes place during development changes the flow of water and the areas that will flood most quickly. Paving for roads and parking lots prevents water from being absorbed into the ground, increasing the height of floodwaters.

Federal Flood Insurance

While most communities in the state are eligible for federal flood insurance, only about 35 percent of structures in the 100-year floodplain have coverage. Increasing our elevation requirements will lower insurance rates by about 65 percent, making flood insurance more affordable.

ATTACHMENT 2

National Flood Insurance Program Branch
North Carolina Division of Emergency Management
Floodplain Management Definitions

GENERAL DEFINITIONS

Base flood. The flood having a 1-percent probability of being equaled or exceeded in any given year; also referred to as the 100-year flood.

Base flood elevation. The height of the base (100-year) flood in relation to a specified datum, usually the National geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for paring of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not build so as to render the structure in violation on the applicable non-elevation design requirements of 44CFR60.3. *(Note that in V Zones, the bottom of the lowest structural member of the lowest floor is the reference level for elevation requirements.)*

Regulatory floodway. The area defined as the channel of a stream and the adjacent land areas reserved to discharge the 100-year flood without cumulatively increasing the elevation of the 100-year flood more than a designated height.

Special Flood Hazard Area (SFHA) Land area subject to inundation by a flood having a 1-percent or greater probability of being equaled or exceeded during any given year (base, or 100-year, flood). *This is the minimum area regulated area for floodplain management.*

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term also includes structures which have incurred "substantial damage", regardless of the actual repair work performed. Substantially improved/damaged structures are considered "new construction" and are required to meet floodplain management regulations.

FLOOD INSURANCE STUDIES AND FLOOD MAPS

Flood Insurance Study (FIS). The engineering study performed by FEMA to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The FIS describes the historic floods, the area and the streams studied, the engineering methods employed, and the use of the study for both floodplain and insurance purposes. The FIS includes flood data tables, flood profiles, and maps of the area studied.

Flood maps. Since the initiation of the NFIP, various maps have been issued for insurance and floodplain management purposes. **Detailed studies** are carried out for developed communities and for those areas experiencing rapid growth. **Approximate studies** are utilized where there is little or no development, or expectation of development, in identified floodprone areas. In some cases FEMA simply converts an earlier Flood Hazard Boundary Map (FHBM) to a Flood Insurance Rate Map (FIRM) by issuing a letter to the community stating that the FHBM shall be considered a FIRM. The Zone A without a flood elevation is also called an "unnumbered A Zone" or an "approximate A Zone".

Flood Hazard Boundary Map (FHBM). Initial insurance map issued by FEMA that identifies approximate areas of 100-year flood hazard in a community. The SFHA is designated as a shaded area on the maps and labeled "Zone A". No flood elevations are given.

Flood Insurance Rate Map (FIRM). Insurance and floodplain management map issued by FEMA that identifies areas of 100-year flood hazard in a community. In some areas, the map also shows base flood elevations and 500-year floodplain boundaries and, occasionally, regulatory floodway boundaries. These maps are also referred to as FIRMs. A FIRM is usually issued following a flood risk assessment conducted in connection with the community's conversion to the Regular Phase of the NFIP. If a detailed assessment, termed a Flood Insurance Study, has been performed, the FIRM will show base flood elevations and insurance risk zones in a addition to floodplain boundaries.

FLOOD HAZARD ZONES

Several areas of flood hazard are commonly identified on the FIRM, including the SFHA. SFHAs are labeled as Zone A, Zone AE, Zone V, Zone VE. These are the minimum regulated areas. Moderate flood hazard areas, labeled Zone B or Zone X (shaded), are the areas with a 0.2 percent annual chance of being flooded (500-year). The areas of minimal flood hazard are labeled Zone C or Zone X (unshaded). The B, C, and X zones are not required to be regulated.

- **Zone A.** Areas subject to inundation by the 100-year event. Because detailed hydraulic analyses have not been performed, no base flood elevations or depths are shown.

- **Zone AE.** Areas subject to inundation by the 100-year flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is used on new and revised maps in place of Zones A1-A30.)

- **Zone V:** Areas along coasts subject to inundation by the 100-year flood event with additional hazards associated with storm-induced waves. Because detailed hydraulic analyses have not been performed, no base flood elevations or depths are shown.

- **Zone VE:** Areas along coasts subject to inundation by the 100-year flood event with additional hazards associated with storm-induced waves. Base flood elevations derived from detailed hydraulic analyses are shown within these zones. (Zone VE is used on new and revised maps in place of Zones V1-V30.)

- **Zones B, C, and X.** Areas identified in the community FIS as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Local stormwater drainage systems are not normally considered in the community's FIS. (Zone X is used on new and revised maps in place of Zones B and C.)

VISITOR REGISTRATION SHEET

House Nat. & Econ. Resources — 6-27-00

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Frank Gray	N.C. Mar Housing
Stephanie Mann	NC AIR
Sa. [illegible]	WCSP
Brian Francis	Mecklenburg Cnty.
LAO [illegible]	CYPC
[illegible]	NCCADV
Sona Shandilya	NCCADV
Lisa Martin	Upper Neuse River Basin Assn.
Jerry Schill	NC Fisheries Assoc.
Kim Hibbard	NCLM
Kelli KUKURA	DuPont

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Thompson	MCIC
Lucius Pullen	Attorney N.C. Mining Assoc.
Andy Romanet	N.C.L.M
Sherri Evans-Plant	DENR
Dean Mills	Governor's Off
Robin Smith	DENR
R. Rogers	DENR
Charles Gardner	DENR
L'Tryce Slade	DENR
Preston Howard	MCIC
Phil McKinney	DENR/DPR

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alex Kennaugh	NCCONNECT/FSU
Emily Meeker	Conservation Council of NC
John Donnan	OSBPM
GAVIN Smith	NC Emergency Mgmt.
Philip Letsinger	NC Emergency Management
Eric Tolbert	" "
Greg McLeod	CCPS

HOUSE COMMITTEE ON ENVIRONMENT& NATURAL RESOURCES

Wednesday, June 28, 2000

Committee Minutes

The House Committee on Environment and Natural Resources met Wednesday, June 28, 2000, in Room 643 of the Legislative Office Building at 1:00 PM.

CoChairs Nurham Warwick & Pryor Gibson presided at the meeting. Present: Donald Bonner, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Joe Hackney, Dewey Hill, Paul Luebke, Marian McLawhorn, Edwin McMahan, Frank Mitchell, Jean Preston, Liston Ramsey (excused), Gregg Thompson, Ronnie Smith, Russell Tucker, Alex Warner, and Doug Yongue.

Chair Warwick called the meeting to order 12:15 p.m. Chair Warwick asks Representative Gibson to explain **SB 1311 MOUNTAINS TO SEA STATE PARK TRAIL.**

He stated that this is a piece of legislation that authorizes the addition of the Mountains to Sea State Park Trail to the State Parks System. He added that the bill also allows the Department of Administration to acquire and allocate to the Department of Environment and Natural Resources for management by the Division of Parks and Recreation conservation lands that are not included in the State Parks System and that may be traded or transferred to protect, develop, and manage the Mountains to Sea State Park Trail, other State Parks, or other conservation lands. Representative Gibson pointed out that this bill does not require any thing or mandate any thing but suggest that a trail is a good idea and the State needs to work toward that goal. Staff Attorney, Rick Zechini, explained further that the bill allows the Department of Administration to acquire and allocate to DENR for management by the Division of Parks and Recreation conservation lands that are not included in the State Parks System and that may be traded or transferred to protect, develop, and manage the Mountains to Sea State Park Trail, other state Parks, or other conservation lands. Phil McNulley, Director of the N.C. Division of Parks and Recreation, told the committee that this bill has been a goal of the NC Department of Environment and Natural for over 20 years. He added that have not had any trouble getting it in place in western North Carolina but have had a great deal of trouble acquiring the land in the eastern part of the State. Recently, due to the floods, several municipalities have come to the Department for help in developing greenways on some of those flooded out areas. He said that they would eventually need to connect these greenways. If developed from the Triangle to the coast, it probably lessens the damage in the event of another flood. Representative Creech asks where the money would come from to acquire the land needed. Dr McNulley stated that the fund would probably not be needed for acquiring land for several years and possibly come from 3 funds: Park and Recreation Trust Fund, Heritage Trust Fund or the Clean Water Trust Fund. Representative Daughtry asks how would they acquire the land if a person did not want to sell. Dr. McNulley said that the Department does authority to do so but that would be the last resort. They have only done that a few times and they have worked with some owners for as much as 10 years the last

Representative Culp moved for a favorable report for SB 1311. The motion was carried and the Chair asks that the bill be reported out today. A copy of the favorable Senate Bill is included with the minutes.

Representative Luebke moved that the **PROPOSED COMMITTEE SUBSTITUTE FOR HB 1614 ADD. NOTICE MINING PERMIT APPLICATION** be adopted for consideration. The motion passed. The Chair then called on Representative Hackney to explain his Committee Substitute for this bill. Representative Hackney said that this bill will provide for additional notice of an application for a permit under The Mining Act of 1971 and was recommended by the Environmental Review Commission. He stated further that all person affected by this bill have reviewed this legislation and do not object. In light of the absence of questions, Representative Creech move that the Proposed Substitute for HB 1614 be given a favorable report and the original bill HB 1614 be given an unfavorable report. The motion passed giving the Proposed Committee Substitute for HB 1614 a favorable report...unfavorable to original bill. A copy of the favorable Committee Substitute is included with the minutes. A summary was not prepared and therefore not available for this bill.

Representative Gibson presented a draft for discussion of a **PROPOSED HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1632.** This act will prevent inappropriate development in the one hundred-year floodplain and reduce flood hazards. The Environmental Review Commission recommended this bill. It sets minimum standards for development in the 100-year floodplain and encourages local governments to adopt ordinances that meet or exceed the minimum standards by making such an ordinance a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The act also authorizes the Department of Crime Control and Public Safety to prepare maps that identify the 100-year floodplain for areas where floodplain maps are inadequate or out-of-date. Representative McLawhorn asks for definitions for some of the terms in the text of the bill. The Department of Environment and Natural Resources did not have that at this time. Representative Luebke questioned why the provision was added to the proposed committee substitute that no longer requires that a local government adopt a flood hazard ordinance consistent with the act and would not make them ineligible for State disaster relief for damage from flooding. He felt as though it removed the incentive for having an ordinance on building in the flood plain. Gibson responded by saying that not all-small poor towns can immediately afford doing the thing to bring them into compliance. That the powers at be would need to work with them and slowing bring them into compliance. The bill was not voted on and carried over to the meeting on June 29.

The meeting was adjourned.

Nurham L Warwick

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt

Carolyn Honeycutt, Committee Assistant

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
H.B. 1614 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☐ ~~which changes the title,~~ unfavorable as to (original bill) (Committee Substitute Bill #), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Wednesday, June 28, 2000

1:00 P.M.

WELCOME ..... **CO-CHAIRS**
Rep. Pryor Gibson &
Rep. Nurham Warwick

BILL TO BE PRESENTED:

S 1311 MOUNTAINS TO SEA STATE PARK TRAIL..... Representative Lee

H 1632 FLOOD HAZARD PREVENTION ACT OF 2000..... Representative Gibson

H 1614 ADD. NOTICE/MINING PERMIT APPLICATION .....Representative Hackney

ADJOURN

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S favorable report 2

SENATE BILL 1311

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/20/00

Short Title: Mountains to Sea State Park Trail. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF THE MOUNTAINS TO SEA STATE PARK TRAIL TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that these resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, a Mountains to Sea Trail across North Carolina would offer outstanding recreational opportunities to the State's citizens; would protect riparian buffers and corridors of wildlife habitat along its route; and would possess biological, scenic, and recreational resources of statewide significance; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The General Assembly authorizes the Department of Environment and Natural Resources to add the Mountains to Sea State Park Trail to the State Parks System as provided in G.S. 113-44.14(b). The Mountains to Sea State Park Trail shall be comprised only of those lands or easements which are or will be

allocated for management to the Division of Parks and Recreation for this purpose. The Division shall promote, encourage, and facilitate the establishment of dedicated connecting trails through lands managed by other governmental agencies and nonprofit organizations in order to form a continuous trail across the State.

Section 2. Article 2 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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

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

Section 3. This act is effective when it becomes law.

SENATE BILL 1311:
Mountains to Sea State Park Trail

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Howard Lee
		Summary by:	Rick Zechini Committee Counsel
Date:	June 27, 2000		
Version:	Second Edition		

SUMMARY: ***The Second Edition of Senate Bill 1311 authorizes the addition of the Mountains to Sea State Park Trail to the State Parks System. The bill also allows the Department of Administration to acquire and allocate to the Department of Environment and Natural Resources for management by the Division of Parks and Recreation conservation lands that are not included in the State Parks System and that may be traded or transferred to protect, develop, and manage the Mountains to Sea State Park Trail, other State Parks, or other conservation lands.***

BACKGROUND: The idea of a trail running the width of the State has been contemplated for over two decades. The concept envisioned would allow hikers to hike from the Great Smoky Mountains National Park to the Cape Hatteras National Seashore. Substantial portions of the trail have been completed in the western part of the State where public lands are available. However, little progress has been made in the Piedmont and coastal regions because of the relative lack of public land and the reluctance of private landowners to host portions of the trail. It appears that completion of the trail will require State acquisition of land to connect existing public lands and to form a continuous corridor across the State.

The Division of Parks and Recreation envisions that segments of the trail will cross over lands of other State agencies, federal agencies, and counties and municipalities. Thus the entire trail would not need to be managed by the Division of Parks and Recreation.

Because tracts of land suitable for the trail may become available for sale or donation before decisions on the long term management of individual segments can be made, there may be a need for the State to accept tracts and later transfer them to an entity more suitable for the long term management of the property. Because there is some concern that the land allocated to and managed by the Division of Parks and Recreation becomes part of the State Park System, and therefor can only be removed from the Park System by an act of the General Assembly, the Department of Environment and Natural Resources (DENR) has requested a provision that would allow lands to be allocated to the Division of Parks and Recreation for short term management without these lands becoming part of the Park System.

BILL ANALYSIS: Section 1 of the Second Edition of Senate Bill 1311 authorizes the addition of the Mountains to Sea State Park Trail to the State Parks System. Section 2 of the bill allows the Department of Administration to acquire and allocate to DENR for management by the Division of Parks and Recreation conservation lands that are not included in the State Parks System and that may be traded or transferred to protect, develop, and manage the Mountains to Sea State Park Trail, other State Parks, or other conservation lands. The bill explicitly provides that the new G.S. 113-34.1 does not expand DENR's power to acquire land by condemnation.

EFFECTIVE DATE: Senate Bill 1272 is effective when it becomes law.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 1311 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF THE MOUNTAINS TO SEA STATE PARK TRAIL TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

HOUSE BILL 1632 (PCS): Flood Hazard Prevention Act of 2000

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
Date:	June 28, 2000	**Summary by:**	Hannah Holm, Research Assistant for Environmental Issues
Version:	PCS for First Edition		

SUMMARY: ***The Proposed Committee Substitute for the First Edition of House Bill 1632 sets minimum standards for development in the 100-year floodplain and encourages local governments to adopt ordinances that meet or exceed the minimum standards by making such an ordinance a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The act also authorizes the Department of Crime Control and Public Safety to prepare maps that identify the 100-year floodplain for areas where floodplain maps are inadequate or out-of-date.***

CURRENT LAW: Current law authorizes local governments to designate floodways and to adopt ordinances that regulate development in floodways and floodplains, but sets no minimum statewide standard for such ordinances. Current law also bans the location of certain uses in the 100-year floodplain, including large swine farms.

BILL ANALYSIS: The Proposed Committee Substitute for the First Edition of House Bill 1632 (PCS) amends the existing floodway statute to prohibit certain uses in the 100-year floodplain, set minimum standards for local government ordinances that regulate development in the floodplain, and authorize the Department of Crime Control and Public Safety (Department) to map the 100-year floodplain in areas where the maps are inadequate or out-of-date. The PCS also makes adoption of an ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants may receive grants and loans from the Clean Water Revolving Loan and Grant Fund.

Minimum Standards. The PCS sets minimum elevation requirements and designates uses that are allowed and uses that are prohibited within the 100-year floodplain, as shown on the most current maps prepared pursuant to the National Flood Insurance Program or approved by the Deparment (official maps).

Elevation. The PCS requires that the lowest floor of any new or substantially improved structure located in the 100-year floodplain be at least one foot above the 100-year flood elevation unless the local government has conducted a study of the 100-year floodplain within the previous five years that considered anticipated development and revised its floodplain development ordinance to reflect the results of the study. In areas where no base flood elevation is identified on an official map, the minimum elevation requirements for participation in the National Flood Insurance Program apply. The term structure, to which this minimum elevation requirement applies, does not include any of the following:

- An electric distribution or transmission facility.
- A gas pipeline, transmission, or distribution facility, including a compressor station or related facility.
- A water treatment or distribution facility, including a pump station.
- A wastewater collection or treatment facility, including a lift station.
- Processing equipment used in connection with a mining operation.

Uses allowed The PCS provides that the following uses are allowed in areas subject to floodplain development regulations without a permit under this act:

- General farming, pasture, outdoor plant nursery, horticulture, forestry, mining, wildife sanctuary, game farm, and other similar agriculture, wildlife, and related uses.
- Ground level loading areas, parking areas, rotary aircraft ports, and other similar ground level area uses.
- Recreational uses such as lawns, play areas, golf courses, tennis courts, picnic grounds, and parks.

Prohibited uses The PCS prohibits the following uses in the 100-year floodplain, as shown on the most current official maps, unless the local government finds that the use meets all of the criteria listed under "exceptions" following the list of prohibited uses:

- Solid waste disposal facilities.
- Hazardous waste management facilities.
- Salvage Yards.
- Chemical storage facilities (does not include storage tanks that serve permitted uses, provided the tanks are located one foot above the the 100-year flood elevation or designed to be flood-resistant).

Exceptions A local government may permit a use listed above under "prohibited uses" in the 100-year floodplain, as shown on the most current official maps, if the local government finds all of the following:

- The use serves a critical need in the community.
- No feasible location exists for the uses outside the 100-year floodplain.
- The lowest floor of any structure is elevated one foot above the the 100-year flood elevation or is designed to be flood-resistant.
- The use complies with all other applicable laws and regulations.

Delineation of floodplains If the Department determines that the 100-year floodplain should be mapped and the uses regulated as provided in this act, and the 100-year floodplain is not identified on an official map prepared within the previous five years, the Department may map the 100-year floodplain. Any such mapping must be done in accordance with standards established by the Federal Emergency Management Agency (FEMA). Prior to conducting the mapping, the Department must notify all affected local governments, and upon completion of the maps, the maps must be provided to the local governments and submitted for FEMA approval.

Local Government Powers. The PCS authorizes local governments to delineate "flood hazard areas" and adopt ordinances to regulate development in these areas.

Contents of flood development ordinances A local flood hazard ordinance must conform to the minimum elevation requirements and use prohibitions described above under "minimum standards."

Delineation of flood hazard areas A local government may request assistance from federal and state agencies for the purpose of delineating a flood hazard area. A flood hazard area must include, but may exceed, the 100-year floodplain, as shown on the most current official maps. The Department must provide advice and assistance to any local government that seeks to regulate floodplain development. A local government may delineate a flood hazard area by showing it on a map, by a written description, or by reference to a map prepared pursuant to the National Flood Insurance Program.

Procedures in issuing permits In determining whether to issue a permit for a use under a flood hazard ordinance pursuant to this act, a local government may consider the potential impact on anticipated development, as well as current development. A variance to the elevation requirements of an ordinance

adopted pursuant to this act may be granted only if the variance is consistent with the requirements for participation in the National Flood Insurance Program.

Exercise of powers A municipality may exercise the powers granted by this act within its corporate limits and within its extra-territorial jurisdiction (ETJ). A county may exercise these powers in any area of the county outside the zoning jurisdiction of a municipality and anywhere within the zoning jurisdiction of a municipality in agreement with the municipality.

Priority for Water and Sewer Grants and Loans. The PCS makes the existence of a flood hazard ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The PCS also provides that the demonstration that no portion of the applicant's jurisdiction lies within the 100-year floodplain is an equivalent criterion for prioritizing which applicants will receive loans and grants under the program.

Effective Dates. The PCS makes the provision regarding priority for grants and loans from the Clean Water Revolving Loan and Grant Fund effective January 1, 2001. The PCS makes all other provisions effective when the act becomes law.

BACKGROUND: House Bill 1632, as introduced, was recommended by the Environmental Review Commission. The bill has since been the subject of a stakeholder working group that included representatives of State agencies, local governments, agricultural interests, developers, the mining industry, and environmental advocates.

The major changes made by the PCS are as follows:

- The PCS drops the minimum elevation requirement for structures in the 100-year floodplain from two feet to one foot, and adds the provision that allows a local government to set a different elevation requirement if it has recently re-studied the 100-year floodplain and amended its flood hazard ordinance accordingly.
- The PCS removes a provision that would make a local government that fails to adopt a flood hazard ordinance consistent with this act ineligible for State disaster relief for damage from flooding.
- The PCS replaces a provision that would authorize the Department to designate a flood hazard area in the absence of local government action with a provision that authorizes the Department to map the 100-year floodplain in areas where the 100-year floodplain is not mapped or the maps are out-of-date.
- The PCS clarifies that a number of uses are not considered "structures" or "artificial obstructions" and are therefor not subject to the minimum standards for development in the 100-year floodplain set out in this act.
- The PCS adds mining to the list of uses that may be located in the 100-year floodplain without a permit issued under the act.
- The PCS adds the exceptions that allow uses otherwise prohibited in the 100-year floodplain, provided the local government finds that the use is vital to the community, no feasible alternative location exists, and any structures are elevated one foot above the 100-year flood elevation.
- The PCS clarifies that the storage of chemicals and fuel incidental to uses allowed in the 100-year floodplain is not prohibited.

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FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1632*
PROPOSED HOUSE COMMITTEE SUBSTITUTE H1632-CSSJ/RT-006
13:08:13 EZT / 28-JUN-00

ATTENTION: Line numbers may change after adoption.

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Short Title: Flood Hazard Prevention Act of 2000. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PREVENT INAPPROPRIATE DEVELOPMENT IN THE ONE HUNDRED-YEAR FLOODPLAIN AND TO REDUCE FLOOD HAZARDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the hurricanes and associated flooding experienced in Eastern North Carolina in 1999 caused over six billion dollars in damage; and

Whereas, some of the structural damage resulting from the floods could have been prevented by requiring development in the floodplain to be elevated above the 100-year floodplain; and

Whereas, harm to the environment could have been minimized by prohibiting certain inappropriate uses in the floodplain; and

Whereas, loss of life and property could have been reduced by preventing certain types of development in the floodplain; and

Whereas, future loss of life and property can be reduced by more effective enforcement of floodplain management regulations; Now, therefore,

The General Assembly of North Carolina enacts:

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Section 1. Part 6 of Article 21 of Chapter 143 of the General Statutes reads as rewritten:

"Part 6. ~~Floodway~~ Floodplain Regulation.

"§ 143-215.51. ~~Preamble.~~ Purposes; declaration of policy.

(a) The ~~purpose~~ purposes of this Part ~~is to specify means for regulation of artificial obstructions in floodways.~~ are to:

(1) Minimize the extent of floods by preventing obstructions that inhibit water flow and increase flood height and damage.

(2) Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.

(3) Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

(b) It is hereby declared that the channel and ~~a portion of~~ the adjoining 100-year floodplain of all the State's streams will be designated as a ~~floodway, in which artificial obstructions may not be placed~~ flood hazard area. Structures and other artificial obstructions may not be placed in a designated flood hazard area, except in accordance with the provisions of this Part. ~~The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas.~~

"§ 143-215.52. Definitions.

(a) As used in this ~~Part, unless the context otherwise requires:~~ Part:

(1) 'Artificial obstruction' means any obstruction ~~which~~ to the flow of water in a stream that is not a natural obstruction, including any ~~which,~~ that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

(1a) 'Base flood' or '100-year flood' means a flood that has a one percent (1%) chance of being equalled or exceeded in any given year. The term 'Base flood' is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

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(1b) 'Base floodplain' or '100-year floodplain' means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department.

(1c) 'Department' means the Department of Crime Control and Public Safety.

(1d) 'Flood hazard area' means the area designated by a local government, pursuant to this Part, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

(2) 'Floodway' means that portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.

(3) 'Local government' means any county or municipal corporation.

(3a) 'Lowest floor', when used in reference to a structure, means the lowest enclosed area, including a basement, of the structure. An unfinished or flood resistant enclosed area, other than a basement, that is usable solely for parking vehicles, building access, or storage is not a lowest floor.

(4) 'Natural obstruction' includes any rock, tree, gravel, or ~~analogous~~ other natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

(5) 'Stream' means a watercourse that collects surface runoff from an area of one square mile or greater. ~~This does not include flooding due to tidal or storm surge on estuarine or ocean waters.~~

(6) 'Structure' means a walled or roofed building, including a mobile home and a gas or liquid storage tank.

(7) 'Substantial improvement' means any repair, reconstruction, or other improvement of a structure or facility that has been damaged in excess of, or the cost of which equals or exceeds, fifty percent (50%) of the market value of the structure or replacement cost of the facility.

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(b) As used in this Part, the terms 'artificial obstruction' and 'structure' do not include any of the following:

(1) An electric distribution or transmission facility.

(2) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.

(3) A water treatment or distribution facility, including a pump station.

(4) A wastewater collection or treatment facility, including a lift station.

(5) Processing equipment used in connection with a mining operation.

"§ 143-215.53. ~~Artificial obstruction prohibited.~~ Floodplain development regulated.

(a) ~~The placement of any~~ Except as provided in G.S. 143-215.54 and G.S. 143-215.57, no person shall place an artificial obstruction in the floodway of any stream or construct any structure in a flood hazard area. ~~after the floodway has been delineated pursuant to G.S. 143-215.56 is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

(b) Except as provided in G.S. 143-215.54 and G.S. 143-215.57, the lowest floor of any new structure and of any existing structure to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development and the local government has revised its floodplain development ordinance accordingly. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department are subject the minimum elevation requirements for participation in the National Flood Insurance Program.

"§ 143-215.54. ~~Floodway~~ Flood hazard area uses.

(a) ~~Local governments are empowered to~~ A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of ~~the floodways~~ flood hazard areas that are consistent with the ~~purposes~~ requirements of this ~~Part and for~~

~~purposes which the State does not regulate either by a permit or a formal approval system.~~ Part.

(b) The following uses may be made of ~~floodways as a matter of right~~ flood hazard areas without a permit issued under this ~~Part.~~ Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;

(3) Lawns, gardens, play areas and other similar uses;

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(c) Solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities may not be located in the 100-year floodplain.

(d) A manufactured home, as defined in G.S. 143-143.9, may be placed in a 100-year floodplain and a manufactured home that is located in a 100-year floodplain may be substantially improved if the lowest floor of the manufactured home is one foot above the base flood elevation and the manufactured home is securely anchored to resist floatation, collapse, or lateral movement.

(e) A structure or tank for chemical or fuel storage incidental to a use that is allowed under this section or to the operation of a water treatment plant or wastewater treatment facility may be located in a 100-year floodplain if the structure or tank is either elevated one foot above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(f) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan is not prohibited.

(g) Uses otherwise prohibited under this subsection may be permitted in the 100-year floodplain upon the local government finding that all of the following apply:

(1) The use serves a critical need in the community.

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(2) No feasible location exists for the location of the use outside the 100-year floodplain.

(3) The lowest floor of any structure is elevated one foot above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) The use complies with all other applicable laws and regulations.

"§ 143-215.55. ~~Existing artificial obstructions.~~ Acquisition of existing structures.

~~Artificial obstructions existing in a floodway on July 1, 1971, shall not be considered to be in violation of this Part. However, they may not be enlarged or replaced in part or in whole, without a permit, as provided by this Part in the case of a proposed artificial obstruction. Local governments are empowered to~~ A local government may acquire, by purchase, exchange, or condemnation ~~such existing artificial obstructions if deemed necessary by the responsible local government for the purpose of avoiding flood damages.~~ an existing structure located in a flood hazard area in the area regulated by the local government if the local government determines that the acquisition is necessary to prevent damage from flooding. The procedure in all condemnation proceedings pursuant to this section shall conform as nearly as possible to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"§ 143-215.56. Delineation of ~~floodway;~~ flood hazard areas; powers of ~~Commission and~~ Department; powers of local governments.

(a) For the purpose of delineating ~~the floodway~~ a flood hazard area and evaluating the possibility of flood damages, ~~responsible local governments are empowered to:~~ a local government may:

(1) Request technical assistance from the competent State and federal agencies, including the Army Corps of Engineers, the ~~Soil Conservation Service,~~ Natural Resource Conservation Service, the nnessee Valley Authority, the Federal Emergency Management Agency, the North Carolina Department of Crime Control and Public Safety, the North Carolina Geodetic Survey, the North Carolina Geological Survey, and the U.S. Geological Survey, or successor ~~agencies, and~~ agencies.

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(2) Utilize the reports and data supplied by federal and State agencies as the basis for the exercise by local ordinance or resolution of the powers and responsibilities conferred on responsible local governments by this Part.

(b) The Department ~~shall be empowered to render~~ shall provide advice and assistance to any local government having responsibilities under this Part. In exercising this function ~~it shall specifically be authorized to~~ the Department may furnish manuals, suggested standards, plans, and other technical data; ~~to~~ conduct training programs; ~~and to~~ give advice and assistance with respect to ~~handling of particular applications;~~ delineation of flood hazard areas and the development of appropriate ordinances; ~~but it shall not be limited to such activities.~~ and provide any other advice and assistance that the Department deems appropriate. The Department shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

(c) A local government may delineate any ~~floodway~~ flood hazard area subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. A local government may also delineate a flood hazard area by reference to a map prepared pursuant to the National Flood Insurance Program. ~~The Commission may delineate a floodway, in the same manner and subject to the same requirement, when the reach of a stream in which a floodway is determined by the Commission to be needed exceeds the jurisdiction of a single local government.~~ Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to ~~such map~~ the appropriate map, drawing, or description. ~~Such entries~~ Entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of ~~such map~~ the map, drawing, or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. A local government ~~or the Commission~~ may provide for the redrawing of any ~~such~~ map. A redrawn map shall supersede for all purposes the earlier map or maps ~~which~~ that it is designated to replace upon the filing and approval thereof as designated and provided above.

(d) ~~If the Commission determines that the floodway of any stream or stream segment should be delineated and the use thereof~~

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~~controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the floodway or controlled uses therein, the Commission shall advise the local governments of its intent to delineate the floodway, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date of a rule of the Commission establishing any floodway, notice of the effective date and copies of the rule shall be delivered to every affected local government along with copies of all maps and plans delineating the floodway. Public notice of the rule shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules, the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.~~ The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program or approved by the Department within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

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(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to control uses in the 100-year floodplain in accordance with the requirements of this Part.

"§ 143-215.57. Procedures in issuing permits.

(a) ~~Responsible local governments are empowered to~~ A local government may establish application forms and require ~~such~~ maps, plans, and other information ~~as~~ necessary for the issuance of permits in a manner consonant with the objectives of this Part. For this purpose they may take into account anticipated development in the foreseeable future that may be adversely affected by the obstruction, as well as existing development. They shall consider the effects of a proposed artificial obstruction in a ~~floodway~~ stream in creating danger to life and property by:

(1) ~~By water which~~ Water that may be backed up or diverted by ~~such obstruction;~~ the obstruction.

(2) ~~By the~~ The danger that the obstruction will be swept downstream to the injury of ~~others; and~~ others.

(3) ~~By the~~ The injury or damage at the site of the obstruction itself.

~~For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.~~

(a1) A local flood hazard ordinance shall require that the lowest floor of any new structure in the 100-year floodplain and of any existing structure in the 100-year floodplain to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and 100-year floodplain that considered anticipated future development. Areas

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where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department are subject the minimum elevation requirements for participation in the National Flood Insurance Program. A local government ordinance shall not permit the establishment of a use prohibited under G.S. 143-215.54.

