

1999

**SENATE
AGRICULTURE/
ENVIRONMENT/
NATURAL RESOURCES**

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE

<u>MEMBER</u>	<u>LOCATION</u>	<u>PHONE</u>	<u>LEGISLATIVE ASST.</u>
Albertson, Charles W., Chairman	525 LOB	3-5705	Julia Birdsong Committee Assistant
Gulley, Wib, Vice Chairman	408 LOB	5-3036	Carol Resar
Horton, Hamilton C., Jr., Vice Chairman	1117 LB	3-7850	Genie Clark
Robinson, Dan, Vice Chairman	2113 LB	3-5880	Jean Robinson
Wellons, Allen H., Vice Chairman	1026 LB	3-5850	Peggy Anne Hogan
Cochrane, Betsy, Ranking Minority Member	1119 LB	3-5745	Phyllis Porter
Clodfelter, Dan	622 LOB	3-6275	Wanda Joyner
East, Don	521 LOB	3-5655	Nancy Pulley
Garrou, Linda	522 LOB	3-5620	Carole Lawler
Garwood, John A.	1118 LB	3-5742	Martha Jordan
Hagan, Kay	519 LOB	3-5856	Beth Wiley
Harris, Oscar	1414 LB	3-7659	Dale Howard
Hartsell, Fletcher	518 LOB	3-7223	Gerry Johnson
Kinnaird, Ellie	2115 LB	3-5804	Kathie Young
Martin, Bill	411 LOB	5-3042	Joyce Hodge
Odom, Fountain	300B LOB	3-5707	Anne Wilson
Perdue, Beverly M.	629 LOB	3-2055	Anne Canady
Phillips, Jim W., Sr.	628 LOB	3-5870	Gerry Bowles
Webster, Hugh	1101 LB	3-5665	Anne Soles
Weinstein, David F.	2108 LB	3-5651	Dee Bagley
<u>Committee Counsel</u>			
Givens, George	LOB 545	3-2578	
Hudson, Jeffrey	LOB 545	3-2578	
Riley, Barbara	LOB 545	3-2578	
Zechini, Rick	LOB 545	3-2578	
Holm, Hannah	LOB 545	3-2578	

July 1, 1999

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through	4-AUG-1999
BILL		SHORT TITLE	IN DATE	OUT DATE
H 168	EASTERLING	APPROPRIATIONS ACT OF 1999	06-03-99	06-07-99
H 236	GULLEY J	LICENSE SUSPENSION/BAITING	04-21-99	05-11-99
H 237	GULLEY J	BOAT AGENT FEES	05-11-99	05-25-99
H 316=	MCCOMAS	PRESCRIBED BURNING IN FORESTS	04-28-99	05-18-99
H 334=	HILL	OBSOLETE AGRICULTURE STATUTES	03-30-99	05-03-99
H 541	MITCHELL	BUOY FISHING/SPECIAL FISHING DEVICE	06-21-99	07-08-99
H 638	OWENS	TRANSFER CERTAIN SEPTIC SYSTEMS	04-13-99	07-08-99
H 746=	BAKER	NEW RIVER STATE PARK/ACREAGE LIMIT	04-26-99	
H 978	NYE	DAMAGED PIERS/BOAT STALLS/WHITE LAKE	04-28-99	07-08-99
H1008=	COX	SEDIMENTATION ACT/EXCAVATION	04-26-99	05-11-99
H1010=	HILL	COTTON GINS, WAREHOUSES, MERCHANTS	07-12-99	07-13-99
H1027	FITCH	ALLOW STOCKING OF ANIMALS	04-28-99	
H1039	REDWINE	BEACH MANAGEMENT STRATEGY	04-27-99	
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	07-06-99	07-07-99
H1125	HACKNEY	CONFORM DEFINITION OF HAZ. SITE	04-28-99	05-11-99
H1127=	SMITH	REVISE CERTAIN LODGING RULES	04-28-99	05-11-99
H1160=	HACKNEY	CLEAN WATER ACT OF 1999	04-28-99	07-07-99
H1218=	GIBSON	ENV. TECH. CORRECTIONS	04-26-99	
H1233=	HILL	STRUCTURAL PEST CONTROL AMENDMENTS	07-08-99	07-12-99
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	07-07-99	
S 7	ODOM	AG TOURISM SIGNS	01-28-99	07-15-99
S 247	LEE	SOUTHEAST COMPACT COMMISSION	03-04-99	04-21-99
S 249=	ALBERTSON	CORE SOUND MORATORIUM/CRAB LICENSE	03-08-99	03-23-99
S 287=	REEVES	IMPROVE ENFORCEMENT OF LITTERING	03-10-99	
S 323	KERR	WATERFOWL LICENSE CHANGES	03-11-99	04-21-99
S 365=	ALBERTSON	DEATH ROW INMATE RESTRICTIONS	03-15-99	04-19-99
S 560	HORTON	COUNTRY HAM PRESERVATION ACT	03-29-99	03-30-99
S 567	KINNAIRD	PROHIBIT BURNING BY DOT	03-29-99	
S 593=	MILLER B	AMBIENT AIR QUALITY IMPROVEMENT	03-29-99	
S 777=	ALBERTSON	DRY-CLEANING PROGRAM AMENDS	04-07-99	04-19-99

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	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through	4-AUG-1999
BILL	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 777=	ALBERTSON	S -RE-REF PROGRAM AMENDS	07-19-99	
S 782	PERDUE	DEVELOP BEACH MANAGEMENT STRATEGY	04-07-99	
S 872=	FOXX	NEW RIVER STATE PARK/ACREAGE LIMIT	04-13-99	04-21-99
S 900	WELLONS	STATE SPIDER	04-14-99	
S 922=	MILLER B	SWINE GROWER PROTECTION ACT	07-19-99	
S 930=	KINNAIRD	PRES. FARMLANDS/PROMOTE SMALL FARMS	04-14-99	
S 932	KINNAIRD	TIMBER HARVESTS/PRIOR NOTICE	04-14-99	
S 953	CLODFELTER	AMBIENT AIR QUALITY IMPROVEMENTS	04-14-99	04-22-99
S 953	CLODFELTER	AMBIENT AIR QUALITY IMPROVEMENTS	07-08-99	
S 979	CARTER	REPEAL PUBLIC SETTLEMENT RESERVE FUN	04-15-99	04-22-99
S 983	MILLER B	REMOVE EIS EXEMPTION/PUBLIC LANDFILL	04-15-99	
S 987	MILLER B	MORATORIA/INACTIVE LAGOONS	04-15-99	
S1014=	METCALF	REVISE CERTAIN LODGING RULES	04-15-99	04-26-99
S1014=	METCALF	REVISE CERTAIN LODGING RULES	04-15-99	
S1028=	CLODFELTER	PROTECT/RESTORE RIPARIAN BUFFERS	04-28-99	
S1047	ALBERTSON	PROTECT CERTAIN CULTCH PLANTING AREA	04-15-99	
S1048	ALBERTSON	AMEND FISHERY RESOURCE GRANT PROGRAM	04-22-99	04-26-99
S1049	ALBERTSON	NEUSE RIVER BUFFER AMENDS	04-22-99	04-27-99
S1050	ALBERTSON	NEUSE RIVER BUFFER FUNDS	04-22-99	04-27-99
S1080=	ALBERTSON	STRUCTURAL PEST CONTROL AMENDMENTS	04-15-99	
S1083	ALBERTSON	LP GAS REGISTRATION/TRAINING	04-15-99	04-22-99
S1084=	ALBERTSON	EXTEND ANIMAL WASTE PILOT	04-15-99	
S1088	COCHRANE	AG. VOLUNTARILY REG. WATER TRANSFERS	04-15-99	
S1092	PURCELL	NO RESTRICTION OF MANAGED FORESTRY	04-15-99	
S1127	HORTON	STATE NATURE AND HISTORIC PRESERVE	04-15-99	04-26-99
S1128=	ROBINSON	AMEND SEDIMENTATION ACT	04-15-99	
S1132=	ODOM	ENV. TECH. CORRECTIONS	04-15-99	07-01-99
S1139	HORTON	NATURE & HISTORIC PRESERVE	04-15-99	04-22-99
S1159	PLYLER	LAND-USE/CONTAMINATED SITES	04-20-99	04-26-99
S1161	HAGAN	RIPARIAN BUFFER TAX EXEMPT	04-15-99	04-21-99
		*H -RE-REF COM ON APPROP	04-15-99	04-27-99

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SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, February 16, 1999
11:00 a.m.
Room 544 - LOB

AGENDA

GUEST:

Wayne McDevitt, Secretary
N. C. Department of Environment and Natural Resources

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

February 16, 1999

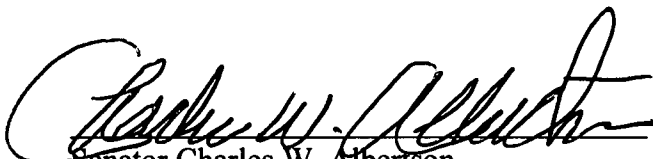
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, February 16, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fifteen committee members present. Also in attendance were Representative Nurham Warwick and Representative Pryor Gibson, Co-chairmen of the House Environment Committee; as well as Representative Dewey Hill, Chairman of the House Agriculture Committee.

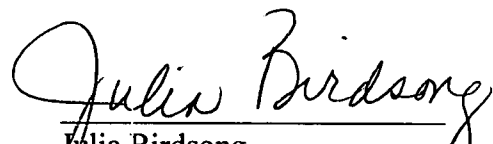
Since this was the first meeting of the session, Senator Albertson asked members to introduce themselves. He then introduced staff to the members and made comments regarding the work of the committee.

Senator Albertson then introduced Wayne McDevitt, Secretary, North Carolina Department of Environment and Natural Resources, who gave an overview and introduced key people within his department. Secretary McDevitt also addressed the many issues and concerns regarding water and air quality, what they have done and what they plan to do in the future. He stated that DENR was working on the reorganization of their Environmental Health Section.

Secretary McDevitt answered questions from committee members after his presentation.

There being no further business, the meeting was adjourned.

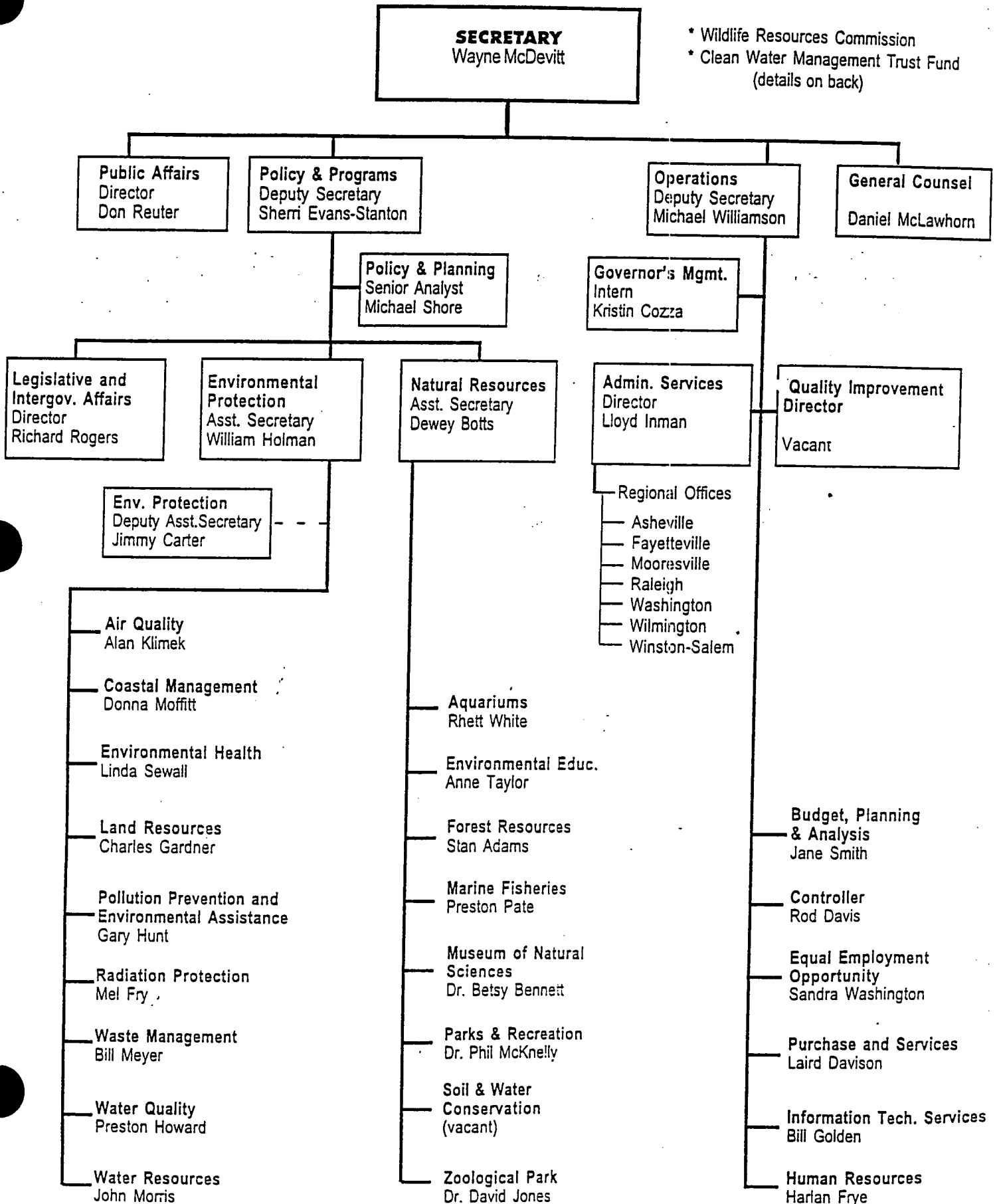

Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk



North Carolina Department of Environment and Natural Resources

Organization Chart - January 1999



*** 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.

North Carolina Department of Environment and Natural Resources
Working Strategic Plan

Internal Document

Table of Contents

I. Introduction to Strategic Plan	1
II. Process.....	2
Process Flow Chart	3
III. Mission Vision, Values and Priorities	4-5
IV. Glossary	6
V. Priority Strategic Targets	
Characteristics.....	6
Commitments.....	7
Additional Targets	7
<i>Clean Water</i>	8-9
<i>Clean Air</i>	10
<i>Stewardship of Natural Resources</i>	11
<i>Sustainable Development</i>	12
<i>Environmental Awareness / Outreach</i>	13
<i>Organizational Excellence</i>	14
V. Implementation Plan Format.....	15

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.

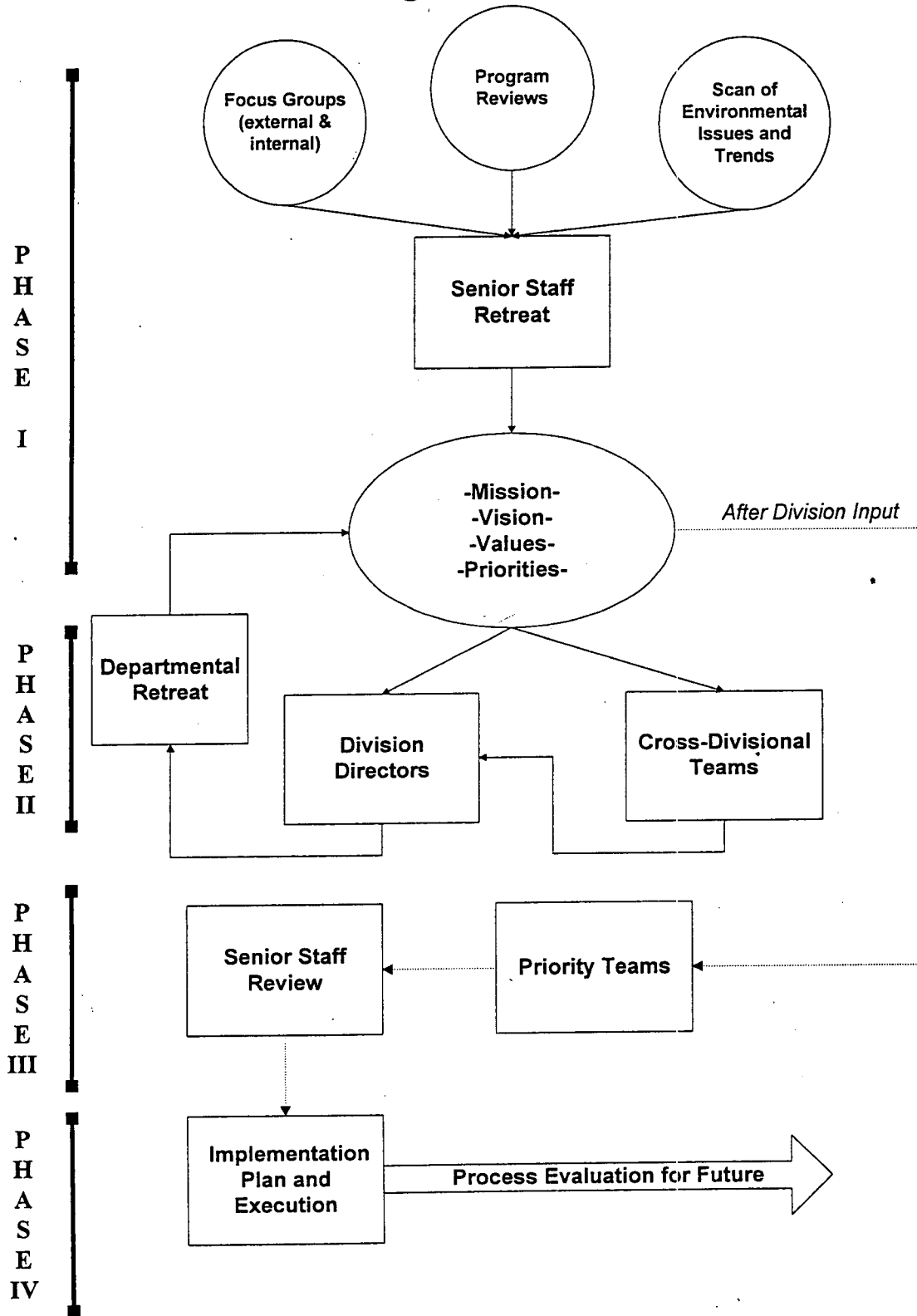
Phase III. Target Teams (*January – April, 1998*)

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.



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. A format is presented on page 15.

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

Team Reference: 1.1.2

Possible Measures:

- Percent of waters meeting designated use
- Number of management strategies or Total Maximum Daily Loads (TMDLs) developed to reduce the number of impaired water bodies on the State's 303 (d) list
- Ratio of the number of acres of mines reclaimed each year to the total number of acres disturbed in mining
- Number of stream miles impaired by sediment
- Acres on which agricultural best management practices (BMPs) are in place
- Percent of NC Agriculture Cost Share Program funds spent in watersheds of impaired waters
- Number of public water systems where source water quality leads to violations of drinking water standards
- Miles of streams / rivers protected by forested buffers
- Safe water in recreational areas
- Number of acres of wetlands restored
- Net total loss/gain of wetlands in North Carolina
- Percent of shellfish acreage open to harvesting
- Measure for habitat protection plans

Champions: Henry Lancaster / Jimmy Carter

Near Term Tasks:

- Identify baseline number for 1994
- Review 20% goal to ensure that it is aggressive but attainable
- Identify specific streams / river areas to be taken off of the 303(d) list by the year 2000.

Clean Water

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

Target: 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

Team Reference: 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.10, 1.2.11

Possible Measures:

- Percent of aquifers used for drinking water that meet ground water quality standards
- Percent of ambient monitoring wells that meet ground water quality standards
- Number of potential ground water contaminant sources geo-located in source areas of wells used for drinking water
- Percent of contaminant sources controlled in areas where ground water is used or may be used for drinking water
- Percent of drinking water wells drilled by State Commission Certified well drillers
- Percent of counties covered by local well inspection programs
- Percent reduction in drinking water well contamination
- Number of industries adopting P2 ground water protection strategies
- Percent increase in permitted facility monitoring wells that meet ground water quality standards
- Number of river basins with determinations of vulnerability to ground water contamination.

Champions: Henry Lancaster/Jimmy Carter

Clean Air

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

Target

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

Team Reference

2.2

Possible Measures:

- Percent of counties in attainment with new ozone standards
- Number of non-attainment days per year for ozone in North Carolina
- Annual emissions of precursors to ground level ozone

Champions: Bill Holman / Michael Shore

Near Term Task

- Outline strategy for completing an Air Quality Plan by 2003
-

Target

Improve visibility in the Southern Appalachian Mountains by one deciview by 2008

Team Reference

2.3

Possible Measures:

- Deciviews in mountain areas (one deciview is a perceptible change in visibility to the human eye.)

Champions: Bill Holman / Jimmy Carter

Near Term Task

- Plan Governor's Air Conference
- Develop process for adopting an Air Quality Plan to improve visibility by 2006

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

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

Team Reference

3.3 (modified)

Possible Measures

- Development of natural resource indicators by 1999
- Development of a process for tracking indicators and distributing information to decision-makers by 2000

Champions

Sherri Evans-Stanton / Kristin Cozza

Near Term Task

- Establish a team of natural resource managers, data collectors, and data users to propose and develop indicators

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

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

Team Reference

4.1.4

Possible Measures:

- Number of local governments that consider and act on the secondary impacts of growth as they develop infrastructure
- Number of permits that make requirements based on cumulative and secondary impacts

Champions: Dan McLawhorn / Michael Shore

Target

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

Team Reference

4.1.3

Possible Measures:

- Number of acres of land developed per year
- Percent of local governments with land use plans
- Number of local governments that have made a commitment to fight sprawl
- Number of sprawl inducing state subsidies that are removed
- Number of state incentives in place to encourage smart growth
- Number of local governments that link land use and transportation planning
- Number of state agencies that have made a commitment to encourage smart growth
- Policy changes by state agencies
- Number of brownfields redeveloped

Champions: Wayne McDevitt / Michael Shore

Near Term Tasks

- Create interdepartmental team

Environmental Awareness / Outreach

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

Target

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

Team Reference

5.1.2

Possible Measures:

- Number of teacher and student educational opportunities offered
- Number of workshops and trainings offered
- Number of participants in each of the above measures

Champions: Sherri Evans-Stanton / Kristin Cozza

Near Term Task

- Review 20% goal to ensure that it is aggressive but attainable

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

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

Team Reference

6.8

Possible Measures:

- Number of datasets linked within divisions and across the department
- Percent of divisions with completed and updated Information Technology Plans
- Number of datasets available on the internet

Champion: Michael Williamson

Near Term Tasks

- Monitor Information Resource Management Board teams

Target

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

Strategic Team Reference

6.5.1 expanded

Possible Measures:

- Satisfaction rating of customers from random survey
- Number of customer service complaints received
- Number of facilities to earn ISO 14000 certification
- Number of divisions to institute the Quality Initiative
- Percent of divisions that employ metrics to measure progress and make decisions
- Reduction in backlog and cycle time for permit applications

Champion: Michael Williamson or new Assistant Secretary for Administration

Near Term Tasks

- Inventory existing government reinvention effort in DENR (e.g. ISO 14000, customer service, Performance Partnership Agreement, Metrics and Measurement, Quality Initiative, Permit Reform Implementation Team)

VI. Implementation Plans

The primary purpose of the Implementation Plan is to develop a road map on how the champion will (1) ensure implementation of the target and (2) measure progress. Champions are free to develop their own format for the Implementation Plans, but plans should be brief and include the following:

Activity Timeline. The timeline should include actions to implement the target along with approximate dates for accomplishing each task.

Outcome Measures. This measure -- sometimes referred to as an environmental indicator -- should be used to evaluate the environmental benefits realized through work on the priority target. Measures should be tracked over time and graphed. Multiple measures could be tracked. An example would be air quality ozone concentrations in metropolitan areas per year.

Performance (Output) Measures. This measure should quantify DENR activities which help to achieve the priority target. Measures should be tracked over time and graphed. Multiple measures could be tracked. An example would be the number of animal waste facilities permitted per year.

Stakeholder Involvement. Stakeholders may need to be involved to implement some of the priority targets. Such stakeholders should be listed with strategies for involving them.

Responsible Parties. The Implementation Plan should identify divisions that are involved and their role. If a team is created, then team members should be identified. If there is a particular person or program that is taking a leadership role that should be indicated as well.

Barriers. Barriers that hinder progress in achieving the priority target should be identified, along with strategies to overcome such barriers.

Resource Issues. The Implementation Plan should list significant resources needed -- people, funds for contracting, equipment, facilities, etc. If new resources are needed to achieve the target, those resources should be identified as part of the Implementation Plan.

For some targets, an Implementation Plan may consist of combining plans from appropriate divisions. In other cases, a unified plan may be developed. Champions should be prepared to report quarterly on progress made in implementation in terms of each of the seven categories mentioned above.

North Carolina Department of Environment and Natural Resources
Working Strategic Plan

Internal Document

Table of Contents

I. Introduction to Strategic Plan	1
II. Process.....	2
Process Flow Chart	3
III. Mission Vision, Values and Priorities	4-5
IV. Glossary	6
V. Priority Strategic Targets	
Characteristics.....	6
Commitments.....	7
Additional Targets	7
<i>Clean Water</i>	8-9
<i>Clean Air</i>	10
<i>Stewardship of Natural Resources</i>	11
<i>Sustainable Development</i>	12
<i>Environmental Awareness / Outreach</i>	13
<i>Organizational Excellence</i>	14
V. Implementation Plan Format.....	15

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.

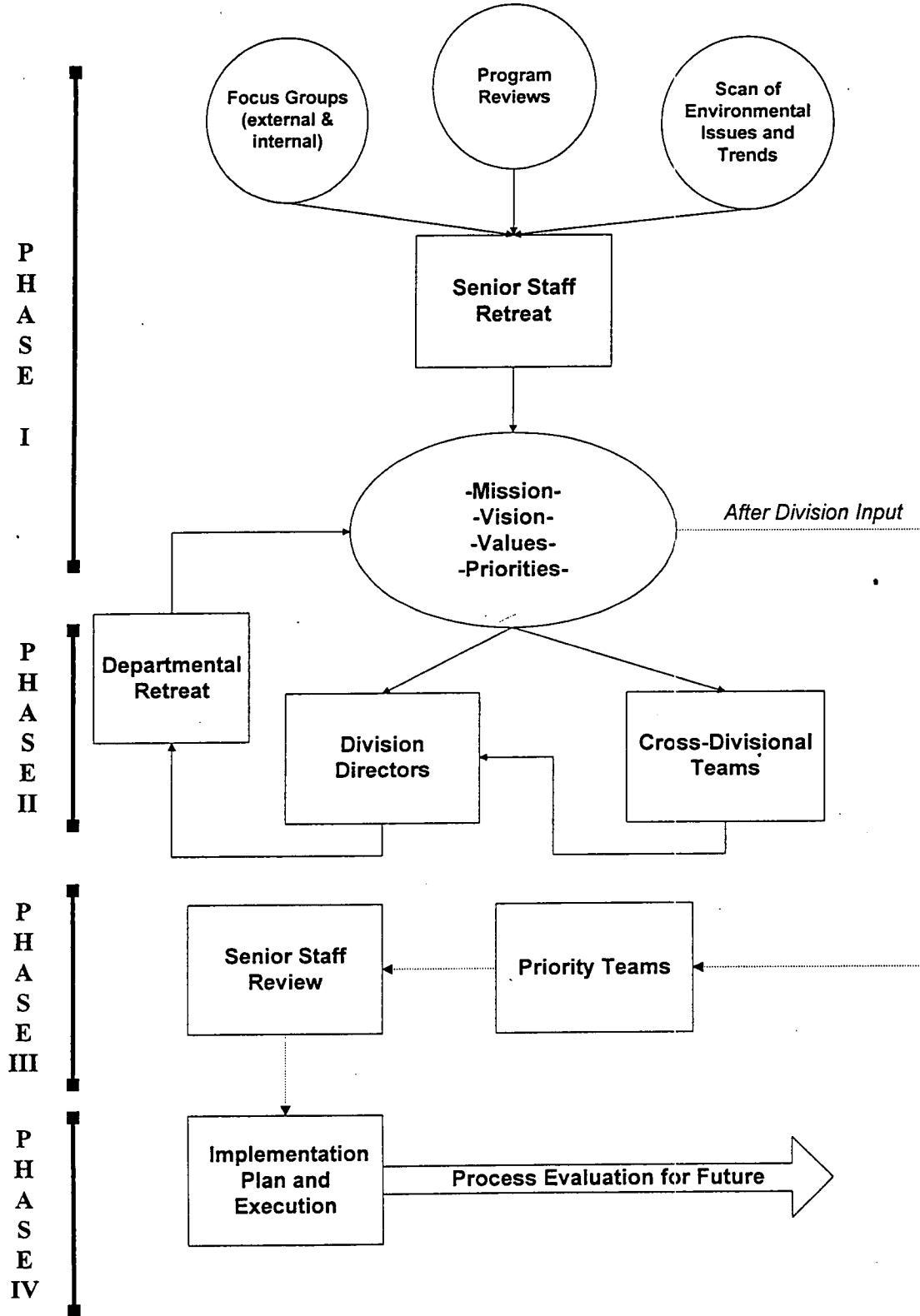
Phase III. Target Teams (*January – April, 1998*)

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.



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. A format is presented on page 15.

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

Team Reference: 1.1.2

Possible Measures:

- Percent of waters meeting designated use
- Number of management strategies or Total Maximum Daily Loads (TMDLs) developed to reduce the number of impaired water bodies on the State's 303 (d) list
- Ratio of the number of acres of mines reclaimed each year to the total number of acres disturbed in mining
- Number of stream miles impaired by sediment
- Acres on which agricultural best management practices (BMPs) are in place
- Percent of NC Agriculture Cost Share Program funds spent in watersheds of impaired waters
- Number of public water systems where source water quality leads to violations of drinking water standards
- Miles of streams / rivers protected by forested buffers
- Safe water in recreational areas
- Number of acres of wetlands restored
- Net total loss/gain of wetlands in North Carolina
- Percent of shellfish acreage open to harvesting
- Measure for habitat protection plans

Champions: Henry Lancaster / Jimmy Carter

Near Term Tasks:

- Identify baseline number for 1994
- Review 20% goal to ensure that it is aggressive but attainable
- Identify specific streams / river areas to be taken off of the 303(d) list by the year 2000.

Clean Water

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

Target: 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

Team Reference: 1.2.1, 1.2.2, 1.2.3, 1.2.4, 1.2.10, 1.2.11

Possible Measures:

- Percent of aquifers used for drinking water that meet ground water quality standards
- Percent of ambient monitoring wells that meet ground water quality standards
- Number of potential ground water contaminant sources geo-located in source areas of wells used for drinking water
- Percent of contaminant sources controlled in areas where ground water is used or may be used for drinking water
- Percent of drinking water wells drilled by State Commission Certified well drillers
- Percent of counties covered by local well inspection programs
- Percent reduction in drinking water well contamination
- Number of industries adopting P2 ground water protection strategies
- Percent increase in permitted facility monitoring wells that meet ground water quality standards
- Number of river basins with determinations of vulnerability to ground water contamination.

Champions: Henry Lancaster/Jimmy Carter

Clean Air

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

Target

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

Team Reference

2.2

Possible Measures:

- Percent of counties in attainment with new ozone standards
- Number of non-attainment days per year for ozone in North Carolina
- Annual emissions of precursors to ground level ozone

Champions: Bill Holman / Michael Shore

Near Term Task

- Outline strategy for completing an Air Quality Plan by 2003
-

Target

Improve visibility in the Southern Appalachian Mountains by one deciview by 2008

Team Reference

2.3

Possible Measures:

- Deciviews in mountain areas (one deciview is a perceptible change in visibility to the human eye.)

Champions: Bill Holman / Jimmy Carter

Near Term Task

- Plan Governor's Air Conference
- Develop process for adopting an Air Quality Plan to improve visibility by 2006

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

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

Team Reference

3.3 (modified)

Possible Measures

- Development of natural resource indicators by 1999
- Development of a process for tracking indicators and distributing information to decision-makers by 2000

Champions

Sherri Evans-Stanton / Kristin Cozza

Near Term Task

- Establish a team of natural resource managers, data collectors, and data users to propose and develop indicators

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

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

Team Reference

4.1.4

Possible Measures:

- Number of local governments that consider and act on the secondary impacts of growth as they develop infrastructure
- Number of permits that make requirements based on cumulative and secondary impacts

Champions: Dan McLawhorn / Michael Shore

Target

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

Team Reference

4.1.3

Possible Measures:

- Number of acres of land developed per year
- Percent of local governments with land use plans
- Number of local governments that have made a commitment to fight sprawl
- Number of sprawl inducing state subsidies that are removed
- Number of state incentives in place to encourage smart growth
- Number of local governments that link land use and transportation planning
- Number of state agencies that have made a commitment to encourage smart growth
- Policy changes by state agencies
- Number of brownfields redeveloped

Champions: Wayne McDevitt / Michael Shore

Near Term Tasks

- Create interdepartmental team

Environmental Awareness / Outreach

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

Target

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

Team Reference

5.1.2

Possible Measures:

- Number of teacher and student educational opportunities offered
- Number of workshops and trainings offered
- Number of participants in each of the above measures

Champions: Sherri Evans-Stanton / Kristin Cozza

Near Term Task

- Review 20% goal to ensure that it is aggressive but attainable

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

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

Team Reference

6.8

Possible Measures:

- Number of datasets linked within divisions and across the department
- Percent of divisions with completed and updated Information Technology Plans
- Number of datasets available on the internet

Champion: Michael Williamson

Near Term Tasks

- Monitor Information Resource Management Board teams
-

Target

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

Strategic Team Reference

6.5.1 expanded

Possible Measures:

- Satisfaction rating of customers from random survey
- Number of customer service complaints received
- Number of facilities to earn ISO 14000 certification
- Number of divisions to institute the Quality Initiative
- Percent of divisions that employ metrics to measure progress and make decisions
- Reduction in backlog and cycle time for permit applications

Champion: Michael Williamson or new Assistant Secretary for Administration

Near Term Tasks

- Inventory existing government reinvention effort in DENR (e.g. ISO 14000, customer service, Performance Partnership Agreement, Metrics and Measurement, Quality Initiative, Permit Reform Implementation Team)

VI. Implementation Plans

The primary purpose of the Implementation Plan is to develop a road map on how the champion will (1) ensure implementation of the target and (2) measure progress. Champions are free to develop their own format for the Implementation Plans, but plans should be brief and include the following:

Activity Timeline. The timeline should include actions to implement the target along with approximate dates for accomplishing each task.

Outcome Measures. This measure -- sometimes referred to as an environmental indicator -- should be used to evaluate the environmental benefits realized through work on the priority target. Measures should be tracked over time and graphed. Multiple measures could be tracked. An example would be air quality ozone concentrations in metropolitan areas per year.

Performance (Output) Measures. This measure should quantify DENR activities which help to achieve the priority target. Measures should be tracked over time and graphed. Multiple measures could be tracked. An example would be the number of animal waste facilities permitted per year.

Stakeholder Involvement. Stakeholders may need to be involved to implement some of the priority targets. Such stakeholders should be listed with strategies for involving them.

Responsible Parties. The Implementation Plan should identify divisions that are involved and their role. If a team is created, then team members should be identified. If there is a particular person or program that is taking a leadership role that should be indicated as well.

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Resource Issues. The Implementation Plan should list significant resources needed -- people, funds for contracting, equipment, facilities, etc. If new resources are needed to achieve the target, those resources should be identified as part of the Implementation Plan.

For some targets, an Implementation Plan may consist of combining plans from appropriate divisions. In other cases, a unified plan may be developed. Champions should be prepared to report quarterly on progress made in implementation in terms of each of the seven categories mentioned above.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

2/16/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

McDuffie Cummings	Town of Pembroke
Jeanne Schoen	MCNA
Ed Kirkpatrick	Nurse of Day - Kingston NC
Doug Lassiter	NC Septic Tank Assoc. / McClear Consulting
Sheri Evans Stant	.. DENR
Jim Holm	DENR
Walter Newton	..
Gregory Perdue	ZES ALLEY, PA
J. ROGERS	NC DENR
Preston Pate	NC Marine Fisheries
MIKE WATERS	N.C. Rec & Park Society

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Laura DeVito	DENR
Malcolm Blood	DENR / DEH
Don Newfer	DENA
C. Porter	Bone & Associates
Steve Woodson	NC Farm Bureau
Natalie English	NC Agribusiness Council
Zeh Alley	ZDA PA
Ed Regan	N.C. Assoc. of Co. Comm.
Lu-Ann Coe	F ³
Jim Handley	NC Pal Council
Cam Coon	NC BPMHC



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, February 23, 1999
11:00 a.m.
Room 544 - LOB

AGENDA

GUESTS:

Weldon B. Denny, Deputy Commissioner of Agriculture,
North Carolina Department of Agriculture, Raleigh

Maurice Weaver, Deputy Commissioner of Agriculture,
North Carolina Department of Agriculture, Raleigh

Admiral Paul E. Busick, President and Executive Director,
Global Transpark Authority, Kinston

Don Thompson, Marketing Specialist,
North Carolina Department of Agriculture, Kinston

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

February 23, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, February 23, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were sixteen committee members present.

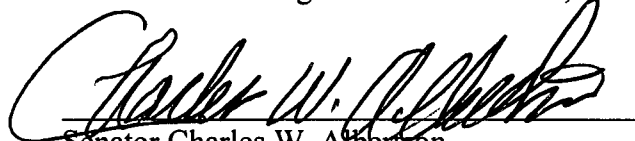
This meeting was devoted to hearing presentations from the following:

Weldon B. Denny, Deputy Commissioner of the North Carolina Department of Agriculture and Consumer Services, spoke on the deplorable farm prices. He also spoke briefly on the tobacco settlement. He said he would like to see as much of this money as possible diverted to the tobacco farmers. Many questions were generated by committee members regarding the tobacco settlement but due to a shortage of time and the remaining speakers, Senator Albertson said he would like to discuss the tobacco settlement at a later meeting.

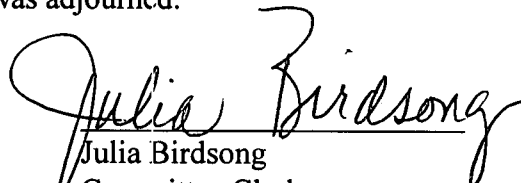
Maurice A. Weaver, Deputy Commissioner of the North Carolina Department of Agriculture and Consumer Services, spoke on several appropriations bills the department would be introducing. See attached hand-out.

Admiral Paul E. Busick, President and Executive Director, Global Transpark Authority, in Kinston, gave a presentation on the Carolina Farm Show which will be held at the GTP. This show will be a tremendous help to all farmers and will cover 40 acres. He said that all permits have been obtained to date that can be obtained. Don Thompson, Marketing Specialist, North Carolina Department of Agriculture and Consumer Services, Kinston assisted Admiral Busick in his presentation. Mr. Thompson said this farm show would be an outstanding event and urged all who could to attend.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

NORTH CAROLINA
DEPARTMENT OF AGRICULTURE
AND
CONSUMER SERVICES
BOARD OF AGRICULTURE

Maurice K. Berry, Jr.
Elizabeth City, N.C.

Thomas S. Edwards
Polkton, N.C.

Dan Finch
Bailey, N.C.

William (Billy) E. Holliday
Snow Camp, N.C.

C. Osmond Kearney, Jr.
Snow Hill, N.C.

Peggy Laughter
Hendersonville, N.C.

Roger D. Oxendine
Rowland, N.C.

Jeffery B. Turner
Rose Hill, N.C.

Richard W. Vaughan
Lasker, N.C.

Hyman Young, Jr.
Asheville, N.C.

For additional budget information please contact:

James A. Graham, Commissioner
(919) 733-7125

Weldon B. Denny, Deputy Commissioner
(919) 733-7125

Maurice A. Weaver, Deputy Commissioner
(919) 733-7314

NORTH CAROLINA
DEPARTMENT
OF
AGRICULTURE
AND
CONSUMER SERVICES

1999 - 2001

Capital Improvements
Request



JAMES A. GRAHAM, COMMISSIONER

- SAFE, ABUNDANT FOOD
- ENVIRONMENTAL PROTECTION
- SUSTAINABLE AGRICULTURE
- CONSUMER PROTECTION
- HEALTH & ECONOMIC WELL-BEING

The Department of Agriculture operates a broad range of service and regulatory programs that ensure the availability of life sustaining food and natural fiber, free of adulteration and contamination, and produced in a manner consistent with environmentally sound production practices. While the Department's mission continues to be heavily tied to agricultural production, programs are operated to benefit consumers, to protect the environment, and the health and economic well-being of all North Carolina citizens and business enterprises.

The stated goals for these agricultural and consumer programs cannot be achieved without adequate facilities to support agency activities. Resources are needed to construct and/or develop the infrastructure that makes departmental services to agriculture and all citizens possible.

Capital Improvements

1999-2000

Exhibit Building - State Fair	\$ 12,640,800
Center for Environmental Farming Systems	6,037,100
New Motor Fuels Laboratory	4,910,900
Multi-Purpose Building - Western Agricultural Center	3,350,900
Metal Frame Storage Building - Food Warehouse	134,400
Broiler/Turkey Research Facility - Piedmont Research Station	3,234,700
Phase II Aquaculture Research Facility - Tidewater Research Station	772,400
Land Development - Oxford Tobacco Research Station	1,584,900
Land Development - Peanut Belt Research Station	357,600
Storage Bldg. and Irrigation System - Mountain Research Station	142,600
Multi-Purpose Building - Horticultural Crops Research Station	437,700
Beef Facility Addition - Mountain Research Station	408,700

The Benefits

The Center for Environmental Farming Systems is developing profitable agricultural systems that satisfy two inescapable needs: a clean environment and a safe, high quality supply of food and fiber. As an educational facility, gathering place and focal point, the Center increases public understanding of agriculture and its relationship with the environment. The health and prosperity of future generations depends upon a mutually beneficial partnership of agriculture, environmental and consumers. At our Center for Environmental Farming Systems, this partnership finds a home.



For more information about this proposal, please contact:

▼
Maurice A. Weaver
Deputy Commissioner

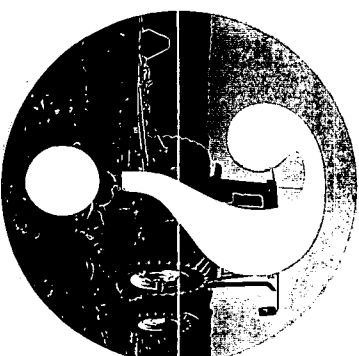
North Carolina Department of
Agriculture and Consumer Services

P.O. Box 27647
Raleigh, NC 27611-7611
919-733-7314

E-mail:

maurice_weaver@ncdamail.agr.state.nc.us

**Is Environmentally
Compatible Agriculture
Possible?**



The Center for
Environmental Farming
Systems

Budget Proposal

North Carolina Department of
Agriculture and Consumer Services
James A. Graham, Commissioner

▼
North Carolina State University
College of Agriculture & Life Sciences
James L. Oblinger, Dean

▼
North Carolina A&T State University
School of Agriculture
Daniel D. Godfrey, D



The Answer

We believe the answer to be a resounding "yes"! We believe farmers are doing a very good job, with the technology available to them today. But will today's technology provide adequate food and fibre, with minimal impact on the environment into the next century? Given the critical nature of these issues, environmental farming systems must be our focus.



The focus

Located at the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) Cherry Farm Unit, the Center for Environmental Farming Systems is the first research facility of its kind in the state. The Center focuses on whole farm systems that are environmentally, economically and socially sustainable. The Center is dedicated to protecting and enhancing North Carolina's environmental quality as well as the long term productivity and profitability of its farms. A partnership comprised of farmers, citizens, government agencies and universities is working on answers to North Carolina's agricultural questions.

Budget Proposal:

.....