(b) In prescribing standards and requirements for the issuance of permits under this ~~Part,~~ Part and in issuing ~~such~~ permits, responsible local governments shall proceed as in the case of an ordinance for the better government of the county or municipality, as the case may be. A municipality may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county that is outside the zoning jurisdiction of ~~any municipalities~~ a municipality in the county. If a municipality does not exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction, the county shall exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction. The county may regulate territory within the zoning jurisdiction of any municipality whose governing body, by resolution, agrees to ~~such regulation; provided, however, that any such~~ the regulation. A municipal governing body may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

(c) The local governing body is hereby empowered to adopt ~~such~~ regulations ~~as~~ it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. ~~Such~~ These regulations may provide for the issuance of permits under this Part by the local governing body or by ~~such~~ an agency ~~as may be~~ designated by ~~said~~ the local governing body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of ~~any such~~ an appeal, no action shall be taken ~~which~~ that would be unlawful in the absence of a permit issued under this Part.

(d) A local government may issue a variance to the elevation requirements set out in this Part only if the variance complies

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with the requirements for participation in the National Flood Insurance Program.

"§ 143-215.58. Violations and penalties.

(a) Any willful violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor.

(a1) A local government may use all of the remedies available for the enforcement of zoning ordinances under Chapters 153A and 160A of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted (or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each ~~10 days~~ day that ~~such~~ the failure continues after written notice from the county or municipal governing body.

(c) In addition to or in lieu of other remedies, the county or municipal governing body may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation ~~which~~ that has committed ~~any such~~ a violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction.

"§ 143-215.59. Other approvals required.

(a) The granting of a permit under the provisions of this Part shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.

(b) No permit for the construction of any structure to be located within a ~~floodway~~ flood hazard area shall be granted by a political subdivision unless the applicant has first obtained the permit required by this Part.

"§ 143-215.60. Liability for damages.

No action for damages sustained because of injury or property damage caused by ~~an~~ a structure or obstruction for which a permit has been granted under this Part shall be brought against the State or any political subdivision of the State, or their employees or agents.

"§ 143-215.61. Floodplain management.

The provisions of this Part shall not preclude the imposition by responsible local governments of land use controls and other

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regulations in the interest of floodplain management for the floodplain or the floodway."

Section 2. A structure or use existing in the 100-year floodplain or for which a building permit was issued prior to adoption of a local ordinance conforming to the requirements of this Part is not in violation of G.S. 143-215.54.

Section 3. G.S.159G-10(b) reads as rewritten:

" (b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for ~~such~~ funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which applicants will receive a loan or grant. An applicant that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

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c. The existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes is a general criterion for prioritizing which applicants will receive a loan or a grant. Demonstration, based on the most recent maps prepared pursuant th the National Flood Insurance Program or approved by the Department, that no portion of the applicant's jurisdiction is located within the 100-year floodplain is a general criterion equivalent to the existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes for prioritizing which applicants will receive a loan or a grant."

Section 4. Sections 1, 2, and 4 of this act are effective when this act becomes law. Section 3 of this act becomes effective 1 January 2001 and applies to loans and grant made on or after that date.

National Flood Insurance Program Branch
North Carolina Division of Emergency Management
Floodplain Management Definitions

GENERAL DEFINITIONS

Base flood. The flood having a 1-percent probability of being equaled or exceeded in any given year; also referred to as the 100-year flood.

Base flood elevation. The height of the base (100-year) flood in relation to a specified datum, usually the National geodetic Vertical Datum of 1929 or North American Vertical Datum of 1988.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for paring of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not build so as to render the structure in violation on the applicable non-elevation design requirements of 44CFR60.3. *(Note that in V Zones, the bottom of the lowest structural member of the lowest floor is the reference level for elevation requirements.)*

Regulatory floodway. The area defined as the channel of a stream and the adjacent land areas reserved to discharge the 100-year flood without cumulatively increasing the elevation of the 100-year flood more than a designated height.

Special Flood Hazard Area (SFHA) Land area subject to inundation by a flood having a 1-percent or greater probability of being equaled or exceeded during any given year (base, or 100-year, flood). *This is the minimum area regulated area for floodplain management.*

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term also includes structures which have incurred "substantial damage", regardless of the actual repair work performed. Substantially improved/damaged structures are considered "new construction" and are required to meet floodplain management regulations.

FLOOD INSURANCE STUDIES AND FLOOD MAPS

Flood Insurance Study (FIS). The engineering study performed by FEMA to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The FIS describes the historic floods, the area and the streams studied, the engineering methods employed, and the use of the study for both floodplain and insurance purposes. The FIS includes flood data tables, flood profiles, and maps of the area studied.

Flood maps. Since the initiation of the NFIP, various maps have been issued for insurance and floodplain management purposes. **Detailed studies** are carried out for developed communities and for those areas experiencing rapid growth. **Approximate studies** are utilized where there is little or no development, or expectation of development, in identified floodprone areas. In some cases FEMA simply converts an earlier Flood Hazard Boundary Map (FHBM) to a Flood Insurance Rate Map (FIRM) by issuing a letter to the community stating that the FHBM shall be considered a FIRM. The Zone A without a flood elevation is also called an "unnumbered A Zone" or an "approximate A Zone".

Flood Hazard Boundary Map (FHBM). Initial insurance map issued by FEMA that identifies approximate areas of 100-year flood hazard in a community. The SFHA is designated as a shaded area on the maps and labeled "Zone A". No flood elevations are given.

Flood Insurance Rate Map (FIRM). Insurance and floodplain management map issued by FEMA that identifies areas of 100-year flood hazard in a community. In some areas, the map also shows base flood elevations and 500-year floodplain boundaries and, occasionally, regulatory floodway boundaries. These maps are also referred to as FIRMs. A FIRM is usually issued following a flood risk assessment conducted in connection with the community's conversion to the Regular Phase of the NFIP. If a detailed assessment, termed a Flood Insurance Study, has been performed, the FIRM will show base flood elevations and insurance risk zones in a addition to floodplain boundaries.

FLOOD HAZARD ZONES

Several areas of flood hazard are commonly identified on the FIRM, including the SFHA. SFHAs are labeled as Zone A, Zone AE, Zone V, Zone VE. These are the minimum regulated areas. Moderate flood hazard areas, labeled Zone B or Zone X (shaded), are the areas with a 0.2 percent annual chance of being flooded (500-year). The areas of minimal flood hazard are labeled Zone C or Zone X (unshaded). The B, C, and X zones are not required to be regulated.

- **Zone A.** Areas subject to inundation by the 100-year event. Because detailed hydraulic analyses have not been performed, no base flood elevations or depths are shown.

- **Zone AE.** Areas subject to inundation by the 100-year flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is used on new and revised maps in place of Zones A1-A30.)

- **Zone V:** Areas along coasts subject to inundation by the 100-year flood event with additional hazards associated with storm-induced waves. Because detailed hydraulic analyses have not been performed, no base flood elevations or depths are shown.

- **Zone VE:** Areas along coasts subject to inundation by the 100-year flood event with additional hazards associated with storm-induced waves. Base flood elevations derived from detailed hydraulic analyses are shown within these zones. (Zone VE is used on new and revised maps in place of Zones V1-V30.)

- **Zones B, C, and X.** Areas identified in the community FIS as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Local stormwater drainage systems are not normally considered in the community's FIS. (Zone X is used on new and revised maps in place of Zones B and C.)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1614
Proposed Committee Substitute H1614-PCS6315-RT004

Short Title: Add. Notice/Mining Permit Application. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-50 reads as rewritten:

"**§ 74-50. Permits -- General.** (a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

(1) 'Permitted area' means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(2) 'Permit boundaries' means the boundaries of a permitted area.

(3) 'Land adjoining' means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or

subsidiary of the applicant or operator and that is contiguous to either: (i) any parcel or tract that includes the permitted area or (ii) any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, taken together, are contiguous to the permitted area.

(b1) At the time of ~~the~~ an application for a new mining permit or ~~permit modifications that add owners of record of lands adjoining the permit boundaries,~~ for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to ~~notify all owners of record of land adjoining the proposed site, and to notify the chief administrative officer of the county or municipality in which the site is located that the operator intends to conduct a mining operation on the site in question.~~ notify:

(1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.

(2) The owners of record of land adjoining that lies within 1,000 feet of the permit boundaries.

(3) The owners of record of land that lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way and that lies within 1,000 feet of any tract of land that includes the permitted area. For purposes of this subdivision, 'highway' means a highway, as defined in G.S. 20-4.01(13) that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed mining operation and the opportunity to request a public hearing regarding the proposed mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

(1) Division of Air Quality, Department of Environment and Natural Resources.

(2) Division of Parks and Recreation, Department of Environment and Natural Resources.

(3) Division of Water Quality, Department of Environment and Natural Resources.

(4) Division of Water Resources, Department of Environment and Natural Resources.

(5) North Carolina Geological Survey, Division of Land Resources, Department of Environment and Natural Resources.
(6) Wildlife Resources Commission, Department of Environment and Natural Resources.
(7) Division of Archives and History, Department of Cultural Resources.
(8) United States Fish and Wildlife Service, United States Department of the Interior.
(9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, Department of Environment and Natural Resources; the Division of Marine Fisheries, Department of Environment and Natural Resources; the Division of Waste Management, Department of Environment and Natural Resources; and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) An operating permit shall be granted for a period not exceeding 10 years. If the mining operation terminates and the reclamation required under the approved reclamation plan is completed prior to the end of the period, the permit shall terminate. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan."

Section 2. G.S. 74-51(c) reads as rewritten:

"(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or ~~for permit modifications that add owners of record of lands adjoining the permit boundaries.~~ for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made."

Section 3. This act becomes effective 1 October 2000.

VISITOR REGISTRATION SHEET

Environmental + Natural Resources — 6/28/10
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mac Bardon	NC Aggregates Assoc.
Sherri Evans-Stanton	DENR
Charles Gardner	DENR
Neal Mast	CCNC
Robin Smith	DENR
Lucius Pullen	Attorney NC Mining Assoc.
Fred Allen	NC Aggregates Assn.
Lisa Frace	Sierra Club
Emily Meeker	Conservation Council of NC
Beau Mills	Governor's Office
Bill Holman	DENR
Robin Smith	DENR
Laura DeVivo	DENR
Don McCanless	DENR
Phil McKillop	DENR/DPR
Sandra Long	Martin Marietta
John Long	Martin Marietta
Katherine Kemp	Rep. Office
George Everett	Duke Energy
Alex Kennaugh	NCCONNECT
Brian Burch	NC Conduct
~~Author~~	
Roger Bone	Bone Assoc.
Sandy South	WCSR
Alan Briggs	Save Our Stat
Molly Diggins	NC Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT HOUSE COMM. — 6-28-00

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe McClure	N.C. Portable Toilet Group & Environmental Professionals
Mike Cornette	NCCBSA
Pete Weems	"
Steve Tedder	EPA
Preston Howard	NCIC
Andy Romanet	NCLM
Kim Hibbard	NCLM
Dave Updike	CP&L
Steve Woodson	NC Farm Bureau
Nancy Thompson	NCIC
Tom Duncan	WCSR/Vulcan

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brad Lovin	NC Manufactured Housing Assoc.
Stephanie Mann	NCAR

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 29, 2000

MINUTES

The House Committee on Environment and Natural Resources met Thursday, June 29, 2000, in Room 643 of the Legislative Office Building at 2:00 p.m. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives Donald Bonner, John Brown, Billy Creech, Joe Hackney, Dewey Hill, Paul Luebke, Danny McComas, Marian McLawhorn, Ed McMahan, Frank Mitchell, Ronnie Smith, Scott Thomas, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 2:16 p.m.

Before agenda item HB 1632 was discussed, SB 1311 - Mountains to the Sea - which was voted out of committee yesterday (June 28, 2000) with a favorable report was discussed because of questions brought up after the meeting. Representative Gibson introduced Dr. Phil McNally, Director, North Carolina Parks and Recreation, Dr. McNally addressed members' concerns over the last sentence of the bill regarding the Parks Division's power of condemnation on the Mountains to Sea Trail Project. He said the department had no intent to expand their authority to condemn property. One question prevails: if the trail is on private property, would it increase Parks Division right to condemn that property? The answer is, "No." From a legal standpoint, by authorizing a unit of the state park system, the state could condemn some property for that purpose, as at the Eno River or the Lumber River, Stone Mountain, etc. However, it is not something the Parks System has done or intends to do. Their intent is to work with the local municipalities to put greenways through the trail areas as well as private companies to give the Nature Conservancy the right of first refusal on 7,800 acres given to the State for it's use by Weyerhaeuser and other land that may be preserved as conservancy land. This bill allows purchase of private properties in the very far future. The proposed Mountain to Sea Trail will be some 700 miles long. At the completion point, if a landowner does not want to sell, the Division would go to the Council of State for condemnation. They would have the authority to condemn land that could be made part of the Parks System. However, that is not the intent of the Division to condemn property as stated on the last two lines of this bill. After some discussion, Representative Gillespie asked that the language in the bill say the Parks Division would work with local governments in order that to have input before condemnation proceedings began. Representative Gibson said that the bill was already on the Calendar, but he would meet with staff, Dr. McNally and with Representative Creech's proposed amendment and would object to the 3rd reading today and clear up this point.

HB 1632 - Flood Hazard Prevention Act of 2000 (Attachment 1, 1A) - Representative Gibson moved to adopt Committee Substitute SJ/RT007. Passed. Representative Luebke moved to amend the bill on Page 4, Line 4 deleting "may" and substituting "shall" (Attachment 2).

Representative Luebke stated by changing the word, it urged communities to have a floodplain ordinance--it would not be an option, but required.

Andy Romanet, General Council, NC League of Municipalities, said that the change of this one word would mean that there would be 100s of ordinances out of compliance today, and homeowners with house plans would have to be redone before they could build. This bill brings North Carolina closer to the Federal government mandates. The Federal government gives a better rate to policyholders if the local government adopts a higher free board over flood base elevation.

Representative Luebke said he understood that "shall" is too strong a word immediately, but the date of "2001" means that more points would be given to municipalities who have not done the right thing with their ordinances. He strongly supported the 2001 date to move communities toward doing the right thing and withdrew his amendment.

Representative Tucker moved to amend the bill on page 10, line 34 to delete "2001" and substitute "2003" (Attachment 3). He said six months was not enough time to get this ordinance incased, but said he would change that to "2002". George Givens, staff, explained that the basic bill gives everyone the "same playing field" but allows small municipalities more time to get their ordinances in place for flood insurance and monies should the need arise. Following some discussion regarding the timetable for small communities to get their ordinances enacted, Deputy Secretary Robin Smith, DENR, said that DENR would like the shorter time period, Representative Gibson moved to adopt this amendment. Passed.

Representative Gibson moved to adopt the amendment (Attachment 4) as concurred and drafted by the Mr. Romanet and the League. Passed.

Mr. Givens said that it was Representative Gibson's wish and motion, if it was the wish of the Committee, that the text of this bill with the amendment be incorporated into a Committee Substitute for SB 1341 - Petroleum Diminimis, and that Committee Substitute is given a favorable report. Representative Tolson moved for a favorable report. The House version has already passed so the Senate version is no longer needed. Representative Tolson motion was in concurrence. Passed with a favorable report.

Chair Warwick adjourned the meeting at 2:40 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1632*
Proposed Committee Substitute H1632-PCS7387-SJ/RT007

Short Title: Flood Hazard Prevention Act of 2000. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PREVENT INAPPROPRIATE DEVELOPMENT IN THE ONE HUNDRED-YEAR FLOODPLAIN AND TO REDUCE FLOOD HAZARDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the hurricanes and associated flooding experienced in Eastern North Carolina in 1999 caused over six billion dollars in damage; and

Whereas, some of the structural damage resulting from the floods could have been prevented by requiring development in the floodplain to be elevated above the 100-year floodplain; and

Whereas, harm to the environment could have been minimized by prohibiting certain inappropriate uses in the floodplain; and

Whereas, loss of life and property could have been reduced by preventing certain types of development in the floodplain; and

Whereas, future loss of life and property can be reduced by more effective enforcement of floodplain management regulations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 21 of Chapter 143 of the General Statutes reads as rewritten:

"Part 6. ~~Floodway~~ Floodplain Regulation.

"**§ 143-215.51. ~~Preamble.~~ Purposes; declaration of policy.**

(a) The ~~purpose~~ purposes of this Part ~~is to specify means for regulation of artificial obstructions in floodways.~~ are to:

(1) Minimize the extent of floods by preventing obstructions that inhibit water flow and increase flood height and damage.

(2) Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.

(3) Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

(b) It is hereby declared that the channel and ~~a portion of~~ the adjoining 100-year floodplain of all the State's streams will be designated as a ~~floodway, in which artificial obstructions may not be placed~~ flood hazard area. Structures and other artificial obstructions may not be placed in a designated flood hazard area, except in accordance with the provisions of this Part. ~~The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas.~~

"§ 143-215.52. Definitions.

(a) As used in this ~~Part, unless the context otherwise requires:~~ Part:

(1) 'Artificial obstruction' means any obstruction ~~which~~ to the flow of water in a stream that is not a natural obstruction, including any ~~which,~~ that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

(1a) 'Base flood' or '100-year flood' means a flood that has a one percent (1%) chance of being equalled or exceeded in any given year. The term 'base flood' is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

(1b) 'Base floodplain' or '100-year floodplain' means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department.

(1c) 'Department' means the Department of Crime Control and Public Safety.

(1d) 'Flood hazard area' means the area designated by a local government, pursuant to this Part, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

(2) 'Floodway' means that portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.

(3) 'Local government' means any county or municipal corporation.

(3a) 'Lowest floor', when used in reference to a structure, means the lowest enclosed area, including a basement, of the structure. An unfinished or flood resistant enclosed area, other than a basement, that is usable solely for parking vehicles, building access, or storage is not a lowest floor.

(4) 'Natural obstruction' includes any rock, tree, gravel, or ~~analogous~~ other natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

(5) 'Stream' means a watercourse that collects surface runoff from an area of one square mile or greater. ~~This does not include flooding due to tidal or storm surge on estuarine or ocean waters.~~

(6) 'Structure' means a walled or roofed building, including a mobile home and a gas or liquid storage tank.

(7) 'Substantial improvement' means any repair, reconstruction, or other improvement of a structure or facility that has been damaged in excess of, or the cost of which equals or exceeds, fifty percent (50%) of the market value of the structure or replacement cost of the facility.

(b) As used in this Part, the terms 'artificial obstruction' and 'structure' do not include any of the following:

(1) An electric generation, distribution, or transmission facility.

(2) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.

(3) A water treatment or distribution facility, including a pump station.

(4) A wastewater collection or treatment facility, including a lift station.

(5) Processing equipment used in connection with a mining operation.

"**§ 143-215.53. ~~Artificial obstruction prohibited.~~ Floodplain development regulated.**

(a) ~~The placement of any~~ Except as provided in G.S. 143-215.54 and G.S. 143-215.57, no person shall place an artificial obstruction in the floodway of any stream or construct any structure in a flood hazard area. ~~after the floodway has been delineated pursuant to G.S. 143-215.56 is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

(b) Except as provided in G.S. 143-215.54 and G.S. 143-215.57, the lowest floor of any new structure and of any existing structure to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development and the local government has revised its floodplain development ordinance accordingly. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood

Insurance Program or approved by the Department are subject to the minimum elevation requirements for participation in the National Flood Insurance Program.

"**§ 143-215.54. ~~Floodway~~ Flood hazard area uses.**

(a) ~~Local governments are empowered to~~ A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of ~~the floodways~~ flood hazard areas that are consistent with the ~~purposes~~ requirements of this ~~Part and for purposes which the State does not regulate either by a permit or a formal approval system.~~ Part.

(b) The following uses may be made of ~~floodways as a matter of right~~ flood hazard areas without a permit issued under this ~~Part.~~ Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;

(3) Lawns, gardens, play areas and other similar uses;

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(c) Solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities may not be located in the 100-year floodplain.

(d) A manufactured home, as defined in G.S. 143-143.9, may be placed in a 100-year floodplain and a manufactured home that is located in a 100-year floodplain may be substantially improved if the lowest floor of the manufactured home is one foot above the base flood elevation, and the manufactured home is securely anchored to resist floatation, collapse, or lateral movement.

(e) A structure or tank for chemical or fuel storage incidental to a use that is allowed under this section or to the operation of a water treatment plant or wastewater treatment facility may be located in a 100-year floodplain if the structure or tank is either elevated one foot above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(f) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan is not prohibited.

(g) Uses otherwise prohibited under this section may be permitted in the 100-year floodplain upon the local government finding that all of the following apply:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the location of the use outside the 100-year floodplain.

(3) The lowest floor of any structure is elevated one foot above the base flood elevation or is designed to be watertight with walls

substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) The use complies with all other applicable laws and regulations.

"**§ 143-215.55. ~~Existing artificial obstructions.~~ Acquisition of existing structures.**

~~Artificial obstructions existing in a floodway on July 1, 1971, shall not be considered to be in violation of this Part. However, they may not be enlarged or replaced in part or in whole, without a permit, as provided by this Part in the case of a proposed artificial obstruction. Local governments are empowered to~~ A local government may acquire, by purchase, exchange, or condemnation ~~such existing artificial obstructions if deemed necessary by the responsible local government for the purpose of avoiding flood damages.~~ an existing structure located in a flood hazard area in the area regulated by the local government if the local government determines that the acquisition is necessary to prevent damage from flooding. The procedure in all condemnation proceedings pursuant to this section shall conform as nearly as possible to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"**§ 143-215.56. Delineation of ~~floodway;~~ flood hazard areas and 100-year floodplains; powers of ~~Commission and~~ Department; powers of local ~~governments.~~ governments and of the Department.**

(a) For the purpose of delineating ~~the floodway~~ a flood hazard area and evaluating the possibility of flood damages, ~~responsible local governments are empowered to:~~ a local government may:

(1) Request technical assistance from the competent State and federal agencies, including the Army Corps of Engineers, the ~~Soil Conservation Service,~~ Natural Resource Conservation Service, the Tennessee Valley Authority, the Federal Emergency Management Agency, the North Carolina Department of Crime Control and Public Safety, the North Carolina Geodetic Survey, the North Carolina Geological Survey, and the U.S. Geological Survey, or successor ~~agencies, and~~ agencies.

(2) Utilize the reports and data supplied by federal and State agencies as the basis for the exercise by local ordinance or resolution of the powers and responsibilities conferred on responsible local governments by this Part.

(b) The Department ~~shall be empowered to render~~ shall provide advice and assistance to any local government having responsibilities under this Part. In exercising this function ~~it shall specifically be authorized to~~ the Department may furnish manuals, suggested standards, plans, and other technical data; ~~to~~ conduct training programs; ~~and to~~ give advice and assistance with respect to ~~handling of particular applications;~~ delineation of flood hazard areas and the development of appropriate ordinances; ~~but it shall not be limited to such activities.~~ and provide any other advice and assistance that the Department deems appropriate. The Department

shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

(c) A local government may delineate any ~~floodway~~ flood hazard area subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. A local government may also delineate a flood hazard area by reference to a map prepared pursuant to the National Flood Insurance Program. ~~The Commission may delineate a floodway, in the same manner and subject to the same requirement, when the reach of a stream in which a floodway is determined by the Commission to be needed exceeds the jurisdiction of a single local government.~~ Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to ~~such map~~ the appropriate map, drawing, or description. ~~Such entries~~ Entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of ~~such map~~ the map, drawing, or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. A local government ~~or the Commission~~ may provide for the redrawing of any ~~such~~ map. A redrawn map shall supersede for all purposes the earlier map or maps ~~which~~ that it is designated to replace upon the filing and approval thereof as designated and provided above.

(d) ~~If the Commission determines that the floodway of any stream or stream segment should be delineated and the use thereof controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the floodway or controlled uses therein, the Commission shall advise the local governments of its intent to delineate the floodway, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date of a rule of the Commission establishing any floodway, notice of the effective date and copies of the rule shall be delivered to every affected local government along with copies of all maps and plans delineating the floodway. Public notice of the rule shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules, the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.~~ The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to control uses in the 100-year floodplain in accordance with the requirements of this Part.

"**§ 143-215.57. Procedures in issuing permits.**

(a) ~~Responsible local governments are empowered to~~ A local government may establish application forms and require ~~such~~ maps, plans, and other information ~~as~~ necessary for the issuance of permits in a manner consonant with the objectives of this Part. For this purpose they may take into account anticipated development in the foreseeable future that may be adversely affected by the obstruction, as well as existing development. They shall consider the effects of a proposed artificial obstruction in a ~~floodway~~ stream in creating danger to life and property by:

(1) ~~By water which~~ Water that may be backed up or diverted by ~~such obstruction;~~ the obstruction.

(2) ~~By the~~ The danger that the obstruction will be swept downstream to the injury of ~~others; and~~ others.

(3) ~~By the~~ The injury or damage at the site of the obstruction itself.

~~For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.~~

(a1) A local flood hazard ordinance shall require that the lowest floor of any new structure in the 100-year floodplain and of any existing structure in the 100-year floodplain to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the

structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department are subject to the minimum elevation requirements for participation in the National Flood Insurance Program. A local government ordinance shall not permit the establishment of a use prohibited under G.S. 143-215.54.

(b) In prescribing standards and requirements for the issuance of permits under this ~~Part,~~ Part and in issuing ~~such~~ permits, responsible local governments shall proceed as in the case of an ordinance for the better government of the county or municipality, as the case may be. A municipality may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county that is outside the zoning jurisdiction of ~~any municipalities~~ a municipality in the county. If a municipality does not exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction, the county shall exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction. The county may regulate territory within the zoning jurisdiction of any municipality whose governing body, by resolution, agrees to ~~such regulation; provided, however, that any such~~ the regulation. A municipal governing body may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

(c) The local governing body is hereby empowered to adopt ~~such~~ regulations ~~as~~ it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. ~~Such~~ These regulations may provide for the issuance of permits under this Part by the local governing body or by ~~such~~ an agency ~~as may be~~ designated by ~~said~~ the local governing body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of ~~any such~~ an appeal, no action shall be taken ~~which~~ that would be unlawful in the absence of a permit issued under this Part.

(d) A local government may issue a variance to the elevation requirements set out in this Part only if the variance complies with the requirements for participation in the National Flood Insurance Program.

"§ 143-215.58. Violations and penalties.

(a) Any willful violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor.

(a1) A local government may use all of the remedies available for the enforcement of zoning ordinances under Chapters 153A and 160A of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted (or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each ~~10 days~~ day that ~~such~~ the failure continues after written notice from the county or municipal governing body.

(c) In addition to or in lieu of other remedies, the county or municipal governing body may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation ~~which~~ that has committed ~~any such~~ a violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction.

"§ 143-215.59. Other approvals required.

(a) The granting of a permit under the provisions of this Part shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.

(b) No permit for the construction of any structure to be located within a ~~floodway~~ flood hazard area shall be granted by a political subdivision unless the applicant has first obtained the permit required by this Part.

"§ 143-215.60. Liability for damages.

No action for damages sustained because of injury or property damage caused by ~~an~~ a structure or obstruction for which a permit has been granted under this Part shall be brought against the State or any political subdivision of the State, or their employees or agents.

"§ 143-215.61. Floodplain management.

The provisions of this Part shall not preclude the imposition by responsible local governments of land use controls and other regulations in the interest of floodplain management for the floodplain or the floodway."

Section 2. A structure or use existing in the 100-year floodplain or for which a building permit was issued prior to adoption of a local ordinance conforming to the requirements of this Part is not in violation of G.S. 143-215.54.

Section 3. G.S.159G-10(b)(1) reads as rewritten:

"(b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for ~~such~~ funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC

22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which applicants will receive a loan or grant. An applicant that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

c. The existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes is a general criterion for prioritizing which applicants will receive a loan or a grant. Demonstration, based on the most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department, that no portion of the applicant's jurisdiction is located within the 100-year floodplain is a general criterion equivalent to the existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes for prioritizing which applicants will receive a loan or a grant."

Section 4. Sections 1, 2, and 4 of this act are effective when this act becomes law. Section 3 of this act becomes effective 1 January 2001 and applies to loans and grants made on or after that date.

HOUSE BILL 1632 (PCS): Flood Hazard Prevention Act of 2000

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Hannah Holm, Research Assistant for Environmental Issues
Date:	June 28, 2000		
Version:	PCS for First Edition		

SUMMARY: ***The Proposed Committee Substitute for the First Edition of House Bill 1632 sets minimum standards for development in the 100-year floodplain and encourages local governments to adopt ordinances that meet or exceed the minimum standards by making such an ordinance a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The act also authorizes the Department of Crime Control and Public Safety to prepare maps that identify the 100-year floodplain for areas where floodplain maps are inadequate or out-of-date.***

CURRENT LAW: Current law authorizes local governments to designate floodways and to adopt ordinances that regulate development in floodways and floodplains, but sets no minimum statewide standard for such ordinances. Current law also bans the location of certain uses in the 100-year floodplain, including large swine farms.

BILL ANALYSIS: The Proposed Committee Substitute for the First Edition of House Bill 1632 (PCS) amends the existing floodway statute to prohibit certain uses in the 100-year floodplain, set minimum standards for local government ordinances that regulate development in the floodplain, and authorize the Department of Crime Control and Public Safety (Department) to map the 100-year floodplain in areas where the maps are inadequate or out-of-date. The PCS also makes adoption of an ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants may receive grants and loans from the Clean Water Revolving Loan and Grant Fund.

Minimum Standards. The PCS sets minimum elevation requirements and designates uses that are allowed and uses that are prohibited within the 100-year floodplain, as shown on the most current maps prepared pursuant to the National Flood Insurance Program or approved by the Deparment (official maps).

Elevation. The PCS requires that the lowest floor of any new or substantially improved structure located in the 100-year floodplain be at least one foot above the 100-year flood elevation unless the local government has conducted a study of the 100-year floodplain within the previous five years that considered anticipated development and revised its floodplain development ordinance to reflect the results of the study. In areas where no base flood elevation is identified on an official map, the minimum elevation requirements for participation in the National Flood Insurance Program apply. The term structure, to which this minimum elevation requirement applies, does not include any of the following:

- An electric distribution or transmission facility.
- A gas pipeline, transmission, or distribution facility, including a compressor station or related facility.
- A water treatment or distribution facility, including a pump station.
- A wastewater collection or treatment facility, including a lift station.
- Processing equipment used in connection with a mining operation.

Uses allowed The PCS provides that the following uses are allowed in areas subject to floodplain development regulations without a permit under this act:

- General farming, pasture, outdoor plant nursery, horticulture, forestry, mining, wildife sanctuary, game farm, and other similar agriculture, wildlife, and related uses.
- Ground level loading areas, parking areas, rotary aircraft ports, and other similar ground level area uses.
- Recreational uses such as lawns, play areas, golf courses, tennis courts, picnic grounds, and parks.

Prohibited uses The PCS prohibits the following uses in the 100-year floodplain, as shown on the most current official maps, unless the local government finds that the use meets all of the criteria listed under "exceptions" following the list of prohibited uses:

- Solid waste disposal facilities.
- Hazardous waste management facilities.
- Salvage Yards.
- Chemical storage facilities (does not include storage tanks that serve permitted uses, provided the tanks are located one foot above the the 100-year flood elevation or designed to be flood-resistant).

Exceptions A local government may permit a use listed above under "prohibited uses" in the 100-year floodplain, as shown on the most current official maps, if the local government finds all of the following:

- The use serves a critical need in the community.
- No feasible location exists for the uses outside the 100-year floodplain.
- The lowest floor of any structure is elevated one foot above the the 100-year flood elevation or is designed to be flood-resistant.
- The use complies with all other applicable laws and regulations.