Capital Development:

1999-00 2000-01

Irrigation System	\$2,479,200	
Research/Laboratory Facility	\$900,600	
No-Till Operations Facility	\$556,900	
Greenhouse/Headhouse	\$938,100	
Office/Conference Center	\$581,000	
Hay Storage Bldgs. (2)	366,900	
Composting Shed	\$214,400	
	<u>6,037,100</u>	

Operating Support:

NCDA&CS \$1,972,862 \$2,165,962

Operating Grants:

NCSU/NCA&T \$520,000 \$600,000

Research Grants:

NCSU/NCA&T \$100,000 \$150,000

The Center for Environmental Farming Systems will benefit all citizens of North Carolina through the research of more efficient, environmentally sensitive agricultural practices that provide the safest and best agricultural products for consumers.

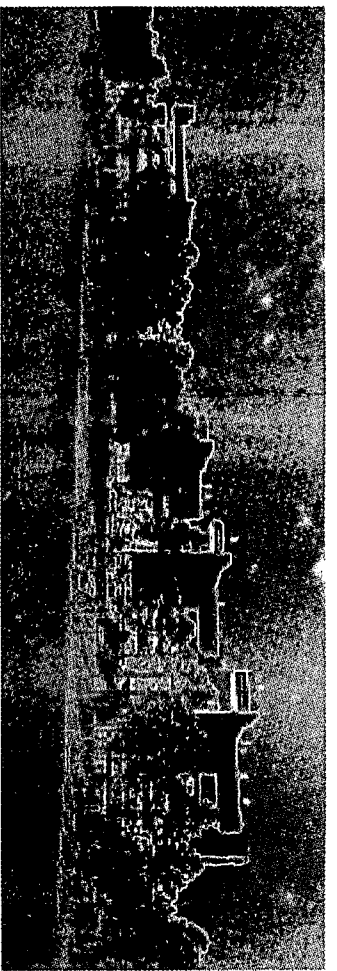
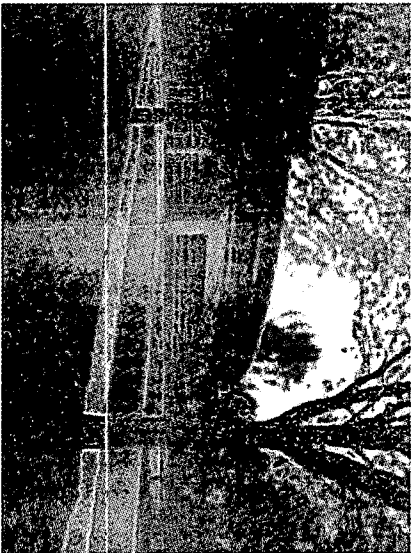
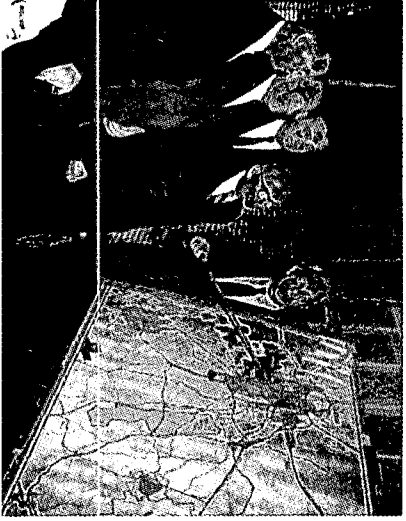
1954
Meeting with Governor
Hodges to discuss the
concept of the
Research Triangle Park



1959
First Tenants Announced:
Chemstrand and the Research
Triangle Institute

Research Triangle Park

1955
Research Triangle
Development
Council formed



1965
First Major Tenant Announcement:
International Business Machines Corp. (IBM) and
the National Institute of Environmental Health
Sciences (NIEHS) moved their facilities to the
Research Triangle Park

North Carolina Global Trans Park

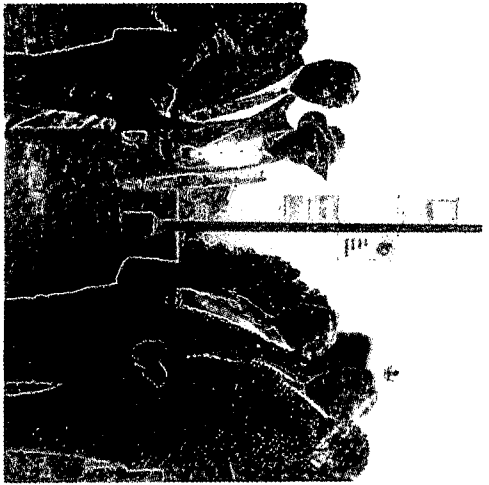
1991
NC Global
TransPark
Authority
established



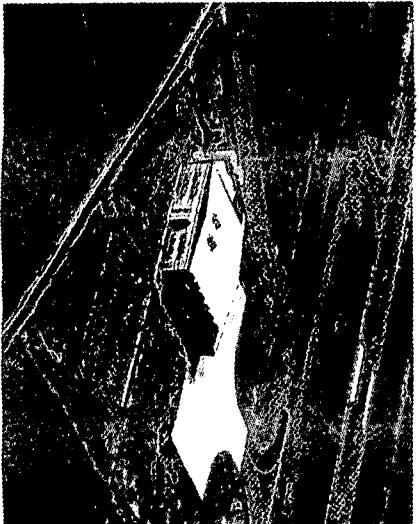
1992-1994
Global TransPark Master
Plan developed



1994-1998
Global TransPark Environmental
Impact Statement conducted



1994
First Tenants
Announced:
Mountain Air Cargo
and the GTP
Development
Commission



1998
GTP is cleared for
construction.
Runway extension
is underway

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

2/23/99
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
C. Porter	Bone & Associates
Amy Fullbright	Huntton & Williams
Jim Kuszaj	NCEI
Lucius Pullen	ATTORNEY
Steve Woodson	NC Farm Bureau Federation
Sherol Bremen	NC Petroleum Council
Cam Cover	BPM # L
Natalie English	NC Agribusiness Council
Ju-Ann Coe	FFF
Kim Hibbard	NCLM
JERRY HARDESTY	NC Park Council
LARA DEVIVO	DEND
GARIBRETT PERDUE	ZEG ALLEN, PA

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Senate Agriculture/Environment/Natural Resources
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Date

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NAME	FIRM OR AGENCY AND ADDRESS
Don D Knight	NC Sierra Club, NC Wildlife Fed.
DON THOMPSON	NCDA
Paul Busick	GLOBAL TransPark Authority KINSDON
George Everett	Duke Energy
John H. Cyrus	N.C. State Grange
Paul Wilms	NCHBA
Mark Beard	The Capital Group
Jim Hudson	ABC Group
Dan Whittle	EDF
R. ROGERS	ENR
Roger Bone	Bone + Assoc -

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

2/23/99

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Allen Jamison	Agriculture Alliance of N.C.
John Killion	More & Van Allen
Wayne Arney	Haywood EMC
Norman Slear	Haywood EMC
Kenneth Israel	Haywood EMC
Bob Mc Donald	Haywood EMC
Ernest Wood	Haywood EMC



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, March 2, 1999
11:00 a.m.
Room 544 - LOB

AGENDA

"NORTH CAROLINA'S OZONE PROBLEM: WHAT WE CAN DO ABOUT IT"

GUESTS:

Bill Holman, Assistant Secretary, Environmental Protection,
N. C. Department of Environment and Natural Resources

Janet D'Ignazio, Chief Planning and Environmental Officer,
N. C. Department of Transportation

Alan Klimek, Director of the Division of Air Quality,
N. C. Department of Environment and Natural Resources

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

March 2, 1999

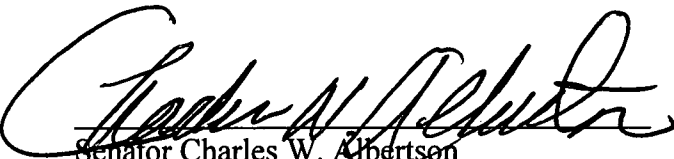
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, March 2, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fourteen committee members present.

Bill Holman, Assistant Secretary, Environmental Protection, North Carolina Department of Environment and Natural Resources, said today's presentation would be titled "North Carolina's Ozone Problem: What We Can Do About It". After giving his portion of the presentation, he introduced Janet D'Ignazio, Chief Planning and Environmental Officer with the North Carolina Department of Transportation. She was followed by Alan Klimek, Director of the Division of Air Quality, North Carolina Department of Environment and Natural Resources, who gave a slide presentation.

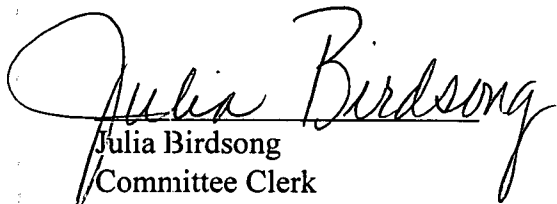
At this point, Senator Albertson asked Senator Horton, Vice Chairman, to take over chairmanship of the committee so that he could attend another meeting.

Committee members directed questions to the presenters regarding the environment and ozone issues.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

***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?***

- ***O₃ - 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***

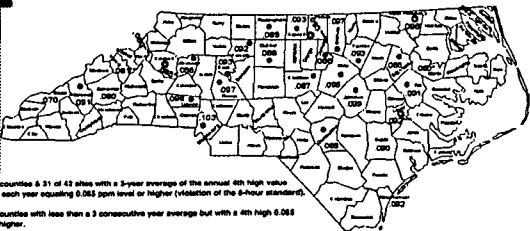
What are the Sources of the Precursor Pollutants?

- **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

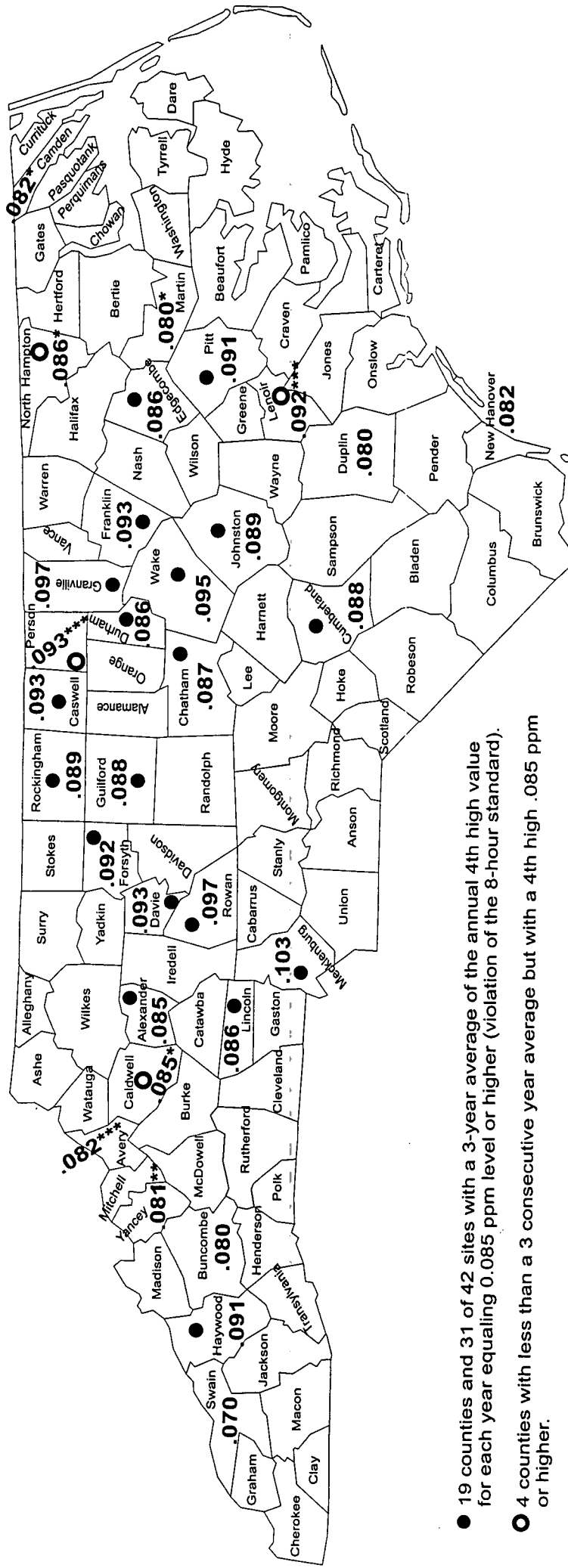
North Carolina Counties with 8-Hour Ozone Violations 1996-1998



NOTE:
 -Designations will be based on 1987-1989 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, 1997 and 1997.
 -Based on calendar year 1996 alone, which is not sufficient for attainment determination.

DRAFT

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).
- 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.

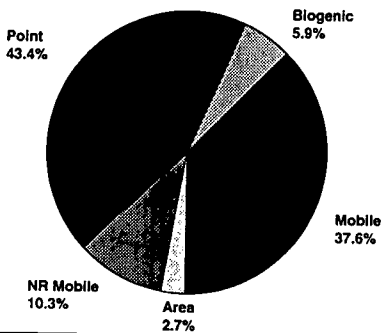
Process and Timeline For Designations

- **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**

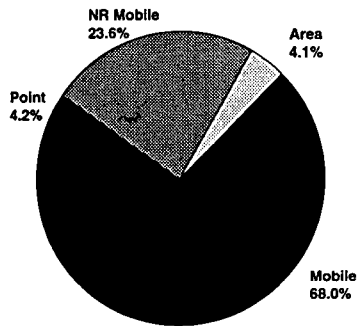
Timeline for Ozone Strategy

- **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 -

- **Will Not 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

Senate Agriculture/Environment/Natural Resources

3/2/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lucius PULLEN	ATTORNEY
Kelli KUKURA	DUPONT
George Everett	Duke Energy
Walter English	NC Agribusiness Council
Garrett PERDUE	ZDA, PA
Kim Hibbard	NCLM
Lisa Martin	Upper Neuse River Basin Assn.
Amy Fullbright	Stanton Williams
JIM KUSZAJ	NCEI
John Cyrus	NC State Grange
Paul Wilms	NCHSA

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Leah M Killian	Moret Van Allen
Lou-Ann Cole	FFF
JULIETTE WHITE	DUKE UNIVERSITY GRADUATE SCHOOL - PUBLIC POLICY
Ruth Sappie	NCDOT
Steve Woodson	NC Farm Bureau
Thomas James	Farmer
KRISTIN DAVID	LEGISLATIVE INTERN
David Simmons	ZDA, PA
Garrett Riddle	
Dan M'Leath	DEK
Doug Howey	NCPMA



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, March 9, 1999
11:00 a.m.
Room 544 - LOB

A G E N D A

GUESTS:

**Dr. James L. Oblinger, Dean
College of Agriculture and Life Sciences
North Carolina State University**

NEW TECHNOLOGY TO ASSIST AGRICULTURE TO MEET
ENVIRONMENTAL AND CONSERVATION STANDARDS

SPEAKERS:

Glenn Jernigan, Agricultural Alliance of North Carolina

Bill Dickerson, Director, Plant Industry Division, N. C. Department of Agriculture

**Dr. Natalie DiNicola, Manager of State and Local Government Affairs for
Southeastern United States, Monsanto Company**

Steve Adams, Field Environmental Operations Manager, Monsanto Company

Dr. John Anderson, Market Development Representative, Monsanto Company

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

March 9, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, March 9, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were seventeen committee members present.

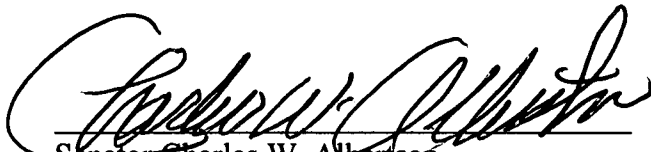
The meeting began with a slide presentation by Dr. James L. Oblinger, Dean, College of Agriculture and Life Sciences, North Carolina State University. Dean Oblinger's presentation centered around the college's budgetary needs for the enhancement of present as well as future agricultural programs. Copies of his slides are attached.

Presentations were given by the following individuals on "New Technology To Assist Agriculture To Meet Environmental and Conservation Standards":

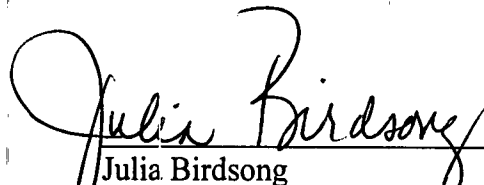
Glenn Jernigan, Agricultural Alliance of North Carolina
Bill Dickerson, Director, Plant Industry Division, N. C. Department of
Agriculture and Consumer Services
Dr. Natalie DiNicola, Manager of State and Local Government Affairs for
Southeastern United States, Monsanto Company
Steve Adams, Field Environmental Operations Manager, Monsanto Company
(who also gave a slide presentation)
Dr. John Anderson, Market Development Representative, Monsanto Company

The presentations were followed by questions from the committee members.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

Presentation by James L. Oblinger, Dean, College of Agriculture and Life Sciences, NC State University

Tuesday, March 9, 1999 11:00 a.m.

Slide #1

- Mr. Chairman, thank you for this opportunity. The College of Agriculture and Life Sciences has historically had a close relationship with this Committee. I want you or the members of your committee to call on me anytime you have questions or concerns. I have some prepared remarks, but I will try to maximize time for questions.
- I have provided a folder of information for you -- a copy of the slides I will be showing is in there along with more information on the College and our Agricultural Programs budget request.
- I am here today to talk about the *Agricultural Programs Budget* -- which is, as you know, a separate line within the UNC System Budget
- I don't think I need to tell this Committee about Agriculture's Impact on North Carolina's Economy.
- You know agriculture is responsible for:
 - 23% of the Gross State Product
 - 21% of total employment and that Agriculture in NC is
 - the 3rd most diverse behind CA/TX and generates
 - the 3rd highest net farm income behind CA/IA
- It has been through the College of Agriculture and Life Sciences, in partnership with the NC Department of Agriculture and Consumer

Services as well as other farm organizations, that much of this success has been possible.

- I also do not need to tell you Agriculture and the Environment in North Carolina are Under Great Stress
- There is an uncertain future for tobacco, hogs and peanuts.
- In addition, generally low commodity prices exist for corn, cotton, wheat, soybeans and dairy.

Slide #2

- **The *College of Agriculture and Life Sciences* is A Unique Combination of Disciplines with the ability to positively impact many of these issues throughout the state.**
- **This combination of Agriculture and Life Sciences, which provides a tremendous advantage, is also unique. One of only 6 in the United States.**
- ***The Academic Programs Budget Line within NC State's budget funds the teaching effort in our 22 departments in agriculture and the life sciences. We do have 4800 students--3rd highest in the U.S.***

Slide #3

- ***Within the Agricultural Programs Budget Line you find the North Carolina Agricultural Research Service and the North Carolina Cooperative Extension Service***
- **Dr. Johnny Wynne is Director of the North Carolina Agricultural Research Service. This program has laboratories and greenhouses on**

the NC State campus, 2 regional research & extension centers in Fletcher and Plymouth, 9 field laboratories, and 15 research stations across the state in partnership with NCDA&CS. These are strong relationships with agencies at the federal level, too.

- Dr. Jon Ort is Director of the North Carolina Cooperative Extension Service --and couldn't be with us this morning. This program has 100 County Offices and one on the Cherokee Reservation.
- Extension has unique federal and county partnerships, as well.
- Both research and extension have campus and county faculty paid for by the Agricultural Programs Budget Line.
- Please remember we are proud of, and take very seriously, our statewide mission in both agriculture and the life sciences and that certainly includes the environment and natural resources.

Slide #4

- ***The College of Agriculture and Life Sciences has cooperative relationships, particularly in research and extension, and a few of our cooperators are listed here:***
- College of Forest Resources
- College of Veterinary Medicine
- NC A&T State University
- UNC Greensboro
- North Carolina Department of Agriculture and Consumer Services
- US Department of Agriculture with special relationships with the

Animal and Plant Health Inspection Service, Agricultural Research Service and the Cooperative State Research, Education and Extension Service.

- I mention these partnerships because I believe we attain more for this state by joining forces where appropriately beneficial to all parties involved.
- Slide #5
- We have also developed partnerships with Federal, State and private industry through our *Research Centers, which are listed here. Many of you here today have helped make the Centers a reality. We thank you for your assistance. Please note the spectrum of activities across agriculture, life sciences, the environment and natural resources in these centers of faculty teams.*

Slide #6

(Refer to budget handout – hold it up)

Our budget request as approved by the UNC System has 5 key themes:

1. An agricultural production system that is highly competitive in the global economy. A major thrust to reach this goal is Genomic Science, and I will discuss this further in a moment.
2. A safe and secure food and fiber system -- we are very involved in the Hazard Analysis and Critical Control Point training and we are close to getting our new research and teaching Meat Processing

Laboratory constructed which will further impact the food safety arena.

3. A healthier, better-nourished population is evident in our extension service nutrition programs.
4. Greater harmony between agriculture and the environment has been a commitment of ours for decades.
5. Finally, enhanced economic opportunities and quality of life for North Carolinians.

Slide #7

- ***Genomic Science***
- A genome is the master “blueprint” (pause) the genetic code that determines characteristics --good or bad-- for plants or animals.
- This is a multidisciplinary, multi-college effort by scientists who specialize in Bioinformatics (Statistics) and Functional Genomics. We're cooperating with several colleges in this effort: CALS, CVM, CFR, PAMS.
- Once the mapping, or sequencing, of genomes is complete, the development of value-added characteristics or components in plants and animals will be a major tool to advance the understanding and treatment of diseases as well as environmental stress tolerance/resistance.
- It is estimated that the potential world market for agricultural products developed through genomics is \$500 billion.

- As an aside, genomics has great potential for partnering with the pharmaceutical industry in our state. Genomic Science is an area we must strengthen to be competitive in many of our disciplines.

Slide #8

- ***Alternative Enterprises*** – I mentioned earlier we rank 3rd in the US in terms of diversified agriculture. And we can do better by finding more ways for North Carolina producers to diversify and make money. Some potential areas include:
 - Specialty fruits & vegetables--white peach 'China Pearl'
 - Aquaculture--striped bass (coast), mountain trout, fresh water flounder, Tilapia and yellow perch (piedmont)
 - Ecotourism-- with CFR
 - Niche Market Crops--organics, herbs
 - Horticultural Crops including ornamentals and landscaping-- \$2B industry
 - Turfgrass -- \$1B industry and thriving
 - Support is needed for research, education & technology transfer using our statewide network of research & extension facilities.