Delineation of floodplains If the Department determines that the 100-year floodplain should be mapped and the uses regulated as provided in this act, and the 100-year floodplain is not identified on an official map prepared within the previous five years, the Department may map the 100-year floodplain. Any such mapping must be done in accordance with standards established by the Federal Emergency Management Agency (FEMA). Prior to conducting the mapping, the Department must notify all affected local governments, and upon completion of the maps, the maps must be provided to the local governments and submitted for FEMA approval.

Local Government Powers. The PCS authorizes local governments to delineate "flood hazard areas" and adopt ordinances to regulate development in these areas.

Contents of flood development ordinances A local flood hazard ordinance must conform to the minimum elevation requirements and use prohibitions described above under "minimum standards."

Delineation of flood hazard areas A local government may request assistance from federal and state agencies for the purpose of delineating a flood hazard area. A flood hazard area must include, but may exceed, the 100-year floodplain, as shown on the most current official maps. The Department must provide advice and assistance to any local government that seeks to regulate floodplain development. A local government may delineate a flood hazard area by showing it on a map, by a written description, or by reference to a map prepared pursuant to the National Flood Insurance Program.

Procedures in issuing permits In determining whether to issue a permit for a use under a flood hazard ordinance pursuant to this act, a local government may consider the potential impact on anticipated development, as well as current development. A variance to the elevation requirements of an ordinance

adopted pursuant to this act may be granted only if the variance is consistent with the requirements for participation in the National Flood Insurance Program.

Exercise of powers A municipality may exercise the powers granted by this act within its corporate limits and within its extra-territorial jurisdiction (ETJ). A county may exercise these powers in any area of the county outside the zoning jurisdiction of a municipality and anywhere within the zoning jurisdiction of a municipality in agreement with the municipality.

Priority for Water and Sewer Grants and Loans. The PCS makes the existence of a flood hazard ordinance that conforms to the minimum standards set out in this act a criterion for prioritizing which applicants will receive grants and loans from the Clean Water Revolving Loan and Grant Fund. The PCS also provides that the demonstration that no portion of the applicant's jurisdiction lies within the 100-year floodplain is an equivalent criterion for prioritizing which applicants will receive loans and grants under the program.

Effective Dates. The PCS makes the provision regarding priority for grants and loans from the Clean Water Revolving Loan and Grant Fund effective January 1, 2001. The PCS makes all other provisions effective when the act becomes law.

BACKGROUND: House Bill 1632, as introduced, was recommended by the Environmental Review Commission. The bill has since been the subject of a stakeholder working group that included representatives of State agencies, local governments, agricultural interests, developers, the mining industry, and environmental advocates.

The major changes made by the PCS are as follows:

- The PCS drops the minimum elevation requirement for structures in the 100-year floodplain from two feet to one foot, and adds the provision that allows a local government to set a different elevation requirement if it has recently re-studied the 100-year floodplain and amended its flood hazard ordinance accordingly.
- The PCS removes a provision that would make a local government that fails to adopt a flood hazard ordinance consistent with this act ineligible for State disaster relief for damage from flooding.
- The PCS replaces a provision that would authorize the Department to designate a flood hazard area in the absence of local government action with a provision that authorizes the Department to map the 100-year floodplain in areas where the 100-year floodplain is not mapped or the maps are out-of-date.
- The PCS clarifies that a number of uses are not considered "structures" or "artificial obstructions" and are therefor not subject to the minimum standards for development in the 100-year floodplain set out in this act.
- The PCS adds mining to the list of uses that may be located in the 100-year floodplain without a permit issued under the act.
- The PCS adds the exceptions that allow uses otherwise prohibited in the 100-year floodplain, provided the local government finds that the use is vital to the community, no feasible alternative location exists, and any structures are elevated one foot above the 100-year flood elevation.
- The PCS clarifies that the storage of chemicals and fuel incidental to uses allowed in the 100-year floodplain is not prohibited.

ATTACHMENT 2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1632

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1632V1-ART-002.01

Date 29 June ,2000

Comm. Sub. [YES]
Amends Title [NO]
PCS for First Edition

Representative Luebke

moves to amend the bill on page 4, line 4,

by deleting "may" and substituting "shall".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn 29 June 2000

ATTACHMENT 3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1632

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1632V1-ART-003.01

Date 29 June ,2000

Comm. Sub. [YES]
Amends Title [NO]
PCS for First Edition

Representative Tucker

moves to amend the bill on page 10, lines 34,

by deleting "2001" and substituting "2~~003~~002".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 29 June 2000 FAILED _____ TABLED _____

ATTACHMENT #4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1632

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1632V1-ART-001.01

Date 29 June ,2000

Comm. Sub. [YES]
Amends Title [NO]
PCS for First Edition

Representative Gibson

moves to amend the bill on page 3, line 25 through page 4, line 2, by rewriting those lines to read:

"If a local government adopts an ordinance to regulate uses in flood hazard areas in accordance with this Part, then:

(1) ~~The placement of any~~ Except as provided in G.S. 143-215.54 and G.S. 143-215.57, no person shall place an artificial obstruction in the floodway of any stream or construct any structure in a flood hazard area. ~~after the floodway has been delineated pursuant to G.S. 143-215.56 is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

(2) Except as provided in G.S. 143-215.54 and G.S. 143-215.57, the lowest floor of any new structure and of any existing structure to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development and the local government has revised its floodplain development ordinance accordingly. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1632

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1632V1-ART-001.01

Flood Insurance Program or approved by the Department are subject the minimum elevation requirements for participation in the National Flood Insurance Program." and

on page 7, line 19 through page 7, line 24,
by rewriting those lines to read:

"(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its existing floodplain ordinance."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 29 Jun- 2000 FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1341
Proposed Committee Substitute S1341-PCS2861

Short Title: Flood Hazard Prevention Act of 2000. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PREVENT INAPPROPRIATE DEVELOPMENT IN THE ONE HUNDRED-YEAR FLOODPLAIN AND TO REDUCE FLOOD HAZARDS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, the hurricanes and associated flooding experienced in Eastern North Carolina in 1999 caused over six billion dollars in damage; and

Whereas, some of the structural damage resulting from the floods could have been prevented by requiring development in the floodplain to be elevated above the 100-year floodplain; and

Whereas, harm to the environment could have been minimized by prohibiting certain inappropriate uses in the floodplain; and

Whereas, loss of life and property could have been reduced by preventing certain types of development in the floodplain; and

Whereas, future loss of life and property can be reduced by more effective enforcement of floodplain management regulations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 6 of Article 21 of Chapter 143 of the General Statutes reads as rewritten:

"Part 6. ~~Floodway~~ Floodplain Regulation.

"**§ 143-215.51. ~~Preamble.~~ Purposes; declaration of policy.**

(a) The ~~purpose~~ purposes of this Part ~~is to specify means for regulation of artificial obstructions in floodways.~~ are to:

(1) Minimize the extent of floods by preventing obstructions that inhibit water flow and increase flood height and damage.

(2) Prevent and minimize loss of life, injuries, property damage, and other losses in flood hazard areas.

(3) Promote the public health, safety, and welfare of citizens of North Carolina in flood hazard areas.

(b) It is hereby declared that the channel and ~~a portion of~~ the adjoining 100-year floodplain of all the State's streams will be designated as a ~~floodway, in which artificial obstructions may not be placed~~ flood hazard area. Structures and other artificial obstructions may not be placed in a designated flood hazard area, except in accordance with the provisions of this Part. ~~The purpose of designating these areas as a floodway is to help control and minimize the extent of floods by preventing obstructions which inhibit water flow and increase flood height and damage, and thereby to prevent and minimize loss of life, injuries, property damage and other losses (both public and private) in flood hazard areas, and to promote the public health, safety and welfare of citizens of North Carolina in flood hazard areas.~~

"§ 143-215.52. Definitions.

(a) As used in this ~~Part, unless the context otherwise requires:~~ Part:

(1) 'Artificial obstruction' means any obstruction ~~which~~ to the flow of water in a stream that is not a natural obstruction, including any ~~which,~~ that, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of the stream.

(1a) 'Base flood' or '100-year flood' means a flood that has a one percent (1%) chance of being equalled or exceeded in any given year. The term 'base flood' is used in the National Flood Insurance Program to indicate the minimum level of flooding to be addressed by a community in its floodplain management regulations.

(1b) 'Base floodplain' or '100-year floodplain' means that area subject to a one percent (1%) or greater chance of flooding in any given year, as shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department.

(1c) 'Department' means the Department of Crime Control and Public Safety.

(1d) 'Flood hazard area' means the area designated by a local government, pursuant to this Part, as an area where development must be regulated to prevent damage from flooding. The flood hazard area must include and may exceed the base floodplain.

(2) 'Floodway' means that portion of the channel and floodplain of a stream designated to provide passage for the 100-year flood, without increasing the elevation of that flood at any point by more than one foot.

(3) 'Local government' means any county or municipal corporation.

(3a) 'Lowest floor', when used in reference to a structure, means the lowest enclosed area, including a basement, of the structure. An unfinished or flood resistant enclosed area, other than a basement, that is usable solely for parking vehicles, building access, or storage is not a lowest floor.

(4) 'Natural obstruction' includes any rock, tree, gravel, or ~~analogous~~ other natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.

(5) 'Stream' means a watercourse that collects surface runoff from an area of one square mile or greater. ~~This does not include flooding due to tidal or storm surge on estuarine or ocean waters.~~

(6) 'Structure' means a walled or roofed building, including a mobile home and a gas or liquid storage tank.

(7) 'Substantial improvement' means any repair, reconstruction, or other improvement of a structure or facility that has been damaged in excess of, or the cost of which equals or exceeds, fifty percent (50%) of the market value of the structure or replacement cost of the facility.

(b) As used in this Part, the terms 'artificial obstruction' and 'structure' do not include any of the following:

(1) An electric generation, distribution, or transmission facility.

(2) A gas pipeline or gas transmission or distribution facility, including a compressor station or related facility.

(3) A water treatment or distribution facility, including a pump station.

(4) A wastewater collection or treatment facility, including a lift station.

(5) Processing equipment used in connection with a mining operation.

"**§ 143-215.53. ~~Artificial obstruction prohibited.~~ Floodplain development regulated.**

If a local government adopts an ordinance to regulate uses in flood hazard areas in accordance with this part:

(1) ~~The placement of any~~ Except as provided in G.S. 143-215.54 and G.S. 143-215.57, no person shall place an artificial obstruction in the floodway of any stream or construct any structure in a flood hazard area. ~~after the floodway has been delineated pursuant to G.S. 143-215.56 is hereby prohibited, except as set forth in G.S. 143-215.54, unless a permit has been obtained for such artificial obstruction from the responsible local government. No damageable portion of a structure located outside the floodway may be below the elevation that would be attained by the 100-year flood if the stream were contained within the floodway.~~

(2) Except as provided in G.S. 143-215.54 and G.S. 143-215.57, the lowest floor of any new structure and of any existing structure to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that

has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development and the local government has revised its floodplain development ordinance accordingly. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department are subject to the minimum elevation requirements for participation in the National Flood Insurance Program.

"**§ 143-215.54. ~~Floodway~~ Flood hazard area uses.**

(a) ~~Local governments are empowered to~~ A local government may adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of ~~the floodways~~ flood hazard areas that are consistent with the ~~purposes~~ requirements of this ~~Part and for purposes which the State does not regulate either by a permit or a formal approval system.~~ Part.

(b) The following uses may be made of ~~floodways as a matter of right~~ flood hazard areas without a permit issued under this ~~Part.~~ Part, provided that these uses comply with local land-use ordinances and any other applicable laws or regulations:

(1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, mining, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses;

(2) Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses;

(3) Lawns, gardens, play areas and other similar uses;

(4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

(c) Solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities may not be located in the 100-year floodplain.

(d) A manufactured home, as defined in G.S. 143-143.9, may be placed in a 100-year floodplain and a manufactured home that is located in a 100-year floodplain may be substantially improved if the lowest floor of the manufactured home is one foot above the base flood elevation, and the manufactured home is securely anchored to resist floatation, collapse, or lateral movement.

(e) A structure or tank for chemical or fuel storage incidental to a use that is allowed under this section or to the operation of a water treatment plant or wastewater treatment facility may be located in a 100-year floodplain if the structure or tank is either elevated one foot above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(f) Land application of waste at agronomic rates consistent with a permit issued under Part 1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or an approved animal waste management plan is not prohibited.

(g) Uses otherwise prohibited under this section may be permitted in the 100-year floodplain upon the local government finding that all of the following apply:

(1) The use serves a critical need in the community.

(2) No feasible location exists for the location of the use outside the 100-year floodplain.

(3) The lowest floor of any structure is elevated one foot above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) The use complies with all other applicable laws and regulations.

"§ 143-215.55. ~~Existing artificial obstructions.~~ Acquisition of existing structures.

~~Artificial obstructions existing in a floodway on July 1, 1971, shall not be considered to be in violation of this Part. However, they may not be enlarged or replaced in part or in whole, without a permit, as provided by this Part in the case of a proposed artificial obstruction. Local governments are empowered to~~ A local government may acquire, by purchase, exchange, or condemnation ~~such existing artificial obstructions if deemed necessary by the responsible local government for the purpose of avoiding flood damages.~~ an existing structure located in a flood hazard area in the area regulated by the local government if the local government determines that the acquisition is necessary to prevent damage from flooding. The procedure in all condemnation proceedings pursuant to this section shall conform as nearly as possible to the procedure provided in Article 3 of Chapter 40A of the General Statutes.

"§ 143-215.56. Delineation of ~~floodway;~~ flood hazard areas and 100-year floodplains; powers of ~~Commission and~~ Department; powers of local ~~governments.~~ governments and of the Department.

(a) For the purpose of delineating ~~the floodway~~ a flood hazard area and evaluating the possibility of flood damages, ~~responsible local governments are empowered to:~~ a local government may:

(1) Request technical assistance from the competent State and federal agencies, including the Army Corps of Engineers, the ~~Soil Conservation Service,~~ Natural Resource Conservation Service, the Tennessee Valley Authority, the Federal Emergency Management Agency, the North Carolina Department of Crime Control and Public Safety, the North Carolina Geodetic Survey, the North Carolina Geological Survey, and the U.S. Geological Survey, or successor ~~agencies, and~~ agencies.

(2) Utilize the reports and data supplied by federal and State agencies as the basis for the exercise by local ordinance or resolution of the powers and responsibilities conferred on responsible local governments by this Part.

(b) The Department ~~shall be empowered to render~~ shall provide advice and assistance to any local government having responsibilities under this Part. In

exercising this function ~~it shall specifically be authorized to~~ the Department may furnish manuals, suggested standards, plans, and other technical data; ~~to~~ conduct training programs; ~~and to~~ give advice and assistance with respect to ~~handling of particular applications;~~ delineation of flood hazard areas and the development of appropriate ordinances; ~~but it shall not be limited to such activities.~~ and provide any other advice and assistance that the Department deems appropriate. The Department shall send a copy of every rule adopted to implement this Part to the governing body of each local government in the State.

(c) A local government may delineate any ~~floodway~~ flood hazard area subject to its regulation by showing it on a map or drawing, by a written description, or any combination thereof, to be designated appropriately and filed permanently with the clerk of superior court and with the register of deeds in the county where the land lies. A local government may also delineate a flood hazard area by reference to a map prepared pursuant to the National Flood Insurance Program. ~~The Commission may delineate a floodway, in the same manner and subject to the same requirement, when the reach of a stream in which a floodway is determined by the Commission to be needed exceeds the jurisdiction of a single local government.~~ Alterations in the lines delineated shall be indicated by appropriate entries upon or addition to ~~such map~~ the appropriate map, drawing, or description. ~~Such entries~~ Entries or additions shall be made by or under the direction of the clerk of superior court. Photographic, typed or other copies of ~~such map~~ the map, drawing, or description, certified by the clerk of superior court, shall be admitted in evidence in all courts and shall have the same force and effect as would the original map or description. A local government ~~or the Commission~~ may provide for the redrawing of any ~~such~~ map. A redrawn map shall supersede for all purposes the earlier map or maps ~~which~~ that it is designated to replace upon the filing and approval thereof as designated and provided above.

(d) ~~If the Commission determines that the floodway of any stream or stream segment should be delineated and the use thereof controlled as provided in this Part, and the local governments within which the stream or segment lies have not delineated the floodway or controlled uses therein, the Commission shall advise the local governments of its intent to delineate the floodway, and it shall be the responsibility of the local governments to control uses therein. At least 30 days prior to the effective date of a rule of the Commission establishing any floodway, notice of the effective date and copies of the rule shall be delivered to every affected local government along with copies of all maps and plans delineating the floodway. Public notice of the rule shall be given at least 30 days prior to the effective date by publication of a notice once a week for two successive weeks in a newspaper or newspapers having general circulation in the county or counties in which each affected local government lies and by posting a copy of the notice at the courthouse of each such county, along with a sketch map showing the stream or stream segment affected. The notice shall be adequate to apprise all interested persons of the nature of the rules, the effective date thereof, the stream or stream segment affected, and the manner in which more detailed information may be secured.~~ The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood

elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

"**§ 143-215.57. Procedures in issuing permits.**

(a) ~~Responsible local governments are empowered to~~ A local government may establish application forms and require ~~such~~ maps, plans, and other information ~~as~~ necessary for the issuance of permits in a manner consonant with the objectives of this Part. For this purpose they may take into account anticipated development in the foreseeable future that may be adversely affected by the obstruction, as well as existing development. They shall consider the effects of a proposed artificial obstruction in a ~~floodway~~ stream in creating danger to life and property by:

(1) ~~By water which~~ Water that may be backed up or diverted by ~~such obstruction;~~ the obstruction.

(2) ~~By the~~ The danger that the obstruction will be swept downstream to the injury of ~~others; and~~ others.

(3) ~~By the~~ The injury or damage at the site of the obstruction itself.

~~For this purpose they may take into account anticipated development in the foreseeable future which may be adversely affected by the obstruction, as well as existing development.~~

(a1) A local flood hazard ordinance shall require that the lowest floor of any new structure in the 100-year floodplain and of any existing structure in the 100-year floodplain to which substantial improvement is made shall be a minimum of one foot above base flood elevation unless the local government that has jurisdiction over the structure has, within the previous five years, undertaken a study of base flood elevations and the 100-year floodplain that considered anticipated future development. Areas where no base flood elevation is shown on the current floodplain maps prepared pursuant to the National Flood Insurance Program or approved by the Department are subject to the minimum elevation requirements for participation in the National Flood Insurance Program. A local government ordinance shall not permit the establishment of a use prohibited under G.S. 143-215.54.

(b) In prescribing standards and requirements for the issuance of permits under this ~~Part,~~ Part and in issuing ~~such~~ permits, responsible local governments shall proceed as in the case of an ordinance for the better government of the county or municipality, as the case may be. A municipality may exercise the powers granted in this Part not only within its corporate boundaries but also within the area of its extraterritorial zoning jurisdiction. A county may exercise the powers granted in this Part at any place within the county that is outside the zoning jurisdiction of ~~any municipalities~~ a municipality in the county. If a municipality does not exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction, the county shall exercise the powers granted in this Part in the municipality's extraterritorial zoning jurisdiction. The county may regulate territory within the zoning jurisdiction of any municipality whose governing body, by resolution, agrees to ~~such regulation; provided, however, that any such~~ the regulation. A municipal governing body may, upon one year's written notice, withdraw its approval of the county regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

(c) The local governing body is hereby empowered to adopt ~~such~~ regulations ~~as~~ it may deem necessary concerning the form, time, and manner of submission of applications for permits under this Part. ~~Such~~ These regulations may provide for the issuance of permits under this Part by the local governing body or by ~~such~~ an agency ~~as may be~~ designated by ~~said~~ the local governing body, as prescribed by the governing body. Every final decision granting or denying a permit under this Part shall be subject to review by the superior court of the county, with the right of jury trial at the election of the party seeking review. The time and manner of election of a jury trial shall be governed by G.S. 1A-1, Rule 38(b) of the Rules of Civil Procedure. Pending the final disposition of ~~any such~~ an appeal, no action shall be taken ~~which~~ that would be unlawful in the absence of a permit issued under this Part.

(d) A local government may issue a variance to the elevation requirements set out in this Part only if the variance complies with the requirements for participation in the National Flood Insurance Program.

"**§ 143-215.58. Violations and penalties.**

(a) Any willful violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part shall constitute a Class 1 misdemeanor.

(a1) A local government may use all of the remedies available for the enforcement of zoning ordinances under Chapters 153A and 160A of the General Statutes to enforce an ordinance adopted pursuant to this Part.

(b) Failure to remove any artificial obstruction or enlargement or replacement thereof, that violates this Part or any ordinance adopted (or the provision of any permit issued) under the authority of this Part, shall constitute a separate violation of this Part for each ~~10 days~~ day that ~~such~~ the failure continues after written notice from the county or municipal governing body.

(c) In addition to or in lieu of other remedies, the county or municipal governing body may institute any appropriate action or proceeding to restrain or prevent any violation of this Part or of any ordinance adopted (or of the provisions of any permit issued) under the authority of this Part, or to require any person, firm or corporation ~~which~~ that has committed ~~any such~~ a violation to remove a violating obstruction or restore the conditions existing before the placement of the obstruction.

"**§ 143-215.59. Other approvals required.**

(a) The granting of a permit under the provisions of this Part shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.

(b) No permit for the construction of any structure to be located within a ~~floodway~~ flood hazard area shall be granted by a political subdivision unless the applicant has first obtained the permit required by this Part.

"**§ 143-215.60. Liability for damages.**

No action for damages sustained because of injury or property damage caused by ~~an~~ a structure or obstruction for which a permit has been granted under this Part shall be brought against the State or any political subdivision of the State, or their employees or agents.

"**§ 143-215.61. Floodplain management.**

The provisions of this Part shall not preclude the imposition by responsible local governments of land use controls and other regulations in the interest of floodplain management for the floodplain or the floodway."

Section 2. A structure or use existing in the 100-year floodplain or for which a building permit was issued prior to adoption of a local ordinance conforming to the requirements of this Part is not in violation of G.S. 143-215.54.

Section 3. G.S.159G-10(b)(1) reads as rewritten:

"(b) Priority Factors. -- All applications for revolving loans or grants under this Chapter eligible for consideration during each priority period shall be assigned a priority for ~~such~~ funds by the receiving agency. The priority factors shall be similar to those developed under the North Carolina Clean Water Bond Act of 1977, as provided in and modified by this subsection.

(1) General Criteria. --

a. The general criteria provided in 1 NCAC 22.0401 through .0403 on January 1, 1987, shall apply, except that 1 NCAC 22.0401(c) shall apply only to State funds appropriated to match available federal funds.

b. The existence of a comprehensive land-use plan that meets the requirements of subsection (e) of this section is a general criterion for prioritizing which applicants will receive a loan or grant. An applicant that is not authorized to adopt a comprehensive land-use plan but that is located in whole or in part in a local government unit that has adopted a comprehensive land-use plan shall receive the same priority treatment as an applicant that has authority to adopt a comprehensive land-use plan. A comprehensive land-use plan that meets the requirements of subsection (e) of this section and that exceeds the minimum State standards for protection of water resources shall receive more points than a plan that does not exceed those standards. Additional points may be awarded for actions taken toward implementation of a comprehensive land-use plan. These actions may include the adoption of a zoning ordinance or any other measure that significantly contributes to the implementation of the comprehensive land-use plan.

c. The existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes is a general criterion for prioritizing which applicants will receive a loan or a grant. Demonstration, based on the most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department, that no portion of the applicant's jurisdiction is located within the 100-year floodplain is a general criterion equivalent to the existence of a flood hazard ordinance conforming to the requirements of Part 6 of Article 21 of Chapter 143 of the General Statutes for prioritizing which applicants will receive a loan or a grant.

. . . ."

Section 4. Sections 1, 2, and 4 of this act are effective when this act becomes law. Section 3 of this act becomes effective 1 January 2002 and applies to loans and grants made on or after that date.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 1341 A BILL TO BE ENTITLED AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

VISITOR REGISTRATION SHEET

Environment & Nat. Resources — 6-29-00
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHFA
Mary Harrington	UNC IC
Michelle Cook	Weyerhaeuser
Preston Howard	MCIC
Brad Lovin	NC Manufactured Housing Institute
Mimi Ervin	DENR
Glenn McNairy	Gov's office
Phil McKnelly	DENR/DPR
Rob Aycock	Intern
Laura DeVos	DENR
Robin Smith	DENR

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brian Buzby	NC CanNet
Alex Kennaugh	NCCONNET

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURES

Friday, June 30, 2000

Committee Minutes

Chair Gibson called the meeting to order at 1:00 PM. He welcomed everyone to the meeting of the House Committee on Environment and Natural Resources.

Present: Cochairs Gibson and Warwick, V-Chair Cox, Representatives Brown, Culp, Daughtry, Davis, Hackney, Hill, McLawhorn, McMahan, Ramsey (excused), Yongue, and Tucker (excused).

Chair Warwick presided at the meeting and recognized Representative Gibson to present **SB 1329 ADDITIONAL NOTICE/MINING PERMIT APPLICATION**, companion bill to HB 1614 introduced by Representative Hackney. The House version of this bill had previously been given a favorable report in the House and sent to the Senate. The Senate Committee Substitute, that is before the Committee, expands the notice requirement for applications for mining permits and modifications of mining permits. It would require an applicant to notify all of the following persons: 1) chief administrative officer of each county and municipality that includes the site (current law); 2) owners of land adjoining that lies within 1,000 feet of the site (which is a modification of current law); 3) owners of the land that lies directly across a non-interstate highway of four lanes or less, a watercourse, or any other public right-of-way from any tract of land that includes the parcel where the proposed mining activity would take place (which is a new provision). The Senate change clarifies where the 1,000-foot boundary is measured from and this was the intent of the House version but was not clear enough. Representative Warwick stated that this was a good change and recommended the Senate Bill including the clarification be accepted. Representative McComas moved that Senate Bill 1329 be given a favorable report. The motion was passed and SB 1329 was given a favorable report.

Representative Warwick invited all members of the committee who are interested in hearing Mr. John Morris, Director, Division of Water Resources, DEHNR, to stay after the committee meeting. Mr. Morris is handling the rule making process that covers the 15 counties (Coastal Plain) with the aquifers problem in eastern North Carolina. He will be leading a discussion about the situation. Representative Warwick added that in some parts of the Coastal Plain Region, where ground water is being withdrawn faster than it can recharge, damage to the aquifers is beginning to occur, threatening the economic

future of the region. He feels now is the time to begin to develop a plan to help this situation.

Representative Warwick then adjourned the committee meeting.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **Friday, June 30, 2000**

TIME: **1:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

Ground Water Management in the Central Coastal Plain
SB 1329 - Add. Notice/Mining Permit Application

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at on **June 30, 2000**

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 3

SENATE BILL 1329*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/29/00
Third Edition Engrossed 6/29/00

Short Title: Add. Notice/Mining Permit Application. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-50 reads as rewritten:

"**§ 74-50. Permits -- General.** (a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

(1) 'Permitted area' means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(2) 'Permit boundaries' means the boundaries of a permitted area.

(3) 'Land adjoining' means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of,

the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either: (i) any parcel or tract that includes the permitted area or (ii) any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, taken together, are contiguous to the permitted area.

(b1) At the time of ~~the~~ an application for a new mining permit or ~~permit modifications that add owners of record of lands adjoining the permit boundaries,~~ for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to ~~notify all owners of record of land adjoining the proposed site, and to notify the chief administrative officer of the county or municipality in which the site is located that the operator intends to conduct a mining operation on the site in question.~~ notify:

(1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.

(2) The owners of record of land adjoining that lies within 1,000 feet of the permit boundaries.

(3) The owners of record of land that lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way and that lies within 1,000 feet of the permit boundaries. For purposes of this subdivision, 'highway' means a highway, as defined in G.S. 20-4.01(13) that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed mining operation and the opportunity to request a public hearing regarding the proposed mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

(1) Division of Air Quality, Department of Environment and Natural Resources.

(2) Division of Parks and Recreation, Department of Environment and Natural Resources.

(3) Division of Water Quality, Department of Environment and Natural Resources.

(4) Division of Water Resources, Department of Environment and Natural Resources.

(5) North Carolina Geological Survey, Division of Land Resources, Department of Environment and Natural Resources.
(6) Wildlife Resources Commission, Department of Environment and Natural Resources.
(7) Division of Archives and History, Department of Cultural Resources.
(8) United States Fish and Wildlife Service, United States Department of the Interior.
(9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, Department of Environment and Natural Resources; the Division of Marine Fisheries, Department of Environment and Natural Resources; the Division of Waste Management, Department of Environment and Natural Resources; and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) An operating permit shall be granted for a period not exceeding 10 years. If the mining operation terminates and the reclamation required under the approved reclamation plan is completed prior to the end of the period, the permit shall terminate. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan."

Section 2. G.S. 74-51(c) reads as rewritten:

"(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or ~~for permit modifications that add owners of record of lands adjoining the permit boundaries.~~ for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made."

Section 3. This act becomes effective 1 October 2000.

SENATE BILL 1329:
Additional Notice/ Mining Permit Application

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
Date:	June 30, 2000	**Summary by:**	Hannah Holm, Research Assistant for Environmental Issues
Version:	Third Edition		

SUMMARY: ***Senate Bill 1329 expands the notice requirement for applications for mining permits and modifications of mining permits.***

CURRENT LAW: An applicant for a mining permit is currently required to notifiy adjoining property owners and the chief administrative officer of the county or municipality where the site is located of the application and the opportunity to submit comments to the Department of Environment and Natural Resources (DENR) or request a public hearing on the activity proposed in the application. DENR is required to hold a public hearing on the application if it determines that sufficient public interest exists.

BILL ANALYSIS: SB 1329 would expand the mining permit application notice requirements in current law by redefining terms, adding to the number of people who must receive notice, and modifying the circumstances under which notice is required.

Redefined terms. SB 1329 would redefine the terms "permitted area," "permit boundaries," and "land-adjoining," to make the term "land adjoining" mean any parcel of land that adjoins land owned or controlled by a holder of a mining permit or an applicant for a mining permit, or any of their affiliates, that is contiguous to the parcel where any proposed mining activity would take place. This would exclude any land owned or controlled by a holder of a mining permit or an applicant for a mining permit, or any of their affiliates, from the term "land adjoining."

Additional people notified. SB 1329 would require an applicant to notify all of the following of an application for a new mining permit or a permit modification that would expand the area associated with mining activity and inform them of their right to comment or call for a public hearing on the application:

- The chief administrative officer of each county and municipality that includes the site (same as current law).
- The owners of land adjoining that lies within 1,000 feet of the site (modification of current law).
- The owners of land that lies directly across a non-interstate highway of four lanes or less, a watercourse, or any other public right-of-way from any tract of land that includes the parcel where the proposed mining activity would take place (new provision).

SB 1329 would also add a new requirement that DENR notify various agencies responsible for the management of environmental, natural, and cultural resources of any application received for a new mining permit or a permit modification that would expand the area associated with mining activity and request that these agencies comment on the application within 30 days.

Modification of circumstances requiring notification. SB 1329 would make the notice requirements apply to any application for a mining permit modification that would add land to the area associated with mining activity, as well as to any new permit application. Current law requires notice only if the expansion of the area associated with mining activity would make the boundaries of the mining activity, as identified in the permit application, adjoin the land of additional property owners.

BACKGROUND: SB 1329, as introduced, was recommended by the Environmental Review Commission (ERC), after some members raised concerns that it was possible for an applicant for a mining permit to avoid the existing public notice requirements if the applicant controlled land immediately adjacent to the parcel on which the proposed mining activity would take place. The Third Edition is similar to the bill as introduced, except that it limits the notice requirement to owners of adjoining property that is within 1,000 feet of the mining activity and adds the requirement that DENR notify public agencies of permit applications.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK AND GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES**.

☐ Committee Substitute for
S.B. 1329 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

VISITOR REGISTRATION SHEET

Environment + Nat. Environ. 6-30-00

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Meeker	CCNC
Ivie Finch	Sierra Club
John Morris	NC DENR
Nat Wilson	"

HOUSE COMMITTEE ON

ENVIRONMENT AND NATURAL RESOURES

Wednesday, July 5, 2000

Committee Minutes

Chair Gibson called the meeting to order at 12 Noon. He welcomed everyone to the meeting of the House Committee on Environment and Natural Resources.