Slide #9

- ***Environmental Sustainability***
 - We have long been leaders in addressing environmental issues and environmental education. [Handout in packet]

- Our water quality research and extension programs have been recognized nationally. Excellent team work here.
- We have a track record and what I want to talk about today are specific initiatives we are working on to address environmental sustainability. All of these programs are geared toward knowledge. Creation, dissemination and application.
- Animal and Poultry Waste Management Center - Executive Summary [Handout in packet]
- CEFS – Center for Environmental Farming Systems
- Natural Resources Leadership Institute
- Youth Environmental Education
- Neuse River Team [brochure in packet]
- Environmental and Natural Resources Economic Policy
- CMAST – Center for Marine Science & Technology

Wrap-Up:

- There are 2 more NC State people here I want to introduce, June Brotherton and Katie Perry.
- I want to thank you again for this opportunity. We always welcome the opportunity to bring you to campus to see some of the exciting things we are doing for the citizens of this state -- things like our aquaculture facilities, the pfiesteria laboratory, our waste management center.
- Thank you.

I would ask that this committee endorse this budget proposal.

NC STATE UNIVERSITY

Agricultural Programs

- Separate Line Within the UNC System Budget
- Agriculture's Impact on North Carolina's Economy
- Agriculture and the Environment Under Great Stress

NC STATE UNIVERSITY

**College of
Agriculture and Life Sciences**

- A Unique Combination of Disciplines with Statewide Impact
- *Academic Programs Budget Line*
- *Agricultural Programs Budget Line*

NC STATE UNIVERSITY

Agricultural Programs Budget Line

- *North Carolina Agricultural Research Service*
 - Laboratories and greenhouses on NC State campus,
 - 2 regional research & extension centers,
 - 9 field laboratories, and 15 research stations
- *North Carolina Cooperative Extension Service*
 - 100 County Offices and Cherokee Reservation with Federal and County Partnerships
- Campus and county faculty and staff paid from this budget

NC STATE UNIVERSITY

Partnerships

- College of Forest Resources
- College of Veterinary Medicine
- NC A&T State University
- UNC Greensboro
- NCDA&CS
- USDA

NC STATE UNIVERSITY

Research Centers

- Animal & Poultry Waste Management Center (APWMC)
- Center for Applied Aquatic Ecology (planned)
- Center for Aseptic Processing & Packaging (CAPPSP)
- Center for Environmental Farming Systems (CEFS)
- Center for Integrated Pest Management
- Center for Marine Science & Technology (CMAST)
- Center for Quantitative Genetics
- Small Fruit Center
- Southeast Dairy Foods Research Center

NC STATE UNIVERSITY

Key Issues

- An agricultural production system that is highly competitive in the global economy
- A safe and secure food and fiber system
- A healthier, more well-nourished population
- Greater harmony between agriculture and the environment
- Enhanced economic opportunities and quality of life for North Carolinians

NC STATE UNIVERSITY

Genomic Science

- The master "blueprint" of the genetic code for all cellular structures and characteristics -- for any plant or animal
- Multidisciplinary, multi-college effort by scientists who specialize in Bioinformatics (Statistics) and Functional Genomics "Leveraging" of desirable characteristics or components in plants and animals
- Understanding and treatment of diseases
- Environment Stress Tolerance/Resistance

NC STATE UNIVERSITY

Alternative Enterprises

- Specialty fruits & vegetables
- Aquaculture
- Ecotourism
- Niche Market Crops
- Horticultural Crops
- Turfgrass
- Support needed for research & technology transfer

NC STATE UNIVERSITY

Environmental Sustainability

- Waste Management Center
- CEFS
- Natural Resources Leadership Institute
- Youth Environmental Education
- Neuse River Team
- Environmental and Natural Resources Economic Policy
- CMAST

1999-2001

Agricultural Programs

Enhancement Budget Request

1. Competitive Agricultural Production Technologies
\$750,000

North Carolina farmers face critical challenges posed by changing federal farm programs and increasingly complex global markets. If farmers are to remain competitive, they must adopt new profitable and economically sound technologies. They must understand the potential of genetically engineered crop varieties, precision farming and powerful information systems. They also must use nutrient and pesticide management practices that maximize production while minimizing environmental impacts. Intensive, research-based educational programs are needed to help

producers strategically meet these challenges. Such programs will link production and marketing and capitalize on available resources. NC State University would expand research and extension programs focused on optimizing production with minimal or no impact on the environment, through the use of precision agriculture, integrated pest management practices, and best management practices.

2. Statewide Research and Extension Initiative
\$1.4 million

Outlying facilities enable the College of Agriculture and Life Sciences to conduct applied research, teaching and extension programs

Request titles and funding summary

	<i>Research</i>	<i>Extension</i>	<i>Total</i>
1. Competitive Agricultural Production Technologies	\$ 450,000	\$ 300,000	\$ 750,000
2. Statewide Research and Extension Initiative	\$ 900,000	\$ 500,000	\$1,400,000
3. Alternative Crops for Specialty and Niche Markets	\$ 200,000	\$ 200,000	\$ 400,000
4. Environmental & Natural Resource Economic Policy	\$ 250,000	\$ 150,000	\$ 400,000
5. Aquaculture and Marine Sciences	\$ 350,000	\$ 150,000	\$ 500,000
6. Genomic Science	\$ 850,000		\$ 850,000
7. Food Safety, Hazard Analysis and Meat Processing	\$ 300,000	\$ 100,000	\$ 400,000
8. Basinwide Water Quality Education		\$ 200,000	\$ 200,000
9. Youth Environmental Education Programs		\$ 250,000	\$ 250,000
10. Nutrition and Health Education		\$ 250,000	\$ 250,000
11. Community Leadership and Economic Development		\$ 350,000	\$ 350,000
12. Urban Horticulture	\$ 100,000	\$ 150,000	\$ 250,000
TOTAL	\$3,400,000	\$2,600,000	\$6,000,000

directly applicable to the state's diverse population, climate and geography. However, many of the college's older facilities need repair, and some equipment and scientific instruments are so out-of-date that they make cutting-edge research impossible. The physical infrastructure must be maintained at University Field Laboratories in Wake County, Aurora and Butner; at outlying research stations in Reidsville, Kinston, Castle Hayne, Clayton, Fletcher and Jackson Springs; and at regional research and extension centers in Plymouth and Fletcher. For campus- and field-based faculty and students to conduct applied research and educational programs, they need specialized, modern equipment. In addition, six 4-H camps and centers need to be renovated and enhanced to comply with state insurance and safety codes, county health department regulations and accreditation standards. Total needs exceed \$15 million in one-time costs and more than \$1 million in recurring costs.

3.

Alternative Crops for Specialty and Niche Markets \$400,000

Market changes for traditional North Carolina crops are forcing farmers to consider alternatives. They need sound information about ways to diversify, and they need educational programs that focus on the entire system of food, fiber and forestry production, processing, economics and marketing. At the Center for Environmental Farming Systems, the Specialty Crops Center, the Mountain Horticultural Crops Research and Extension Center, and some county Extension centers, NC State addresses these issues in partnership with N.C. A&T State University and the N.C. Department of Agriculture and Consumer Services. Researchers and extension specialists are exploring new crops and new production practices as well as new uses for existing crops for health foods and medicinal products. To enhance economic returns while protecting the environment, greater attention must be paid to developing comprehensive, sustainable and environmentally compatible

systems. In a related initiative, the university would intensify research and educational programs that educate homeowners, lawn-care professionals and golf-course managers about environmentally sound practices that reduce excess nutrient applications that can pollute surface and ground waters.

4.

Environmental and Natural Resource Economic Policy \$400,000

Current and projected population growth adds a particular urgency to environmental issues, making them among the most formidable challenges facing North Carolina. To enhance the relationship among the diverse interests considered in environmental policymaking, NC State's Natural Resources Leadership Institute will continue to bring together leaders from agriculture, forestry, fisheries, environmental groups and local and state government agencies to discuss issues, resolve conflicts and lead others to jointly solve specific problems. Environmental and natural resource policies and regulations are often made without the benefit of cost-benefit analyses. Researchers will conduct cost-benefit and risk-assessment analyses associated with improved water quality and with domestic and foreign trade policies related to sanitary, phytosanitary and other regulations to assist in developing appropriate policies.

5.

Aquaculture and Marine Sciences \$500,000

From the mountains to the sea, an increasing number of growers are taking advantage of North Carolina's natural resources for successful aquaculture operations. Research and education programs on premium species will enable North Carolina producers to lead this relatively new area of food production. In addition, marine science research and education will improve the management of the state's fisheries and aquatic resources. Research related to population biol-

ogy, coastal and watershed ecology and the influence of habitat on reproduction, growth and survival of fish will contribute significantly to the formulation of policy to manage the state's recreational and commercial fisheries.

6.

Genomic Science
\$850,000

Now more than ever, investments are needed to support research aimed at increasing agricultural productivity and protecting the environment and the natural resource base. To enhance competitiveness, North Carolina agriculture must produce at lower costs while achieving higher yields than competitors. Private industry and public institutions are making significant commitments to the rapidly emerging area of genomic science in order to compete for the potential \$500 billion world market for value-added agricultural products. If North Carolina is to remain as a leader in high technology agriculture, the College of Agriculture and Life Sciences must receive new funding to combine with existing resources to support a competitive initiative on genomics. By expanding this science and application of genomics, NC State University can provide the basic knowledge and technology required to increase the productivity and usefulness of plants and animals. This initiative will allow the college to compete for federal funding in genomics and interact with the life science companies in North Carolina.

7.

**Food Safety, Hazard Analysis
and Meat Processing**
\$400,000

Given new regulations and rising public concern about food safety, North Carolina needs to take advantage of opportunities that would enable the food-processing industry to become more environmentally compatible while adding value to their products, ensuring safety, health and quality, protecting the safety of food-processing workers and enhancing the environment. The university will conduct research and education

programs related to Hazard Analysis and Critical Control Points methodology and to find ways to reduce processing and marketing costs while enhancing product quality and appeal and reducing food product losses. The result will be an economic advantage to all in the food-production system, from producers and processors to distributors and consumers.

8.

**Basinwide Water
Quality Education**
\$200,000

North Carolinians want – and need – an abundant supply of high-quality water for drinking, for recreation and to sustain the environment. Education and assistance to farmers, livestock producers, municipalities and homeowners by environmental agents of the Cooperative Extension Service has had significant impact in the Neuse River Basin. Similar education programs in the Cape Fear and Tar-Pamlico river basins could build upon that success. Both basins have high urban populations and intensive agriculture.

9.

**Youth Environmental
Education Programs**
\$250,000

This initiative will expand current science-based enrichment programs and help develop local and regional coalitions and networks to cooperatively address issues faced by today's youths. A permanent staff would manage the 4-H Eastern Environmental Education Center. This center, a significant outreach of the college's 4-H Youth Development Program, serves more than 200,000 youths and adults.

10.

**Nutrition and Health
Education**
\$250,000

Poor nutrition leads to poor health, jeopardizing people's ability to work, attend and perform well in school, or raise healthy infants and children. NC State will work in partnership with

N.C. A&T State University and the University of North Carolina at Greensboro to deliver research-based, audience-appropriate nutrition and health education programs where traditional efforts are not available. Also, a program that helps farmers with disabilities learn to continue their vocation will be expanded to reach those facing disabilities, cultural differences or language barriers.

11. Community Leadership and Economic Development **\$350,000**

As North Carolina's communities undergo rapid demographic change, their infrastructures are becoming inadequate. Changes in agricultural employment patterns and enterprises pose challenges. The North Carolina Cooperative Extension Service will help communities address infrastructure and organizational needs by developing the leadership capabilities of citizens. In addition, research and extension programs will be undertaken in the areas of agritourism and ecotourism. These enterprises build upon North Carolina's unique natural and ecological resources and traditions while contributing to local economies and enhancing the environment. Finally, Extension will develop and deliver culturally appropriate programs to North Carolina's fastest-growing minority group, the Hispanic-Latino community, and to help low-

income workers or those on welfare improve their job skills and learn to manage their limited resources.

12. Urban Horticulture **\$250,000**

In 1970, the rural farm population accounted for 10.4 percent of North Carolina's people. Today, that percentage is a mere 1.8 percent. The decline is expected to continue into the 21st century as urban areas grow. With increased growth and development, issues related to residential and community horticulture and pest management have become more important. In particular, stringent regulations related to water-quality protection in residential areas have increased the need for a greater public awareness of such issues as the movement of pesticides and fertilizers from urban lawns into ground water, rivers and streams. In addition, regulations related to soil conservation, waste management and pesticide use require education and lifestyle changes for many North Carolinians. NC State is currently providing leadership in this area and plans to expand training for environmentally sound landscape management in yards and gardens. Such efforts would help people become aware of and accountable for managing natural resources to ensure a high quality of life for all North Carolinians.

NC STATE UNIVERSITY

For additional information, please call:

- Marye Anne Fox, *Chancellor*, 919.515.2191
- James L. Oblinger, *Dean, College of Agriculture and Life Sciences; and Executive Director, Agricultural Programs*, 919.515.2668
- June M. Brotherton, *Assistant to the Chancellor for Governmental Relations and Associate Vice Chancellor for Extension*, 919.515.9340

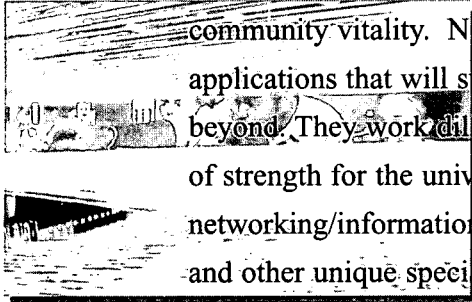
*Prepared January 1999
College of Agriculture and Life Sciences, North Carolina State University*

G R O W I N G

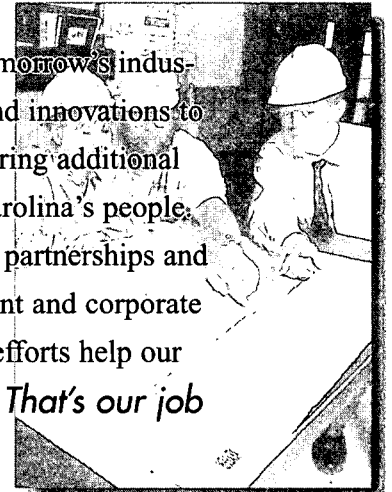
NC's Economy Through Tomorrow's

T E C H N O L O G I E S

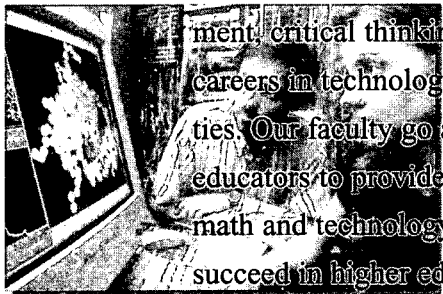
Agriculture...forestry...textiles...furniture...traditional North Carolina industries that pack a huge economic wallop in terms of jobs, economic prosperity and community vitality. NC State's faculty excel in technology-driven solutions and applications that will sustain and propel these industries into the next century and beyond. They work diligently to develop new knowledge and technologies in key areas of strength for the university – genomic sciences/bioinformatics, communications/networking/information technology, environmental sciences, materials manufacturing and other unique specialties. Their work helps North Carolina industries remain environmentally sustainable and economically competitive. *That's our job as the state's leader in science, engineering and technology.*



NC State's faculty are visionaries and creators of tomorrow's industries. They develop, transfer and apply new knowledge, technologies and innovations to create new and technologically transformed traditional industries and bring additional opportunities, higher wages and economic prosperity to all of North Carolina's people. In doing so, NC State leads in building state, national and international partnerships and in fostering collaborations. By late 1999, almost 30 industry, government and corporate partners will be located on the university's Centennial Campus. These efforts help our state's industries remain globally competitive and economically viable. *That's our job as an economic engine for the state.*



The mindpower of NC State's faculty provides educational opportunities for young North Carolinians that will help them to develop the leadership, management, critical thinking, and communication and technical skills needed for future careers in technology-based industries or businesses, government agencies or universities. Our faculty go a step further by working with primary and secondary public educators to provide new technological and pedagogical expertise, to develop science, math and technology-based curricula, and to prepare North Carolina's youths to succeed in higher education and the competitive job marketplace. *That's our job as an engaged university that prepares knowledge workers and responds to the state's emerging educational needs.*





NC State's teaching, research and extension programs demonstrate the university's commitment to the values of excellence, partnerships and social responsibility. NC State is the largest university in The UNC System, where one out of every five students in The UNC System chooses to matriculate. Our students understand the value of a high-quality, high-tech education. NC State's sponsored research expenditures, funded by state, federal and private partnerships, have grown from \$125 million in 1988 to \$372 million in 1998. It's a good investment that brings tangible returns to the state through a \$1 billion economic impact annually. Government, business, communities and industries turn to NC State for help with pressing problems facing them. NC State can provide new solutions that address a broad spectrum of critical social and economic problems facing the state through its local presence in all 100 counties and the Cherokee Reservation.

That's why North Carolinians value NC State.

NC STATE UNIVERSITY

Expansion Budget Request for Current Operations

**signifies cumulative totals for 1999-2001*

	<i>1999-2000</i>	<i>2000-2001*</i>
Collaborative University/Schools Program		
Public Schools/Outreach & Teacher Education		
NC Center for the Prevention of School Violence	\$ 580,000	\$ 580,000
Public Service and University Outreach		
UNC SeaGrant College Program - NCSU	\$ 200,000	\$ 200,000
Manufacturing Extension Partnership - NCSU	\$ 900,000	\$ 900,000
AGRICULTURAL PROGRAMS		
NC State University		
Competitive Agricultural Production Technologies	\$ 750,000	\$ 750,000
Statewide Research & Extension Initiative	\$ 1.4 M	\$ 1.4 M
Alternative Crops for Specialty & Niche Markets	\$ 400,000	\$ 400,000
Aquaculture & Marine Sciences	\$ 500,000	\$ 500,000
Food Safety, Hazard Analysis & Meat Processing	\$ 400,000	\$ 400,000
Basinwide Water Quality Education	\$ 200,000	\$ 200,000
Environmental & Natural Resource Economics	\$ 400,000	\$ 400,000
Genomic Sciences	\$ 850,000	\$ 850,000
Youth Environmental Education Programs	\$ 250,000	\$ 250,000
Nutrition & Health Education	\$ 250,000	\$ 250,000
Community Leadership & Economic Development	\$ 350,000	\$ 350,000
Urban Horticulture	\$ 250,000	\$ 250,000

To meet the accelerating need for solutions to problems, for practical applications of knowledge and for prepared leaders of government, business and industry, NC State's teaching, research, and extension programs must grow. That growth requires new resources in facilities, repair and renovation of current facilities and program expansion. *Those needs are listed below.*

1999-2001 NC STATE CAPITAL IMPROVEMENTS PRIORITIES

(Based on The UNC Six-Year Facilities Plan)

	1999- 2000	2000- 2001	2001- 2002	2002- 2003	2003- 2004
1. Undergraduate Science Teaching Laboratory - Phase I Construction <i>(Total Cost: \$ 20.4 M)</i>	\$10.2 M	\$10.2 M			
2. College of Veterinary Medicine Research Addition & Renovation <i>(Total Cost: \$ 17.2 M)</i>	\$ 8.6 M	\$ 8.6 M			
3. College of Engineering Complex Phase I Construction <i>(Total Cost: \$ 31.2M)</i>	\$15.6 M	\$15.6 M			
4. David Clark Laboratory Renovation & Addition <i>(Total Cost: \$ 11.0 M)</i>		\$566,000	\$5.2 M	\$5.2 M	
5. Withers Hall Renovation <i>(Total Cost: \$ 10.9 M)</i>				\$719,000	\$10.2 M
6. Administrative Services Center II Planning & Construction <i>(Total Cost: \$ 9.8 M)</i>				\$624,000	\$ 9.2 M
7. Undergraduate Science Teaching Laboratory - Phase II Construction <i>(Total Cost: \$ 11.6 M)</i>				\$736,000	\$10.9 M
8. Jordan Hall Addition Planning & Construction <i>(Total Cost: \$ 12.9 M)</i>				\$664,000	\$12.2 M

For additional information, contact:

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**THE UNIVERSITY OF NORTH CAROLINA
EXPANSION BUDGET REQUEST FOR CURRENT OPERATIONS**