Present: Cochairs Gibson and Warwick, V-Chair Cox, Representatives, Brown, Culp, Daughtry, Davis, Hackney, McLawhorn, McMahan, Ramsey (excused), Thompson, and Tucker (excused).

Chair Gibson presented the **SB 1252 Brownfields Tax Incentive** bill, which allows a partial exclusion from property taxes over a five-year period for qualifying improvements, made on brownfields properties. The amount of the exclusion declines from 90% during the first year after the improvement to 10% during year five. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 2001. The House companion bill was passed out of the committee earlier and the Senate version is exactly the same. Represented Smith moved that the Senate Bill 1252 be given a favorable report and re-referred to Finance Committee. Representative Brown 2nd the motion. The motion was passed and SB 1252 was given a favorable report and re-referred to Finance. (A copy of the Senate Bill is enclosed with the minutes.)

Chair Gibson then handed over the gavel to Chair Warwick so he could present a bill. Representative Gibson presented a draft of a Proposed Committee for **HB 1580 Regulatory Flexibility Agreements**. The PCS of the first Edition of HB 1580 would provide for the establishment of Regulatory Flexibility Agreements (RFAs) to allow practices not otherwise allowed under environmental requirements in order to achieve environmental results that are equal to or better than those that would otherwise be achieved. Representative Brown moved that the draft of the PCS for HB 1580 be accepted for discussion only by the committee. The motion passed. The discussion began with George Givens, Staff Attorney for the Committee, who gave a brief review of the bill. He stated that Preston Howard, MCIC Association, David Knight, Sierra Club and Conservation Council, and Dan McLawhorn of DEHNR, have been in on the discussion in preparing this PCS for HB 1580. It was further said by staff that the PCS would establish a new article in the Chapter 113A of the General Statutes (Pollution Control and Environment) that would authorize the Secretary of Environment and Natural Resources (Secretary) to enter into RFAs with entities that release pollutants or manage waste. He added that there is no provision in this PCS for tradeoffs for exchange of media. A discussion ensued on meets versus exceeds. Enclosed with the minutes is a bill analysis for HB 1580 which explains the follow areas of the legislation: 1) Authority

and Limitations; 2) Application for an RFA; 3) Public notice and comment; 4) Stakeholders Involvement Plan; 5) Criteria for approval; 6) Environmental management systems; 7) Standard terms and conditions; 8) Effect of an approved RFA; 9) Incentives; 10) Duration, renewal, and modification; 11) Termination; 12) Enforcement; 13) Judicial review; 14) Fees; 15) Regulatory Flexibility Act Implementation Account; 16) Adoption of Rules.; 17) Reports; 18) Seek agreement with EPA; 19) Pilot program; and Effective dates. Representative Gibson stated that this PCS is still a work in progress. Representative Brown ask, if you are barely complying, does legislation give you any wiggle room? Mr. Givens said it may or may not give you wiggle room depending on what it is you propose. One possibility under this bill goes back to the meet versus exceeds conundrum. What one proposes may do no better from the environmental point of view, but, by changing the process, as currently recognize by the rules, would save you money. This would not necessarily improve the environmental performance but improve the economic performance of the company. This does give the company some flexibility. Representative Smith wanted to know if legislation gives the Secretary of DEHNR a lot more authority. Representative Gibson said that in the current wording of the PCS it does give the Secretary of DEHNR a lot of authority. Representative Culp ask if this bill came out of the ERC. Mr. Givens said this was discussed by ERC but industry and other interested parties met together and help formulate this bill. This legislation was called the Environmental Excellence Act and was introduced in long session. Industry, DEHNR, various environmental associations were not very uncomfortable with the original bill so Mr. Given was mandated to get with all interested parties and draft a PCS to the original. Representative Hackney did not like the incentive part of the bill. He thought rewarding operators of facilities incentives for just meeting the minimum standards is not a good practice. One of DEHNR concerns was funding and fees to be allowed. Chair Warwick wanted to know if they had looked at what other states are doing to allow flexibility and what legislation have they developed. They did look at about a dozen other states. They vary from state to state. Most states want them to exceed standards rather than meet standards. Discussion of this bill will continue at the next meeting of the committee. (A copy of the Draft PCS for HB 1580 is included with these minutes.)

The meeting was then adjourned.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Carolyn Honeycutt, Committee Assistant

AGENDA FOR TODAY

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **Environment & Natural Resources** will meet as follows:

DAY & DATE: **July 5, 2000**

TIME: **11:00 p.m.**

LOCATION: **Room 643, Legislative Office Building**

The following bills will be considered (Bill # & Short Title):

HB 1252 - Brownfields Tax Incentive
HB 1580 - Regulatory Flexibility Agreements
(For discussion only)

Respectfully,

Representatives Warwick and Gibson
Chairmen

I hereby certify this notice was filed by the committee clerk at the following offices at on

.

Carolyn Honeycutt, Shirlyn MacPherson (Committee Assistants)

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

AGENDA

Wednesday, July 5, 2000
11:00 P.M.

WELCOME ..... **CO-CHAIRS**
Rep. Pryor Gibson &
Rep. Nurham Warwick

BILL TO BE PRESENTED:

S 1252, Brownfields Tax Incentive ..... **Senator Odom**

H 1580 Regulatory Flexibility Agreements ..... **Representative Gibson**
(For Discussion Only)

ADJOURN

Favorable
+
re-referred
to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S 2

SENATE BILL 1252*
Second Edition Engrossed 6/28/00

Short Title: Brownfields Tax Incentive. (Public)

Sponsors: Senator Odom.

Referred to: Agriculture/Environment/Natural Resources.

May 16, 2000

A BILL TO BE ENTITLED

AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.13. Taxation of improvements on brownfields.**

(a) Qualifying improvements on brownfields properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised, assessed, and taxed in accordance with this section. An owner of land is entitled to the partial exclusion provided by this section for the first five taxable years beginning after completion of qualifying improvements made after the later of July 1, 2000, or the date of the brownfields agreement. After property has qualified for the exclusion provided by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property that is subject to a brownfields agreement entered into by the Department of Environment and Natural Resources and the owner pursuant to G.S. 130A-310.32.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	Percent of Appraised Value Excluded
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

Section 2. G.S. 130A-310.34(d) reads as rewritten:

"(d) Prior to entering into a brownfields agreement, the Department shall take into account the comment received during the comment period and at the public meeting if the Department holds a public meeting. The Department shall incorporate into the brownfields agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Department shall give particular consideration to written comment that is supported by valid scientific and technical information and ~~analysis.~~ analysis and to written comment from the units of local government that have taxing jurisdiction over the brownfields property."

Section 3. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after 1 July 2001. The remainder of this act is effective when it becomes law.

SENATE BILL 1252:
Brownfields Tax Incentive

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
		Summary by:	Rick Zechini Committee Counsel
Date:	July 5, 2000		
Version:	Second Edition		

SUMMARY: ***Senate Bill 1252 allows a partial exclusion from property taxes over a five-year period for qualifying improvements made on brownfields properties. The amount of the exclusion declines from 90% during the first year after the improvement to 10% during year five. The bill is effective for taxes imposed for taxable years beginning on or after July 1, 2001.***

BACKGROUND: In 1997, the General Assembly enacted The Brownfields Property Reuse Act of 1997. Brownfields property is defined in the Act as abandoned, idled, or underused property at which expansion or redevelopment is hindered by actual environmental contamination or the possibility of environmental contamination and that is or may be subject to remediation. The Act authorizes the Department of Environment and Natural Resources (DENR) to enter into brownfields agreements with prospective developers. These brownfields agreements allow a developer to cleanup a contaminated property to a level that is less "clean" than would otherwise be required by law in exchange for subjecting the property to land-use restrictions. A developer who enters into an agreement with DENR and is complying with the agreement will not be held liable for cleanup of areas of contaminants identified in the agreement, so long as the activities conducted on the property do not increase the risk of harm to public health or the environment and the developer has not violated the land-use restrictions under the agreement.

BILL ANALYSIS: Senate Bill 1252 provides that the owner of real property that is subject to a brownfields agreement is entitled to a partial exclusion from local property tax for the first five years that improvements are made to the property. The partial exclusion is available beginning after the completion of qualifying improvements made after the later of July 1, 2000, or the date of the brownfields agreement. The following table describes the percentage of the appraised value of improvements that is excluded based on the taxable year:

Taxable Year	Percent of Appraised Value
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%

The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: Senate Bill 1252 is effective for taxes imposed for taxable years beginning on or after July 1, 2001.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 1252 A BILL TO BE ENTITLED AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☒ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☒ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

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for discussion only
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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1580
PROPOSED COMMITTEE SUBSTITUTE H1580-CSRT/SB-012
16:03:43 EZT / 4-JUL-00

ATTENTION: Line numbers may change after adoption.

Short Title: Regulatory Flexibility Agreements. (Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A VOLUNTARY REGULATORY FLEXIBILITY PROGRAM TO PROMOTE IMPROVED ENVIRONMENTAL COMPLIANCE AND REGULATORY FLEXIBILITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 17.

"Regulatory Flexibility Agreements.

"§ 113A-241. Title.

This Article may be cited as the 'Regulatory Flexibility Agreements Act of 2000'.

"§ 113A-242. Purpose.

The purpose of this Article is to create a voluntary program whereby persons who engage in activities that result in the discharge or emission of pollutants or contaminants, or who manage solid or hazardous waste, may enter into agreements with the Secretary under which innovative measures not otherwise allowed under applicable environmental requirements may be utilized to achieve overall results that are equal to or better

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than those that would otherwise be achieved. At a minimum, a Regulatory Flexibility Agreement shall provide for a level of environmental protection that equals the level of protection required by environmental law and applicable environmental requirements. Better overall results may include a higher level of environmental protection, the same level of protection achieved in a more efficient or cost-effective manner, or ideally, a higher level of environmental protection achieved in a more efficient or cost-effective manner.

§ 113A-243. Definitions.

(a) Unless otherwise required by the context and except as provided in this section, the definitions set out in Article 9 of Chapter 130A of the General Statutes and in Articles, 21, 21A, and 21B of Chapter 143 of the General Statutes apply to this Article.

(b) As used in this Article:

(1) 'Affiliate' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).

(2) 'Applicable environmental requirements' means those State environmental rules and permits that govern the emission, discharge, or management of pollutants, contaminants, or wastes, and that are administered by the Department, a commission, or a regional or local authority under any provision of environmental law.

(3) 'Department' means the Department of Environment and Natural Resources and may include the commissions organized within the Department and delegated local or regional programs as required by the context.

(4) 'Environmental law' means Articles 1 and 9 of Chapter 130A of the General Statutes, Articles 21, 21A, or 21B of Chapter 143 of the General Statutes, and corresponding federal statutes.

(5) 'Facility' means a contiguous area, or two or more areas in close proximity, that are under common ownership, management, or control and at which any activity occurs that is regulated under any environmental law. 'Facility' includes, any personal property or fixtures that are located at a facility or that are substantially related to the operation of a facility.

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(6) 'Multi-media' means the emission or discharge of pollutants, contaminants, or wastes into two or more of the following: air, groundwater, land, or surface water.

(7) 'Parent' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).

(8) 'Regulatory Flexibility Agreement' or 'RFA' means an agreement between the Secretary or the Secretary's delegate and a person who owns or operates a facility and who holds one or more permits governing the discharge or emission of pollutants, contaminants, or waste from the facility, or the management of waste at the facility. A RFA authorizes the permit holder to implement innovative environmental measures not otherwise allowed under applicable environmental requirements for the purposes of, and in accordance with the requirements of, this Article. A RFA is not a license as that term is defined in G.S. 150B-2.

(9) 'Secretary' means the Secretary of Environment and Natural Resources.

(10) 'Single media' means the emission or discharge of pollutants, contaminants, or wastes into no more than one of the following: air, groundwater, land, or surface water.

(11) 'Stakeholder' means any person or group of persons of common interest directly or indirectly affected in his or its person, property, or employment by the operation of a facility that has applied for, or is operating under a Regulatory Flexibility Agreement. Potential stakeholders include, but are not limited to: employees of the facility and their representatives; persons who live or work near the facility; community, civic, environmental advocacy, and other organizations; trade and business associations; and agencies of the State and local governments and their representative associations.

(12) 'Subsidiary' has the same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1996 Edition).

"§ 113A-244. Authority to enter into a RFA; limitations.

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(a) The Secretary may enter into a RFA with any person who engages in the discharge or emission of pollutants or contaminants, or the management of waste, and who is regulated under environmental law. A RFA may modify only those applicable environmental requirements that implement environmental law. Each RFA may apply only to a single facility.

(b) The Secretary may delegate the authority to enter into a RFA to a Deputy Secretary, Assistant Secretary, or division director of the Department. If a proposed RFA affects programs in two or more divisions of the Department, the Secretary shall designate a lead agency to negotiate the RFA.

(c) If a proposed RFA affects a program that is delegated to and administered by a regional or local authority, the Secretary may not enter into the RFA unless the regional or local authority approves the RFA. If a proposed RFA affects only a program that is delegated to and administered by a regional or local authority, the Secretary may request that the regional or local authority negotiate the RFA.

(d) The Secretary may not enter into a RFA without the approval of each commission that is authorized to adopt rules governing a program that would be affected by the RFA. The Secretary shall submit a proposed RFA to each commission that is authorized to adopt rules governing a program that would be affected by the proposed RFA. Each commission shall review the proposed RFA and may object to it within 90 days of the date the proposed RFA is submitted by the Secretary. If a commission does not object to a proposed RFA within the 90-day review period, the commission is presumed to have approved the proposed RFA. If a commission objects to a proposed RFA, the commission shall provide a written statement of the objection and the reasons for the objection to the Secretary.

(e) If the proposed RFA affects a program that is delegated, authorized, or approved by the United States Environmental Protection Agency, the Secretary may not enter into the RFA without the concurrence of the United States Environmental Protection Agency. The Secretary may enter into an agreement with the United States Environmental Protection Agency that provides for review and implementation of RFAs.

(f) This Article and any RFA entered into under this Article shall not be construed to authorize a variance from a provision of the United States Code, the General Statutes, or any local ordinance related to zoning or land use planning.

"§ 113A-245. Application for a RFA.

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A person may apply for approval of a RFA by submitting the following information to the Secretary:

(1) The proposed RFA.

(2) A description of the proposed regulatory flexibility project that includes a description of the facility and how its operation will be affected under the RFA, whether operation of the facility under the RFA will achieve overall results that are equal to or better than those required by otherwise applicable environmental requirements and how this will be accomplished, the nature of the anticipated results, and the method to document compliance with the commitments made by the applicant in the RFA.

(3) An explanation of why the applicant's goals under the proposed RFA could not be achieved under applicable environmental requirements.

(4) All information necessary to determine that the proposed RFA satisfies the criteria for approval of a RFA under G.S. 113A-248.

(5) A statement that identifies each permit that is required by environmental law for the operation of the facility, states whether the applicant holds or has applied for each of these permits, indicates the status of each permit or permit application.

(6) A statement that identifies each applicable environmental requirement, including any permit requirement, that would be modified or superseded by the RFA and describes the manner in which each requirement would be modified or superseded.

(7) An analysis of all anticipated environmental benefits and adverse environmental impacts that may result if the proposed RFA is approved and implemented.

(8) Any other information requested by the Secretary or Secretary's delegate

"**§ 113A-246. Public notice and comment.**

(a) At least 45 days prior to acting on an application to approve, significantly modify, or renew a RFA, the Secretary shall require the applicant to provide public notice of the proposed action by:

(1) Publication in the North Carolina Register.

(2) Publication in a newspaper having general circulation in each county in which the facility covered by the proposed RFA is located.

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(3) Mail to each unit of local government having jurisdiction over any part of the facility to which the RFA applies.

(4) Providing a copy of the application for the proposed RFA for public inspection in at least one location selected by the Secretary.

(b) The notice shall:

(1) Provide a brief description of the proposed RFA and the action to be taken.

(2) Identify the facility to which the proposed RFA applies.

(3) Summarize anticipated environmental benefits and adverse environmental impacts.

(4) Identify the rules and permit requirements that will be modified or superseded by the proposed RFA.

(5) Include a statement as to the public availability of the application for the proposed RFA.

(6) State the time period and means for submitting written comment and for requesting a public hearing on the proposed RFA.

(c) The Secretary may require that the notice of a proposed RFA be published in additional newspapers and provided to additional persons. The Secretary may extend the period for comment by up to 60 additional days.

(d) If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require a public hearing to be held on the proposed RFA. Notice of a public hearing shall be given, in the manner required by this section for public notices, at least 30 days before the public hearing.

"**§ 113A-247. Stakeholder Involvement Plan.**

If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require that the applicant for a RFA implement and maintain a Stakeholder Involvement Plan. A Stakeholder Involvement Plan shall provide for the identification and notification of stakeholders and stakeholder participation, review, and comment during the development of a RFA and continued participation, review, and comment during the implementation of the RFA.

"**§ 113A-248. Criteria for approval of a RFA.**

The Secretary may enter into a RFA only if the applicant demonstrates to the Secretary or the Secretary's delegate that:

(1) The discharge or emission of each pollutant, contaminant, and waste from the facility, when

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operated pursuant to the RFA, will be no greater than that allowed under otherwise applicable environmental requirements and that the overall environmental protection will equal or exceed that which would be required in the absence of the RFA.

(2) The applicant and any parent, subsidiary, or other affiliate of the applicant has substantially complied with federal and state laws, regulations, and rules for the protection of the environment and the terms of any RFA or similar agreement to which the applicant or any parent, subsidiary, or other affiliate of the applicant has been a party. An applicant who has satisfied the requirements of G.S. 130A-(b2)(2), G.S. 143-215.1(b)(4)b.2., or G.S. 143-215.108(c)(5a)b. in order to obtain a permit required by subdivision (4) of this section, shall be deemed to have satisfied the requirements of this subdivision.

(3) The applicant is financially qualified to carry out the activities covered by the RFA.

(4) The applicant holds all permits that are required by environmental laws for the operation of the facility.

(5) For a RFA for a multi-media project or for a single media project that is not intended to provide for a level of environmental protection that exceeds the level of protection required by environmental law and applicable environmental requirements, the applicant has, or will implement, an environmental management system for the facility at the time the RFA becomes effective and will maintain the environmental management system so long as the RFA is in force.

(6) The applicant implements a Stakeholder Involvement Plan as required by the Secretary.

(7) Implementation of the RFA will not increase overall occupational health or safety risks to employees at the facility.

(8) Implementation of the RFA will not result in an unjust or disproportionate environmental impact on any socioeconomic or demographic group.

"§ 113A-249. Environmental Management Systems

(a) For purposes of this Article, an environmental management system is a program for the planning, implementation, review, and

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improvement of the operation of a facility subject to a RFA that is designed to ensure that the facility complies with the specific performance standards set out in the RFA and the applicable environmental requirements not modified by the RFA. At a minimum, an environmental management system shall provide for all of the following:

(1) A policy that commits the management of the facility to implement and maintain the environmental management system and to continually improve environmental performance.

(2) Identification and description of all potential adverse environmental impacts resulting from the operation of the facility, including the emission and discharge of pollutants and contaminants, use of energy, and generation of waste.

(3) Goals and targets to reduce the potential adverse environmental impacts resulting from the operation of the facility, including reduction of energy use.

(4) Employee training designed to reduce the potential adverse environmental impacts resulting from the operation of the facility.

(5) Identification and implementation of compliance assurance measures, including plans to prevent violation of the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA.

(6) Identification and implementation of measures for the prompt identification, correction, and reporting of all violations of the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA.

(7) Monitoring activities at the facility that may have a potential adverse environmental impact.

(8) Review of the environmental management system and its implementation at least once each year.

(b) Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as 'ISO 14001' presumptively satisfies the requirement that an applicant for a RFA implement an environmental management system.

"§ 113A-250. Standard terms and conditions of a RFA.

Each RFA shall contain terms and conditions that provide for all of the following:

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(1) A statement that describes the location and operation of the facility with sufficient detail so as to clearly establish the area and activities that are subject to the RFA.

(2) A statement that identifies the ownership and management structure of the facility.

(3) A statement that operation of the facility under the RFA is intended to achieve overall environmental results that either:

a. Equal the results that are required by otherwise applicable environmental requirements.

b. Exceed the results that are required by otherwise applicable environmental requirements.

c. Exceed the results that have been achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.

(4) A statement that identifies each permit that is required by environmental laws for the operation of the facility and a requirement that the owner or operate of the facility take all actions required to maintain each permit in force.

(5) A statement that identifies each applicable environmental requirement, including any permit requirements, that are modified or superseded by the RFA and describes the manner in which each requirement is modified or superseded.

(6) A description of how the operation of the facility will be modified by the RFA.

(7) A detailed description of how the RFA will be implemented and an implementation schedule.

(8) A statement of the specific performance standards that the owner or operator of the facility agrees to meet under the RFA and of any non-obligatory performance goals.

(9) A statement of any specific performance goals that the owner or operator of the facility hopes to achieve under the RFA.

(10) A description of how compliance with this Article and the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified

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by the RFA, will be monitored, documented, and reported. The RFA shall require that the owner or operator of the facility prepare and submit to the Department a comprehensive performance review at least annually.

(11) A requirement that the owner or operator implement and maintain an Environmental Management System as required by G.S. 113A-248(5) so long as the RFA is in force.

(12) If the Secretary requires a Stakeholder Involvement Plan, a requirement that the owner or operator of the facility implement the Plan.

(13) A specific description of all incentives that are provided under the RFA.

(14) The term of the RFA and a notice the the RFA may be modified or renewed only as provided in G.S. 113A-253.

(15) A notice that the RFA is subject to termination as provided in G.S. 113A-254.

(16) Additional terms, consistent with this Article, that may be required by the Secretary or the Secretary's delegate.

"§ 113A-251. Effect of an approved RFA.

A RFA modifies applicable environmental requirements only to the extent that the RFA specifically identifies an applicable environmental requirement and provides for a specific modification of those requirements. To the extent that a RFA provides for a specific modification of an applicable environmental requirement, that requirement is superseded and the owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to the RFA is relieved of any obligation to comply with the requirement. All provisions of environmental law and any applicable environmental requirements that are not addressed by the RFA shall continue to apply to the operation of the facility. The owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to a RFA shall comply with environmental law, the terms of the RFA, and all applicable environmental requirements that are not modified by the RFA. The terms of a RFA and applicable environmental requirements that are not modified by the RFA may be enforced as provided in this Article and environmental law.

"§ 113A-252. Incentives.

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(a) In order to encourage the development of programs, projects, and activities under a RFA that will achieve overall environmental results that are equal to those required by otherwise applicable environmental requirements, the Secretary may provide any of the following incentives:

(1) Formal, public recognition by the Governor or the Secretary.

(2) Modified requirements for renewal of environmental permits if, since the last issuance of those permits, there have been no material changes in equipment and operation at the facility; no violations of federal, state, or local laws, regulations, or rules for the protection of the environment.

(3) Technical assistance with the development and implementation of a pollution prevention program.

(4) Technical assistance with the development and implementation of measures designed to improve compliance.

(b) In order to encourage the development of programs, projects, and activities under a RFA that will achieve overall environmental results that are better than those required by otherwise applicable environmental requirements, the Secretary may provide any of the following incentives:

(1) Any incentive available under subsection (a) of this section.

(2) Modification of reporting and monitoring requirements.

(3) Consolidation of applications for permits issued by the Department.

(4) Accelerated review and processing of permit applications.

(5) Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.

(6) Ability to establish facility-wide caps on the emission or discharge of pollutants, contaminants, or wastes into a single media.

(c) The Secretary may withdraw any or all incentives provided under this section for any of the reasons set out in G.S. 113A-254 for termination of a RFA. The Secretary may withdraw any or all incentives provided under subsection (b) of this section if the Secretary finds that overall environmental results

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that are better than those required by otherwise applicable environmental requirements have not been achieved. The Secretary shall withdraw all incentives provided under this section if the Secretary finds that the owner or operator of a facility has failed to comply with the RFA or upon the termination, withdrawal, or expiration of the RFA.

"**§ 113A-253. Duration, renewal, and modification of a RFA.**

(a) A RFA shall remain in force for five years unless the Secretary and the owner or operator agree to a shorter term or the RFA is terminated as provided in G.S. 113A-254.

(b) Subject to the limitations of subsections (c) through (e) of G.S. 113A-244 and the criteria set out in G.S. 113A-248, upon application by the owner or operator, the Secretary may renew or modify a RFA. A RFA may be renewed for a term of five years unless the Secretary and the owner or operator agree to a shorter term.

(c) Before deciding whether to renew or modify a RFA, the Secretary may require the owner or operator of a facility to obtain an evaluation of the performance of the facility under the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA, by a third party acceptable to both the owner or operator and the Secretary.

"**§ 113A-254. Termination of a RFA.**

(a) The Secretary may terminate a RFA if the Secretary finds that the owner or operator has failed to comply with any provision of environmental law, this Article, the RFA, or any applicable environmental requirement not modified by the RFA. The Secretary may terminate a RFA if the Secretary finds that the owner or operator, or any parent, subsidiary, or other affiliate of the owner or operator has failed to comply with any federal or state law, regulation, or rule for the protection of the environment or with the terms of any RFA or similar agreement to which the owner or operator, or any parent, subsidiary, or other affiliate of the owner or operator is a party. The Secretary may allow the owner or operator a reasonable time, not to exceed 90 days after the owner or operator discovers or receives written notice of the deficiency, in which to correct the deficiency. The Secretary shall terminate the RFA if the owner or operator fails to correct the deficiency within the time allowed.

(b) The Secretary shall terminate a RFA if the Secretary finds that the owner or operator has failed to disclose a violation of this Article, the RFA, or any applicable environmental requirement not modified by the RFA to the Department within 48

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hours of the time that the owner or operator discovers the violation. The Secretary shall terminate a RFA if the Secretary finds that the owner or operator is not financially qualified to carry out the activities covered by the RFA.

(c) A RFA automatically terminates if the owner or operator fails to keep in force each permit that is required by environmental law for the operation of the facility.

(d) Notwithstanding any other provision of this section, the Secretary may immediately terminate a RFA if the Secretary finds that the facility subject to the RFA poses an imminent hazard to human health or the environment. If the Secretary finds that a facility subject to the RFA poses an imminent hazard to human health or the environment, the Secretary may take any action necessary to abate the imminent hazard as provided in G.S. 130A-20.

(e) The owner or operator of a facility subject to a RFA may terminate the RFA by giving notice to the Secretary at least 30 days prior to the termination and paying all fees due under G.S. 113A-257.

(f) Effective upon termination of a RFA, any incentives provided by the State in connection with the RFA shall be withdrawn.

(g) Upon termination of a RFA, all applicable environmental requirements apply to the facility. Unless the RFA was terminated for failure to keep a required permit in force, the owner or operator may continue to operate the facility to the extent that the owner or operator is able to do so in compliance with environmental law. The Department shall provide expedited review of any application for a permit or permit modification for a facility for which a RFA is terminated.

"**§ 113A-255. Enforcement.**

(a) A violation of a term or condition of a RFA is subject to administrative, civil, and criminal penalties and remedies to the same extent, and the terms and conditions of a RFA may be enforced in the same manner, as the otherwise applicable environmental requirements that are modified or superseded by the RFA.

(b) No person shall be subject to any administrative, civil, or criminal penalty, including injunctive relief, as a result a any failure to meet a performance goal set out in a RFA pursuant to G.S. 113A-250(9).

(c) Nothing in this Article shall limit the authority of the Attorney General, a district attorney, the Secretary, any agency head, regulatory commission, or regional or local authority to

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initiate an administrative, civil, or criminal action against a person for a violation of any applicable environmental requirement, except to the extent that the requirement was modified pursuant to this Article at the time the violation occurred. Nothing in this Article shall limit the authority of the Attorney General, a district attorney, the Secretary, any agency head, regulatory commission, or regional or local authority to initiate an administrative, civil, or criminal action against a person for a violation of any federal, State, or local environmental law.

"§ 113A-256. Judicial review

(a) A decision to approve or disapprove a proposed RFA is at the sole discretion of the Secretary. A decision to approve, disapprove, modify, renew, terminate, or withdraw from a RFA, and any decision to provide or withdraw any incentive, does not create a right, duty or privilege within the meaning of G.S. 150B-2(2) and is not subject to review in an administrative hearing under Article 3 of Chapter 150B of the General Statutes. A decision by the Secretary of the Secretary's delegate to approve, disapprove, modify, renew, terminate, or withdraw from a RFA, and any decision to provide or withdraw any incentive, is a final agency decision and is subject to judicial review as provided in Article 4 of Chapter 150B of the General Statutes.

(b) A person seeking judicial review pursuant to this section shall be deemed to have exhausted all administrative remedies available by statute or rule. To obtain judicial review under this section, the person seeking review must file a petition in the superior court of Wake County, the county where the person resides, any county where any owner or operator resides or has his, her, or its principal place of business, or any county in which any portion of the facility is located. A person seeking review under this section must file the petition within 30 days after the decision of the Secretary or the Secretary's delegate is served on the owner or operator of the facility subject to the RFA.

"§ 113A-257. Fees.

(a) The Department shall collect the following fees:

(1) An applicant who submits a proposed RFA for review by the Secretary shall pay an initial fee of two thousand dollars ($2,000). *

(2) An applicant who enters into a RFA with the Secretary shall pay a fee in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the RFA,

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including but not limited to negotiation of the RFA and public notice and involvement. The procedure by which the amount of this fee is determined shall be established by agreement between the applicant and the Secretary and shall be set out as a part of the RFA. The fee imposed by this subdivision shall be due at the time the applicant and the Secretary enter into the RFA and shall be reduced by the amount of the initial fee paid pursuant to subdivision (1) of this subsection. The Secretary shall not enter into the RFA unless the fee is paid in full when due.

(3) The owner or operator of a facility that is subject to a RFA shall pay a fee in an amount equal to the full cost of monitoring the implementation of the RFA, including the cost of continuing public involvement. The procedure by which the amount of this fee is determined and the schedule for payment of the fee shall be established by agreement between the applicant and the Secretary and shall be set out as a part of the RFA.

(4) The owner or operator of a facility that is subject to a RFA who applies for modification or renewal of a RFA shall pay a fee in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the modification or renewal, including but not limited to negotiation of the modified or renewed RFA and public notice and involvement. The procedure by which the amount of this fee is determined shall be established by agreement between the owner or operator and the Secretary and shall be set out as a part of the modified or renewed RFA. The fee imposed by this subdivision shall be due at the time of the renewal or modification. The Secretary shall not modify or renew a RFA unless the fee is paid in full when due.

(b) In determining the full cost of activities related to a RFA, the Secretary shall take into account the extent to which activities associated with the review of an application for a permit or for the modification or renewal of a permit reduce the cost of activities related to the RFA and shall reduce the amount of the fee due under subdivisions (2), (3), and (4) of subsection

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(a) of this section accordingly. The amount of the reduction shall not exceed the amount of the permit fee.

(c) Fees and interest imposed under this section shall be credited to the Regulatory Flexibility Act Implementation Account.

(d) If a applicant fails to pay the full amount of any fee due under this section, interest on the unpaid portion of the fee shall accrue from the time the fee is due until paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-241.1(i). A lien for the amount of the unpaid fee plus interest shall attach to the real and personal property of the owners and operators of the facility subject to the RFA until the fee and interest is paid. The Department may collect unpaid fees and interest in any manner that a unit of local government may collect delinquent taxes.

(e) This Article shall not be construed to authorize a reduction or waiver of any fee that an applicant for approval, modification, renewal of a RFA or the owner or operator of a facility subject to a RFA is subject to for any permit or under federal, State, regional, or local law, regulation, rule or ordinance.