	1999-2000	2000-2001*
Access		
Regular Term Enrollment Growth	\$ 19.5 M	\$ 10.6 M
Distance Education/Extension Enrollment Growth	\$ 5.5 M	\$ 8.2 M
New Degree Programs	\$ 2.4 M	\$ 2.4 M
Transition of ECU to Doctoral II Status	\$ 1.5 M	\$ 3.0 M
Additional Need-Based Student Financial Aid	\$ 1.0 M	\$ 1.0 M
Efforts to Improve College-Going Rate (PATHWAYS)	\$ 1.2 M	\$ 1.1 M
Productivity and Efficiency		
Information Technology	\$ 20.0 M	\$ 20.0 M
Operating Improvement Efficiencies for Smaller Universities	\$ 2.4 M	\$ 2.4 M
UNC-General Administration Organizational Changes	\$ 2.0 M	\$ 1.7 M
Strategic Initiatives Reserves	\$ 5.0 M	\$ 5.0 M
Competitiveness		
Rewarding Teaching Excellence	\$ 7.1 M	\$ 14.5 M
Distinguished Professorships - State Matching Funds	\$ 3.0 M	\$ 3.0 M
Professional Development/Teaching & Learning Centers	\$ 2.0 M	\$ 2.0 M
Graduate Assistant Tuition Remissions & Other Support	\$ 4.0 M	\$ 4.0 M
Libraries	\$ 9.0 M	\$ 11.9 M
Collaborative University/Schools Program		
UNC Center for School Leadership Development		
Center Programming & Operational Support	\$ 257,000	\$ 525,000
High Performance Lighthouse Schools	\$ 260,000	\$ 260,000
Public Schools/Outreach & Teacher Education		
UNC School Services Matching Incentives Grants - K-16	\$975,000	\$ 975,000
UNC Center for Public Television		
Learning Link	\$ 386,000	\$ 457,000
Late Night Learning	\$ 358,000	\$ 360,000
School Technology Users' Task Force	\$ 348,000	\$ 521,000
Mathematics & Science Education Center - ECSU	\$ 158,000	\$ 158,000
Mathematics & Science Education Pre-College Center - ECU	\$ 93,000	\$ 93,000
Summer Ventures in Science & Mathematics	\$ 200,000	\$ 200,000
Principal Fellows Scholarship Loans	\$ 380,000	\$ 380,000
NC Center for International Understanding		
Internat'l. Educ. Exchange Initiative - K-12 Educators	\$ 112,000	\$ 112,000
Internat'l School Partnerships Through Technology	\$ 68,000	\$ 68,000
Reading Together USA	\$ 250,000	\$ 250,000
Public Service and University Outreach		
Area Health Education Centers	\$ 3.0 M	\$ 3.0 M
Biomedical/Biotechnology Research Institute - NCCU	\$ 350,000	\$ 350,000
Institute of Nutrition - UNC-CH	\$ 50,000	\$ 50,000
Institute on Aging - UNC-CH	\$ 450,000	\$ 450,000
The North Carolina Center for Nursing - UNC-General Administration	\$ 40,000	\$ 40,000
Highlands Biological Station - WCU	\$ 50,000	\$ 50,000
Small Business & Technology Development Centers - UNC-CH	\$ 250,000	\$ 350,000
North Carolina Arboretum - UNC-A	\$ 500,000	\$ 500,000
Institute of Government - UNC-CH	\$ 850,000	\$ 789,000
UNC Center for Public Television		
Extending Educational/Public TV to Deaf & Hard-of-Hearing	\$ 352,000	\$ 564,000
Statewide Event Production	\$ 211,000	\$ 211,000
International Outreach		
NC/Israel Matching Funds	\$ 250,000	\$ 250,000
UNC Exchange Program	\$ 150,000	\$ 150,000
NC Center for International Understanding - Hispanic Initiative	\$ 100,000	\$ 100,000
NC State Education Assistance Authority	\$ 76,000	\$ 76,000
NC Alliance for Minority Participation - NC A&T	\$ 1.5 M	\$ 1.5 M
AGRICULTURAL PROGRAMS		
NC A&T State University		
State Matching Funds for Agricultural Research & Cooperative		
Extension Programs	\$ 750,000	\$ 750,000
UNC HOSPITALS		
Restore appropriations to 1996 level	\$ 4.9M	\$ 4.9 M
RELATED EDUCATIONAL PROGRAMS		
Medical Scholarships	\$ 172,000	\$ 166,000
Dental Scholarships	\$ 64,000	\$ 64,000
Incentive Scholarships/Native Americans	\$ 54,800	\$ 54,800
Legislative College Opportunity Programs	\$ 57,600	\$ 57,600
NC SCHOOL OF SCIENCE & MATHEMATICS		
Coordinated Growth of Outreach, Residential & Support Services	\$ 595,000	\$ 595,000
Student leadership Development Program with Israel	\$ 118,000	\$ 118,000
Residential Program Enhancements	\$ 650,000	\$ 650,000
Salary Plan	\$ 207,000	\$ 207,000
1999-2001 UNC SYSTEM CAPITAL IMPROVEMENTS PRIORITIES		
1. Repairs & Renovations	\$ 140.0 M	
2. Fire Safety Improvements - Student Residence Halls	\$ 58.0 M	
3. Six-Year University-Wide Facilities Plan	\$ 1.0 B	



WASTE MANAGEMENT PROGRAMS

COLLEGE OF AGRICULTURE & LIFE SCIENCES

**North Carolina Agricultural Research Service
College of Agriculture and Life Sciences
NORTH CAROLINA STATE UNIVERSITY**

Executive Summary:
Animal Waste Management Research Projects

**Alternative Animal Waste Management Technologies
Atmospheric Deposition of Nitrogen in the Neuse River Estuary
Odor Control Technology Study
Groundwater Impacts of Lagoons
Tracing Excess Nitrogen in the Neuse River Basin**

March 1999

In 1996 the North Carolina General Assembly provided funding for five research projects designed to provide a better understanding of the environmental impact of waste management in the state's swine industry and to develop waste management technology with less potential for adverse environmental impact. These projects have for the most part been completed; however, it should be noted that this research was part of a larger waste management research and extension effort within the College of Agriculture and Life Sciences at N.C. State University. This larger effort, focused on acquiring a better understanding of all the elements and implications of waste management and on developing new waste management systems and technologies that will allow North Carolina farmers to raise hogs, poultry and other animals profitably without adversely affecting the environment, is continuing as are some elements of these projects. Following are summaries of the five projects.

NC STATE UNIVERSITY

Executive Summary: Waste Management Research

Alternative Animal Waste Management Technologies

This project focused on evaluating technologies that might serve as alternatives to the lagoon system now used by most North Carolina swine producers to treat the waste produced by their animals. A portion of this funding was used to purchase laboratory equipment to analyze alternative technologies. Three alternative technologies were or are being evaluated as part of this project.

□ *An aerobic treatment system designed by Animal Waste Abatement System Holding Co. (also known as the AWASH system)*

This system experienced frequent mechanical problems with blowers, pumps and the solids separator. The design appears inadequate to treat the waste generated by the swine operation where this evaluation was done.

□ *Anaerobic Digestion/Photosynthetic System for Swine Waste Treatment*

This system uses an aquatic plant called duckweed to help remove nutrients as well as some minerals from lagoon liquid. The nutrient-rich plants may then be harvested for use as an animal-feed additive. Researchers have identified duckweed strains that appear to be suited to this system. The evaluation of the system is continuing.

□ *Alpha Feeds Photosynthetic Treatment*

This two-stage treatment system is similar to the activated sludge systems used in many municipal waste treatment plants. Waste flows first to a reactor, or tank, where it is treated with bacteria to remove carbon. It then moves to a settling tank, where solid portions settle out. Some of these solids are recycled to the first treatment tank, while the remainder may be dried for use as a soil amendment. Liquid waste then flows to a second reactor, which contains algae. The algae use the nitrogen in the waste as a nutrient source. The nutrient-rich algae may then be harvested for use as an animal feed ingredient. If the operation of bacterial cultures and algae to be used in the system can be validated, it is proposed that a full-scale system be built and evaluated at the North Carolina Department of Agriculture and Consumer Service's Upper Coastal Plain Research Station near Rocky Mount.

Atmospheric Deposition of Nitrogen in the Neuse River Estuary

The activities included in this project are aimed at helping to develop a better understanding of the movement of nitrogen through the atmosphere. Nitrogen cycles, or moves, through the environment, and as it does so, it takes different forms. As animal waste decomposes, for example, the nitrogen in the waste is broken down by bacteria into ammonia. Ammonia may volatilize, or move into the atmosphere as a vapor. Once in the atmosphere, ammonia may be carried by the wind, then move back to earth with rainfall or as dry deposition. While scientists know that nitrogen moves through the atmosphere in this manner, it is not clear how much nitrogen is transported in this manner nor is it clear where atmospheric nitrogen is deposited.

The elements of this project are designed to support the Regional Atmospheric Deposition Model, a computer model developed by the U.S. Environmental Protection Agency to assess the movement of industrial pollutants that cause acid rain. As part of this project, for example, researchers gathered climatological data that may be used with the model. They have also experimented with different methods of measuring ammonia in the atmosphere in an effort to determine which works best.

Researchers also attempted by analyzing existing historical data on atmospheric deposition and by collecting new data to determine how the growth of the swine industry in North Carolina has affected deposition and how the swine industry influences dry deposition. Based on the relatively limited amount of nitrogen deposition data analyzed for this project, it appears that the growth of the swine industry in North Carolina has contributed to increased atmospheric deposition of nitrogen in the state. Moreover, atmospheric deposition of nitrogen in North Carolina appears to be concentrated in the southeastern area of the state, the same part of the state where swine farming is concentrated.

At the same time, this project has shown that ammonia emissions from swine lagoons and housing units enhance dry deposition of ammonia to forest canopies in the immediate vicinity of the animal operations. Indeed, this limited study indicates that atmospheric deposition of nitrogen from animal operations tends to be concentrated in

the immediate vicinity of a farm and decreases within a relatively short distance (less than 50 miles) from the farm.

Odor Control Technology Study

This project focused on odor control or abatement alternatives available to the North Carolina swine industry. Much of the odor from the buildings in which hogs are raised is thought to be carried from the buildings on dust particles. Researchers are experimenting or have experimented with wind-break walls, biofilters, an evaporative pad cooling system and ozonation in an effort to limit or remove dust that escapes from buildings. All these methods have been shown to affect odor; however, all also have limitations and none appears to be a panacea for all North Carolina swine farms. It is not yet clear whether these methods of odor control will be cost effective. It does appear, however, that on some farms these methods of odor control may be useful.

As part of this project, a protocol was developed for the evaluation of manure and feed additives designed to control odor. This protocol is being used in the N.C. State University Animal and Poultry Waste Management Center Odor Abatement Laboratory to evaluate additives available to growers. Evaluations are also being conducted on the sites of commercial producers throughout North Carolina. Odor neutralizers, adsorbents, microbials and chemical odor control additives have been or are in the process of being evaluated. Each product is evaluated for its effect on odor concentration, irritation and quality. Only a few of the products tested have significantly reduced or masked odor.

Scientists believe they can have a significant effect on the odor of swine manure by manipulating pig diets. To provide the infrastructure necessary to test this idea, an odor emission laboratory was built as part of this project. This facility includes two environmental chambers in which pigs may be raised. The chambers are equipped with a ventilation system that allows scientists to analyze the air that goes into and comes out of the chambers. This facility is designed primarily to allow scientists to study the impact of nutrition on odor emission. Researchers showed in a study not related to the emission laboratory but included within this project that increasing the amount of copper in a swine diet appears to decrease manure odor.

Studying odor is difficult because odor is so hard to

quantify. An odor considered strong and repulsive by one person may be hardly noticeable to another. Significant progress was made as part of this project on development of a reliable electronic nose, an instrument that employs sensors that respond to the various chemical compounds that make up an odorant. Researchers compared evaluations of odor from hog farms by a trained human odor panel with an analysis of the same odor by the electronic nose. In this way, the electronic nose was "trained" to recognize the odor from a hog farm. Researchers demonstrated that at least with regard to one odor experiment, the electronic nose can produce the same perceptions of odor intensity, odor irritation and odor pleasantness or unpleasantness as the human nose. However, the sensors used thus far are capable of detecting odor only from point sources such as a swine building or lagoon. Researchers are working to develop a next generation electronic nose with sensors that are 10 times as sensitive as the sensors used in the current model. It is thought that an electronic nose equipped with these more sensitive sensors would be capable of detecting odors from nonpoint sources such as at the boundary line of a hog farm. Development of a reliable electronic nose will give researchers and regulatory agencies an objective method of continuously measuring odor exposure.

The alternative waste management technologies described at the beginning of this report are not the only ones being evaluated by N.C. State researchers. Other technologies are being tested, and as part of this project, the affect of these technologies on odor is being evaluated. While some of these evaluations have been completed, many are ongoing. Information on these evaluations is available from the Animal and Poultry Waste Management Center.

Groundwater Impacts of Lagoons

This project was designed to help determine whether seepage of liquid from lagoons poses a threat to groundwater. The study includes only older lagoons, those built prior to 1993. Beginning in 1993, lagoons had to meet new state regulations designed to limit seepage to acceptable levels. Researchers collected and analyzed samples from lagoons at 34 locations.

The results of this study are consistent with earlier studies of lagoon seepage, although this project is thought to be the largest study of its kind. Based

Executive Summary: Waste Management Research

on this study, it appears that seepage of liquid from a third to half of older, unlined waste lagoons built before more stringent lagoon construction regulations were put in place is of a magnitude that the seepage poses a potential hazard to contaminate wells in the immediate vicinity of the lagoon. Wells that are not properly constructed and particularly shallow wells near such lagoons should be considered vulnerable. However, whether or not such lagoons pose a threat to wells depends on local topographic and other conditions.

A second component of this project provided a picture of the location of major nutrient sources and how nutrients might move through the environment. This project relied on computer software to merge the contents of computer databases, then present the information in graphic form, in this case, as maps. Researchers began with a database containing the locations of all registered swine operations in the state with more than 250 head. This information was combined with geographic information (state and county boundaries; river basin, sub-basin and hydrologic unit boundaries; stream locations and land cover data). Researchers were then able to produce maps showing the locations of swine operations with more than 250 head. At the same time, swine nutrient and manure production information was added to the mix. It was then possible to estimate annual manure and lagoon liquid output and nutrient production for each swine operation. Researchers developed maps containing this information. The maps may be used by scientists and regulators to draw conclusions about the potential risk to groundwater and down-gradient surface water from swine facilities.

Tracing Excess Nitrogen in the Neuse River Basin

This project, which is ongoing, is designed to provide a clearer picture of where nitrogen that ends up in the Neuse River is produced. Stable isotopes of nitrogen are being used to determine nitrogen sources. All nitrogen compounds contain isotopes, and the ratio of isotopes in a compound may be used to identify it. The ratio is an isotopic signature that may be used to identify nitrogen from a particular source, a municipal waste treatment plant, for example. Isotopic ratios are not so distinctive that they may be used to identify nitrogen that was produced at a specific location, a particular swine farm, for example. But isotopic sampling can be used to identify nitrogen produced

generally at hog farms or municipal waste treatment plants.

By analyzing nitrogen samples from various sources over a two-year period, scientists identified isotopic signatures for various sources and showed that the signatures are a reliable method of identifying a nitrogen source. The samples used to determine the isotopic signature of nitrogen from swine operations were collected at two swine operations in Sampson County. Liquid from lagoons, groundwater beneath spray fields and a riparian (vegetative) buffer, and nearby surface waters were analyzed. These samples were analyzed both for isotopic ratio and for nitrogen concentration, the amount of nitrogen in the samples. Researchers determined that while some of the nitrogen in lagoon liquid applied to spray fields was moving through the ground and through a riparian buffer into nearby surface water, this nitrogen movement was slight. Over a two-year period that was unusually wet, which would have enhanced nitrogen movement, very little nitrogen in groundwater below spray fields moved into nearby surface waters.

Researchers also collected samples of water from the Neuse River throughout the river's basin and analyzed these samples both for concentration (amount) of nitrogen and for isotopic composition. This work showed little nitrogen in the upper basin, while nitrogen concentration rose dramatically in the middle of the basin, then decreased again in the lower portion of the basin below Kinston.

Collection of samples and analysis of the samples is continuing; however, it appears that during periods of low river flow, municipal waste treatment plants are the primary source of nitrogen in the river. During periods of high flow, nonpoint nitrogen sources, such as fertilizer runoff, appear to dominate. When compared to a similar study done a decade ago, it appears the composition of nitrogen in the river has changed little at low flow. During periods of high flow, however, it appears nitrogen composition may have changed. Where the nitrogen in the river during high-flow periods 10 years ago appeared to come primarily from fertilizer runoff, there now is more nitrogen in the river, and more of it appears to be coming from both municipal sewage treatment plants and swine operations. It is too early in this project, however, to make conclusive statements about the nitrogen composition of the river.

College of Agriculture and Life Sciences' Research and Education Programs Addressing Environmental Quality Issues

The College of Agriculture and Life Sciences is a national leader in obtaining funding from many national and state agencies, as well as the private sector, for addressing priority issues related to environmental quality through scientifically sound and comprehensive research and education programs. CALS faculty are working with local, state, and federal agencies, private organizations, and other Universities to identify, develop and implement sustainable best management practices for maintaining or improving environmental quality. The following is a sample list of those programs.

1. Water, air and soil pollution prevention for agricultural production systems.
 - Crop fertilizer and pesticide management
 - Allelopathy and no-till agriculture and the interaction of crop cover, plant roots, soil micro-organisms, and allelochemicals on inhibition of weed seed germination
 - Soil erosion control and drainage management
 - Natural resource conservation systems
 - Riparian buffers and stream corridor management
 - Livestock and poultry waste management systems and value added product production
 - Animal waste management systems for nutrient conservation and odor control
 - Research, demonstration and outreach programs at the Animal and Poultry Waste Management Center at Lake Wheeler Road Field Laboratory
 - Air quality research and monitoring, including monitoring in the western NC mountains for ozone, acid rain, etc. and NH₃ volatilization and transport from intensive animal agriculture
 - Sociological implications and stakeholder input to development of animal waste management systems
 - Nutritional studies and feed development to reduce volume and mineral content of animal wastes
 - Transfer of municipal and industrial wastewater treatment technology appropriate for animal waste treatment
 - Multi-state and industry collaborations through the Animal and Poultry Waste Management Consortium and the Multi-State Consortium and Animal Waste Management
2. Water pollution prevention for residential, urban, and industrial areas.
 - Residential landscape fertilizer and pesticide management
 - Urban storm water control
 - Construction sediment control
 - Municipal and industrial waste management
 - Household waste recycling and composting
 - On-site septic system management
 - Private drinking water supply well testing and protection
 - Septic and municipal waste management, including research, demonstration and outreach at the On-site Waste Management Center at Lake Wheeler Road Field Laboratory.
3. Human and ecological impacts of water pollution.
 - Impacts of the toxic dinoflagellate, *Pfiesteria piscicida*, on estuarine food webs and its biology, nutritional ecology (including stimulation by nutrient over-enrichment from sewage, animal wastes, fertilizer runoff, and other sources) and environmental controls
 - Characterization of the toxins from the *Pfiesteria* complex, and their impacts on fish and mammalian health
 - Impacts of eutrophication on North Carolina's freshwater ecosystems
 - Impacts of coastal development on seagrass species that serve as vital fisheries habitat
 - Impacts of animal waste on water quality and food webs of rivers and estuaries
 - Integrated management of aquatic weeds
 - Water quality and biological effects of artificial feeding of trout in natural streams

4. Watershed management.
 - Stream stabilization and restoration
 - Wetland enhancement, restoration and plant identification
 - Land use planning to protect environmentally sensitive areas
 - Water quality monitoring to study trends and evaluate improvement measures
 - River basin education programs to promote sound management practices
 - Citizen involvement through water sampling and public awareness activities

5. Water pollution assessment from both acute and chronic/sublethal impacts.
 - Assessing the impacts of sediment and phosphorus loading on aquatic communities and water quality of potable water-supply reservoirs
 - Examining impacts of phosphorus loading in stimulating blooms of noxious algae in potable water-supply reservoirs
 - Determining the threshold concentrations of water-column nitrate enrichment that cause destruction of sea grass meadows that serve as critical habitat for commercially important finfish and shellfish
 - Tracking fecal coliform and other pathogenic microbes, nutrients and suspended particulates from spills of sewage and animal waste, and assessing the impacts of these pollutants on receiving rivers and estuaries
 - Tracking the transport and fate of nitrates and pesticides in groundwater resources
 - Basin-by basin assessment of relative importance of various anthropogenic sources of pollution, ie. crop fertilization, human sewage, animal wastes, atmospheric deposition, etc.

7. Fisheries Biology.
 - Population dynamics
 - Fishery habitat response to changes in water quality, e.g., submerged aquatic vegetation's response to nutrient enrichment and fish stock growth and survival
 - Characterization of nursery habitats
 - Ecology and physiology of sea grass habitats, the primary spawning grounds for Atlantic fishes
 - Stock assessment and enhancement
 - Impacts of by-catch practices
 - Modeling of migratory movements and population dynamics
 - Aquaculture production systems, including water quality protection and advanced waste management techniques
 - Food safety associated with selected water pollutants in preparation/consumption of marine fish and shellfish products

8. Conservation Biology.
 - Effects of land use and habitat management on animal populations, including Red Cockaded Woodpeckers, Puerto Rican Parrots, Neotropical Migrants, Shore Birds and Black Bears
 - Development of management practices for game bird habitat on farms increases bird production, gives farmers additional sources of income and contributes to control of agricultural runoff
 - Assessment of acute and chronic/sublethal impacts from various pressures, ie. land disturbance from development, pollutants on wildlife, maintenance of species diversity
 - Aquatic, wetland and terrestrial natural ecosystems characterization of structure, full range of functions and benefits
 - Community ecology of North Carolina mountain forests and forest covers

9. Environmental and natural resource economic analysis.
 - Improved techniques for valuing changes in harvests of marine fish stocks applicable, for example, to estimating effects of harvest regulations; and to valuing fishery benefits associated with water quality improvements
 - Improved techniques for estimating economic effects of reallocating harvests between competing commercial harvesters and recreational anglers

- Cost minimizing model of reducing agricultural nutrient runoff applied to Neuse River watershed; currently being extended to include additional sources of agricultural nutrient runoff
- Risk-benefit analysis of animal waste management systems and technologies
- Natural resource policy education
- Economics of integrated solid waste management through assessment of the relative costs/benefits of alternative waste management options (including landfills, incinerators, municipal composting, and recycling)
- Cost analysis of alternative on-site wastewater management options with special emphasis on difficult sites not amenable to conventional septic tanks

10. Basin-wide education for the Neuse River basin.

- Involved 4-H youth in neighborhood-wide urban nutrient management program designed to educate homeowners on proper lawn fertilization practices
- Held "Best Management Practice Workshop" to train staff from a number of agencies in the lower Neuse Basin on practices effective in controlling nitrogen movement into the Neuse River
- Established 'demonstration lawns' in urban neighborhoods and trained master gardeners volunteers to teach homeowners about lawn fertility and water conservation practices
- Held two Urban Stormwater Workshops where over 100 public and private city planners, engineers, and architects learned about new rules effecting the Neuse along with practices and structures for helping control the flow of nitrogen running off urban lands
- Established a Neuse River Basin web site to serve as a clearing house for the public regarding information and links to other resources dealing with the Neuse River
- Urban Stormwater best management practice demonstration sites have been established in Wake, Johnston, Wilson, Wayne, Craven Counties to showcase various practices that municipalities can employ in the Neuse River Basin to control nitrogen
- Accelerating the adoption of no-till crop production in the middle Neuse Basin through establishment of demonstration sites
- Trained and certified animal waste system operators and developed a swine waste application record book to help farmers with animal waste management systems protect water quality
- Established nitrogen management plots on farms in the lower basin to demonstrate to farmers and the fertilizer industry the concept of using RYE (realistic yield estimate) to determine proper nitrogen application rates on crops

11. Fish and Wildlife Sciences, Environmental Sciences, and Natural Resources Curriculums enroll majors who are prepared to be managers of our natural resources, especially fish and wildlife populations, and environmental and natural resource managers.