"**§ 113A-258. Regulatory Flexibility Act Implementation Account.**

The Regulatory Flexibility Act Implementation Account is created as a nonreverting interest-bearing account in the Office of the State Treasurer. The Account shall consist of fees and interest collected under G.S. 113A-257, moneys appropriated to it by the General Assembly, moneys received from the federal government, moneys contributed by private organizations, and moneys received from any other source. Funds in the Account shall be used by the Department to defray the costs of implementing this Article. The Department may contract with a private entity for any services necessary to implement this Article.

"§ 113A-259. Adoption of rules.

The Secretary, the Department, any commission that is authorized to adopt rules governing a program that would be affected by the RFA, and any regional or local authority that administers a program that would be affected by a RFA may adopt rules to implement this Article.

"§ 113A-260. Reports.

(a) On or before 1 September of each year, the Secretary shall prepare and submit to the Environmental Review Commission a report on the implementation of this Article during the previous fiscal year. The report shall evaluate the extent to which the

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purposes of this Article are being achieved. The report shall also evaluate whether any additional environmental regulatory programs should be included within the scope of this Article. The report may include any recommendations to improve the effectiveness of this Article, including additional incentives. The report shall also include a report on receipts by and expenditures from the Regulatory Flexibility Act Implementation Account.

(b) The Secretary shall periodically evaluate applicable environmental requirements that are modified by RFAs that have been successfully implemented to determine whether and to what extent those modifications could be extended and whether any applicable environmental requirement should be revised. Based on this evaluation, the Secretary may request the appropriate regulatory commission to initiate rule making or may recommend proposed legislation to the Environmental Review Commission."

Section 2. The Secretary of Environment and Natural Resources shall seek to enter into an agreement with the United States Environmental Protection Agency (USEPA) that provides for review and implementation of Regulatory Flexibility Agreements (RFA), as provided in G.S. 113A-244(e), as enacted by Section 1 of this act. The Secretary shall seek to reach an agreement with USEPA that provides that USEPA will review and comment on each proposed RFA within 90 days after the Secretary submits the proposed RFA. No later than 1 November 2000, the Secretary shall report on progress in reaching an agreement with USEPA governing review and comment on proposed RFAs to the Environmental Review Commission.

Section 3. The Secretary of Environment and Natural Resources shall make the first report required by G.S. 113A-260(a), as enacted by Section 1 of this act, on or before 1 September 2001.

Section 4. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Environment and Natural Resources, the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission for Health Services, and any regional or local authority that administers a program that would be affected by Section 1 of this act may adopt temporary and permanent rules to implement this act. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), this section shall continue in effect until all rules necessary to implement this act have become effective as either temporary rules or permanent

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rules. However, this act shall not be construed to require the adoption of temporary or permanent rules.

Section 5. In enacting this act, it is the intent of the General Assembly to authorize a pilot program. The Secretary of Environment and Natural Resources may enter into no more than 10 Regulatory Flexibility Agreements between the effective date of this act and 1 July 2002. Notwithstanding G.S. 113A-253, as enacted by Section 1 of this act, a Regulatory Flexibility Agreement may not be renewed.

Section 6. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department of Environment and Natural Resources is authorized to implement the provisions of this act using funds otherwise appropriated or available to the Department.

Section 7. This act becomes effective 1 October 2000. This act expires on 30 June 2007 or when all Regulatory Flexibility Agreements have expired, whichever first occurs.

Dan spoke to this part.

HOUSE BILL 1580 (PCS): Regulatory Flexibility Agreements

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
Date:	July 5, 2000	**Summary by:**	Hannah Holm, Research Assistant for Environmental Issues
Version:	PCS v.012 for the First Edition		

SUMMARY: ***The Proposed Committee Substitute for the First Edition of HB 1580 (PCS) would provide for the establishment of Regulatory Flexibility Agreements (RFAs) to allow practices not otherwise allowed under environmental requirements in order to achieve environmental results that are equal to or better than those that would otherwise be achieved.***

BILL ANALYSIS: The PCS would establish a new article in the Chapter 113A of the General Statutes (Pollution Control and Environment) that would authorize the Secretary of Environment and Natural Resources (Secretary) to enter into RFAs with entities that release pollutants or manage waste. The RFAs would allow the use of innovative measures not otherwise allowed under environmental rules and permits in order to achieve environmental results equal to or better than those that would otherwise be achieved.

Authority and Limitations

Delegation. The Secretary would be allowed to delegate the authority to enter into an RFA to a Deputy Secretary, Assistant Secretary, or division director within the Department of Environment and Natural Resources (DENR).

Programs delegated to local and regional authorities. If a proposed RFA would affect a program delegated to a regional or local authority, the Secretary would not be allowed to enter into the RFA unless the RFA is approved by the regional or local authority administering the program.

Commission approval. The Secretary would not be allowed to enter into an RFA without the approval of each commission authorized to adopt rules governing a program that would be affected by the RFA. Affected commissions would be given 90 days to object to a proposed RFA; failure to object within the 90-day review period would be presumed to indicate approval.

Programs delegated by the federal Environmental Protection Agency (EPA). If a proposed RFA would affect a program delegated by the EPA, the Secretary would not be allowed to enter into the RFA without EPA approval.

Limitations. Each RFA may apply only to a single facility. A RFA could not be construed to authorize a variance from a provision of the United States Code, the North Carolina General Statutes, or any local ordinance related to zoning or land-use planning.

Application for an RFA

Under the PCS, an application for approval of a RFA would be made by submitting materials to the Secretary that include all of the following:

- The proposed RFA.
- A description of the proposed project that states how the proposed project would achieve results equal to or better than those required by otherwise applicable environmental requirements.

- A description of all potential adverse environmental impacts from the operation of the facility.
- Goals and targets to reduce adverse environmental impacts from the operation of the facility.
- Employee training to reduce adverse environmental impacts from the operation of the facility.
- Implementation of compliance assurance measures.
- Implementation of measures for prompt identification, correction, and reporting of violations of the RFA or other applicable environmental requirements.
- Monitoring activities at the facility that may have adverse environmental impacts.
- Review of the EMS and its implementation at least once a year.

Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as "ISO 14001" would satisfy the requirement that an applicant implement an EMS.

Standard terms and conditions

Each RFA would be required to include all of the following:

- Clear identification of the area and activities subject to the RFA.
- Identification of the ownership and management structure of the facility.
- A statement that the operation of the facility under the RFA is intended to achieve results that either:
  - equal results required by otherwise applicable environmental requirements.
  - exceed results required by otherwise applicable environmental requirements.
  - exceed results achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.
- A detailed description of how the RFA modifies otherwise applicable environmental requirements.
- A description of how the facility's operation will be modified under the RFA, including an implementation schedule.
- A statement of specific performance standards the facility must achieve under the RFA, as well as non-obligatory performance goals.
- A description of measures to ensure compliance with the RFA and other applicable environmental requirements, including monitoring, documentation, and reporting procedures.
- A requirement that the owner or operator of the facility submit an annual performance review.
- A description of all incentives provided under the RFA.
- Additional terms required by the Secretary.

Effect of an approved RFA

An RFA would modify only the environmental requirements specifically modified in the RFA. All provisions of environmental law and any applicable environmental requirements not addressed by the RFA would remain in effect.

Incentives

The Secretary would be authorized to provide incentives to encourage activities under a RFA that will achieve environmental results equal to or better than those required by otherwise applicable requirements. All incentives shall be withdrawn if the Secretary finds that the owner or operator of a facility has failed to comply with the RFA or upon the termination of the RFA.

Equal results. For equal results, the Secretary would be authorized to provide any of the following:

- Formal, public recognition by the Governor or Secretary.

Judicial review

A decision to approve or disapprove a proposed RFA would be at the discretion of the Secretary and would not constitute rulemaking under the General Statutes and is not subject to review in an administrative hearing. A person seeking judicial review of an action related to a RFA would be deemed to have exhausted all administrative remedies available by statute or rule.

Fees

DENR would be required to collect the following fees:

- $2000 for review of a proposed agreement by the Secretary.
- A fee equal to the full cost of DENR and the Department of Justice for all activities related to the establishment of a RFA, minus the initial fee of $2000, due at the initiation of the RFA.
- A fee equal to the full cost of monitoring the implementation of the RFA.
- A fee equal to the full cost of activities related to the modification or renewal of a RFA.

Regulatory Flexibility Act Implementation Account

This account would consist of fees and interest collected for activities related to establishing and administering RFAs and would be used to defray the cost of establishing and administering RFAs.

Adoption of Rules

Any agency authorized to adopt rules governing programs that would be affected by a RFA or that administers a program that would be affected by a RFA would be authorized to adopt rules to implement the new article.

Reports

The Secretary would be required to report to the Environmental Review Commission (ERC) annually on the implementation of the new article. The Secretary would also be required to periodically evaluate environmental requirements modified by RFAs to determine to what extent these modifications could be extended or the requirements revised.

Seek agreement with EPA

The Secretary would be required to seek an agreement with the EPA to provide for the review and implementation of RFAs that would provide that EPA would review and comment on each proposed RFA within 90 days after submittal by the Secretary. The Secretary would be required to report to the ERC on progress in obtaining such an agreement by November 1, 2000.

Pilot program

Enactment of the PCS would be intended as an authorization of a pilot program, so the Secretary would be authorized to enter into no more than 10 RFAs prior to July 1, 2002. Notwithstanding other provision of the act, renewal of RFAs would also be prohibited.

Effective dates

The PCS would become effective October 1, 2000 and expire June 30, 2007 or when all RFAs have expired, whichever occurs first.

VISITOR REGISTRATION SHEET

Environment & Natural Resources — July 5, 2000

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Molly Diggins	NC Sierra Club
Sherri Evans-Stanton	DENR
Da McLendon-	DENR
Charles Case	Hunton & Williams
Kelli Kukuna	DENR
Preston Howard	NCIC
Michelle Cook	Weyerhaeuser
Nancy Thompson	NCIC
John Phelps	NCLM
GARY HUNT	DENR
[illegible]	NC DC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Johnson	DENR
R Loggins	DENR
Jerry Schill	NC Fisheries Assoc.
Lisa Finch	NC Sierra Club
Alex Kennaugh	NCConnect/Environmental Defense
Emily Meeker	Conservation Council of NC
Fred Allen	NC Aggregates Assn.
Ed Regan	N.C. Assoc of Co. Commissioners
Patrice Roesler	" " " " "
Steve Woodson	NC Farm Bureau Federation
Roger Bone	Bone & Assoc.

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCMBA
Mike Carpenter	NCMBA
Bob Slocum	NC Poultry Assoc
Lee-Ann Coe	NC Agribusiness Council
Amy Fullbright	Hunton & Williams
Charles Case	" "
Natalie English	Charlotte Chamber
Mac Mumbert	Pagnet Systems

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cyrus	N.C. State Grange
Lucius Pullen	Attorney

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 6, 2000

MINUTES

The House Committee on Environment and Natural Resources met Thursday, July 6, 2000, in Room 643 of the Legislative Office Building at 12:00 p.m. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Joe Hackney, Dewey Hill, Paul Luebke, Danny McComas, Eugene McCombs, Marian McLawhorn, Frank Mitchell, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 12:13 p.m.

HB 1580 - Regulatory Flexibility Agreements - Representative Gibson said there has been more than thirty meetings, the #1 researched, studied, argued, compromised on this bill. However, it is not a comprise bill. This bill was HB 1580 - Environmental Excellence - and was introduced last Session. It was controversial, but it was important for all concerned groups would have to come to the table and compromise. Unfortunately, that didn't happen. He requested that members of the Committee listened to both sides of this issue and then vote the way their constituency and the common sense approach to regulation should be. Representative Gibson moved to put the PCS H1580-CSRT/SB-013 (Attachment 1) before the Committee for discussion. Passed.

George Givens, Staff Council, discussed the Summary (Attachment 2) which differs from the Summary of the July 5, 2000, meeting. He discussed the various changes

Representative Luebke asked about the payment of fees by DENR. Representative Warwick introduced an amendment to the PCS (Attachment 3) addressing this issue. Representative Gibson added that they do not know what the cost will be, and that there would not be any affect to the budget before the next Session. Mr. Givens said that this bill continues to have "shadow permits" that requires a permit for the facility in absence of an agreement and must be current. Each of the three permitting programs that are covered by this bill has within the permitting statutes a requirement similar to the one that was deleted that requires that the Department to determine whether an applicant has substantially complied with all Federal and State regulations. This version would require DENR to look only at the particular facility and its compliance record over a three-year period. Mr. Gibson said that this bill does not allow anybody to do anything worse for the environment. This is a way for companies that have invested millions in corporate image to show that they can do a job better and faster than the current law allows and a chance for them to show that they are good stewards of the environment.
After questions of public safety and the environment, Representative Warwick said that

From the inception of the bill, it was not the intent to endanger the environment. The bill leaves this decision of public safety with DENR and the Secretary of the Department. He said that it is not foreseen that there would ever be a Secretary that would accept, receive, or approve a situation that would worsen the environment.

Nat Mund, Conservation Council of North Carolina, said that his organization had been a part of those 30 meeting on this bill, and that the environmental community opposes this legislation, and it is the most damaging legislation to be introduced since 1995. Alternative compliance should not be allowed. There has been a lack of stakeholder involvement during the regulatory flexibility agreement process.

David Knight, NC Wildlife, NC Sierra Club, Environment Defense, Neuse River Foundation, Southern Environment Law Center, and NC Coastal Federation, said that this PCS is too controversial and side steps the rule making process, permit limits and ambience standards. The Secretary of DENR would have unbridled power.

Leslie Bevacque, NC Citizens for Business and Industry, stressed that the business community and DENR have worked hard to come to an agreement on this bill. This bill has two points: 1) a voluntary program that provides regulatory flexibility; 2) it is a pilot program.

Dan McLawhorn, General Counsel, DENR, said that the fees in this bill would cost the Department $10,000 to $15,000 in employee time to negotiation with EPA and report to ERC by November 1st while neglecting his other duties. In short, it addresses an issue that no one can define. This bill does not address, nor was discussed, ambience standards.

Preston Howard, MCIC, said that this bill would be a "baby step" site specific solution pilot program within 18 months.

Mr. Givens said that he had twelve amendments prepared for Representative Hackney. There was a call for a vote. Mr. Givens said there would be time restraints because of these amendments and their discussion.

Representative Hackney expressed concern about Page 4, Section 3, whether or not that permits a Secretary to allow a facility to exceed emissions or discharge standards. Mr. McLawhorn said a new section added today authorizes the Secretary to enter into an agreement, allowing excesses of specific emissions or discharge standards as pertaining to the Environment Law.

Referring back to Representative Warwick's amendment (Attachment 3), (line 42, page 13). The Secretary will keep accurate records of the cost incurred by the Department in implementing this article. If there were additional costs incurred, those costs would be

shared with us at a latter date. Representative Daughtry moved to adopt the amendment. Passed.

Chair Warwick said that there would not be enough time in this meeting to hear all 12 of Representative Hackney's amendments with full discussion and called for an additional meeting today (July 6, 2000) to give the appropriate time to discuss this bill further with proposed amendments. The announcement would be made from the Floor. He sensed that most of the Committee was prepared to vote on the bill.

However, H1580-Art/SB-001.01 was passed out and discussed (Attachment 4). Mr. McLawhorn said it allows DENR to rob other programs to pay for this one, as there will be not appropriations for this bill. The Department should not take from other funds to implement this new program. Representative Gibson asked that before the next meeting later in the day, the Committee have a copy of Representative Hackney's amendments. No action was taken on these amendments, and they would be discussed at a meeting later in the day. Representative Daughtry moved to adorn. Seconded.

Representative Warwick adjourned the meeting at 1:12 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATTACHMENT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H D

HOUSE BILL 1580
PROPOSED COMMITTEE SUBSTITUTE H1580-CSRT/SB-013
18:17:47 EZT / 5-JUL-00

ATTENTION: Line numbers may change after adoption.

Short Title: Regulatory Flexibility Agreements. (Public)

Sponsors:

Referred to:

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May 18, 2000

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A VOLUNTARY REGULATORY FLEXIBILITY PROGRAM TO PROMOTE IMPROVED ENVIRONMENTAL COMPLIANCE AND REGULATORY FLEXIBILITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 17.

"Regulatory Flexibility Agreements.

"**§ 113A-241. Title.**

This Article may be cited as the 'Regulatory Flexibility Agreements Act of 2000'.

"**§ 113A-242. Purpose.**

The purpose of this Article is to create a voluntary program whereby persons who engage in activities that result in the discharge or emission of pollutants or contaminants, or who manage solid or hazardous waste, may enter into agreements with the Secretary under which innovative measures not otherwise allowed under applicable environmental requirements may be utilized to achieve overall results that are equal to or better

than those that would otherwise be achieved. At a minimum, a Regulatory Flexibility Agreement shall provide for a level of environmental protection that equals the level of protection required by environmental law and applicable environmental requirements. Better overall results may include a higher level of environmental protection, the same level of protection achieved in a more efficient or cost-effective manner, or ideally, a higher level of environmental protection achieved in a more efficient or cost-effective manner.

§ 113A-243. Definitions.

(a) Unless otherwise required by the context and except as provided in this section, the definitions set out in Article 9 of Chapter 130A of the General Statutes and in Articles, 21, 21A, and 21B of Chapter 143 of the General Statutes apply to this Article.

(b) As used in this Article:

(1) 'Ambient standard' means an air quality, groundwater quality, or surface water quality standard adopted under environmental law for the protection of the environment or public health generally, as distinguished from a specific emissions or discharge standard or limitation.

(2) 'Applicable environmental requirements' means those State environmental rules and permits that govern the emission, discharge, or management of pollutants, contaminants, or wastes, and that are administered by the Department, a commission, or a regional or local authority under any provision of environmental law.

(3) 'Department' means the Department of Environment and Natural Resources and may include the commissions organized within the Department and delegated local or regional programs as required by the context.

(4) 'Environmental law' means Articles 1 and 9 of Chapter 130A of the General Statutes, Articles 21, 21A, or 21B of Chapter 143 of the General Statutes, and corresponding federal statutes.

(5) 'Facility' means a contiguous area, or two or more areas in close proximity, that are under common ownership, management, or control and at which any activity occurs that is regulated under any environmental law. 'Facility' includes, any personal property or fixtures that are located at a

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facility or that are substantially related to the operation of a facility.

(6) 'Multi-media' means the emission or discharge of pollutants, contaminants, or wastes into two or more of the following: air, groundwater, land, or surface water.

(7) 'Regulatory Flexibility Agreement' or 'RFA' means an agreement between the Secretary or the Secretary's delegate and a person who owns or operates a facility and who holds one or more permits governing the discharge or emission of pollutants, contaminants, or waste from the facility, or the management of waste at the facility. A RFA authorizes the permit holder to implement innovative environmental measures not otherwise allowed under applicable environmental requirements for the purposes of, and in accordance with the requirements of, this Article. A RFA is not a license as that term is defined in G.S. 150B-2.

(8) 'Secretary' means the Secretary of Environment and Natural Resources.

(9) 'Single media' means the emission or discharge of pollutants, contaminants, or wastes into no more than one of the following: air, groundwater, land, or surface water.

(10) 'Stakeholder' means any person or group of persons of common interest directly or indirectly affected in his or its person, property, or employment by the operation of a facility that has applied for, or is operating under a Regulatory Flexibility Agreement. Potential stakeholders include, but are not limited to: employees of the facility and their representatives; persons who live or work near the facility; community, civic, environmental advocacy, and other organizations; trade and business associations; and agencies of the State and local governments and their representative associations.

"**§ 113A-244. Authority to enter into a RFA; limitations.**

(a) The Secretary may enter into a RFA with any person who engages in the discharge or emission of pollutants or contaminants, or the management of waste, and who is regulated under environmental law. A RFA may modify only those applicable

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environmental requirements that implement environmental law. Each RFA may apply only to a single facility.

(b) A RFA may authorize the emission or discharge of a pollutant, contaminant, or waste from a facility that exceeds a specific emissions or discharge standard or limitation adopted under environmental law but may not authorize any act or practice that would result in the violation of an ambient standard.

(c) The Secretary may delegate the authority to enter into a RFA to a Deputy Secretary, Assistant Secretary, or division director of the Department. If a proposed RFA affects programs in two or more divisions of the Department, the Secretary shall designate a lead agency to negotiate the RFA.

(d) If a proposed RFA affects a program that is delegated to and administered by a regional or local authority, the Secretary may not enter into the RFA unless the regional or local authority approves the RFA. If a proposed RFA affects only a program that is delegated to and administered by a regional or local authority, the Secretary may request that the regional or local authority negotiate the RFA.

(e) The Secretary may not enter into a RFA without the approval of each commission that is authorized to adopt rules governing a program that would be affected by the RFA. The Secretary shall submit a proposed RFA to each commission that is authorized to adopt rules governing a program that would be affected by the proposed RFA. Each commission shall review the proposed RFA and may object to it within 90 days of the date the proposed RFA is submitted by the Secretary. If a commission does not object to a proposed RFA within the 90-day review period, the commission is presumed to have approved the proposed RFA. If a commission objects to a proposed RFA, the commission shall provide a written statement of the objection and the reasons for the objection to the Secretary.

(f) If the proposed RFA affects a program that is delegated, authorized, or approved by the United States Environmental Protection Agency, the Secretary may not enter into the RFA without the concurrence of the United States Environmental Protection Agency. The Secretary may enter into an agreement with the United States Environmental Protection Agency that provides for review and implementation of RFAs.

(g) This Article and any RFA entered into under this Article shall not be construed to authorize a variance from a provision of the United States Code, the General Statutes, or any local ordinance related to zoning or land use planning.

"**§ 113A-245. Application for a RFA.**

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A person may apply for approval of a RFA by submitting the following information to the Secretary:

(1) The proposed RFA.

(2) A description of the proposed regulatory flexibility project that includes a description of the facility and how its operation will be affected under the RFA, whether operation of the facility under the RFA will achieve overall results that are equal to or better than those required by otherwise applicable environmental requirements and how this will be accomplished, the nature of the anticipated results, and the method to document compliance with the commitments made by the applicant in the RFA.

(3) An explanation of why the applicant's goals under the proposed RFA could not be achieved under applicable environmental requirements.

(4) All information necessary to determine that the proposed RFA satisfies the criteria for approval of a RFA under G.S. 113A-248.

(5) A statement that identifies each permit that is required by environmental law for the operation of the facility, states whether the applicant holds or has applied for each of these permits, indicates the status of each permit or permit application.

(6) A statement that identifies each applicable environmental requirement, including any permit requirement, that would be modified or superseded by the RFA and describes the manner in which each requirement would be modified or superseded.

(7) An analysis of all anticipated environmental benefits and adverse environmental impacts that may result if the proposed RFA is approved and implemented.

(8) Any other information requested by the Secretary or Secretary's delegate

"**§ 113A-246. Public notice and comment.**

(a) At least 45 days prior to acting on an application to approve, significantly modify, or renew a RFA, the Secretary shall require the applicant to provide public notice of the proposed action by:

(1) Publication in a newspaper having general circulation in each county in which the facility covered by the proposed RFA is located.

FOR REVIEW ONLY

(2) Mail to each unit of local government having jurisdiction over any part of the facility to which the RFA applies.

(3) Providing a copy of the application for the proposed RFA for public inspection in at least one location selected by the Secretary.

(b) The notice shall:

(1) Provide a brief description of the proposed RFA and the action to be taken.

(2) Identify the facility to which the proposed RFA applies.

(3) Summarize anticipated environmental benefits and adverse environmental impacts.

(4) Identify the rules and permit requirements that will be modified or superseded by the proposed RFA.

(5) Include a statement as to the public availability of the application for the proposed RFA.

(6) State the time period and means for submitting written comment and for requesting a public hearing on the proposed RFA.

(c) The Secretary may require that the notice of a proposed RFA be published in additional newspapers and provided to additional persons. The Secretary may extend the period for comment by up to 60 additional days.

(d) If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require a public hearing to be held on the proposed RFA. Notice of a public hearing shall be given, in the manner required by this section for public notices, at least 30 days before the public hearing.

"**§ 113A-247. Stakeholder Involvement Plan.**

If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require that the applicant for a RFA implement and maintain a Stakeholder Involvement Plan. A Stakeholder Involvement Plan shall provide for the identification and notification of stakeholders and stakeholder participation, review, and comment during the development of a RFA.

"**§ 113A-248. Criteria for approval of a RFA.**

The Secretary may enter into a RFA only if the applicant demonstrates to the Secretary or the Secretary's delegate that:

(1) The overall environmental protection will equal or exceed that which would be required in the absence of the RFA.

(2) The facility to which the RFA applies has substantially complied with federal and State laws, regulations, and rules for the protection of the environment and the terms of any other RFA that applies to the facility for at least the three-year period immediately prior to entry into the RFA.

(3) The applicant is financially qualified to carry out the activities covered by the RFA.

(4) The applicant holds all permits that are required by environmental laws for the operation of the facility.

(5) For a RFA for a multi-media project or for a single media project that is not intended to provide for a level of environmental protection that exceeds the level of protection required by environmental law and applicable environmental requirements, the applicant has, or will implement, an environmental management system for the facility at the time the RFA becomes effective and will maintain the environmental management system so long as the RFA is in force.

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(6) The applicant implements a Stakeholder Involvement Plan as required by the Secretary.

(7) Implementation of the RFA will not increase overall occupational health or safety risks to employees at the facility.

(8) Implementation of the RFA will not result in an unjust or disproportionate environmental impact on any socioeconomic or demographic group.

"**§ 113A-249. Environmental Management Systems**

(a) For purposes of this Article, an environmental management system is a program for the planning, implementation, review, and improvement of the operation of a facility subject to a RFA that is designed to ensure that the facility complies with the specific performance standards set out in the RFA and the applicable environmental requirements not modified by the RFA.

(b) Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as 'ISO 14001' presumptively satisfies the requirement that an applicant for a RFA implement an environmental management system.

"**§ 113A-250. Standard terms and conditions of a RFA.**

Each RFA shall contain terms and conditions that provide for all of the following:

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(1) A statement that describes the location and operation of the facility with sufficient detail so as to clearly establish the area and activities that are subject to the RFA.

(2) A statement that identifies the ownership and management structure of the facility.

(3) A statement that operation of the facility under the RFA is intended to achieve overall environmental results that either:

a. Equal the results that are required by otherwise applicable environmental requirements.

b. Exceed the results that are required by otherwise applicable environmental requirements.

c. Exceed the results that have been achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.

(4) A statement that identifies each permit that is affected by the RFA and a requirement that the owner or operate of the facility take all actions required to maintain each permit in force.

(5) A statement that identifies each applicable environmental requirement, including any permit requirements, that are modified or superseded by the RFA and describes the manner in which each requirement is modified or superseded.

(6) A description of how the operation of the facility will be modified by the RFA.

(7) A detailed description of how the RFA will be implemented and an implementation schedule.

(8) A statement of the specific performance standards that the owner or operator of the facility agrees to meet under the RFA and of any non-obligatory performance goals.

(9) A statement of any specific performance goals that the owner or operator of the facility hopes to achieve under the RFA.

(10) A description of how compliance with this Article and the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA, will be monitored, documented, and

reported. The RFA shall require that the owner or operator of the facility prepare and submit to the Department a comprehensive performance review at least annually.

(11) A requirement that the owner or operator implement and maintain an Environmental Management System as required by G.S. 113A-248(5) so long as the RFA is in force.

(12) If the Secretary requires a Stakeholder Involvement Plan, a requirement that the owner or operator of the facility implement the Plan.

(13) A specific description of all incentives that are provided under the RFA.

(14) The term of the RFA and a notice the the RFA may be modified or renewed only as provided in G.S. 113A-253.

(15) A notice that the RFA is subject to termination as provided in G.S. 113A-254.

(16) Additional terms, consistent with this Article, that may be required by the Secretary or the Secretary's delegate.

"§ 113A-251. Effect of an approved RFA.

A RFA modifies applicable environmental requirements only to the extent that the RFA specifically identifies an applicable environmental requirement and provides for a specific modification of those requirements. To the extent that a RFA provides for a specific modification of an applicable environmental requirement, that requirement is superseded and the owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to the RFA is relieved of any obligation to comply with the requirement. All provisions of environmental law and any applicable environmental requirements that are not addressed by the RFA shall continue to apply to the operation of the facility. The owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to a RFA shall comply with environmental law, the terms of the RFA, and all applicable environmental requirements that are not modified by the RFA. The terms of a RFA and applicable environmental requirements that are not modified by the RFA may be enforced as provided in this Article and environmental law.

"§ 113A-252. Incentives.

(a) In order to encourage the development of programs, projects, and activities under a RFA that will achieve overall

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environmental results that are equal to those required by otherwise applicable environmental requirements, the Secretary may provide any of the following incentives:

(1) Formal, public recognition by the Governor or the Secretary.

(2) Modified requirements for renewal of environmental permits if, since the last issuance of those permits, there have been no material changes in equipment and operation at the facility; no violations of federal, state, or local laws, regulations, or rules for the protection of the environment.

(3) Technical assistance with the development and implementation of a pollution prevention program.

(4) Technical assistance with the development and implementation of measures designed to improve compliance.

(b) In order to encourage the development of programs, projects, and activities under a RFA that will achieve overall environmental results that are better than those required by otherwise applicable environmental requirements, the Secretary may provide any of the following incentives:

(1) Any incentive available under subsection (a) of this section.

(2) Modification of reporting and monitoring requirements.

(3) Consolidation of applications for permits issued by the Department.

(4) Accelerated review and processing of permit applications.

(5) Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.

(6) Ability to establish facility-wide caps on the emission or discharge of pollutants, contaminants, or wastes into a single media.

(c) The Secretary may withdraw any or all incentives provided under this section for any of the reasons set out in G.S. 113A-254 for termination of a RFA. The Secretary may withdraw any or all incentives provided under subsection (b) of this section if the Secretary finds that overall environmental results that are better than those required by otherwise applicable environmental requirements have not been achieved. The

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Secretary shall withdraw all incentives provided under this section if the Secretary finds that the owner or operator of a facility has failed to comply with the RFA or upon the termination, withdrawal, or expiration of the RFA.

"**§ 113A-253. Duration, renewal, and modification of a RFA.**

(a) A RFA shall remain in force for five years unless the Secretary and the owner or operator agree to a shorter term or the RFA is terminated as provided in G.S. 113A-254.

(b) Subject to the limitations of G.S. 113A-244 and the criteria set out in G.S. 113A-248, upon application by the owner or operator, the Secretary may renew or modify a RFA. A RFA may be renewed for a term of five years unless the Secretary and the owner or operator agree to a shorter term.

(c) Before deciding whether to renew or modify a RFA, the Secretary may require the owner or operator of a facility to obtain an evaluation of the performance of the facility under the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA, by a third party acceptable to both the owner or operator and the Secretary.

"**§ 113A-254. Termination of a RFA.**

(a) The Secretary may terminate a RFA if the Secretary finds that the owner or operator has failed to comply with any provision of environmental law, this Article, the RFA, or any applicable environmental requirement not modified by the RFA. The Secretary may allow the owner or operator a reasonable time, not to exceed 90 days after the owner or operator discovers or receives written notice of the deficiency, in which to correct the deficiency. The Secretary shall terminate the RFA if the owner or operator fails to correct the deficiency within the time allowed.

(b) The Secretary shall terminate a RFA if the Secretary finds that the owner or operator has failed to disclose a violation of this Article, the RFA, or any applicable environmental requirement not modified by the RFA to the Department within 48 hours of the time that the owner or operator discovers the violation. The Secretary shall terminate a RFA if the Secretary finds that the owner or operator is not financially qualified to carry out the activities covered by the RFA.

(c) A RFA automatically terminates if the owner or operator fails to keep in force each permit that is required by environmental law for the operation of the facility.

(d) Notwithstanding any other provision of this section, the Secretary may immediately terminate a RFA if the Secretary finds

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(b) The Secretary shall periodically evaluate applicable environmental requirements that are modified by RFAs that have been successfully implemented to determine whether and to what extent those modifications could be extended and whether any applicable environmental requirement should be revised. Based on this evaluation, the Secretary may request the appropriate regulatory commission to initiate rule making or may recommend proposed legislation to the Environmental Review Commission."

Section 2. The Secretary of Environment and Natural Resources shall seek to enter into an agreement with the United States Environmental Protection Agency (USEPA) that provides for review and implementation of Regulatory Flexibility Agreements (RFA), as provided in G.S. 113A-244(f), as enacted by Section 1 of this act. The Secretary shall seek to reach an agreement with USEPA that provides that USEPA will review and comment on each proposed RFA within 90 days after the Secretary submits the proposed RFA. No later than 1 November 2000, the Secretary shall report on progress in reaching an agreement with USEPA governing review and comment on proposed RFAs to the Environmental Review Commission.

Section 3. The Secretary of Environment and Natural Resources shall make the first report required by G.S. 113A-258(a), as enacted by Section 1 of this act, on or before 1 September 2001.

Section 4. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Environment and Natural Resources, the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission for Health Services, and any regional or local authority that administers a program that would be affected by Section 1 of this act may adopt temporary and permanent rules to implement this act. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), this section shall continue in effect until all rules necessary to implement this act have become effective as either temporary rules or permanent rules. However, this act shall not be construed to require the adoption of temporary or permanent rules.

Section 5. In enacting this act, it is the intent of the General Assembly to authorize a pilot program. The Secretary of Environment and Natural Resources may enter into no more than 10 Regulatory Flexibility Agreements between the effective date of this act and 1 July 2002. Notwithstanding G.S. 113A-253, as enacted by Section 1 of this act, a Regulatory Flexibility Agreement may not be renewed.

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Section 6. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department of Environment and Natural Resources is authorized to implement the provisions of this act using funds otherwise appropriated or available to the Department.

Section 7. This act becomes effective 1 October 2000. This act expires on 30 June 2007 or when all Regulatory Flexibility Agreements have expired, whichever first occurs.

CORRECT
FOR RATIFICATION

ATTACHMENT 1A

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1580

SHORT TITLE: Environmental Excellence Program Agreement Act (EEPAA).

SPONSOR(S): Representatives Gibson; Mitchell and Culp.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available (X)**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05
REVENUES	-	-	-	-	-
EXPENDITURES	Reliable estimate not available. Likely some increased level of expenditure. See Assumptions and Methodology.				
POSITIONS:	Reliable estimate not available. Likely some increased level of FTEs. See Assumptions and Methodology.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources ("DENR")

EFFECTIVE DATE: July 1, 1999

BILL SUMMARY[1]:
This bill adds Article 17 (Environmental Excellence Program Agreements Act; "the Act") to GS Ch. 143 creating a voluntary program whereby entities subject to environmental laws may enter agreements with the Secretary of DENR which may contain provisions superceding otherwise applicable local, regional, or state environmental statutes, rules, or regulations (but not including statutes or ordinances regulating the selection of a location for a new facility, including swine farms, concentrated animal feeding operations, animal waste management systems, and radioactive or hazardous waste sites).

Parties
The parties to an EEPA will be the entity which is subject to the environmental laws and either the Secretary or, as designated by the Secretary, the director (or governing board) of a state, regional, or local agency that administers environmental laws to which the entity is subject.

[1] NCGA Bill Digest, HB 1580; May 18, 2000.

Public notice and comment
The plan put forward for an agreement must identify and notify groups affected by the proposed agreement, such as employees, neighbors, community and civic organizations, governmental agencies, trade and business associations, and environmental organizations. At least 30 days before entering an agreement, the Secretary or director must publish a notice of the proposed agreement in a general circulation newspaper in each county in which a facility of the entity is located, and the public must have 30 days to comment after the notice is published.

Approval of an agreement
To approve an EEPA, the Secretary or director must find that the agreement specifies *one or more* of the following:

(1) emissions reductions, reductions in the discharge of wastes, or reductions in environmental risk that will achieve *better overall environmental results* than those required by otherwise applicable environmental regulations, or
(2) compliance with applicable environmental regulations that is *equal to or better than* the method of compliance or the method of demonstrating compliance that is required under regular law.

The bill does not define the "better overall environmental results" referred to in the first element. The second element may be met by demonstrating an innovative approach or cost-effective results. The Secretary or director may require the entity to demonstrate financial ability to comply with the agreement.

Effect of an agreement
An agreement supercedes any environmental laws or regulations identified in the agreement as superceded, and the entity need no longer comply with those superceded laws or regulations, but instead must comply with the terms of the agreement. The Secretary or director may offer incentives including public recognition programs, tax credits, preferred vendor status, streamlined record-keeping monitoring and reporting requirements, extended permit intervals, expedited permit processing, and priority in consideration for grant funds.

Eligibility
An entity owning or operating a facility subject to state or local environmental laws or regulations is eligible to enter an agreement. Trade associations or other authorized representatives of owners or operators of facilities may enter agreements for programmatic coverage of multiple facilities. The bill sets out required elements to be present in the agreement.

Other provisions
Provides for judicial review under the Administrative Procedure Act of the decision to approve, terminate, or modify an agreement. Provides for termination of an agreement for nonperformance. Provides that the Act does not create a private cause of action for citizen suits. Authorizes fees with respect to programs under an agreement and the adoption of rules for the agreement program.

ASSUMPTIONS AND METHODOLOGY:
The fiscal impact of the Act depends upon the net change in workload for DENR implied by the bill. This workload includes both engineering and legal time. Existing information regarding the EEPA process is not sufficient for predicting the engineering time it will require. It seems reasonable, however, to assume there will be a net increase with respect to the traditional permitting process. Legal time clearly will be an additional expense. Valid estimates of this expense are dependent on valid estimates of the total time required. As no valid time projections are available, legal costs cannot be accurately forecast at this time.

Engineering Time
Should each EEPA process require no more time than that which is needed to complete the permit(s) for which the EEPA serves as a substitute, DENR staff will simply shift attention from the permit to EEPA process with no net change in effort or cost. Should the EEPA process prove more involved and time consuming than the permit process, however, DENR will experience a net increase in workload and require additional FTEs to cover the additional work. Unfortunately, very little information exists regarding how much effort will be required to complete an EEPA.

A similar regulatory program does not currently exist in North Carolina. Although similar programs are being implemented in other states, DENR has indicated that the procedures, types of EEPAs, and associated costs vary so considerably across states and may be so different from those anticipated for North Carolina that comparisons are of little predictive value. Thus it is very difficult to project accurately the time needed to complete the EEPA application and negotiation process. DENR has suggested that its Brownfields Program is a reasonable analogue to the EEPA, as Brownfields agreements must be negotiated and often involve extensive review, investigations, analysis, and public participation. This comparison is superficial, however, and does not consider the potential for EEPAs to be far more complex than typical Brownfields projects. Rather than venture a guess based on loose comparisons, this fiscal note takes the position that no valid point estimate of time required to complete an EEPA is currently available.

At the very least it seems reasonable to expect that in the years immediately following implementation of the Act, a given EEPA will take longer to process than its corresponding traditional permit(s). DENR staff will be learning an entirely new approach for handling environmental regulation, a task that will include evaluating the viability of new technologies and ad hoc performance "standards." Furthermore, as each proposed EEPA could present unique and/or unprecedented conditions, DENR staff will lose the economies of scale gained through a uniform permit process. It is possible that eventually the EEPA process may require less time than the traditional permit process, but it is impossible at this time to assess the probability of that scenario being realized.

DENR has indicated that it does not expect the EEPA process will require any more time for monitoring and enforcement than is required by the permitting process. In other words, time now spent on monitoring and enforcing EEPAs would simply have been spent performing the same functions for permits. This assumption should be regarded with caution. Again, it is important to recognize that the EEPA process is unprecedented and open-ended. As with the negotiation stages of the process, DENR staff will need to devise new approaches to monitoring. Engineers may be challenged to develop expertise about a broad range of new technologies and

the environmental implications of new emissions standards. This effort will likely be time intensive and could increase significantly the net gain in FTEs required to manage the EEPA process.

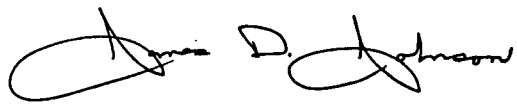
Legal Time
Unlike a traditional permit, the EEPA is a negotiated legal agreement between the applicant and DENR. Crafting the EEPA therefore involves not only the efforts of DENR environmental engineers (i.e., as in the permit process), but also significant work by legal counsel. DENR anticipates continuing its practice of obtaining legal services through the State Attorney General's Office and reimbursing the Office on a per hour basis.

TECHNICAL CONSIDERATIONS:
According to DENR, the purposes of the EEPA include both the ability to switch to technology that has not been tested and accepted for the particular pollution control and the ability to trade pollution discharges from one medium to another, such as from water to air. DENR indicates that the determination of the potential success of these proposals may require modeling, as well as technical literature review on the capacity of the new technology. Very little information exists, particularly for cross-media trading, from which to make the final decisions on entering the agreements.

Note that as written, the effective date for the Act is July 1, 1999. This means the Act would be retroactive to that date if passed in current form.

FISCAL RESEARCH DIVISION 733-4910
PREPARED BY: Adam Levinson

APPROVED BY: James D. Johnson



DATE: July 6, 2000

ATTACHMENT 2

HOUSE BILL 1580 (PCS): Regulatory Flexibility Agreements

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Hannah Holm, Research Assistant for Environmental Issues
Date:	July 6, 2000		
Version:	PCS v.013 for the First Edition		

SUMMARY: Both version .013 of the Proposed Committee Substitute for HB 1580 (new PCS) and version .012 of the Proposed Committee Substitute for HB 1580 (old PCS) would establish a new article in the Chapter 113A of the General Statutes (Pollution Control and Environment) that would authorize the Secretary of Environment and Natural Resources (Secretary) to enter into Regulatory Flexibility Agreements (RFAs) with entities that release pollutants or manage waste. The RFAs would allow the use of innovative measures not otherwise allowed under environmental rules and permits in order to achieve environmental results equal to or better than those that would otherwise be achieved.

The new PCS makes the following changes to the old PCS:

- In the section "Criteria for approval of a RFA," the new PCS makes the following changes to the old PCS:

  1. The new PCS replaces the requirement in the old PCS that "the applicant and any parent, subsidiary, or any other affiliate" has a good environmental compliance record with the requirement that "the facility to which the RFA applies" has had a good environmental compliance record for the three-year period.

  2. The new PCS deletes the requirement in the old PCS that "the discharge or emission of each pollutant, contaminant, and waste from the facility, when operated pursuant to the RFA, will be no greater than that allowed under otherwise applicable environmental requirements." The requirement in the old PCS that "overall environmental protection will equal or exceed that which would be required in the absence of the RFA" remains in the new PCS.

- In the section "Definitions," the new PCS adds a definition that defines "ambient standard" as a standard adopted under environmental law for air quality, groundwater quality, or surface water quality. Under this definition, an ambient standard is different than a specific limitation on releases.

- In the section "Public notice and comment," the new PCS deletes the requirement in the old PCS that requires the publication of a notice in the North Carolina at least 45 days prior to any action taken by the Secretary on the application. Notice must still be provided to newspapers and local officials.

- In the section "Stakeholder Involvement Plan," the new PCS deletes the requirement in the old PCS that the plan provide for continued stakeholder participation, review, and comment during the implementation of the RFA. Under the new PCS, stakeholder involvement would only be required during the development of a RFA.

- In the section "Environmental management systems," the new PCS deletes language in the old PCS that specifies in detail the components of an environmental management system.

- In the section "Standard terms and conditions of a RFA," the new PCS replaces the requirement in the old PCS that a RFA include a statement identifying each permit required by environmental laws for the operation of the facility and the requirement that the operator take all actions required to maintain each permit in force with a narrower requirement that addresses only each permit affected by the RFA.
- In the section "Termination," the new PCS deletes language in the old PCS that would authorize the Secretary to terminate a RFA upon finding that any parent, subsidiary, or other affiliate of the owner or operator has failed to comply with any federal or state environmental law, rule, or regulation or the terms of any RFA or similar agreement.
- The new PCS deletes the section "Fees," from the old PCS. The fee section would have required the Department of Environment and Natural Resources to collect a $2000 application fee for a proposed RFA and subsequent fees equal to the full cost of administering the RFA.

BILL ANALYSIS (NEW PCS)

Authority and Limitations

Delegation. The Secretary would be allowed to delegate the authority to enter into an RFA to a Deputy Secretary, Assistant Secretary, or division director within the Department of Environment and Natural Resources (DENR).

Programs delegated to local and regional authorities. If a proposed RFA would affect a program delegated to a regional or local authority, the Secretary would not be allowed to enter into the RFA unless the RFA is approved by the regional or local authority administering the program.

Commission approval. The Secretary would not be allowed to enter into an RFA without the approval of each commission authorized to adopt rules governing a program that would be affected by the RFA. Affected commissions would be given 90 days to object to a proposed RFA; failure to object within the 90-day review period would be presumed to indicate approval.

Programs delegated by the federal Environmental Protection Agency (EPA). If a proposed RFA would affect a program delegated by the EPA, the Secretary would not be allowed to enter into the RFA without EPA approval.

Limitations. Each RFA may apply only to a single facility. A RFA could not be construed to authorize a variance from a provision of the United States Code, the North Carolina General Statutes, or any local ordinance related to zoning or land-use planning.

Application for an RFA

Under the PCS, an application for approval of a RFA would be made by submitting materials to the Secretary that include all of the following:

- The proposed RFA.
- A description of the proposed project that states how the proposed project would achieve results equal to or better than those required by otherwise applicable environmental requirements.
- An explanation of why a RFA would be necessary to achieve the applicant's goals.
- The identification of all permits required by environmental law for the proposed project and the status of each permit or application.

- The identification of each environmental requirement that would be modified or superseded by the RFA and a description of how these requirements would be modified or superseded.
- An analysis of all anticipated environmental impacts and benefits that may result from approval and implementation of the proposed RFA.

Public notice and comment

At least 45 days prior to taking action on any application to approve, significantly modify, or renew an RFA, the Secretary would have to require the applicant to provide public notice of the proposed action through publication in newspapers of general circulation where the RFA applies, mailed notice to local governments with jurisdiction over the area where the RFA applies, and providing a copy of the application for public inspection. The Secretary would be required to hold a public hearing on the proposed RFA if the Secretary determined that significant public interest existed or the public interest would be served by holding the hearing.

Stakeholder Involvement Plan

The Secretary would be required to require an applicant to implement a Stakeholder Involvement Plan if the Secretary determined that significant public interest existed or the public interest would be served by holding the hearing. A Stakeholder Involvement Plan would provide for stakeholder participation, review, and comment during the development of a RFA.

Criteria for approval

The Secretary would be allowed to enter into an RFA only if the applicant demonstrates all of the following:

- The overall environmental protection under the RFA will equal or exceed the protection required under otherwise applicable environmental requirements.
- The facility to which the RFA would apply has had a good environmental compliance record over the previous three years.
- The applicant is financially qualified to carry out the activities covered by the RFA.
- The applicant holds all permits required by environmental laws for the operation of the facility.
- For a RFA for multiple media (i.e. air and water releases) or for a single media that is not intended to exceed the level of protection provided by otherwise applicable environmental requirements, the applicant will implement an environmental management system for the duration of the RFA *(see explanation below)*.
- Implementation of the RFA will not increase health and safety risks to employees at the facility.
- Implementation of the RFA will not result in an unjust or disproportionate environmental impact on any socioeconomic or demographic group.

Environmental management systems

The PCS defines an environmental management system (EMS) as a program for the planning, implementation, review, and improvement of the operation of a facility that is designed to ensure that the facility achieves the environmental performance standards required by the RFA and other applicable requirements.

Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as "ISO 14001" would satisfy the requirement that an applicant implement an EMS.

Standard terms and conditions

Each RFA would be required to include all of the following:

- Clear identification of the area and activities subject to the RFA.
- Identification of the ownership and management structure of the facility.
- A statement that the operation of the facility under the RFA is intended to achieve results that either:
  - equal results required by otherwise applicable environmental requirements.
  - exceed results required by otherwise applicable environmental requirements.
  - exceed results achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.
- A detailed description of how the RFA modifies otherwise applicable environmental requirements.
- A description of how the facility's operation will be modified under the RFA, including an implementation schedule.
- A statement of specific performance standards the facility must achieve under the RFA, as well as non-obligatory performance goals.
- A description of measures to ensure compliance with the RFA and other applicable environmental requirements, including monitoring, documentation, and reporting procedures.
- A requirement that the owner or operator of the facility submit an annual performance review.
- A description of all incentives provided under the RFA.
- Additional terms required by the Secretary.

Effect of an approved RFA

An RFA would modify only the environmental requirements specifically modified in the RFA. All provisions of environmental law and any applicable environmental requirements not addressed by the RFA would remain in effect.

Incentives

The Secretary would be authorized to provide incentives to encourage activities under a RFA to achieve environmental results equal to or better than those required by otherwise applicable requirements. All incentives would be withdrawn upon a finding by the Secretary that the owner or operator of a facility has failed to comply with the RFA. The incentives would also be withdrawn upon an RFA's termination.

Equal results. For equal results, the Secretary would be authorized to provide any of the following:

- Formal, public recognition by the Governor or Secretary.
- Modified requirements for the renewal of environmental permits if the facility has not materially changed its operation and has complied with all applicable environmental laws.
- Technical assistance in developing programs to prevent pollution and improve compliance.

Better results. For better results, the Secretary would be authorized to provide any of the following:

- Any incentive listed above.
- Modification of reporting and monitoring requirements.
- Consolidation of applications for permits issued by DENR.
- Accelerated review and processing of permit applications.
- Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.
- The establishment of facility-wide caps on the release of pollutants into a single media.

The Secretary would be authorized to withdraw these incentives upon finding that a facility has not achieved results better than those required by otherwise applicable environmental requirements.

Duration, renewal, and modification

A RFA would remain in force for five years unless a shorter term is stated in the RFA. Under the new article established by the PCS, a RFA could be renewed if all eligibility criteria are met and the facility has achieved compliance with the RFA and other applicable environmental requirements. However, uncodified language in the PCS states that the intent of the PCS is to establish a pilot program, and renewal of RFAs is not permitted.

Termination

The Secretary would be authorized to terminate a RFA upon finding that the owner or operator has failed to comply with a RFA or any other applicable environmental law or requirement. The Secretary would be authorized to allow the owner or operator 90 days to correct any deficiency prior to terminating the RFA. The Secretary would also be authorized to immediately terminate a RFA upon finding that the facility subject to the RFA poses an imminent hazard to human health or the environment.

The Secretary would be required to terminate a RFA upon either:

- Finding that the owner or operator has failed to disclose a violation of the RFA or any applicable environmental requirement to DENR within 48 hours of discovering the violation.
- Upon finding that the owner or operator is not financially qualified to carry out the activities covered by the RFA.

A RFA would automatically terminate if an environmental permit required for the facility's operation expires or terminates.

The owner or operator of a facility subject to a RFA may terminate the RFA after giving the Secretary at least 30-days notice.

Enforcement

A violation of a term or condition of a RFA would be subject to the same administrative, civil, and criminal penalties and remedies as otherwise applicable environmental requirements superseded by the RFA.

Judicial review

A decision to approve or disapprove a proposed RFA would be at the discretion of the Secretary, would not constitute rulemaking under the General Statutes, and would not be subject to review in an administrative hearing. A person seeking judicial review of an action related to a RFA would be deemed to have exhausted all administrative remedies available by statute or rule.

Adoption of Rules

Any agency authorized to adopt rules governing programs that would be affected by a RFA or that administers a program that would be affected by a RFA would be authorized to adopt rules to implement the new article authorizing RFAs.

Reports

The Secretary would be required to report to the Environmental Review Commission (ERC) annually on the implementation of the new article. The Secretary would also be required to periodically evaluate

environmental requirements modified by RFAs to determine to what extent these modifications could be extended or the requirements revised.

Seek agreement with EPA

The Secretary would be required to seek an agreement with the EPA to provide for the review and implementation of RFAs that would provide that EPA would review and comment on each proposed RFA within 90 days after submittal by the Secretary. The Secretary would be required to report to the ERC on progress in obtaining such an agreement by November 1, 2000.

Pilot program

Enactment of the PCS would be intended as an authorization of a pilot program, so the Secretary would be authorized to enter into no more than 10 RFAs prior to July 1, 2002. Notwithstanding other provision of the act, renewal of RFAs would also be prohibited.

Effective dates

The PCS would become effective October 1, 2000 and expire June 30, 2007 or when all RFAs have expired, whichever occurs first.

ATTACHMENT 3

Motion to amend the Bill at Line 42, page 13, by deleting the last sentence of GS 113A-260(a), and adding a new Paragraph (c):

© The Secretary shall keep accurate records of the costs incurred by the Department in implementing this Article. On or before January 1, 2001, and every six (6) months thereafter, the Secretary shall submit a report to the Environment Review Commission that identifies the number of RFA's that have been executed, and the Department's cost to review and approve each RFA. The Environment Review Commission shall review the Secretary's report and, if appropriate, propose legislation that establishes a reasonable fee to cover the Department's costs for implementing this Article. The Environmental Review Commission shall also evaluate whether or not additional environmental regulatory programs should be added to this Article.

Attachment 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-001.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 15, lines 3 through 6, by rewriting those lines to read:

"provisions of this act."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NCDENR

JAMES B. HUNT JR.
GOVERNOR

BILL HOLMAN
SECRETARY

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

July 5, 2000

MEMORANDUM

TO: Representative Pryor Gibson

FROM: Daniel F. McLawhorn
General Counsel

RE: HB 1580 July 5 PCS

We appreciate the opportunity that you have provided for us to comment on the Proposed Committee Substitute for HB 1580. The PCS is a substantial improvement over the bill as introduced and addresses many of our previously stated issues of concern.

As I mentioned in my comments to the committee, DENR remains concerned about the resources to implement this new program. The most relevant experience we've had—the Brownfields program—demonstrates that the negotiation of the agreements will be very time demanding of some our most experienced employees, as well as the attorneys from the Attorney General's Office who represent us. These time demands will either have to be accounted for by reductions in other areas or new funding to DENR. The PCS includes a fee provision adequate to cover our program needs, and we consider it a necessity for the provision to stay in the bill.

Otherwise we shall be forced to decide which similar projects to stop in order to start this new program. The special projects currently demanding time of many of the same staff are the gas pipeline for the Northeastern and mid-coastal parts of the state, the ethanol plants, the one-stop permitting pilot in two regional offices, and the redevelopment of downtown Fayetteville. Additional economic recruitment projects can create a demand for DENR staff resources on par with that created last year by the Nucor project.

1601 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1601
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To avoid the potential for a drain on existing special project priorities, DENR urges the PCS be amended on page 18, lines 14 and by rewriting the lines to read: "this act using funds ~~otherwise appropriated or~~ available to the ~~Department.~~ Department in the Regulatory Flexibility Act Implementation Account." That change will cause the new program to pay for itself without being a drain on the other scarce resources needed to address to the other pressing needs identified above.

DENR believes that important progress has been made on the "meets vs. exceeds" issue through the Environmental Management System provision. In our opinion, any facility which implements an EMS will exceed its current permit requirements and thus be an "exceeds" facility even if it only achieves the same level of control under the agreement. The new provision requires an EMS if the RFA is multi-media or if the RFA is single media, but the facility will only meet its current limits. Thus, any facility that "exceeds" will not need to implement an EMS to be eligible for a RFA. The later clause, unfortunately, could be the object of abuse if the improvement is miniscule relative to the size of the permitted pollution. For example, a wastewater treatment facility could reduce its nitrogen loading by a pound per year and technically be a single media "exceeds" facility. The bill will be improved if the standard were changed to require that to avoid implementing an EMS, the pollution improvement had to be "substantial" or "significant."

DENR remains interested in the "citizen suit" discussion. As I stated today, DENR does not object to the provision even if it will direct the suits at DENR instead of the RFA holder. We do see a relationship between that provision and the strength of the stakeholder provision in the PCS; the stronger the stakeholder provision, the less the need for the citizen suit provision. The stakeholder section of the current PCS is an improvement, but it still leaves significant discretion to the Secretary as to whether there will be a stakeholder process in the development or implementation of the RFA's. If the citizen suit provision is to stay out, we recommend the committee consider reducing the discretion of the Secretary as to whether there should be stakeholder involvement. To that end, the term "significant" on page 6, line 32, could be changed to "general."

This bill is the first instance where the General Assembly will specifically authorize DENR to offer incentives to companies for excellent performance. DENR believes the incentives, other than the RFA itself, should be limited to those companies with "significantly exceeds" projects. We have also long been concerned that the incentives would only be available to companies that want to vary from the standards, regardless of how worthy the proposal. We think there is at least as much need to offer incentives to companies are excellent performers, but don't seek a RFA to vary from minimum standards. To that end, we request the PCS be amended on page 11, by deleting lines 1-19 and rewriting line 21 so the line reads: "projects, and activities including those under a RFA that will achieve overall".

The enforcement provision in the PCS authorizes DENR to bring an action to immediately terminate a RFA if the facility "poses an imminent hazard to human health or the environment." However, that authority references only DENR's power to take action under the solid waste statutes. DENR requests the provision be amended to include the ability to take the same action under the water and air statutes. To achieve that end, the PCS should be amended on page 13, line14 to read: "necessary to abate the imminent hazard ~~as~~ including those provided in G.S. 130A-20."

The PCS does a good job of making clear the decision whether to enter into a RFA is discretionary with DENR. There has been agreement among the interested parties that the RFA's should not be a matter of entitlement. However, the PCS is silent on the standard for modifications, renewals, terminations, or withdrawals. DENR urges that these should also be clearly stated as matters of Secretarial discretion. Otherwise, DENR could have substantial resources drained into this new program and face potential mandates from courts or even Administrative Law Judges that it leave the RFA's in place. Accordingly, DENR requests the PCS be amended at page 14, line 12 to read: "(a) A decision to approve ~~or diapprove~~ , disapprove, modify, renew, terminate, or withdraw a proposed RFA is at".

The PCS does not expressly authorize the RFA to be terminated for failure to pay the required fees. DENR recommends that language be added to page 16, lines 6-15.

The Department remains interested in using this PCS to resolve two additional issues that are outstanding. The recently enacted De Minimis Oil Spills Act does not require immediate reporting when an oil spill is immediately adjacent to or on top of a drinking water supply wellhead. We request that amendment be included in this bill. Secondly, a dispute now exists as to whether the Federal Land Managers Agreement signed last April on the Governor's behalf invaded the province of the Environmental Management Commission and could only be implemented through rule making. DENR requests the legislature use the PCS to resolve that dispute brought by the proponents of this bill.

cc: Representative Joe Hackney
Secretary Holman
Robin Smith
Gary Hunt
Preston Howard
David Knight
Nat Mund
George Givens
Jeff Hudson
Allen Jernigan

NEUSE RIVER FOUNDATION **ENVIRONMENTAL DEFENSE**
NORTH CAROLINA SIERRA CLUB **NC WILDLIFE FEDERATION**
SOUTHERN ENVIRONMENTAL LAW CENTER
CONSERVATION COUNCIL OF NORTH CAROLINA

To: Speaker Jim Black
From: Jane Preyer, Environmental Defense
Marion Smith, Neuse River Foundation
Molly Diggins, North Carolina Sierra Club MD
David Knight, North Carolina Wildlife Federation
Trip Van Noppen, Southern Environmental Law Center
Nat Mund, Conservation Council of North Carolina
Date: July 6, 2000
Re.: HB 1580, Environmental Excellence Agreements/Regulatory Flexibility Act

Dear Speaker Black:

The above-listed organizations strongly oppose HB 1580, Environmental Excellence Agreements/Regulatory Flexibility Act, by Rep. Pryor Gibson, in its current form. We respectfully request that the House not take up this far-reaching, highly controversial bill as the session enters its final days.

Our organizations have worked with DENR and industry since April of 1999 in more than 20 meetings to try to reach agreement on a bill we can all support. Although there has been substantial progress, we are still far apart on key, substantive issues. These issues are complex and controversial and will require significant additional discussion by all parties to resolve.

We are committed to work between sessions toward a version of HB 1580 that encourages innovation which results in improved environmental performance. However, we wish to be clear that we cannot support the bill as written. Although not part of the stakeholder groups, the North Carolina Coastal Federation and N.C. PIRG join us in raising these concerns.

As written, HB 1580 allows industry to circumvent the rule-making process while burdening DENR with time-consuming and resource-intensive new demands. HB 1580 also gives too much authority to the Secretary of DENR without providing for adequate public input and oversight. A number of difficult technical issues have yet to be resolved.

We appreciate the good work the House has done with respect to the environment this session. Again, we hope that the House leadership will not bring forward this complex, controversial, highly technical bill and far-reaching bill before all sides have reached agreement. Thank you, and best regards.

Cc: Members of House Environment Committee

Conservation Council of North Carolina

PO Box 12671
Raleigh, NC 27605
mund@mindspring.com

Phone (919) 839-0006
Fax (919) 839-0767

To: Members of the House Environment Committee
From: Nat Mund, Conservation Council of NC
David Knight, NC Sierra Club
Re: HB 1580, Environmental Excellence Agreements/ Regulatory Flexibility Agreements

Date: July 6, 2000

Attached for your consideration is a set of editorials that ran when this legislation was first introduced. We feel that the concerns presented are still current, although the bill continues to be revised.

NORTH CAROLINA'S
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Editorial

Don't make state first in pollution

Thursday, May 11, 2000

Wilmington Morning Star

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When the General Assembly convenes for a new session, it usually doesn't take long before someone comes up with a bad idea.

True to form, a bill was filed Tuesday that would gut the state's environmental regulations.

The plan is called the "Environmental Excellence Act," a bit of fiction.

It would allow industries to negotiate emission agreements with the Department of Environment and Natural Resources. As long as they behaved, they would avoid being subject to standard pollution permits and regulations.

In other words, it would replace enforceable regulations with political wheeling and dealing.

Here's a clue: The bill is largely based on recommendations from two trade groups for industries that are subject to environmental regulations. That's something akin to letting foxes do the security planning for hen houses.

Environmental groups immediately started howling.

A lawyer from the Department of Environment and Natural Resources questions whether the plan could be acceptable to the federal Environmental Protection Agency. Many of the rules enforced by state regulators are delegated to the state by the federal agency.

That same lawyer, Dan McLawhorn, said the bill would give North Carolina the weakest environmental protection program in the country.

Now that would be some claim to fame, wouldn't it?

Meanwhile, the bill's sponsor, Rep. Pryor Gibson, a Democrat from Anson County, says these pesky details could be worked out in committees.

Save them the time - drop this idea now.

The Charlotte Observer

Peter Ridder, CHAIRMAN AND PUBLISHER
Jennie Buckner, EDITOR John Luby, GENERAL MANAGER
Ed Williams, EDITOR, EDITORIAL PAGES Frank Barrows, MANAGING EDITOR

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Opi

Jack Betts, Fannie Flono, Mary Newsom, Stewart Spencer Jr., ASSOCIATE EDITORS ■ Jane McAlist

EDITORIALS

Kill it

Call this bill the Environmental Mediocrity Act

Here's the worst idea we've heard of in a long time: Give a single state bureaucrat the power to waive federal and state environmental safeguards and cut a cozy deal to allow industries to increase pollution in some areas if they decrease it in others.

The spin-doctors promoting this wacky scheme call it the Environmental Excellence Act, an obvious attempt to dress up in buttons and bows a thoroughly bad policy idea. The true name for it would be the Environmental Mediocrity Act, because it has the potential to degrade North Carolina's relatively good environment.

Shortly after the General Assembly's Environmental Review Commission endorsed the idea Tuesday, the commission's lawyer pointed out that the proposal "does not actually promote excellence." He is right. It would promote a kind of environmental logrolling that might result in some environmental improvement in some areas at the expense of degradation in other areas.

And it could raise fundamental questions of fairness by permitting some favored polluters to get away with things that others could not. "It replaces standards, rules and regulations with entirely political considerations," said Nat Mund, lobbyist for the Conservation Council of North Carolina.