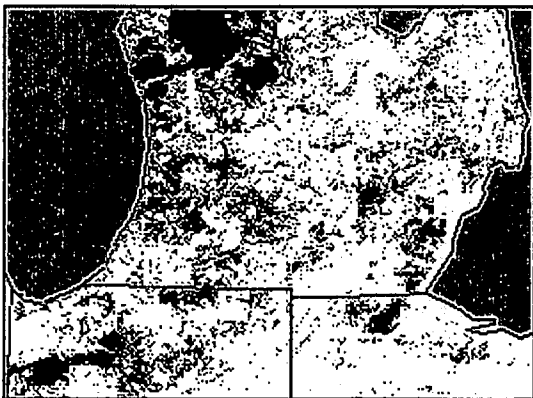
12. Youth environmental education is achieved through programs conducted at 4-H camps and centers involving more than 20,000 youths annually. 4-H school enrichment programs for K-12 reach 88,854 students through the collaborative efforts of county and campus faculty. Topics include environmental stewardship, water quality, energy, forestry and wildlife, composting, recycling and waste management.

Downstream Benefits™

new agronomic systems to meet regional water quality challenges

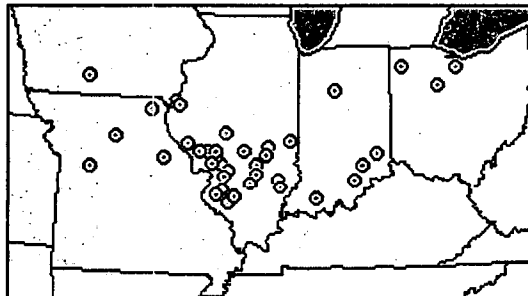
US Agriculture is facing a new challenge to reduce the use of mobile and persistent crop chemicals in order to protect drinking water. Monitoring data show that certain pesticide residues are present at detectable levels and occasionally persist at concentrations above health-standards established by the EPA. While these standards are highly conservative and there is no evidence of harm to the public, there is a clear need to adopt new practices and new technologies which offer the promise of meeting the world's growing production needs *and* reducing the use of older, persistent crop chemicals.

Downstream Benefits™ is a Monsanto program to encourage the use of new agronomic systems in areas with regional water quality challenges. One example of such an area is shown below, the region comprising southern Michigan, northern Indiana, and extreme northwestern Ohio, where sandy soils predominate and ground water quality is threatened by the leaching of mobile and persistent pesticides.



The use of mobile and persistent pesticides should be reduced on sandy soils, where leaching to ground water is possible.

Besides threatening ground water quality in certain vulnerable areas, mobile and persistent pesticides can be transported via runoff and thereby enter drinking water supplies based on surface water, especially those using small reservoirs within intensively farmed watersheds. The map below shows several drinking water systems which have consistently had higher levels of pre-emergent corn herbicides, sometimes exceeding health standards.



Corn herbicides persist at higher levels in the drinking water of several small watersheds, especially those using small reservoirs.

Monsanto has begun a specific effort to encourage growers in such areas to try Roundup-Ready® Corn, Roundup-Ready® Soybeans, and other new seed technologies which reduce a grower's reliance upon mobile and persistent pesticides that could threaten drinking water supplies. Monsanto is also studying the beneficial impacts of precision agriculture techniques on regional water quality. Monsanto believes all of these new technologies will play a critical and essential role in sustaining the world's ability to feed itself while maintaining a healthy environment and a future filled with hope.

MONSANTO
Food • Health • Hope™



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Global Product Stewardship

Stephen A. Adams

Field Environmental Operations

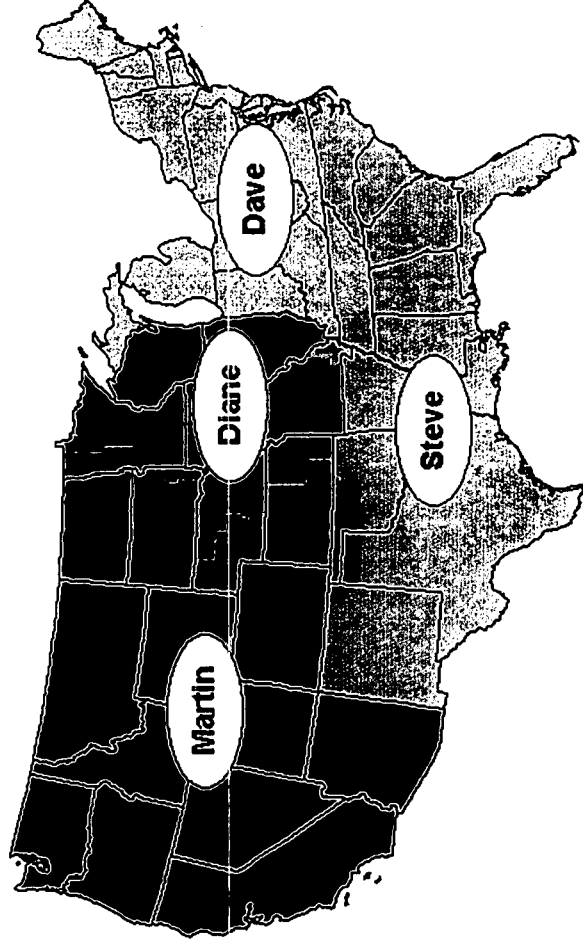
Team

Objectives

- Present an overview of some Monsanto pesticide stewardship programs
- Demonstrate how new technologies in agriculture, especially Roundup Ready[®] technology, can be used to address regional water quality issues in NC
- Discuss how we can encourage the adoption of new technology in vulnerable areas

Field Environmental Operations Team

- Four Team Members
- US Geographic Responsibilities



Stewardship Programs

- Well Assistance Program
- Bulk Repackaging
- Operation Green Stripe
- Soil Mapping
- New Technology
 - Precision agriculture
 - Conservation tillage
 - Roundup Ready® crops

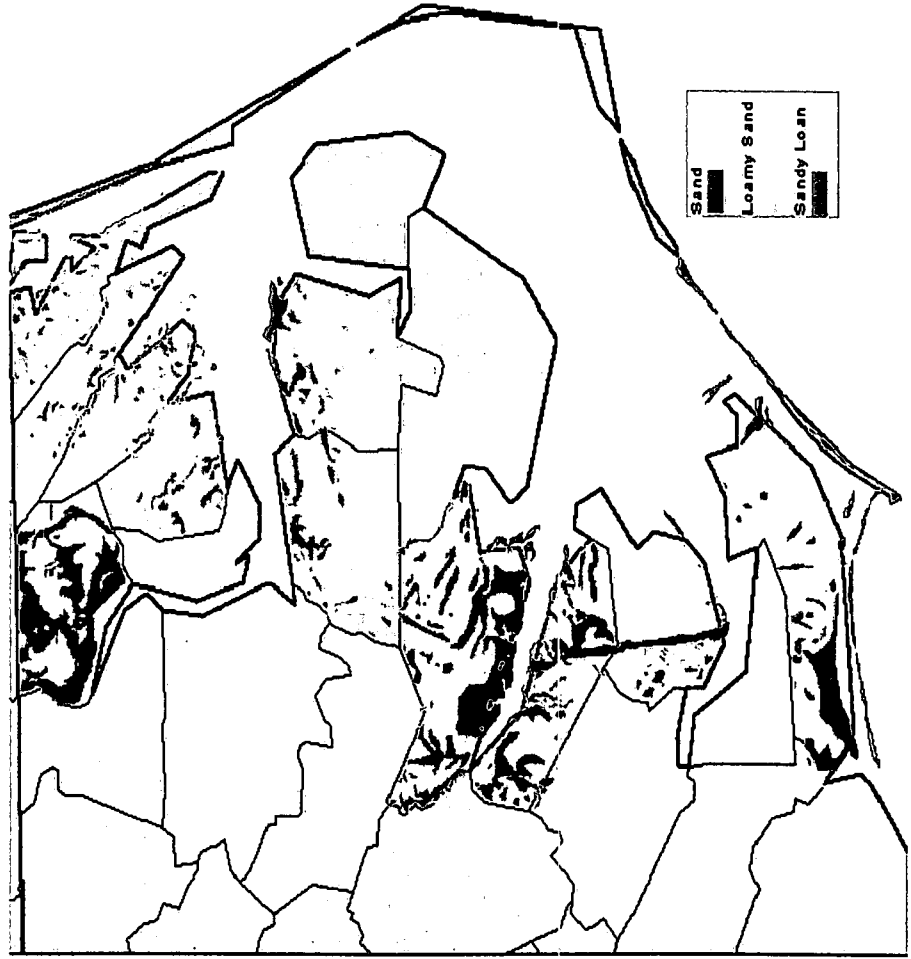
Operation Green Stripe

- An education and conservation program intended to raise awareness to new management practices which can reduce agricultural runoff.
- Educators, farmers, youth and agribusiness working together to protect the environment.
- Monsanto provides funding to participating FFA chapters, local retailers provide seed.

Soil Mapping

- Identify areas of coarse soils that may indicate areas vulnerable to pesticide leaching to ground water

Coarse Soils in North Carolina



New Technology to Address Environmental Concerns

- Conservation tillage
- Precision farming
- Roundup Ready® crops

*... are logical alternatives in areas
vulnerable to ground water leaching and
surface water runoff*

Downstream Benefits™

new agronomic systems to meet regional water quality challenges

- Monsanto program to encourage the use of new agronomic systems in areas with regional water quality challenges

Pesticide Detections in Ground and Surface Water

- The North Carolina State Management Plan (SMP) for pesticides suggests pesticide use reduction or prohibition in areas where pesticides have been detected at levels of concern in ground and surface waters.

Conservation Tillage

- Conservation tillage and buffer strips are two valuable tools to reduce pesticide runoff into surface waters
- Monsanto program to encourage investment in no-till equipment in order to promote this new technology

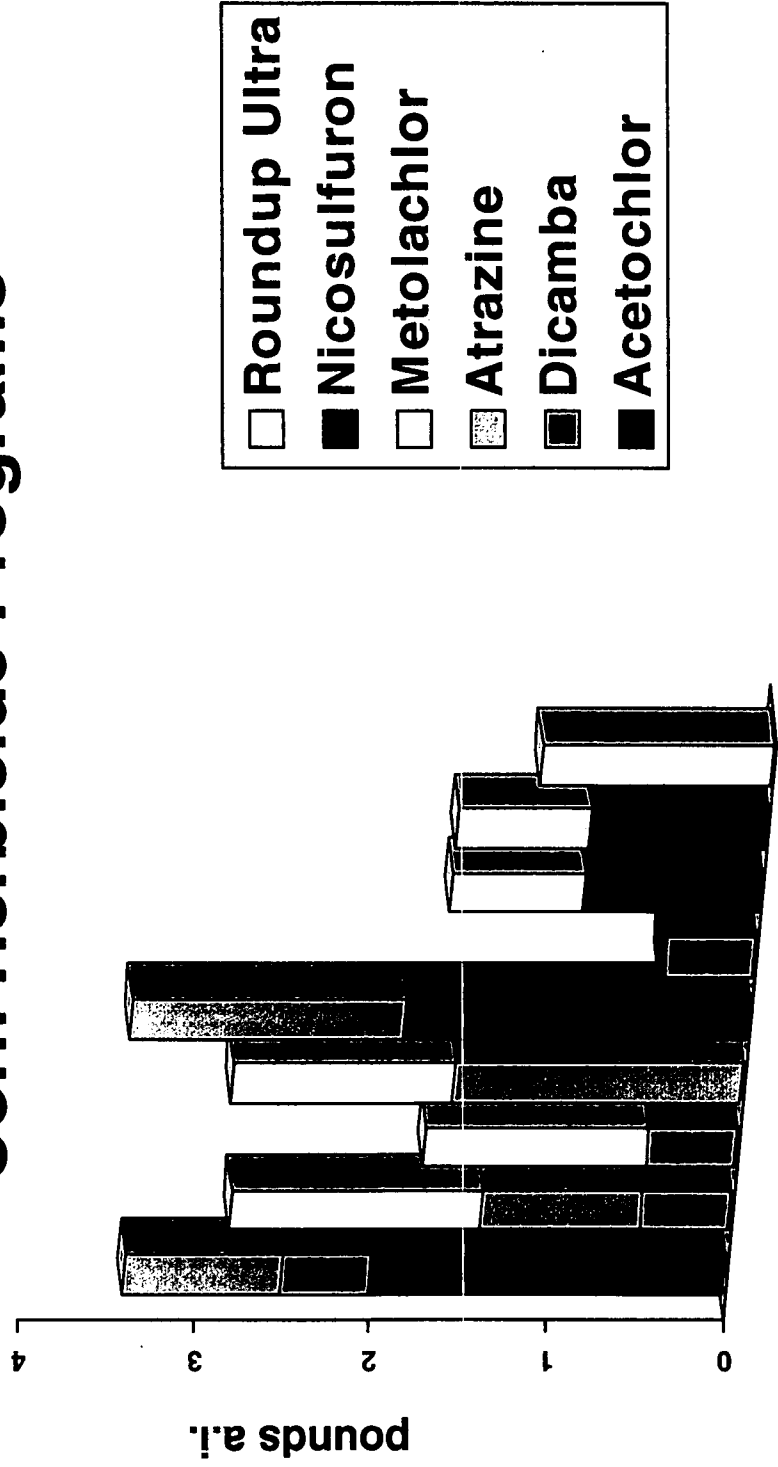
Precision Agriculture

- By using global positioning satellite technology, the farmer can determine precisely where to plant and customize pesticide and fertilizer use for specific areas.

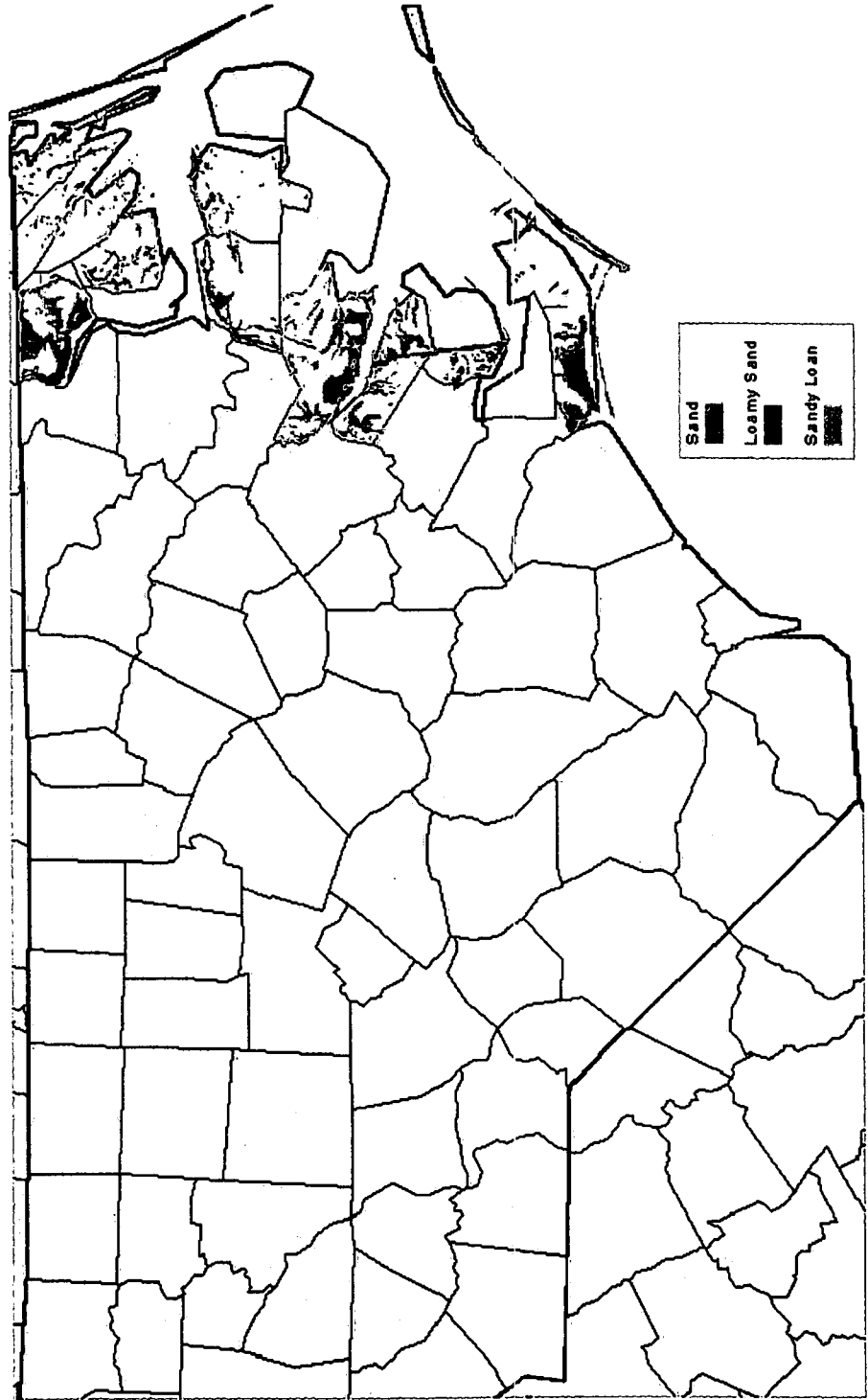
***Result: increased yields and reduced costs
and chemical use.***

Roundup Ready® Technology: Reduced Pesticide Use

Corn Herbicide Programs



Corn Production in NC



Conclusion

- Monsanto has begun a specific effort to encourage growers in certain vulnerable areas to try Roundup Ready[®] Corn and other new seed technologies which reduce grower's reliance upon mobile and persistent pesticides that could threaten drinking water supplies.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

3/9/99
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kim Hibberd	NC League of Municipalities
Lucius PULLEN	ATTORNEY
Joe Zubler	NCSU
Johnny Wynne	NCSU
Den Audesty	NC Pork Council
Bill Dickerson	NC Dept of Agri + Consumer Services
KRISTIN DAVID	Legislative Intern
R. ROGERS	DRPH
Ed Regan	N.C.A.C.C.
Paul Wilms	NCMBA
JOHN ANDERSON	MONSANTO LIFE SCIENCES



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, March 16, 1999
11:00 a.m.
Room 544 - LOB

A G E N D A

GUESTS:

**Dr. James L. Oblinger, Dean
College of Agriculture and Life Sciences
North Carolina State University**

**Dr. Johnny Wynne, Associate Dean
And
Director of the North Carolina Agricultural Research Service
College of Agriculture and Life Sciences
North Carolina State University**

**Dr. Billy Caldwell, Associate Director
North Carolina Cooperative Extension Service**

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

March 16, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, March 16, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were twelve committee members present.

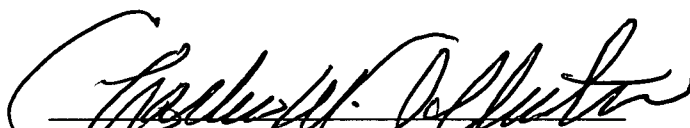
Senator Albertson announced that Dr. Dean Godfrey of North Carolina Agriculture & Technical College in Greensboro would be guest speaker at our next meeting.

Senator Albertson introduced Dr. James L. Oblinger, Dean, College of Agriculture and Life Sciences, North Carolina State University, who introduced Dr. Johnny Wynne.

Dr. Wynne, Associate Dean and Director of the North Carolina Agricultural Research Service, College of Agriculture and Life Sciences, North Carolina State University, gave a presentation on lagoons, nitrates, ammonia emissions and deposition, odors and future directives. Copies of his slides are attached. Members asked questions throughout the presentation.

Dr. Billy Caldwell, Associate Director, North Carolina Cooperative Extension Service, had been scheduled to speak; however, Senator Albertson announced that because of a shortage of time the committee would hear from Dr. Caldwell at a later date.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman

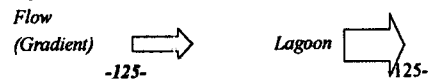


Julia Birdsong
Committee Clerk

LAGOONS AND RISK TO THE ENVIRONMENT

Impact of Pre-1993 Lagoons on Groundwater

- 34 Lagoons tested
- Groundwater sampled 125 feet up and down gradient from lagoon



- Depth -- below water table (8 foot intervals until 20 to 30 feet below surface)
- Surface water also (ditches, streams) sampled
- Water samples analyzed (ammonia form, nitrate)

Interpretation of Results Groundwater

- 36% (12) of sites - no impact on groundwater
- 26% (9) sites - may impact groundwater near lagoon (>10 ppm); unlikely to contaminate wells nearby
- 38% (13) sites - plumes persist at relatively high strengths, could contaminate wells nearby

Surface Water Results

- 7 of 16 sites sampled - no evidence of seepage
- 8 of 16 sites - weak
- 1 of 16 - moderate
- 0 of 16 - strong or very strong

Implication of Results

- 38% of sites: Lagoons have potential to contaminate nearby wells (topography, distance, well construction)
- Perspective: Survey of 1945 lagoons (80%)
 - Pre-1993: 92 (5%)
 - Therefore, 1.9% of lagoons pose potential threat

DENR LAGOON STUDY

- Eleven post-1993 lagoons
- One very strong seepage
- Steady state condition not achieved

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Conclusions

- Most lagoons do not impact groundwater quality
- Significant seepage occurs from a small percentage of pre-1993 lagoons
- Limited DENR Study shows that some post-1993 lagoons have significant seepage

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Well Studies

Cooperative Extension Service (3,652 wells)

Percent of Wells

Nitrate Concentration (ppm)	East	West	All
0 - 3	75	80	78
4 - 9	21	19	20
>10	4	2	2

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Well Studies

Private Company (809 Swine Farms)

Nitrate Concentration (ppm)	Percent of Wells
<1	97.8
1 - 10	1.7
>10	0.5

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Ammonia Emissions and Deposition

- Atmospheric deposition: process whereby dust and chemicals are deposited on the earth's surface. Wet deposition - total deposition from precipitation. Dry deposition - fraction deposited in dry weather
- NC State University (NCARS) monitoring atmospheric deposition at 7 NC sites since 1978 - part of National Atmospheric Deposition Program

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Continued

- Highest concentration of ammonium (contains nitrogen) found associated with fertilizer and livestock.
- NADP data shows that 30% of Chesapeake nitrogen coming from atmospheric sources - more nitrate in bay deposition.
- DAQ estimated that ammonia emissions were 83,230 tons for swine in 1995 (9.3 million hogs). Emissions estimated based on emission factor of 7.6 kg NH₃/pig.