The proposal would allow industries that achieve substantial compliance with environment rules for three years to negotiate special emission agreements with the Department of Environment and Natural Resources, thus avoiding the normal process of applying for the usual environmental permits and then meeting environmental standards. Industrial groups argue that such a proposal would promote better environmental results because it would give industries significant incentives to comply with environmental regulations or even achieve better results. Negotiated agreements allowing industries with excellent records to increase some emissions would be offset by emission restrictions in other areas.

There are all kinds of problems with this line of reasoning, in addition to the fundamental fairness flaw. It ignores the fact that the state administers a number of environmental protections delegated to it by the U.S. Environmental Protection Agency. Unless the EPA takes an uncharacteristic regulatory hike, the state may find itself without the authority to implement these programs.

And second, this reasoning injects a new level of politics into what is an orderly regulatory process. It would imbue the state secretary of environment and natural resources with enormous and potentially unconstitutional power – making the position an "environmental czar," says departmental attorney Dan McLawhorn. "The effects of the bill will be to relax environmental standards, not enhance them," he said.

Every now and then a truly bad idea bubbles up from a legislative study commission and pops up on lawmakers' agendas. This is one of them. Legislators who want to save the state trouble know what to do with this bill: kill it.

THE NEWS & OBSERVER
TUESDAY, MAY 16, 2000

Editorial

Sound the alarm

Worthy environmental legislation may march forward in this short session of the General Assembly, but one noxious bit of business that moved from a commission to a committee last week needs to be sent into retreat. The ill-named "Environmental Excellence Act" is boosted by the state's leading business lobby, North Carolina Citizens for Business and Industry (NCCBI), and its purpose is simple: to weaken anti-pollution regulation.

The legislation, sent on to a committee by the Environmental Review Commission, would grant the state's secretary of the Department of Environment and Natural Resources the authority to give businesses that sought it a pass on some anti-pollution regulations. In return, those businesses would demonstrate that they were trying "innovative" ways of dealing with pollution. As reported by The N&O's James Eli Shiffer, a business could obtain a waiver on rules governing air pollution if it were keeping a stronger hold on water pollution.

Obviously, the bill would undermine uniform environmental regulation, likely resulting in who-knows-how many applications for waivers. It would politicize the issue of regulation, putting tremendous pressure on the DENR secretary to give certain businesses a break. Meanwhile, why would businesses that were complying with anti-pollution regulations follow the rules without complaint if others could get exceptions?

The fact is, the business lobby already has ways to fight regulation it considers unfair — through the state's Rules Review Commission, for example, or simply by using its influence with legislators. NCCBI has no trouble getting a friendly ear on Jones Street.

A current DENR attorney said the bill now in committee would put the state in a position of having "the weakest program in the country" to curb pollution. That is not acceptable. Responsible legislators should see through the business lobby's smoke clearly and quickly, and stop the legislation in its tracks.

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Piedmont Plateau
Greensboro

Pisgah
Brevard

South Mountains
Morganton

[redacted]ENOCA
Asheville

MEMO

TO: Rep. Pryor Gibson
FROM: David Knight, NC Sierra Club
Nat Mund, Conservation Council of NC
SUBJECT: Comments on proposed "Reg Flex" legislation
DATE: June 30, 2000

This memo is in response to the MCIC memo of June 26, 2000 to George Givens regarding HB 1580, and also to the memo from Dan McLawhorn to Representative Pryor Gibson on the same subject dated June 20, 2000. We have not had adequate opportunity to fully consider the Mr. McLawhorn's memo dated June 28, 2000, and may need to respond to that item separately. We appreciate the attempts by Preston Howard and Mr. McLawhorn to work out some of the differences still existing between the parties. We believe the comments have improved the bill, but the environmental community is still very troubled by many aspects of the two memos. While we agree with some of the proposed changes, the following comments represent our greatest concerns in response to the aforementioned memos. The environmental community opposes the HB 1580 in its present form.

1. Meet/Exceed standard too vague

The environmental community still opposes a "meet" standard as a component of regulatory flexibility legislation. We do not feel that an agreement that circumvents the rule-making process by establishing alternate compliance criteria should be allowed. We further do not agree with the contention that an agreement that only requires a company to "meet" the current standards is sufficiently protective of public health and the environment.

The simple addition of an Environmental Management System (EMS) does not ensure regulatory compliance, nor provides adequate environmental protection. While a comprehensive EMS is an important management tool for industry, and one that we support, it cannot substitute for the public scrutiny of the rule-making process, which established current compliance standards.

As to an agreement that calls for a company to "exceed" standards, there is no mechanism to measure what "exceeding" is. We support the use of a quantitative measurement to demonstrate the justification for increased flexibility. We believe that decreasing discharges or emissions by a very small increment or margin should not be considered "exceeding."

The benchmark for the "exceeding" standard is still undefined. There are a number of possibilities, including permit limits, future output and ambient standards. The baseline standard is critical to determine the true impact of an agreement that "exceeds."

(OVER)

2. Citizens' Suits provision deleted

The environmental community continues to believe that citizens' suits are essential for an effective regulatory flexibility program. Since such a program will vary from established standards and compliance measures, it is imperative that additional community oversight be implemented.

It is worth noting that the proposed legislation refers only to suits against the Secretary, to ensure effective oversight of regulatory flexibility agreements. This is NOT a cause of action against industry, but rather a tool to keep the public involved in environmental protection. Since the Department, the target of any such action, proposed this provision, it is baffling that the industrial community continues to oppose it.

3. Inadequate stakeholder involvement

The compromise bill requires a stakeholder involvement plan at the discretion of the Secretary. The conservation community has consistently advocated for a stakeholder plan for all regulatory flexibility agreements and an enhanced "voice" for the stakeholders. We have proposed requiring stakeholder consensus for entry into an agreement. At the very least, the Secretary should be required to consider the comments and concerns of stakeholders when deciding whether or not to enter an agreement, and provide a means for ongoing stakeholder involvement during the implementation of the agreement.

4. Lack of administrative appeal

Under the proposed legislation, appeals of the Secretary's decision on entry into a regulatory flexibility agreement go directly to Superior Court. It is our opinion that this provision is an artifact of concerns that are being addressed through HB 968, Amend Contested Case Procedures. Because that legislation is still being debated, we do not feel comfortable allowing such an exception to the Administrative Procedures Act.

A hearing before OAH allows the development of a complete record, which is then considered by the appropriate decision-makers in the agency and the Superior Court judge. We are concerned about "short-circuiting" the administrative process for such speculative, untried agreements.

5. SEPA Exemption

The current bill provides that a decision to enter into a regulatory flexibility agreement is exempt from State Environmental Policy Act. As with other permitting decisions, we contend that SEPA should apply to those rare circumstances when the agreement involves state money or land. An exemption for these agreements is unfounded, and would further the possibility for abuse.

Cc: George Givens
Preston Howard
Dan McLawhorn

VISITOR REGISTRATION SHEET

Environment & Nat Resources — July 6, 2000

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
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Dan Holmes	DENR
Sharon Johnson	DENR
Doug Mims	DENR
Alex Kennaugh	NCCONSnet
Lisa Tracy	Sierra Club
Emily Meeker	Conservation Council of NC
Dan McLawhorn	DENR
L'Tryce Slade	DENR
Nat Reed	CCNC
David Knight	NC Sierra

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Name of Committee | Date

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Laura DeVivo	DENR
Bill Holman	DENR
Richard Rogers	DENR
ALAN McCONNELL	KILPATRICK STOCKTON LLP
Kelli Kukura	DuPont
Nancy Thompson	MCIC
Michelle Cook	Weyerhaeuser
PRESTON HOWARD	MCIC
Leslie Burgan	NCCBI
Julie Campbell	NCCBI

VISITOR REGISTRATION SHEET

Name of Committee | Date

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John Cyrus	N.C. State Grange
Ruffin Poole	NCDOJ
Jonny Fellenbaum	Hunton & Williams
Kim Hibbard	NCLM
Natalie English	Charlotte Chamber
Deborah Johnson	NCSPA
Lucius PULLEN	ATTORNEY

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 6, 2000

MINUTES

The House Committee on Environment and Natural Resources met Thursday, July 6, 2000, in Room 1228 of the Legislative Building at 7:00 p.m. Representatives Nurham Warwick and Pryor Gibson, Chairs, presided. Other members attending were Vice Chair, Representative Leslie Cox, Representatives, John Brown, Billy Creech, Arlie Culp, Leo Daughtry, Don Davis, Mitch Gillespie, Dewey Hill, Eugene McCombs, Marian McLawhorn, Jean Preston, Ronnie Smith, Scott Thomas, Gregg Thompson, Joe Tolson, Russell Tucker, Alex Warner and Douglas Yongue. Representative Liston Ramsay has an excused absence.

Chair Warwick called the meeting to order at 7:00 p.m. He said that Representative Hackney's ten amendments would be heard and discussed in order. It was noted that Mr. Hackney could not attend the meeting; thus, Representative Gibson would present the amendments for Mr. Hackney.

George Givens, Staff, distributed a revised Summary Bill Analysis for HB 1580 (Attachment 1), Representative Warwick's amendment from the meeting earlier today H1580-ART/SB-017.01 (the earlier one was typed on plain paper). Representative Davis moved to adopt this amendment; Representative Tolson seconded. Adopted.

Chair Warwick said that there was concurrence on H14580-ART/SB-002.01, 003.01, 004.01, 005.01 (Attachments 2A, 2B, 2C, 2D). Mr. Givens explained the amendments. Representative Daughtry moved to adopt these amendments. Seconded by Representative Brown. So adopted. The following amendments were discussed:

Bill Holman, Secretary, DENR, spoke in support of the following amendments.
Dan McLawhorn Counsel, DENR, also spoke in support of the amendments.
Preston Howard, MCIC, spoke in opposition of the following amendments.

Amendment 001.01 (Attachment 3) was on the table from this afternoon's meeting.
Holman: This is a new program, and there are no resources to support this bill.
Howard: Need to get this bill out to reward the companies who did a good job.
Representative Gibson moved not to adopt the amendment. Amendment failed.

Amendment 003.01 (Attachment 4)
McLawhorn: Secretary will make discretionary agreements with the stakeholders.
Howard: Some minimum level of public interest should be known before the Department's resources are expended. Amendment fails.

Amendment 007.01 (Attachment 5)
Holman: (inaudible on tape)

Howard: Nothing addresses regulatory flexibility. Amendment fails.

Amendment 008.01 (Attachment 6)
McLawhorn: Address an earlier mistake where oil could be spilled on well heads with the public continuing to drink from it; no reporting of the spill for at least 24 hours or ever reported at all. A public health issue.
Howard: This is a public issue, but this bill has nothing to do with regulatory flexibility. Amendment fails.

Amendment 009.01 (Attachment 7)
McLawhorn: DENR is being forced into rule making and confusion.
Howard: This provision will limit DENR's flexibility. Amendment fails.

Amendment 010.01 (Attachment 8)
Holman: This is the way to pay for the program, not about environmental performance.
Howard: A need to work on the fee structure; highly unlikely to have 10 apply.
Amendment fails.

Amendment 011.01 (Attachment 9)
Holman: Amendment self-explanatory--allows citizens to sue DENR.
Howard: Companies who are rewarded must adhere too more stringently. Amendment fails.

Representative Gibson said that between the meeting this afternoon and now, Representative Hackney drafted five additional amendments. He requested that he work with Mr. Hackney on these amendments.

Representative Warwick's amendment (Attachment 10) reinsures that DENR must go through the rule making process. Representative Brown moved to adopt the amendment. Passed.

Representative Gibson moved to incorporate amend .002, .004, .005, .006, .017, .018 (with the words "temporary or" inserted on p. 1, line 15 and incorporated into PCS H1580-CSRT-SB-013 to direct Committee Counsel to make the resulting document a PCS for SB 1132 and to give the Committee Substitute S 1132 a favorable report.

Representative Warwick adjourned the meeting at 7:53 p.m.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATTACHMENT 1

HOUSE BILL 1580 (PCS): Regulatory Flexibility Agreements

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Hannah Holm, Research Assistant for Environmental Issues
Date:	July 6, 2000		
Version:	PCS v.013 for the First Edition		

SUMMARY: Both version .013 of the Proposed Committee Substitute for HB 1580 (new PCS) and version .012 of the Proposed Committee Substitute for HB 1580 (old PCS) would establish a new article in the Chapter 113A of the General Statutes (Pollution Control and Environment) that would authorize the Secretary of Environment and Natural Resources (Secretary) to enter into Regulatory Flexibility Agreements (RFAs) with entities that release pollutants or manage waste. The RFAs would allow the use of innovative measures not otherwise allowed under environmental rules and permits in order to achieve environmental results equal to or better than those that would otherwise be achieved.

The new PCS makes the following changes to the old PCS:

- In the section "Criteria for approval of a RFA," the new PCS makes the following changes to the old PCS:
  1. The new PCS replaces the requirement in the old PCS that "the applicant and any parent, subsidiary, or any other affiliate" has a good environmental compliance record with the requirement that "the facility to which the RFA applies" has had a good environmental compliance record for the three-year period.
  2. The new PCS deletes the requirement in the old PCS that "the discharge or emission of each pollutant, contaminant, and waste from the facility, when operated pursuant to the RFA, will be no greater than that allowed under otherwise applicable environmental requirements." The requirement in the old PCS that "overall environmental protection will equal or exceed that which would be required in the absence of the RFA" remains in the new PCS.
- In the section "Definitions," the new PCS adds a definition that defines "ambient standard" as a standard adopted under environmental law for air quality, groundwater quality, or surface water quality. Under this definition, an ambient standard is different than a specific limitation on releases.
- In the section "Public notice and comment," the new PCS deletes the requirement in the old PCS that requires the publication of a notice in the North Carolina Register at least 45 days prior to any action taken by the Secretary on the application. Notice must still be provided to newspapers and local officials.
- In the section "Stakeholder Involvement Plan," the new PCS deletes the requirement in the old PCS that the plan provide for continued stakeholder participation, review, and comment during the implementation of the RFA. Under the new PCS, stakeholder involvement would only be required during the development of a RFA.
- In the section "Environmental management systems," the new PCS deletes language in the old PCS that specifies in detail the components of an environmental management system.

- In the section "Standard terms and conditions of a RFA," the new PCS replaces the requirement in the old PCS that a RFA include a statement identifying each permit required by environmental laws for the operation of the facility and the requirement that the operator take all actions required to maintain each permit in force with a narrower requirement that addresses only each permit affected by the RFA.
- In the section "Termination," the new PCS deletes language in the old PCS that would authorize the Secretary to terminate a RFA upon finding that any parent, subsidiary, or other affiliate of the owner or operator has failed to comply with any federal or state environmental law, rule, or regulation or the terms of any RFA or similar agreement.
- The new PCS deletes the section "Fees," from the old PCS. The fee section would have required the Department of Environment and Natural Resources to collect a $2000 application fee for a proposed RFA and subsequent fees equal to the full cost of administering the RFA.

BILL ANALYSIS (NEW PCS)

Authority and Limitations

Delegation. The Secretary would be allowed to delegate the authority to enter into an RFA to a Deputy Secretary, Assistant Secretary, or division director within the Department of Environment and Natural Resources (DENR).

Programs delegated to local and regional authorities. If a proposed RFA would affect a program delegated to a regional or local authority, the Secretary would not be allowed to enter into the RFA unless the RFA is approved by the regional or local authority administering the program.

Commission approval. The Secretary would not be allowed to enter into an RFA without the approval of each commission authorized to adopt rules governing a program that would be affected by the RFA. Affected commissions would be given 90 days to object to a proposed RFA; failure to object within the 90-day review period would be presumed to indicate approval.

Programs delegated by the federal Environmental Protection Agency (EPA). If a proposed RFA would affect a program delegated by the EPA, the Secretary would not be allowed to enter into the RFA without EPA approval.

Limitations. Each RFA may apply only to a single facility. A RFA could not be construed to authorize a variance from a provision of the United States Code, the North Carolina General Statutes, or any local ordinance related to zoning or land-use planning.

Application for an RFA

Under the PCS, an application for approval of a RFA would be made by submitting materials to the Secretary that include all of the following:

- The proposed RFA.
- A description of the proposed project that states how the proposed project would achieve results equal to or better than those required by otherwise applicable environmental requirements.
- An explanation of why a RFA would be necessary to achieve the applicant's goals.
- The identification of all permits required by environmental law for the proposed project and the status of each permit or application.

- The identification of each environmental requirement that would be modified or superseded by the RFA and a description of how these requirements would be modified or superseded.
- An analysis of all anticipated environmental impacts and benefits that may result from approval and implementation of the proposed RFA.

Public notice and comment

At least 45 days prior to taking action on any application to approve, significantly modify, or renew an RFA, the Secretary would have to require the applicant to provide public notice of the proposed action through publication in newspapers of general circulation where the RFA applies, mailed notice to local governments with jurisdiction over the area where the RFA applies, and providing a copy of the application for public inspection. The Secretary would be required to hold a public hearing on the proposed RFA if the Secretary determined that significant public interest existed or the public interest would be served by holding the hearing.

Stakeholder Involvement Plan

The Secretary would be required to require an applicant to implement a Stakeholder Involvement Plan if the Secretary determined that significant public interest existed or the public interest would be served by holding the hearing. A Stakeholder Involvement Plan would provide for stakeholder participation, review, and comment during the development of a RFA.

Criteria for approval

The Secretary would be allowed to enter into an RFA only if the applicant demonstrates all of the following:

- The overall environmental protection under the RFA will equal or exceed the protection required under otherwise applicable environmental requirements.
- The facility to which the RFA would apply has had a good environmental compliance record over the previous three years.
- The applicant is financially qualified to carry out the activities covered by the RFA.
- The applicant holds all permits required by environmental laws for the operation of the facility.
- For a RFA for multiple media (i.e. air and water releases) or for a single media that is not intended to exceed the level of protection provided by otherwise applicable environmental requirements, the applicant will implement an environmental management system for the duration of the RFA *(see explanation below)*.
- Implementation of the RFA will not increase health and safety risks to employees at the facility.
- Implementation of the RFA will not result in an unjust or disproportionate environmental impact on any socioeconomic or demographic group.

Environmental management systems

The PCS defines an environmental management system (EMS) as a program for the planning, implementation, review, and improvement of the operation of a facility that is designed to ensure that the facility achieves the environmental performance standards required by the RFA and other applicable requirements.

Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as "ISO 14001" would satisfy the requirement that an applicant implement an EMS.

Standard terms and conditions

Each RFA would be required to include all of the following:

- Clear identification of the area and activities subject to the RFA.
- Identification of the ownership and management structure of the facility.
- A statement that the operation of the facility under the RFA is intended to achieve results that either:
  - equal results required by otherwise applicable environmental requirements.
  - exceed results required by otherwise applicable environmental requirements.
  - exceed results achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.
- A detailed description of how the RFA modifies otherwise applicable environmental requirements.
- A description of how the facility's operation will be modified under the RFA, including an implementation schedule.
- A statement of specific performance standards the facility must achieve under the RFA, as well as non-obligatory performance goals.
- A description of measures to ensure compliance with the RFA and other applicable environmental requirements, including monitoring, documentation, and reporting procedures.
- A requirement that the owner or operator of the facility submit an annual performance review.
- A description of all incentives provided under the RFA.
- Additional terms required by the Secretary.

Effect of an approved RFA

An RFA would modify only the environmental requirements specifically modified in the RFA. All provisions of environmental law and any applicable environmental requirements not addressed by the RFA would remain in effect.

Incentives

The Secretary would be authorized to provide incentives to encourage activities under a RFA to achieve environmental results equal to or better than those required by otherwise applicable requirements. All incentives would be withdrawn upon a finding by the Secretary that the owner or operator of a facility has failed to comply with the RFA. The incentives would also be withdrawn upon an RFA's termination.

Equal results. For equal results, the Secretary would be authorized to provide any of the following:

- Formal, public recognition by the Governor or Secretary.
- Modified requirements for the renewal of environmental permits if the facility has not materially changed its operation and has complied with all applicable environmental laws.
- Technical assistance in developing programs to prevent pollution and improve compliance.

Better results. For better results, the Secretary would be authorized to provide any of the following:

- Any incentive listed above.
- Modification of reporting and monitoring requirements.
- Consolidation of applications for permits issued by DENR.
- Accelerated review and processing of permit applications.
- Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.
- The establishment of facility-wide caps on the release of pollutants into a single media.

The Secretary would be authorized to withdraw these incentives upon finding that a facility has not achieved results better than those required by otherwise applicable environmental requirements.

Duration, renewal, and modification

A RFA would remain in force for five years unless a shorter term is stated in the RFA. Under the new article established by the PCS, a RFA could be renewed if all eligibility criteria are met and the facility has achieved compliance with the RFA and other applicable environmental requirements. However, uncodified language in the PCS states that the intent of the PCS is to establish a pilot program, and renewal of RFAs is not permitted.

Termination

The Secretary would be authorized to terminate a RFA upon finding that the owner or operator has failed to comply with a RFA or any other applicable environmental law or requirement. The Secretary would be authorized to allow the owner or operator 90 days to correct any deficiency prior to terminating the RFA. The Secretary would also be authorized to immediately terminate a RFA upon finding that the facility subject to the RFA poses an imminent hazard to human health or the environment.

The Secretary would be required to terminate a RFA upon either:

- Finding that the owner or operator has failed to disclose a violation of the RFA or any applicable environmental requirement to DENR within 48 hours of discovering the violation.
- Upon finding that the owner or operator is not financially qualified to carry out the activities covered by the RFA.

A RFA would automatically terminate if an environmental permit required for the facility's operation expires or terminates.

The owner or operator of a facility subject to a RFA may terminate the RFA after giving the Secretary at least 30-days notice.

Enforcement

A violation of a term or condition of a RFA would be subject to the same administrative, civil, and criminal penalties and remedies as otherwise applicable environmental requirements superseded by the RFA.

Judicial review

A decision to approve or disapprove a proposed RFA would be at the discretion of the Secretary, would not constitute rulemaking under the General Statutes, and would not be subject to review in an administrative hearing. A person seeking judicial review of an action related to a RFA would be deemed to have exhausted all administrative remedies available by statute or rule.

Adoption of Rules

Any agency authorized to adopt rules governing programs that would be affected by a RFA or that administers a program that would be affected by a RFA would be authorized to adopt rules to implement the new article authorizing RFAs.

Reports

The Secretary would be required to report to the Environmental Review Commission (ERC) annually on the implementation of the new article. The Secretary would also be required to periodically evaluate

environmental requirements modified by RFAs to determine to what extent these modifications could be extended or the requirements revised.

Seek agreement with EPA

The Secretary would be required to seek an agreement with the EPA to provide for the review and implementation of RFAs that would provide that EPA would review and comment on each proposed RFA within 90 days after submittal by the Secretary. The Secretary would be required to report to the ERC on progress in obtaining such an agreement by November 1, 2000.

Pilot program

Enactment of the PCS would be intended as an authorization of a pilot program, so the Secretary would be authorized to enter into no more than 10 RFAs prior to July 1, 2002. Notwithstanding other provision of the act, renewal of RFAs would also be prohibited.

Effective dates

The PCS would become effective October 1, 2000 and expire June 30, 2007 or when all RFAs have expired, whichever occurs first.

ATTACHMENT 2
~~PASSED~~
ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-017.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Warwick

moves to amend the bill on page 13, lines 42 through 44, by deleting those lines, and

on page 14, line 8, by rewriting that line to read:

"proposed legislation to the Environmental Review Commission.

(c) The Secretary shall keep accurate records of the costs incurred by the Department to implement this Article. On or before 1 January and 1 July of each year, the Secretary shall report to the Environmental Review Commission as to the number of RFAs that have been submitted for review and the costs incurred by the Department to review and act on each RFA. The Environmental Review Commission shall evaluate these report and, if appropriate, propose legislation to establish a reasonable fee to cover the costs incurred by the Department to implement this Article.

(d) The Environmental Review Commission shall periodically evaluate the implementation of this Article to determine whether the definition of environmental law set out in G.S. 113A-243 should be amended to include additional environmental regulatory programs within the scope of this Article." and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-017.01

on page 14, line 24,
by adding, at the end of that line:

"The Secretary of Environment and Natural Resources shall make the first report required by G.S. 113A-258(c), as enacted by Section 1 of this act, on or before 1 January 2001."

SIGNED N. Warwick
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 6 July 2000 FAILED _____ TABLED _____

ATTACHMENT A

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1580-ART/SB-002.01

Date _____ ,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 7, line 14,
by inserting "substantially" after "that".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 6 July 2000 FAILED _____ TABLED _____

ATTACHMENT 2B

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-004.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 9, line 43 through page 10, line 17, by deleting those lines;

on page 10, lines 18 through 38, rewriting those lines to read:

"(a) In order to encourage the development of programs, projects, and activities that will achieve overall environmental results that are better than those required by otherwise applicable environmental requirements, including those under a RFA, the Secretary may provide any of the following incentives:

(1) Formal, public recognition by the Governor or the Secretary.

(2) Modified requirements for renewal of environmental permits if, since the last issuance of those permits, there have been no material changes in equipment and operation at the facility; no violations of federal, state, or local laws, regulations, or rules for the protection of the environment.

(3) Technical assistance with the development and implementation of a pollution prevention program.

(4) Technical assistance with the development and implementation of measures designed to improve compliance.

(5) Modification of reporting and monitoring requirements.

(6) Consolidation of applications for permits issued by the Department.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1580-ART/SB-004.01

(7) Accelerated review and processing of permit applications.
(8) Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.
(9) Ability to establish facility-wide caps on the emission or discharge of pollutants, contaminants, or wastes into a single media.

(b) The Secretary may withdraw any or all incentives provided"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 6 July 2000 FAILED _____ TABLED _____

ATTACHMENT 2C

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-005.01 Page 1 of 1

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 12, line 6,
by inserting at the end of that line:

"The provisions of G.S. 130A-20 apply to the abatement of an imminent hazard that results from a violation of any provision of environmental law."

SIGNED Hackney
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 6 July 2000 FAILED _____ TABLED _____

ATTACHMENT 2D

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-006.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 13, line 2,
by rewriting that line to read:

"(a) A decision to approve, disapprove, modify, renew, terminate, or withdraw from a RFA is at"

SIGNED Hackney
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 6 July 2000 FAILED _____ TABLED _____

ATTACHMENT 5
NOT ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-001.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 15, lines 3 through 6, by rewriting those lines to read:

"provisions of this act."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

ATTACHMENT 4
NOT ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-003.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 6, line 32, by deleting "significant" and substituting "any".

SIGNED Hackney
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

AMENDMENT 5
NOT ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-007.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 1, line 4,
by rewriting that line to read:

"FLEXIBILITY AND TO RATIFY THE FEDERAL LAND MANAGERS AGREEMENT." and

on page 15. line 7,
by rewriting that line to read:

"Section 7. The Class I Area Permitting Procedures Document (Federal Land Managers Agreement), executed on behalf of the State by Wayne McDevitt, Secretary of Environment and Natural Resources, for Governor James B. Hunt, Jr. on 7 April 1999, is ratified by the General Assembly. Entry into this agreement is an action by the Governor that requires no additional action by the Department of Environment and Natural Resources or the Environmental Management Commission prior to implementation.

Section 8. This act becomes effective 1 October 2000."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

ATTACHMENT 6
FAILS

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-008.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [YES]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 1, line 4,
by rewriting that line to read:

"FLEXIBILITY AND TO AMEND THE DE MINIMIS PETROLEUM DISCHARGE REPORTING EXCEPTION." and

on page 15, line 7,
by rewriting that line to read:

"Section 7. If House Bill 1618 becomes law, G.S. 143-215.85(b), as enacted by House Bill 1618, reads as rewritten:

'(b) As used in this subsection, 'petroleum' has the same meaning as in G.S. 143-215.94A. A person who owns or has control over petroleum that is discharged into the environment shall immediately take measures to collect and remove the discharge, report the discharge to the Department within 24 hours of the discharge, and begin to restore the area affected by the discharge in accordance with the requirements of this Article if the volume of the petroleum that is discharged is 25 gallons or more or if the petroleum causes a sheen on nearby surface water or if the petroleum is discharged at a distance of 100 feet or less from any surface water ~~body.~~ body or drinking water supply well. If the volume of petroleum that is discharged is less than 25 gallons, the petroleum does not cause a sheen on nearby surface water, and the petroleum is discharged at a distance of more than 100 feet from all surface water ~~bodies,~~ bodies or drinking water supply wells, the person who owns or has control over the petroleum shall immediately take measures to collect and remove the discharge. If a discharge of less than 25 gallons of

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-008.01

petroleum cannot be cleaned up within 24 hours of the discharge or if the discharge causes a sheen on nearby surface water, the person who owns or has control over the petroleum shall immediately notify the Department.'

Section 8. This act becomes effective 1 October 2000."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

ATTACHMENT 7
FAILS

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-009.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 7, line 36, by inserting, at the end of that line:

"At a minimum, an environmental management system shall provide for all of the following:

(1) A policy that commits the management of the facility to implement and maintain the environmental management system and to continually improve environmental performance.

(2) Identification and description of all potential adverse environmental impacts resulting from the operation of the facility, including the emission and discharge of pollutants and contaminants, use of energy, and generation of waste.

(3) Goals and targets to reduce the potential adverse environmental impacts resulting from the operation of the facility, including reduction of energy use.

(4) Employee training designed to reduce the potential adverse environmental impacts resulting from the operation of the facility.

(5) Identification and implementation of compliance assurance measures, including plans to prevent violation of the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA.

(6) Identification and implementation of measures for the prompt identification, correction, and reporting of all violations of the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA.

NORTH CAROLINA GENERAL ASSEMBLY
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(to be filled in by
Principal Clerk)

H1580-ART/SB-009.01

(7) Monitoring activities at the facility that may have a potential adverse environmental impact.
(8) Review of the environmental management system and its implementation at least once each year."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

ATTACHMENT 8
FAILS

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-010.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 14, line 8,
by rewriting that line to read:
"proposed legislation to the Environmental Review Commission.
'**§ 113A-259. Fees.**
(a) The Department shall collect the following fees:
(1) An applicant who submits a proposed RFA for review by the Secretary shall pay an initial fee of two thousand dollars ($2,000).
(2) An applicant who enters into a RFA with the Secretary shall pay a fee in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the RFA, including but not limited to negotiation of the RFA and public notice and involvement. The procedure by which the amount of this fee is determined shall be established by agreement between the applicant and the Secretary and shall be set out as a part of the RFA. The fee imposed by this subdivision shall be due at the time the applicant and the Secretary enter into the RFA and shall be reduced by the amount of the initial fee paid pursuant to subdivision (1) of this subsection. The Secretary shall not enter into the RFA unless the fee is paid in full when due.
(3) The owner or operator of a facility that is subject to a RFA shall pay a fee in an amount equal to the full cost of monitoring the implementation of the RFA, including the cost of continuing public involvement. The procedure by which the amount of this fee is determined and the schedule for payment of the fee shall be established by agreement between the applicant and the Secretary and shall be set out as a part of the RFA.

(4) The owner or operator of a facility that is subject to a RFA who applies for modification or renewal of a RFA shall pay a fee in an amount equal to the full cost to the Department and the Department of Justice of all activities related to the modification or renewal, including but not limited to negotiation of the modified or renewed RFA and public notice and involvement. The procedure by which the amount of this fee is determined shall be established by agreement between the owner or operator and the Secretary and shall be set out as a part of the modified or renewed RFA. The fee imposed by this subdivision shall be due at the time of the renewal or modification. The Secretary shall not modify or renew a RFA unless the fee is paid in full when due.

(b) In determining the full cost of activities related to a RFA, the Secretary shall take into account the extent to which activities associated with the review of an application for a permit or for the modification or renewal of a permit reduce the cost of activities related to the RFA and shall reduce the amount of the fee due under subdivisions (2), (3), and (4) of subsection (a) of this section accordingly. The amount of the reduction shall not exceed the amount of the permit fee.

(c) Fees and interest imposed under this section shall be credited to the Regulatory Flexibility Act Implementation Account.