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Atmospheric Emission

Summary of Results --Two Lagoons in NC

- Emission factor for same lagoon (farrow to finish differed depending on measurement technique (1.8 vs. .8 kg NH₃/animal/year).
- This is lower than 7.6 kg NH₃/animal/year used by DAQ to estimate 1995 ammonia emissions for swine. However, does not include emissions from houses or fields.

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Estimation of Atmospheric Deposition of Ammonium and Nitrates in NC

- NADP, CASTnet and National Weather Service data used to determine wet and dry deposition.
- Compared 1989 and 1994 since 1989 -- 2 millions pigs and 1994 -- 6 million pigs
- Total nitrogen deposited across state greater in 1989 than 1994 (1989 was wetter than 1994)
- An analysis of NADP data showed increase in annual ammonium wet deposition in Southeastern Coastal Plain of NC

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Atmospheric Deposition of N₂ to Vegetation

- Measured atmospheric nitrogen deposition near a swine facility in Neuse River and at three other sites forming a NE-SW transect covering 60 miles
 - At the swine facility, dry deposition of ammonium nitrogen was 2 x (10.2 Kg N/ha) than that of wet deposition (August 6, 1997 - April 16, 1998)
 - Total ammonium nitrogen was 14.5 Kg N/ha
 - Bulk deposition of ammonium nitrogen increased from SW to NE. Consistent with hypothesis that animal densities have increased ammonium nitrogen in rainwater.
- Study will be expanded and continued.*

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**Conclusions
Atmospheric Deposition**

- Need to continue studies since much technical information missing or too preliminary
- Need interagency cooperation to determine emissions, deposition and technology to reduce emissions
- Will need to develop BMP to reduce emissions

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Research Areas for Odor Control

- Measurement of Odor
- Effect of Diet on Odor
- Dust and Odor Control Systems for Facilities (Biofilters, Windbreak Walls, Wet Scrubbers, Ozonation)
- Alternative Waste Management Technologies
- Odor Control Products

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Dust and Odor Control Systems

Windbreak Walls

- Wall redirects airflow, slows it down and collects dust
- Evaluation at swine farm: Air flow 10 feet or more over lagoon
- Reduced odor at windbreak site (Scentometer)



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Development of Electronic Nose for Monitoring

- Electronic device to measure odor
- Mimics the human nose
- Hand-held electronic nose
- Monitor odor in real time

NC STATE UNIVERSITY**Odor of Alternative Waste Management Technologies**

Technology	Assessment
Newman Environmental Studies Aerobic Treatment of Animal Wastewater	No significant impact on odor No nutrient reduction
Ekokan, Inc. Animal Waste Management Treatment System	Reduced odor Removed significant N ₂ Cost \$2.02/pig finished
Mobil Tangential Flow Separator	No odor effect 90% of phosphorous removed
Biosystems Technology	Reduced odor Effectively removed nitrogen Prevented ammonia volatilization

NC STATE UNIVERSITY**National Swine On-Farm Odor/Environmental Assistance Program (OFO/EAP)**

- PROGRAM
 - Farm description data by producer
 - Assessment by trained engineers (CES)
 - Written recommendations to producer and generic database
- ASSESSMENT
 - Overall location and appearance
 - Production buildings
 - Manure handling, treatment, storage and application
 - Mortality management

NC STATE UNIVERSITY**Alternative Animal Waste Management Technologies**

- Nineteen technologies under or planned for evaluation
- Several technologies show promise, however
 - Costs are higher
 - No guarantee of system not failing (2400/64)
 - Competitive disadvantage to change waste management systems
- Address problems based on facts
- Need to use manure as resource
 - Value-added products
 - Land application

NC STATE UNIVERSITY**Future Directions**

- Alternative Waste Treatment Technologies
 - Private sector
 - Constructed wetlands
 - Thermophilic anaerobic digester/integrated farming
 - Photosynthetic system
- Odor Control Technology
 - Electronic nose development
 - Dietary manipulation to reduce odor/ammonia emissions
- Atmospheric Emission
 - Building and spray fields
 - Best management practices
 - Dry deposition over vegetative surfaces
- Monitoring and Assessment
 - Isotope Study
 - Lagoon modification
 - Techniques for assessing seepage

NC STATE UNIVERSITY**TOBACCO SITUATION**

- Economic Impact
 - Farms sales of \$1.2 Billion in 1997
 - \$12 Billion for cigarette manufacturing
 - \$2.2 Billion for processing
- Effect of Declining Use
 - Flue-cured quota declined 17.5% in 1999; 18% in 1998
 - Burley quota declined by 28% in 1999
 - Income reduced \$160 Million from 1998; \$380 Million from 1997

NC STATE UNIVERSITY**Opportunities to Supplement/Replace Income STRATEGIES**

- Enterprise Diversification
- Vertical Integration
- Production Contracts
- Marketing Contracts
- Future Contracts
- Future Options Contracts
- Liquidity
- Crop Yield Insurance
- Crop Revenue Insurance
- Household Off-Farm Income

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**Opportunities to Supplement/Replace Income
Role of College**

Diversification

- Specialty fruits and vegetables
- Aquaculture
- Organic production
- Rotational grazing - dairies
- Meat goat production
- Herbs and nutraceuticals
- Ornamental and floral production
- Small Fruits: Strawberries, blueberries, grapes, brambles
- Greenhouse crops; e.g. tomatoes using bio-resources from swine waste
- Alternative uses for tobacco
- Value-enhanced crops for niche markets - soyfoods
- Environmental sustainability of swine and poultry industries
- Grower Education Programs

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**Demand for organically produced food is
increasing dramatically:**

- The value of the industry is now \$4.5 billion
- Growth for the last 7 years has been greater than 20% per year
- Represents the largest growth segment in agriculture today
- The number of organic farms in NC has tripled in the last 4 years

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**Center for Environmental
Farming Systems**

NC STATE UNIVERSITY

**Demand by organic retailers is outstripping
NC production of organic products:**

- Organic corn is selling for \$5.20 per bushel
- Organic soybeans are selling for \$11 to \$22 per bushel depending on variety
- One current industry contact needs help filling a 1000 MT organic canola order
- Organic produce sales is among the fastest of any sector in NC retail food industry

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**High value organic crops can keep small
farming enterprises viable:**

- Organic production is a legitimate and economically viable alternative enterprise
- Small farmers can earn a decent living on small organic acreage
- High returns and lower land and capital requirements
- One way new growers can enter agriculture
- Viable, small farm enterprises preserve rural open-space and present alternatives to urban sprawl

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**Organic Unit at the Center for Environmental
Farming systems: (OUCEFS) serves the people
of the State of NC:**

- OUCEFS is a NCDA & CS, NCSU and NCA&TSU collaboration. Support from organic growers and non-governmental organization; e.g. Farm Bureau, Conservation Council and the Carolina Farm Stewardship Association
- Projects to investigate organic farming practices to reduce chemical inputs for control of insects, diseases and weeds
- Emphasis to protect water resources and reduce impacts of farming practices on water quality
- Nutrient management and conservation is primary focus

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CEFS can serve as a center for agricultural education in environmentally sustainable farming practices:

- A model for a viable small farm enterprise
- A center for agricultural literacy for our school children
- A site for field days and demonstration of sustainable farming practices for practicing farmers
- A model for a biologically based agriculture for the entire Southern United States

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Goals and Outcomes of Extension Programs

Audience

Farmers & Agribusiness

Youth & Families

Communities

Outcome

Helping build economically, environmentally and socially sustainable farms and agribusinesses

Preparing youth to meet the challenges of the future and to develop strong, healthy families

Assisting communities with environmental and strategic planning and leadership development

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Meeting Significant Needs

- Environmental needs
- Integrated Pest Management and pesticide reduction
- Food safety and quality/HACCP training
- Basic production agriculture needs

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Our Current Challenges

- Agricultural financial stress
- Farmers' needs for assistance
- Training and education

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

3/16/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Howey	NCPMA, Inc.
Gary Harris	NCPMA, Inc.
Bill Caldwell	NCSU - College Agr + LS
JOHNNY WYNN	NCSU
Blake Brown	NCSU
Kim Hibbard	NCLM
Lisa Martin	Upper Neuse River Basin Assn.
Jan Brothrick	UNC-GA / NCSU Ag Pgms.
Walter Cherry	NC Park Council
Walter Cherry	WATER
David Knight	NC Sierra Club, NC Wildlife Fed
Laura DeVivo	DENR
Nat Muel	CCNC
Tommy Stevens	DWR

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Amanda Ray	College of the Albemarle
Thomas James	Farma Retrieval
Quinn Wood	NS
Steve Woodson	NC Farm Bureau
Jim Kuszas	NCEI
BOB HEDRICK	CNC
Mully Diggins	Seaweed
Colin Sullivan	OWB
Amy Fullbright	Huntton: Williams
Wann Lee	Pork Council



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, March 23, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

SENATE BILL 249

EXTEND CORE SOUND MORATORIUM
Senator Albertson

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

March 23, 1999

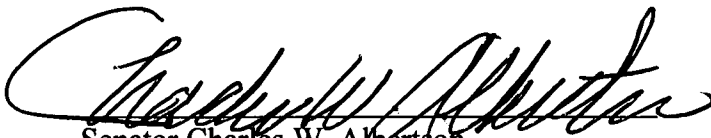
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, March 23, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were thirteen committee members present.

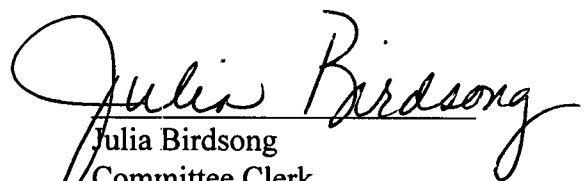
The following bill was on today's agenda:

SENATE BILL 249 – EXTEND CORE SOUND MORATORIUM – Senator Albertson, bill sponsor, called on Senator Robinson, vice chairman, to chair the committee so that he could explain the bill. After discussion, Senator Wellons moved that the bill be given a favorable report. Motion carried.

Senator Albertson introduced Dr. Jon Ort, Associate Dean and Director of the North Carolina Cooperative Extension Service, College of Agriculture and Life Sciences, North Carolina State University, who spoke on "Goals and Outcomes of Extension Programs". Also present was Dr. Johnny Wynne, Associate Dean and Director of the North Carolina Agricultural Research Service, College of Agriculture and Life Sciences, North Carolina State University, who along with Dr. Ort answered questions from committee members.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair

Tuesday, March 23, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	249	EXTEND CORE SOUND MORATORIUM
		Sequential Referral: NONE
		Recommended Referral: NONE

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 249*

Short Title: Extend Core Sound Moratorium.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

March 8, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH
3 CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION
4 OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT
5 THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE
6 MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION
7 ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES
8 COMMISSION, AND TO REQUIRE THE MARINE FISHERIES COMMISSION
9 TO REVIEW THESE RESULTS AND REPORT ITS FINDINGS AND
10 RECOMMENDATIONS TO THE JOINT LEGISLATIVE COMMISSION ON
11 SEAFOOD AND AQUACULTURE, AS RECOMMENDED BY THE JOINT
12 LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

13 The General Assembly of North Carolina enacts:

14 Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular
15 Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995
16 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session
17 Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347;
18 Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L.
19 1998-56, reads as rewritten:

20 "Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation
21 leases shall be imposed in the remaining area of Core Sound not described in Section
22 1 of this act. During the moratorium, a comprehensive study of the shellfish lease
23 program shall be conducted. The moratorium established under this section covers
24 that part of Core Sound bounded by a line beginning at a point on Cedar Island at

1 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N -
2 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at
3 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at
4 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N -
5 76°31'12"W, thence following the shoreline in a northerly direction to the point of
6 beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the
7 Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1,~~
8 ~~1999.~~ July 1, 2000."

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

14 Section 3. The Marine Fisheries Commission shall review the results of
15 the shellfish mapping and human use mapping of Core Sound and shall report its
16 findings, including any recommendations, to the Joint Legislative Commission on
17 Seafood and Aquaculture no later than February 1, 2000.

18 Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 249*

Short Title: Extend Core Sound Moratorium.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

March 8, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE MORATORIUM ON ISSUING SHELLFISH
3 CULTIVATION LEASES IN CORE SOUND, TO REQUIRE THE DIVISION
4 OF MARINE FISHERIES AND THE PRIMARY INVESTIGATOR TO REPORT
5 THE RESULTS OF THE SHELLFISH MAPPING AND HUMAN USE
6 MAPPING OF CORE SOUND TO THE JOINT LEGISLATIVE COMMISSION
7 ON SEAFOOD AND AQUACULTURE AND THE MARINE FISHERIES
8 COMMISSION, AND TO REQUIRE THE MARINE FISHERIES COMMISSION
9 TO REVIEW THESE RESULTS AND REPORT ITS FINDINGS AND
10 RECOMMENDATIONS TO THE JOINT LEGISLATIVE COMMISSION ON
11 SEAFOOD AND AQUACULTURE, AS RECOMMENDED BY THE JOINT
12 LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

13 The General Assembly of North Carolina enacts:

14 Section 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular
15 Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995
16 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session
17 Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347;
18 Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; and Section 1 of S.L.
19 1998-56, reads as rewritten:

20 "Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation
21 leases shall be imposed in the remaining area of Core Sound not described in Section
22 1 of this act. During the moratorium, a comprehensive study of the shellfish lease
23 program shall be conducted. The moratorium established under this section covers
24 that part of Core Sound bounded by a line beginning at a point on Cedar Island at

1 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N -
2 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at
3 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at
4 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N -
5 76°31'12"W, thence following the shoreline in a northerly direction to the point of
6 beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the
7 Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~July 1,~~
8 ~~1999.~~ July 1, 2000."

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

14 Section 3. The Marine Fisheries Commission shall review the results of
15 the shellfish mapping and human use mapping of Core Sound and shall report its
16 findings, including any recommendations, to the Joint Legislative Commission on
17 Seafood and Aquaculture no later than February 1, 2000.

18 Section 4. This act is effective when it becomes law.



SENATE BILL 249: Extend Core Sound Moratorium

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: March 23, 1999

Version: First Edition

Introduced by: Senator Albertson

Summary by: Jeff Hudson,
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.

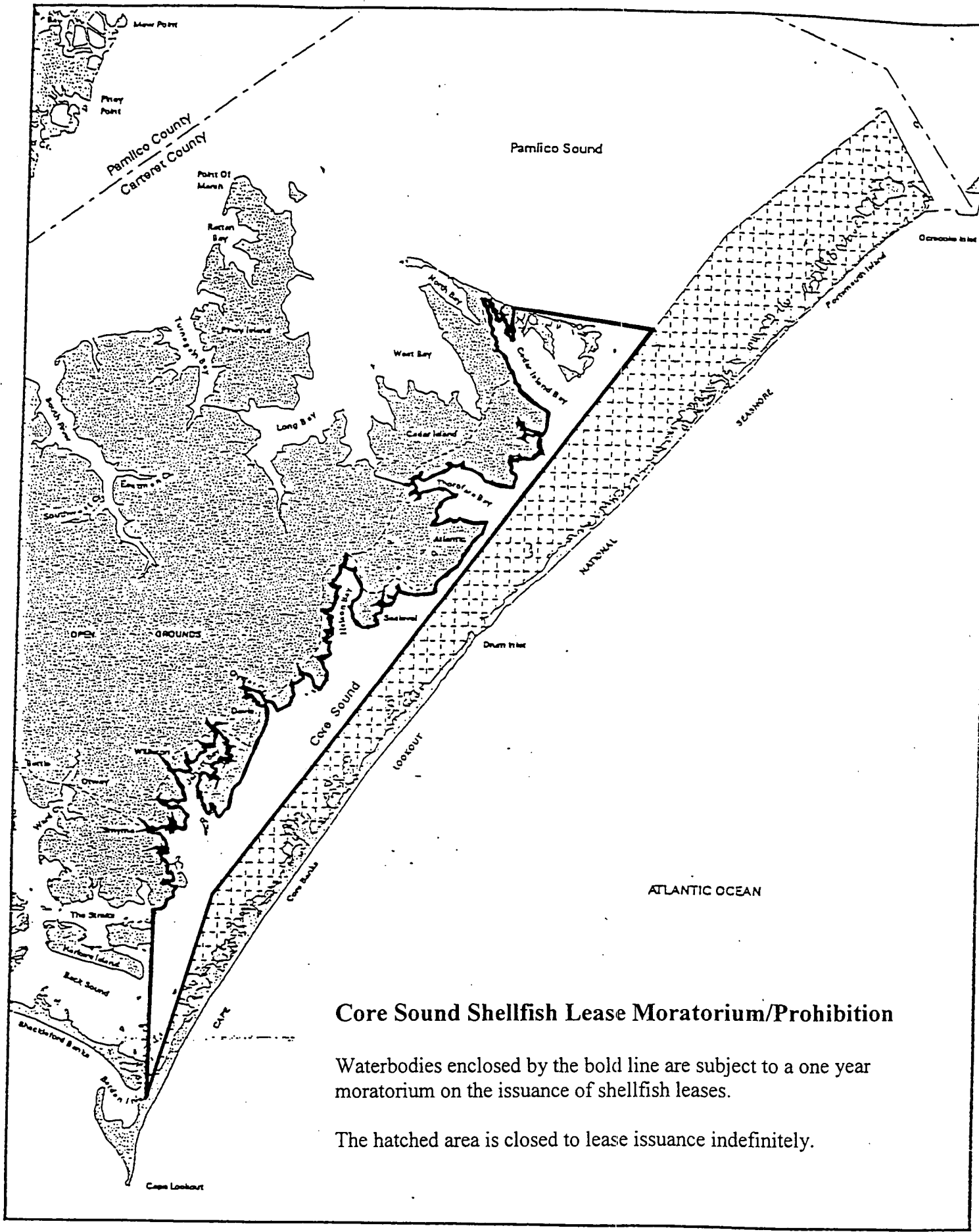
BILL ANALYSIS: Senate Bill 249 extends the moratorium on issuing shellfish cultivation leases in Core Sound from July 1, 1999 to July 1, 2000. Senate Bill 249 also requires the Division of Marine Fisheries and the Primary Investigator for the Core Sound Human Use Mapping Project to report the results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

BACKGROUND: Senate Bill 249 was recommended to the 1999 General Assembly by the Joint Legislative Commission on 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 North Carolina Division of Marine Fisheries 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. These studies should provide information relevant to resolving the user conflict in Core Sound.

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



Core Sound Shellfish Lease Moratorium/Prohibition

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

The hatched area is closed to lease issuance indefinitely.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

3/23/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steve Woodson	NC Farm Bureau
Jim Handberg	NC Park Council
C. Porter	Bone & Associates
R. ROGERS	DENR
Thomas Miller	OWSS
Natalie English	NC Agribusiness Council, Inc.
Kim Hibbard	NCLM
Lisa Martin	Upper Neuse River Basin Assoc.
John Cyrus	N.C. State Grange
Alan Briggs	S.O.S.
George Everett	Duke Energy

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bob Sloan	NC Forestry Assoc.
JERRY SCHIL	NC FISHERIES ASSOC.
Leslie Dunn	CA Ag Leadership
Kimberly CLAUS	" "
Devin Nunes	" "
Douglas DeGroot	
Ray Velthuis	
John Fock	
Michael T. Leung	
Kent A. McKeown	
Mark Oldenkamp	

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

3/23/99
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sandy Creighton	Ca Ag Leadership Program
Glenn Proctor	" " "
Rex Whittle	" "
Rod Stark	" " "
Bob Cherenson	" " "
Aaron Albaugh	" " "
JULIAN WHALEY	" "
PHIL HUBBARD	" " "
Philip Janzen	" " "
PHIL WADDELL	" " "
Lisa Leondis	" " " "



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, March 30, 1999

11:00 a.m.

Room 544 - LOB

A G E N D A

SB 560

COUNTRY HAM PRESERVATION ACT
Senator Horton

GUESTS FROM N. C. A&T STATE UNIVERSITY IN GREENSBORO

Dr. Daniel D. Godfrey, Dean and Administrator
School of Agriculture

Dr. Manuel Reyes, Assistant Professor
Department of Natural Resources & Environmental Design

Mr. Richard L. Phillips, Agricultural Engineer,
Department of Natural Resources & Environmental Design

Dr. Marihelen Glass, Professor
Department of Landscape Architecture and Horticulture

Dr. Ghasem Shahbazi, Agricultural Engineer,
School of Agriculture

Dr. Robert Williamson
Natural Resource Specialist, Cooperative Extension Program

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

March 30, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, March 30, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fourteen committee members present.

The following bill was on today's agenda:

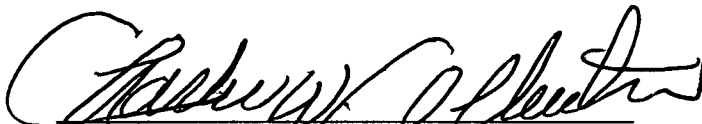
SENATE BILL 540 – COUNTRY HAM PRESERVATION ACT – Senator Horton, bill sponsor, explained the bill. Senator East moved for a favorable report. Motion carried.

Senator Albertson announced that we had guests from N. C. A&T State University in Greensboro who would make presentations on their school's programs to the committee. These guests were:

Dr. Daniel D. Godfrey, Dean and Administrator, School of Agriculture
Dr. Manuel Reyes, Assistant Professor, Department of Natural Resources &
Environmental Design
Richard L. Phillips, Agricultural Engineer, Department of Natural Resources &
Environmental Design
Dr. Marihelen Glass, Professor, Department of Landscape Architecture and
Horticulture
Dr. Ghasem Shahbazi, Agricultural Engineer, School of Agriculture
Dr. Robert Williamson, Natural Resource Specialist, Cooperative Extension
Program

This group gave one of the most enthusiastic and interesting presentations the committee had heard and generated many positive comments from everyone.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, March 30, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	560	Country Ham Preservation Act	
		Sequential Referral:	None
		Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

FILED - SENATED

SENATE DRS3662-LD088.01(3.23) \$ 5 60 - MAR 25 1999

PRINCIPAL CLERK

Short Title: Country Ham Preservation Act.