(d) If a applicant fails to pay the full amount of any fee due under this section, the Secretary shall terminate the RFA and interest on the unpaid portion of the fee shall accrue from the time the fee is due until paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-241.1(i). A lien for the amount of the unpaid fee plus interest shall attach to the real and personal property of the owners and operators of the facility subject to the RFA until the fee and interest is paid. The Department may collect unpaid fees and interest in any manner that a unit of local government may collect delinquent taxes.

(e) This Article shall not be construed to authorize a reduction or waiver of any fee that an applicant for approval, modification, renewal of a RFA or the owner or operator of a facility subject to a RFA is subject to for any permit or under federal, State, regional, or local law, regulation, rule or ordinance.

'**§ 113A-260. Regulatory Flexibility Act Implementation Account.**

The Regulatory Flexibility Act Implementation Account is created as a nonreverting interest-bearing account in the Office of the State Treasurer. The Account shall consist of fees and interest collected under G.S. 113A-259, moneys appropriated to it by the

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

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(to be filled in by
Principal Clerk)

H1580-ART/SB-010.01

General Assembly, moneys received from the federal government, moneys contributed by private organizations, and moneys received from any other source. Funds in the Account shall be used by the Department to defray the costs of implementing this Article. The Department may contract with a private entity for any services necessary to implement this Article." and

on page 12, line 9,
by rewriting that line to read:

"days prior to the termination and paying all fees due under G.S. 113A-259."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2000 TABLED _____

ATTACHMENT 9
FAILS

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-011.01

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Hackney

moves to amend the bill on page 14, line 8,
by rewriting that line to read:

"proposed legislation to the Environmental Review Commission.
'§ 113A-256. Private cause of action.
(a) Any person or legal entity aggrieved by a failure of the Secretary to terminate an EEA for any of the reasons set out in G.S. 113A-254 or to require the owner or operator of a facility subject to an EEA to correct a deficiency as provided in G.S. 113A-254(a) may bring a civil action against the Secretary and the owner or operator in the superior court of Wake County, the county where the person resides, any county where any owner or operator resides or has his, her, or its principal place of business, or any county in which any portion of the facility is located to compel the Secretary to terminate the EEA, to compel the owner or operator of the facility to correct the deficiency, or both. If the person prevails, the court may order the owner or operator to pay reasonable attorney's fees.
(b) A person who intends to bring an action under subsection (a) of this section shall give notice to the Secretary and to the owner or operator of the facility at least 60 days before commencing the action. The notice shall state the reason why the Secretary should terminate the EEA, the deficiencies that should be corrected, or both. To be effective, notice must be served as provided in G.S. 1A-1, Rule 4(j) of the Rules of Civil Procedure. An action under subsection (a) of this section is abated if the Secretary finds that all deficiencies have been corrected.

NORTH CAROLINA GENERAL ASSEMBLY
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House Bill 1580

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1580-ART/SB-011.01

(c) Except as provided in subsection (a) of this section, this Article does not create a private cause of action and does not alter any other provision of law relating to private causes of action. Other than an award of reasonable attorney's fees as provided in subsection (a) of this section, this Article does not create a private cause of action for monetary damages. This Article shall not be construed to alter or limit any statutory or common law right to recover for damages or for injunctive relief."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 6 July 2001 TABLED _____

ATTACHMENT 10
~~PASSED~~
ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1580

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1580-ART/SB-018.01

TEMPORARY OR

Date_____,2000

Comm. Sub. [YES]
Amends Title [NO]
H1580-ART/SB-013

Representative Warwick

moves to amend the bill on page 1, line 4,
by rewriting those lines to read:

'FLEXIBILITY AND TO PROHIBIT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCE FROM EXPANDING THE SCOPE OF A RULE WITHOUT ADOPTING A PERMANENT RULE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT." and

on page 15, lines 7 through 8,
by rewriting those lines to read:

"Section 7. The Department of Environment and Natural Resources shall not implement a new rule or implement any part of an existing rule outside the areas for which the rule was originally approved without adopting a permanent rule pursuant to Article 2A of Chapter 150B of the General Statutes.

Section 8. Section 7 of this act becomes effective when this act becomes law. All other sections of this act become effective 1 October 2000. Sections 1 through 6 of this act expire on 30 June 2007 or when all Regulatory Flexibility Agreements expire, whichever first occurs."

SIGNED Nelson O Warwick Temporary OR
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1132*
Proposed House Committee Substitute S1132-PCS4000-RT/SB001

Short Title: Regulatory Flexibility Agreements. (Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A VOLUNTARY REGULATORY FLEXIBILITY PROGRAM TO PROMOTE IMPROVED ENVIRONMENTAL COMPLIANCE AND REGULATORY FLEXIBILITY AND TO PROHIBIT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM EXPANDING THE SCOPE OF A RULE WITHOUT ADOPTING A TEMPORARY OR PERMANENT RULE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Regulatory Flexibility Agreements.

"**§ 113A-241. Title.**

This Article may be cited as the 'Regulatory Flexibility Agreements Act of 2000'.

"**§ 113A-242. Purpose.**

The purpose of this Article is to create a voluntary program whereby persons who engage in activities that result in the discharge or emission of pollutants or contaminants, or who manage solid or hazardous waste, may enter into agreements with the Secretary under which innovative measures not otherwise allowed under applicable environmental requirements may be utilized to achieve overall results that are equal to or better than those that would otherwise be achieved. At a minimum, a Regulatory Flexibility Agreement shall provide for a level of environmental

protection that equals the level of protection required by environmental law and applicable environmental requirements. Better overall results may include a higher level of environmental protection, the same level of protection achieved in a more efficient or cost-effective manner, or ideally, a higher level of environmental protection achieved in a more efficient or cost-effective manner.

"**§ 113A-243. Definitions.**

(a) Unless otherwise required by the context and except as provided in this section, the definitions set out in Article 9 of Chapter 130A of the General Statutes and in Articles 21, 21A, and 21B of Chapter 143 of the General Statutes apply to this Article.

(b) As used in this Article:

(1) 'Ambient standard' means an air quality, groundwater quality, or surface water quality standard adopted under environmental law for the protection of the environment or public health generally, as distinguished from a specific emissions or discharge standard or limitation.

(2) 'Applicable environmental requirements' means those State environmental rules and permits that govern the emission, discharge, or management of pollutants, contaminants, or wastes, and that are administered by the Department, a commission, or a regional or local authority under any provision of environmental law.

(3) 'Department' means the Department of Environment and Natural Resources and may include the commissions organized within the Department and delegated local or regional programs as required by the context.

(4) 'Environmental law' means Articles 1 and 9 of Chapter 130A of the General Statutes, Articles 21, 21A, or 21B of Chapter 143 of the General Statutes, and corresponding federal statutes.

(5) 'Facility' means a contiguous area, or two or more areas in close proximity, that are under common ownership, management, or control and at which any activity occurs that is regulated under any environmental law. 'Facility' includes any personal property or fixtures that are located at a facility or that are substantially related to the operation of a facility.

(6) 'Multimedia' means the emission or discharge of pollutants, contaminants, or wastes into two or more of the following: air, groundwater, land, or surface water.

(7) 'Regulatory Flexibility Agreement' or 'RFA' means an agreement between the Secretary or the Secretary's delegate and a person who owns or operates a facility and who holds one or more permits governing the discharge or emission of pollutants, contaminants, or waste from the facility, or the management of waste at the facility. A RFA authorizes the permit holder to

implement innovative environmental measures not otherwise allowed under applicable environmental requirements for the purposes of, and in accordance with the requirements of, this Article. A RFA is not a license as that term is defined in G.S. 150B-2.

(8) 'Secretary' means the Secretary of Environment and Natural Resources.

(9) 'Single media' means the emission or discharge of pollutants, contaminants, or wastes into no more than one of the following: air, groundwater, land, or surface water.

(10) 'Stakeholder' means any person or group of persons of common interest directly or indirectly affected in his or its person, property, or employment by the operation of a facility that has applied for, or is operating under, a Regulatory Flexibility Agreement. Potential stakeholders include, but are not limited to: employees of the facility and their representatives; persons who live or work near the facility; community, civic, environmental advocacy, and other organizations; trade and business associations; and agencies of the State and local governments and their representative associations.

"**§ 113A-244. Authority to enter into a RFA; limitations.**

(a) The Secretary may enter into a RFA with any person who engages in the discharge or emission of pollutants or contaminants, or the management of waste, and who is regulated under environmental law. A RFA may modify only those applicable environmental requirements that implement environmental law. Each RFA may apply only to a single facility.

(b) A RFA may authorize the emission or discharge of a pollutant, contaminant, or waste from a facility that exceeds a specific emissions or discharge standard or limitation adopted under environmental law but may not authorize any act or practice that would result in the violation of an ambient standard.

(c) The Secretary may delegate the authority to enter into a RFA to a Deputy Secretary, Assistant Secretary, or division director of the Department. If a proposed RFA affects programs in two or more divisions of the Department, the Secretary shall designate a lead agency to negotiate the RFA.

(d) If a proposed RFA affects a program that is delegated to and administered by a regional or local authority, the Secretary may not enter into the RFA unless the regional or local authority approves the RFA. If a proposed RFA affects only a program that is delegated to and administered by a regional or local authority, the Secretary may request that the regional or local authority negotiate the RFA.

(e) The Secretary may not enter into a RFA without the approval of each commission that is authorized to adopt rules governing a program that would be affected by the RFA. The Secretary shall submit a proposed RFA to each commission that is authorized to adopt rules governing a program that would be affected by the proposed RFA. Each commission shall review the proposed RFA and

may object to it within 90 days of the date the proposed RFA is submitted by the Secretary. If a commission does not object to a proposed RFA within the 90-day review period, the commission is presumed to have approved the proposed RFA. If a commission objects to a proposed RFA, the commission shall provide a written statement of the objection and the reasons for the objection to the Secretary.

(f) If the proposed RFA affects a program that is delegated, authorized, or approved by the United States Environmental Protection Agency, the Secretary may not enter into the RFA without the concurrence of the United States Environmental Protection Agency. The Secretary may enter into an agreement with the United States Environmental Protection Agency that provides for review and implementation of RFAs.

(g) This Article and any RFA entered into under this Article shall not be construed to authorize a variance from a provision of the United States Code, the General Statutes, or any local ordinance related to zoning or land-use planning.

"**§ 113A-245. Application for a RFA.**

A person may apply for approval of a RFA by submitting the following information to the Secretary:

(1) The proposed RFA.

(2) A description of the proposed regulatory flexibility project that includes a description of the facility and how its operation will be affected under the RFA, whether operation of the facility under the RFA will achieve overall results that are equal to or better than those required by otherwise applicable environmental requirements and how this will be accomplished, the nature of the anticipated results, and the method to document compliance with the commitments made by the applicant in the RFA.

(3) An explanation of why the applicant's goals under the proposed RFA could not be achieved under applicable environmental requirements.

(4) All information necessary to determine that the proposed RFA satisfies the criteria for approval of a RFA under G.S. 113A-248.

(5) A statement that identifies each permit that is required by environmental law for the operation of the facility, states whether the applicant holds or has applied for each of these permits, indicates the status of each permit or permit application.

(6) A statement that identifies each applicable environmental requirement, including any permit requirement, that would be modified or superseded by the RFA and describes the manner in which each requirement would be modified or superseded.

(7) An analysis of all anticipated environmental benefits and adverse environmental impacts that may result if the proposed RFA is approved and implemented.

(8) Any other information requested by the Secretary or Secretary's delegate.

"**§ 113A-246. Public notice and comment.**

(a) At least 45 days prior to acting on an application to approve, significantly modify, or renew a RFA, the Secretary shall require the applicant to provide public notice of the proposed action by:

(1) Publication in a newspaper having general circulation in each county in which the facility covered by the proposed RFA is located.

(2) Mail to each unit of local government having jurisdiction over any part of the facility to which the RFA applies.

(3) Providing a copy of the application for the proposed RFA for public inspection in at least one location selected by the Secretary.

(b) The notice shall:

(1) Provide a brief description of the proposed RFA and the action to be taken.

(2) Identify the facility to which the proposed RFA applies.

(3) Summarize anticipated environmental benefits and adverse environmental impacts.

(4) Identify the rules and permit requirements that will be modified or superseded by the proposed RFA.

(5) Include a statement as to the public availability of the application for the proposed RFA.

(6) State the time period and means for submitting written comment and for requesting a public hearing on the proposed RFA.

(c) The Secretary may require that the notice of a proposed RFA be published in additional newspapers and provided to additional persons. The Secretary may extend the period for comment by up to 60 additional days.

(d) If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require a public hearing to be held on the proposed RFA. Notice of a public hearing shall be given, in the manner required by this section for public notices, at least 30 days before the public hearing.

"**§ 113A-247. Stakeholder Involvement Plan.**

If the Secretary determines that significant public interest exists, or that the public interest will be served, the Secretary shall require that the applicant for a RFA implement and maintain a Stakeholder Involvement Plan. A Stakeholder Involvement Plan shall provide for the identification and notification of stakeholders and stakeholder participation, review, and comment during the development of a RFA.

"**§ 113A-248. Criteria for approval of a RFA.**

The Secretary may enter into a RFA only if the applicant demonstrates to the Secretary or the Secretary's delegate that:

(1) The overall environmental protection will equal or exceed that which would be required in the absence of the RFA.

(2) The facility to which the RFA applies has substantially complied with federal and State laws, regulations, and rules for the

protection of the environment and the terms of any other RFA that applies to the facility for at least the three-year period immediately prior to entry into the RFA.

(3) The applicant is financially qualified to carry out the activities covered by the RFA.

(4) The applicant holds all permits that are required by environmental laws for the operation of the facility.

(5) For a RFA for a multimedia project or for a single media project that is not intended to provide for a level of environmental protection that substantially exceeds the level of protection required by environmental law and applicable environmental requirements, the applicant has, or will implement, an environmental management system for the facility at the time the RFA becomes effective and will maintain the environmental management system so long as the RFA is in force.

(6) The applicant implements a Stakeholder Involvement Plan as required by the Secretary.

(7) Implementation of the RFA will not increase overall occupational health or safety risks to employees at the facility.

(8) Implementation of the RFA will not result in an unjust or disproportionate environmental impact on any socioeconomic or demographic group.

"§ 113A-249. Environmental management systems.

(a) For purposes of this Article, an environmental management system is a program for the planning, implementation, review, and improvement of the operation of a facility subject to a RFA that is designed to ensure that the facility complies with the specific performance standards set out in the RFA and the applicable environmental requirements not modified by the RFA.

(b) Certification by an accredited third-party registrar that a facility meets the standards established by the International Organization for Standardization as 'ISO 14001' presumptively satisfies the requirement that an applicant for a RFA implement an environmental management system.

"§ 113A-250. Standard terms and conditions of a RFA.

Each RFA shall contain terms and conditions that provide for all of the following:

(1) A statement that describes the location and operation of the facility with sufficient detail so as to clearly establish the area and activities that are subject to the RFA.

(2) A statement that identifies the ownership and management structure of the facility.

(3) A statement that operation of the facility under the RFA is intended to achieve overall environmental results that either:

a. Equal the results that are required by otherwise applicable environmental requirements.

b. Exceed the results that are required by otherwise applicable environmental requirements.

c. Exceed the results that have been achieved by past operation of the facility in compliance with otherwise applicable environmental requirements.

(4) A statement that identifies each permit that is affected by the RFA and a requirement that the owner or operator of the facility take all actions required to maintain each permit in force.

(5) A statement that identifies each applicable environmental requirement, including any permit requirements, that are modified or superseded by the RFA and describes the manner in which each requirement is modified or superseded.

(6) A description of how the operation of the facility will be modified by the RFA.

(7) A detailed description of how the RFA will be implemented and an implementation schedule.

(8) A statement of the specific performance standards that the owner or operator of the facility agrees to meet under the RFA and of any nonobligatory performance goals.

(9) A statement of any specific performance goals that the owner or operator of the facility hopes to achieve under the RFA.

(10) A description of how compliance with this Article and the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA, will be monitored, documented, and reported. The RFA shall require that the owner or operator of the facility prepare and submit to the Department a comprehensive performance review at least annually.

(11) A requirement that the owner or operator implement and maintain an environmental management system as required by G.S. 113A-248(5) so long as the RFA is in force.

(12) If the Secretary requires a Stakeholder Involvement Plan, a requirement that the owner or operator of the facility implement the Plan.

(13) A specific description of all incentives that are provided under the RFA.

(14) The term of the RFA and a notice that the RFA may be modified or renewed only as provided in G.S. 113A-253.

(15) A notice that the RFA is subject to termination as provided in G.S. 113A-254.

(16) Additional terms, consistent with this Article, that may be required by the Secretary or the Secretary's delegate.

"§ 113A-251. Effect of an approved RFA.

A RFA modifies applicable environmental requirements only to the extent that the RFA specifically identifies an applicable environmental requirement and provides for a specific modification of those requirements. To the extent that a RFA provides for a specific modification of an applicable environmental requirement, that requirement is superseded and the owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to the RFA is relieved of any obligation to comply with the requirement. All provisions of environmental law and any applicable environmental requirements that are not addressed by the RFA shall continue to apply to the operation of the facility. The owner, operator, and every person who is responsible for any aspect of the operation of a facility that is subject to a RFA shall comply with environmental law, the terms of the RFA, and all applicable environmental requirements that are not modified by the RFA. The terms of a RFA and applicable environmental requirements that are not modified by the RFA may be enforced as provided in this Article and environmental law.

"**§ 113A-252. Incentives.**

(a) In order to encourage the development of programs, projects, and activities that will achieve overall environmental results that are better than those required by otherwise applicable environmental requirements, including those under a RFA, the Secretary may provide any of the following incentives:

(1) Formal, public recognition by the Governor or the Secretary.

(2) Modified requirements for renewal of environmental permits if, since the last issuance of those permits, there have been no material changes in equipment and operation at the facility; no violations of federal, State, or local laws, regulations, or rules for the protection of the environment.

(3) Technical assistance with the development and implementation of a pollution prevention program.

(4) Technical assistance with the development and implementation of measures designed to improve compliance.

(5) Modification of reporting and monitoring requirements.

(6) Consolidation of applications for permits issued by the Department.

(7) Accelerated review and processing of permit applications.

(8) Increased self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits.

(9) Ability to establish facility-wide caps on the emission or discharge of pollutants, contaminants, or wastes into a single media.

(b) The Secretary may withdraw any or all incentives provided under this section for any of the reasons set out in G.S. 113A-254 for termination of a RFA. The Secretary may withdraw any or all incentives provided under subsection (a) of this section if the Secretary finds that overall environmental results that are better than those required by otherwise applicable environmental requirements have not been achieved. The Secretary shall withdraw all incentives provided under this section if

the Secretary finds that the owner or operator of a facility has failed to comply with the RFA or upon the termination, withdrawal, or expiration of the RFA.

"**§ 113A-253. Duration, renewal, and modification of a RFA.**

(a) A RFA shall remain in force for five years unless the Secretary and the owner or operator agree to a shorter term or the RFA is terminated as provided in G.S. 113A-254.

(b) Subject to the limitations of G.S. 113A-244 and the criteria set out in G.S. 113A-248, upon application by the owner or operator, the Secretary may renew or modify a RFA. A RFA may be renewed for a term of five years unless the Secretary and the owner or operator agree to a shorter term.

(c) Before deciding whether to renew or modify a RFA, the Secretary may require the owner or operator of a facility to obtain an evaluation of the performance of the facility under the RFA, including compliance with the specific performance standards set out in the RFA and applicable environmental requirements not modified by the RFA, by a third party acceptable to both the owner or operator and the Secretary.

"**§ 113A-254. Termination of a RFA.**

(a) The Secretary may terminate a RFA if the Secretary finds that the owner or operator has failed to comply with any provision of environmental law, this Article, the RFA, or any applicable environmental requirement not modified by the RFA. The Secretary may allow the owner or operator a reasonable time, not to exceed 90 days after the owner or operator discovers or receives written notice of the deficiency, in which to correct the deficiency. The Secretary shall terminate the RFA if the owner or operator fails to correct the deficiency within the time allowed.

(b) The Secretary shall terminate a RFA if the Secretary finds that the owner or operator has failed to disclose a violation of this Article, the RFA, or any applicable environmental requirement not modified by the RFA to the Department within 48 hours of the time that the owner or operator discovers the violation. The Secretary shall terminate a RFA if the Secretary finds that the owner or operator is not financially qualified to carry out the activities covered by the RFA.

(c) A RFA automatically terminates if the owner or operator fails to keep in force each permit that is required by environmental law for the operation of the facility.

(d) Notwithstanding any other provision of this section, the Secretary may immediately terminate a RFA if the Secretary finds that the facility subject to the RFA poses an imminent hazard to human health or the environment. If the Secretary finds that a facility subject to the RFA poses an imminent hazard to human health or the environment, the Secretary may take any action necessary to abate the imminent hazard as provided in G.S. 130A-20. The provisions of G.S. 130A-20 apply to the abatement of an imminent hazard that results from a violation of any provision of environmental law.

(e) The owner or operator of a facility subject to a RFA may terminate the RFA by giving notice to the Secretary at least 30 days prior to the termination.

(f) Effective upon termination of a RFA, any incentives provided by the State in connection with the RFA shall be withdrawn.

(g) Upon termination of a RFA, all applicable environmental requirements apply to the facility. Unless the RFA was terminated for failure to keep a required permit in force, the owner or operator may continue to operate the facility to the extent that the owner or operator is able to do so in compliance with environmental law. The Department shall provide expedited review of any application for a permit or permit modification for a facility for which a RFA is terminated.

"**§ 113A-255. Enforcement.**

(a) A violation of a term or condition of a RFA is subject to administrative, civil, and criminal penalties and remedies to the same extent, and the terms and conditions of a RFA may be enforced in the same manner, as the otherwise applicable environmental requirements that are modified or superseded by the RFA.

(b) No person shall be subject to any administrative, civil, or criminal penalty, including injunctive relief, as a result of any failure to meet a performance goal set out in a RFA pursuant to G.S. 113A-250(9).

(c) Nothing in this Article shall limit the authority of the Attorney General, a district attorney, the Secretary, any agency head, regulatory commission, or regional or local authority to initiate an administrative, civil, or criminal action against a person for a violation of any applicable environmental requirement, except to the extent that the requirement was modified pursuant to this Article at the time the violation occurred. Nothing in this Article shall limit the authority of the Attorney General, a district attorney, the Secretary, any agency head, regulatory commission, or regional or local authority to initiate an administrative, civil, or criminal action against a person for a violation of any federal, State, or local environmental law.

"**§ 113A-256. Judicial review.**

(a) A decision to approve, disapprove, modify, renew, terminate, or withdraw from a RFA is at the sole discretion of the Secretary. A decision to approve, disapprove, modify, renew, terminate, or withdraw from a RFA, and any decision to provide or withdraw any incentive, does not create a right, duty, or privilege within the meaning of G.S. 150B-2(2) and is not subject to review in an administrative hearing under Article 3 of Chapter 150B of the General Statutes. A decision by the Secretary or the Secretary's delegate to approve, disapprove, modify, renew, terminate, or withdraw from a RFA, and any decision to provide or withdraw any incentive, is a final agency decision and is subject to judicial review as provided in Article 4 of Chapter 150B of the General Statutes.

(b) A person seeking judicial review pursuant to this section shall be deemed to have exhausted all administrative remedies available by statute or rule. To obtain judicial review under this section, the person seeking review must file a petition in the Superior Court of Wake County, the county where the person resides, any county where any owner or operator resides or has his, her, or its principal place of business, or any county in which any portion of the facility is located. A person seeking review under this section must file the petition within 30 days after the decision of the Secretary or the Secretary's delegate is served on the owner or operator of the facility subject to the RFA.

"**§ 113A-257. Adoption of rules.**

The Secretary, the Department, any commission that is authorized to adopt rules governing a program that would be affected by the RFA, and any regional or local authority that administers a program that would be affected by a RFA may adopt rules to implement this Article.

"**§ 113A-258. Reports.**

(a) On or before 1 September of each year, the Secretary shall prepare and submit to the Environmental Review Commission a report on the implementation of this Article during the previous fiscal year. The report shall evaluate the extent to which the purposes of this Article are being achieved. The report shall also evaluate whether any additional environmental regulatory programs should be included within the scope of this Article. The report may include any recommendations to improve the effectiveness of this Article, including additional incentives.

(b) The Secretary shall periodically evaluate applicable environmental requirements that are modified by RFAs that have been successfully implemented to determine whether and to what extent those modifications could be extended and whether any applicable environmental requirement should be revised. Based on this evaluation, the Secretary may request the appropriate regulatory commission to initiate rule making or may recommend proposed legislation to the Environmental Review Commission.

(c) The Secretary shall keep accurate records of the costs incurred by the Department to implement this Article. On or before 1 January and 1 July of each year, the Secretary shall report to the Environmental Review Commission as to the number of RFAs that have been submitted for review and the costs incurred by the Department to review and act on each RFA. The Environmental Review Commission shall evaluate these reports and, if appropriate, propose legislation to establish a reasonable fee to cover the costs incurred by the Department to implement this Article.

(d) The Environmental Review Commission shall periodically evaluate the implementation of this Article to determine whether the definition of environmental law set out in G.S. 113A-243 should be amended to include additional environmental regulatory programs within the scope of this Article."

Section 2. The Secretary of Environment and Natural Resources shall seek to enter into an agreement with the United States Environmental Protection Agency (USEPA) that provides for review and implementation of Regulatory Flexibility Agreements (RFA), as provided in G.S. 113A-244(f), as enacted by Section 1 of this act. The Secretary shall seek to reach an agreement with USEPA that provides that USEPA will review and comment on each proposed RFA within 90 days after the Secretary submits the proposed RFA. No later than 1 November 2000, the Secretary shall report on progress in reaching an agreement with USEPA governing review and comment on proposed RFAs to the Environmental Review Commission.

Section 3. The Secretary of Environment and Natural Resources shall make the first report required by G.S. 113A-258(a), as enacted by Section 1 of this act, on or before 1 September 2001. The Secretary of Environment and Natural

Resources shall make the first report required by G.S. 113A-258(c), as enacted by Section 1 of this act, on or before 1 January 2001.

Section 4. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Secretary of Environment and Natural Resources, the Department of Environment and Natural Resources, the Environmental Management Commission, the Commission for Health Services, and any regional or local authority that administers a program that would be affected by Section 1 of this act may adopt temporary and permanent rules to implement this act. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), this section shall continue in effect until all rules necessary to implement this act have become effective as either temporary rules or permanent rules. However, this act shall not be construed to require the adoption of temporary or permanent rules.

Section 5. In enacting this act, it is the intent of the General Assembly to authorize a pilot program. The Secretary of Environment and Natural Resources may enter into no more than 10 Regulatory Flexibility Agreements between the effective date of this act and 1 July 2002. Notwithstanding G.S. 113A-253, as enacted by Section 1 of this act, a Regulatory Flexibility Agreement may not be renewed.

Section 6. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department of Environment and Natural Resources is authorized to implement the provisions of this act using funds otherwise appropriated or available to the Department.

Section 7. The Department of Environment and Natural Resources shall not implement a new rule or implement any part of an existing rule outside the areas for which the rule was originally approved without adopting a temporary or permanent rule pursuant to Article 2A of Chapter 150B of the General Statutes.

Section 8. Section 7 of this act becomes effective when this act becomes law. All other sections of this act become effective 1 October 2000. Sections 1 through 6 of this act expire on 30 June 2007 or when all Regulatory Flexibility Agreements expire, whichever first occurs.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 1132 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS ENVIRONMENTAL LAWS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill (#), ☒ which changes the title, unfavorable as to (original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on).~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

VISITOR REGISTRATION SHEET

Environment: Natural Resources — July 6, 2000 — 11 Meeting

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
GARY J. MINTER	citizen
Ruth Saffie	NCDOT
Jim Hardaby	NC Park Council
ALEX KENNAUGH	ConNet
Lisa Fraser	Sierra Club
Net Neal	Conservation Council of NC
Kim Hibbard	NCLM
Michelle Cook	Weyerhaeuser
Nancy Thompson	MCIC
PRESTON HOWARD	MCIC
Molly Diggins	NC Sierra Club
David Knight	NC Sierra
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan McLawhorn	DENR
[illegible]	DENR
[illegible]	DENR
Crissee Porter	Bone & Associates
[illegible]	NCABC
[illegible]	DuPont
Emily Meeker	CCNC

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 7, 2000

MINUTES

The House Committee on Environment and Natural Resources met Thursday, July 7, 2000, around Rep. Gibson's desk on the Floor in the Legislative Building at 12:00 noon with a majority of the Committee present. Representative Pryor Gibson, Chair, presided.

As Committee Clerk was not in attendance, Staff George Givens dictated these minutes:

Rep. McComas moved to adopt the PCS for SB 1272 for consideration of HB 1727-CSRT-001. Rep. Mitchell moved to give the PCS a favorable report. Passed. Rep. McComas and McLawhorn moved that on the last day of the Session, the following House bills would be reported as postponed indefinitely unless the Committee clerk has received a letter from the bill sponsor of the bill requesting that the Committee take no action. The meeting was adjourned.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S D

SENATE BILL 1272*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/31/00
Proposed House Committee Substitute S1272-PCS2867-RT001

Short Title: SCFL Holders Take Crabs/CRC Temp. Rule. (Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO TAKE CRABS; TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE; AND TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY RULES TO ESTABLISH CRITERIA FOR EXCEPTIONS TO THE REGULATORY REQUIREMENT, EFFECTIVE 1 AUGUST 2000, OF A THIRTY-FOOT DEVELOPMENT SETBACK ALONG PUBLIC TRUST AND ESTUARINE WATERS TO ALLOW CONSTRUCTION OF RESIDENCES ON PREVIOUSLY PLATTED UNDEVELOPED LOTS OF FIVE THOUSAND SQUARE FEET OR LESS THAT ARE LOCATED IN INTENSIVELY DEVELOPED AREAS AND THAT WOULD OTHERWISE BE PROHIBITED UNDER CURRENT RULES.

The General Assembly of North Carolina enacts:

Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

"Section 4.(b) SCFL ~~Not~~ Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2, it is unlawful for any person to take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina under a SCFL or any other license issued by the Division other than an interim crab license issued pursuant to this section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a commercial fishing operation from the coastal fishing waters of North Carolina."

Section 2. Between the date on which this act becomes effective and ending 1 October 2000, a person who holds an interim crab license established under Section 4 of S.L. 1999-209 may apply for a Standard Commercial Fishing License (SCFL) from the pool of available licenses established under Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, as provided in this section. Notwithstanding subsections (c), (e), and (f) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225, the Marine Fisheries Commission shall increase the number of SCFLs in the pool of available licenses to the extent necessary to allow the Division of Marine Fisheries to issue a SCFL to each person who holds an interim crab license; who applies for a SCFL between the date this act becomes effective and 1 October 2000; and who qualifies for a SCFL under the eligibility criteria established pursuant to subsection (h) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225. The Division of Marine Fisheries may issue only one SCFL to a person under this section regardless of the number of interim crab licenses the person holds. The duration of and fee for a SCFL issued pursuant to this section shall be as provided in G.S. 113-168.1 and G.S. 113-168.2, regardless of when the SCFL is issued.

Section 3. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt a temporary rule to establish criteria for exceptions to the regulatory requirement, effective 1 August 2000, of a 30-foot development setback along public trust and estuarine waters to allow construction of residences on previously platted undeveloped lots of 5,000 square feet or less that are located in intensively developed areas and that would otherwise be prohibited under rules adopted by the Commission pursuant to Article 7 of Chapter 113A of the General Statutes. The temporary rule shall become effective upon its adoption by the Commission and shall remain in effect until a permanent rule that replaces the temporary rule becomes effective.

Section 4. This act is effective when it becomes law.

2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **WARWICK, GIBSON** for the Committee on **ENVIRONMENT AND NATURAL RESOURCES**.

☐ Committee Substitute for
S.B. 1272 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to HOUSE committee substitute bill (#), ☒ which changes the title, unfavorable as to ~~(original bill)~~ (SENATE Committee Substitute Bill #), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00