(Public)

Sponsors: Senator Horton.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT MARKETS THAT SELL UNCOOKED CURED
3 COUNTRY HAM OR UNCOOKED CURED SALTED PORK THAT
4 INVOLVES CERTAIN MINIMAL PREPARATION ARE EXEMPT FROM
5 REGULATION UNDER CHAPTER 130A OF THE GENERAL STATUTES
6 WHEN THAT MINIMAL PREPARATION IS THE ONLY ACTIVITY THAT
7 WOULD SUBJECT THESE MARKETS TO SUCH REGULATION.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 130A-250 is amended by adding a new subdivision to
10 read:

11 "§ 130A-250. Exemptions.

12 The following shall be exempt from this Part:

13


14

15

16 (10) Markets that sell uncooked cured country ham or uncooked cured
17 salted pork and that engage in minimal preparation such as slicing,
18 weighing, or wrapping the ham or pork, when this minimal
19 preparation is the only activity that would otherwise subject these
20 markets to regulation under this Part."


21

22 Section 2. This act is effective when it becomes law and applies to
establishments that are in operation on or after that date.



Erosion and Water Quality Modeling (EWQM)

Dr. Manuel R. Reyes
Dr. Godfrey A. Gayle



A&T Facts:


- At least \$1,000,000 in FEDERAL funding

EXPERIMENTATION:

- Sixteen Tillage, Runoff, Agricultural Chemical Erosion (TRACE) plots

Only ONE in the state and nationally few

Proved several environmental benefits of no-tillage



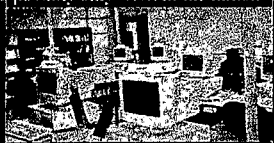
A&T Facts:

- At least \$1,000,000 in FEDERAL funding


Only ONE in the state, and possibly only ONE in the nation

EVALUATION:

- Computers for testing the performance of several Erosion and Water Quality Models (EWQM)



Finding out what is the best EWQM




A&T Facts:

- At least \$1,000,000 in FEDERAL funding


Only ONE in the nation with an accredited agricultural and biosystems engineering degree in an 1890 HBCU.

EDUCATION:

- Undergraduates trained in EWQM. Since 1996, eight went to graduate school.



Proved excellent quality of the agricultural and biosystems engineering program




A&T Facts:

- At least \$1,000,000 in FEDERAL funding


Only ONE in the state, and possibly only ONE in the nation

EXTENSION:

- Hands on training on several EWQMs
- Field demonstrations on the benefits of no tillage



Trained NRC's staff, faculty, scientists, and engineers in EWQM or on the benefits of no-tillage.



A&T Facts:

- At least \$1,000,000 in FEDERAL funding

EWQM:

- past proposal
- present proposal
- future proposal

EXPERIMENTATION

EVALUATION

EDUCATION

EXTENSION

Center for Erosion and Water Quality Modeling

- At least \$???? in STATE funding

Constructed Wetlands

Mr. Richard L. Phillips
Agricultural Engineer
Dr. G. B. Reddy
Professor

Measurements

- Nitrogen quantities in and nitrogen quantities out
- Temperature, redox potential, pH, precipitation
- Data loggers, automatic samplers, phone connections, solar panels in place to gather and record data

Some Results

- Wastewater applied in 1998 for 4.5 months only
- Daily rate was 7 lbs per acre for 2 cells. 945 lbs of N applied per acre, 700 lbs removed (75%)
- Daily rate was 21 lbs per acre for 2 cells, 2840 lbs of N applied, 1420 lbs removed (50%)
- Compares with crop or hay removal rate of 120-150 lbs per acre per year, or a rate of 6 to 20 times as much

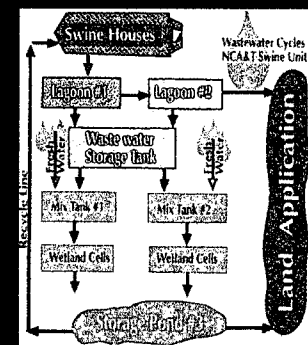
Goals of Future Research

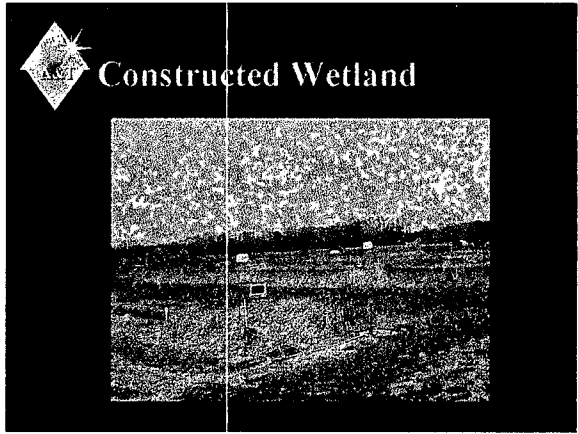
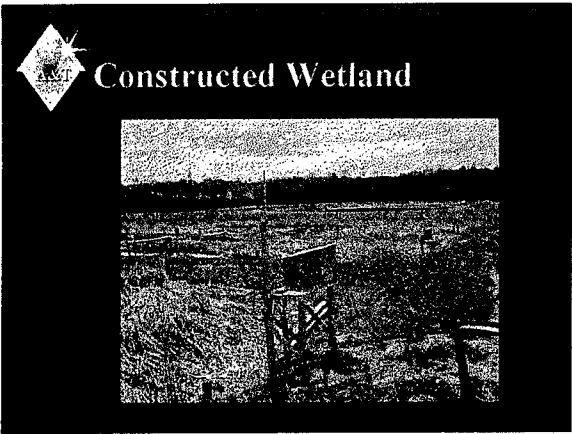
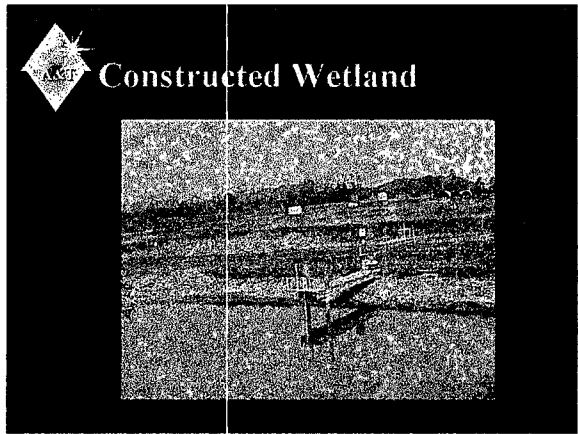
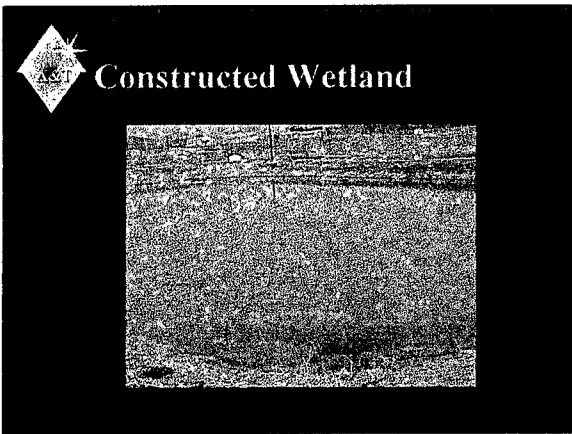
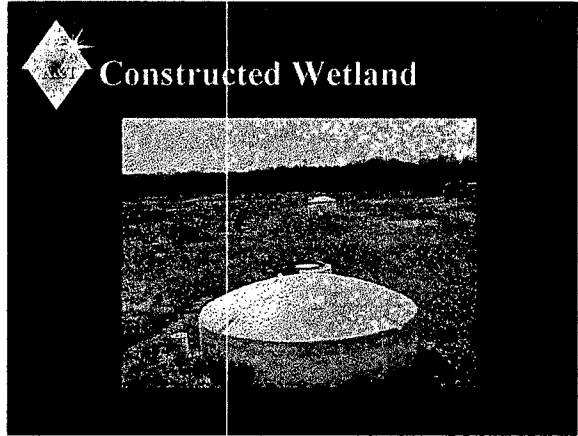
- Determine Maximum loading rate (up to 12,000 lbs per acre)
- Determine odor reduction
- Determine ammonia stripping
- Research to eliminate lagoons

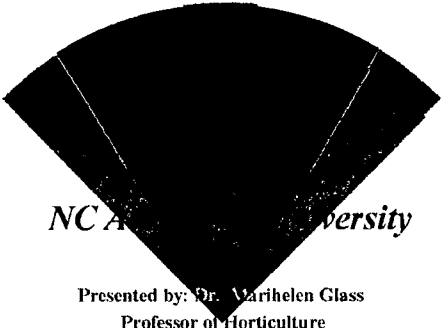
Principal Cooperators

- USDA, Agricultural Research Service, Florence, S.C.
- N.C.S.U. Biological Engineering Department

Diagram







NC A&T State University

Presented by: **Dr. Marihelen Glass**
 Professor of Horticulture
 Department of Natural Resources and
 Environmental Design

Biotechnology at NC A&T State University

- ▶ Biotechnology involves the use of organisms, cells, or molecules isolated from cells to make products or solve problems. Biotechnology is becoming a key resource for many industries working in pharmaceuticals, agriculture, chemical products, environmental remediation, and energy.
- ▶ Career opportunities open to biotechnologists include: teaching, research and development, production and quality control, sales and marketing, regulatory affairs, legal affairs, public relations, communications, training, and management.
- ▶ In North Carolina more than 70 companies are involved in biotechnology research, development and manufacturing.


Biotechnology Relates to Every Aspect of Agriculture

- ▶ In the developed world, consciousness of environmental issues such as chemical contamination of groundwater with pesticides, herbicides and fertilizers, has led to a growing use of genetic technologies to replace traditional methods of agriculture.
- ▶ In the under developed world, the industry needed to build and maintain modern farming equipment is lacking. Costs for agri-chemicals are prohibitive. Modified crops can be grown with traditional non-mechanical methods and provide the same results as mechano-chemical methods.

Relevant Aspects of Agricultural Biotechnology


- ▶ Genetically modified trees are resistant to diseases and grow at high rates to replace forest resources.
- ▶ Biological replacements for agricultural chemicals protect the environment.
- ▶ Genetically modified foods have increased nutritive values and resist spoiling.
- ▶ Modification of traditional crops allows nitrogen fixation and insect resistance in non-fixing plant crops.
- ▶ Plants today are engineered to produce valuable bio-pharmaceutical products.
- ▶ Cultured, modified insect cells produce bio-pharmaceuticals. Engineered plants produce insect specific toxins.

Forestry




- ▶ Genetically modified trees are resistant to diseases and grow at high rates to replace forest resources.


Crops




- ▶ Modification of traditional crops allows nitrogen fixation and insect resistance in non-fixing plant crops.




Ecology




- ▶ Biological replacements for agricultural chemicals protect the environment.



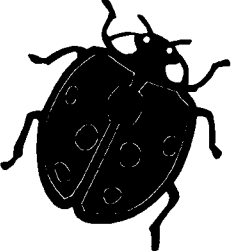
Food




- ▶ Genetically modified foods have increased nutritive values and resist spoiling.



Insect use and control




- ▶ Cultured, modified insect cells produce bio-pharmaceuticals.
- ▶ Engineered plants produce insect specific toxins




Animal Science Research

- ▶ Evaluation of the molecular mechanism of anti-inflammatory activity of Cat's Claw. Potential application to emphysema and chronic inflammatory diseases of the lung.
- ▶ Alternative model of developmental toxicology using molecular end-points in brine shrimp at various stages of development. Potential understanding of environmentally induced genetic defects.
- ▶ Investigation of the molecular mechanism of ozone-induced lung damage in mice. Potential understanding of pollutant effects on lung tissue at molecular level leading to treatment.
- ▶ Use of polymerase chain reaction technology to diagnose *Campylobacter jejuni* in poultry at the time of processing
- ▶ Analysis of the mechanism of antibiotic resistance in infectious diseases and development of diagnostic assays for immune function.




Natural Resources and Environmental Design

- ▶ Development of an acid/aluminum soil tolerant alfalfa which can grow without lime input in Piedmont and Appalachian soils. World's number one forage crop. Two cultivars developed at NCA&T are soon to be released by the USDA.
- ▶ Establishing a model *in-vitro* regeneration system for phyto-remediation. Due to its dense root structure, alfalfa is an excellent plant for use in soil conservation and bio-remediation.
- ▶ Establishment of an efficient *in-vitro* regeneration system for chestnut transformation. To transform any species it is necessary to develop a method of going from single, altered cells back to whole plants.
- ▶ Enhancing American Chestnut blight-resistance through genetic transformation. Some resistance has been developed, but complete resistance will require genetic manipulation.



Interdisciplinary Certificate

- ▶ A certificate in biotechnology is offered for students in Animal Science, Biology, Chemical Engineering, Chemistry and Natural Resources and Environmental Design.
- ▶ Students must complete 18 credits from a course list. Nine from core courses and nine hours of specific Biotechnology courses.
- ▶ 1998, the first class eligible for the certificate graduated. Ten students received the certificate.




Utilization of Wood Waste & Residue to Produce Fuel and Value-Added Products in NC

Dr. Ghasem Shahbazi, Agricultural Engineer
School of Agriculture, NC A&T SU



Current Project: Assessing the Volume of Wood Waste & Residue

- ◆ Sources of Wood Waste & Residue are:
 - ◆ Harvested Wood
 - ◆ loggers, chippers, land clearers, developers, ...
 - ◆ Mill Residue
 - ◆ saw mills, planing & flooring mills, timber mills
 - ◆ Pallet Wastes
 - ◆ Construction and Demolition Wood



Energy Extraction & Use

- ◆ Thermochemical Conversions:
 - ◆ Direct Combustion of wood pellets
 - ◆ Gasification of wood pellets
- ◆ Conversion of a coal burning boiler to a wood pellet burning boiler in a private company




Future Research & Development

- ◆ Identify wood waste producers & users
- ◆ Haul waste to a central processing plant
- ◆ Use mobile chippers & stationary grinders
- ◆ Produce wood pellets for fuel & landscaping
- ◆ Create multiple value-added products
- ◆ Market value-added products
- ◆ Create international markets for NC products



Benefits

- ◆ Recycling of valuable renewable energy supplies and replacing fossil fuel
- ◆ Offering wood related industries a means of disposing wood waste efficiently and economically
- ◆ Freeing up landfill capacity to extend landfill longevity
- ◆ Developing a sustainable forestry industry in North Carolina by using the pelletized wood waste



Benefits (continued)

- ◆ Reduction of emission from coal fired boilers
- ◆ Generation of clean air credits for NC (textile industry in particular)
- ◆ Identification & extraction of pine oils and anti-toxins from pine wood for commercial applications
- ◆ Use of wood pellets to manage hog and poultry waste and odor
- ◆ Creation of local jobs and income

NC A&T Natural Resources and Environmental Management Program

Goal: North Carolina youth receive **balanced** educational experiences enabling them to appreciate an urban and rural coexistence of people through development of informed decision-making skills.

Flagship Program -- "Down-to-Earth"

- use experimental gardens as hands-on learning sites
- supported by university and community-based partnerships
- adaptable for formal and non-formal educational settings

Youth Learn

- to use the scientific method
- sustainable food and fiber production
- how to reduce agricultural hazards
- environmental interconnections
- career opportunities

Related Benefits

- improve problem solving and critical thinking skills
- enhancement of team building and self esteem skills

Academic Changes Observed

- increased knowledge in 7 of 9 content areas
- 79% increased their knowledge about health and human safety

Key Impacts Since 1997

- 500 educators trained from 55 NC counties
- 3,000 students reached
- 3 NC school districts received \$1.3 million in grants
- 30 states requested program components

Expansion Needs

- mini-grants for startup costs
- purchase and development of supplemental resources
- periodic update training of educators
- dissemination of program via distant learning opportunities
- establishment of regional learning sites

Proof of Program Adoption

- media reports
- Extension impact reports
- anecdotal success stories
- requests for program materials
- letters of endorsement

Website

<http://www.ag.ncat.edu/extension/programs/dte/index.html>

The 1890's Focus on Small Farms, Families and Individuals



Dr. Daniel D. Godfrey, Dean and Administrator,
NC A & T State University

The Changing Rural/Urban Landscape

- Demographics
- Ethnicity



Impact on:

- The Rural Community
- Agribusiness
- Quality of Life



National/Regional Centers

- Small Farm Commission Recommendations
- Establishment of a National Small Farm Advisory Council
- Establishment of 4-5 Regional Centers
 - South
 - Mid-Atlantic
 - Northeast
 - Midwest
 - West



Selected Centers within States

- Network links to National/Regional and other Centers
- Program sharing-Alternative Enterprise Production
- Links to states, national and international market niches
- Enhanced resources availability
- Business management practices

States Pass legislation

- Identify lead Institution within a state 1890/1862
 - Mississippi State legislature passed such legislation in 1988 for Alcorn State University
 - A North Carolina Bill has been introduced this session



Recommendations

Needs to be a partnership between Congress, USDA, 1890 Land Grant Institutes (States), Public/Private Entities, farm organizations, industries and stakeholders

Recommendations (con't)

- USDA needs to establish a National Advisory Council
- USDA needs to endorse the concept of a national and 4-5 regional centers
- Congress/USDA needs to provide start-up funding with some percentage of state matching

Recommendations (con't)

- Each state needs to designate 1890's as the lead Institution for Small Farms leadership in such states.
- Funds need to be identified and set aside for the start-up of national and 4 to 5 regional centers

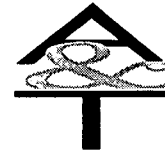
Summary

- 1890's responsible along with USDA for putting in place mechanism for operation of centers
- Target dates for all centers should be by November 2000.



Small Farm Development Center

North Carolina A&T State University
School of Agriculture



The Context

The trend in American agriculture towards large, commercial farms and these farms' domination of commodity prices are having a devastating effect on small-scale agriculture — traditional family farms — in the United States. The diminished viability of small-scale agriculture is, in turn, bringing economic turmoil to rural communities, as declining small-farm profits and land values have led to higher taxes and reduced services.

North Carolina's farm population remains demographically substantial, and of the nearly 100,000 farms in this state, 40,000 are classified as small-scale farms. The small-farm crisis is especially keen in North Carolina not only because of pure numbers, but also because of the traditional importance of tobacco, and the large number of African-American owned farms in the state. The rapidly declining viability of tobacco production has taken a key pillar from small-scale agriculture in North Carolina, and because of discriminatory lending policies, minority-owned small-scale farms are vanishing at an even more alarming rate than other small farms. The reliance on tobacco and predominance of minority-owned farms which have for so long added to the importance of small-scale agriculture in North Carolina now exacerbate the state's stake in the small-farm crisis.

The United States Department of Agriculture inaugurated the "Center of Excellence" concept in 1992. Several Centers of Excellence, operating from the campuses of Historically Black Land-Grant Institutions in the Southeast, have since become model success stories for organizing and coordinating a central hub through which to focus the resources of several agencies on an issue of pressing concern. In addition to assisting small-scale agriculture in North Carolina by offering farmers and farm-

support agencies one-stop-shopping for cutting-edge research and timely information, a **Small Farm Center** at North Carolina A&T would also serve as an important complement to the School of Agriculture's graduate and undergraduate programs, and help A&T expand its capacity to supply much needed human capital for the food and fiber industries.

The Goals and Objectives

All scientific research and educational outreaches at the proposed **Small Farm Center** will be part of one of four initiatives:

- Small-Scale Agricultural Research
- Agricultural Trade and Marketing
- Information Technology and Technology Transfer
- Agricultural and Rural Policy

In each of these four areas, the Center will enhance learning opportunities — for the general public as well as professionals — through research projects and extension demonstrations, and it will serve as an incubator for multidisciplinary research.

Small-Scale Agricultural Research Initiative

- Development of collaborative research projects and educational outreaches among scientists and educators from North Carolina State University, the North Carolina Department of Agriculture and Consumer Services, and North Carolina A&T
- Training for professionals in sustainable agriculture, integrated pest management, integrated nutrient management, integrated natural resource management, and integrated farm enterprise management
- Research and development of specialty crops and alternative enterprises which offer competitive advantages to small-scale producers

Existing Resources

Agricultural Trade and Marketing Initiative

- Foster increased awareness of local and global marketing opportunities, and assist small- and medium-size producers in gaining access to these markets
- Training for professionals, with Cooperative Extension and other farm support agencies, in integrated farm enterprise management
- A database of trade and business opportunities for small-scale farms
- Effective business management tools and training, which will allow small-scale farm operators to track and control their financial and material resources
- Assistance for producers in organizing cooperatives and expanding production capacity, and with enterprise selection and marketing

Information Technology and Technology Transfer Initiative

- A high-speed, digital network connecting departments and faculty within the A&T School of Agriculture to other outreach organizations
- Faculty training for optimal use of networks in the delivery of educational programs and technical assistance
- Annual training for small-scale farmers through the Adopt-A-Computer Project
- Dissemination of information to small-scale producers concerning technologies with potential for immediate impact on the profitability of their farms

Agricultural and Rural Policy Initiative

- Heightened public awareness of the impact of legislation and public policy on the economics of small-scale agriculture
- Educational outreaches to African-American farmers whose land ownership is in jeopardy
- Economic development analysis for rural communities
- Community-based micro enterprise development programs

The University Farm

North Carolina A&T's 467-acre University Farm is located conveniently close to the A&T campus, and the farm is closer still to two major interstates (I-85 and I-40). The farm's proximity to the interstates, along with its central location, make it an ideal location for serving the North Carolina agricultural sector with research demonstrations and educational programs. Greensboro's extensive hospitality industry make the city a well-suited resource for hosting workshops which might entail an overnight stay for some participants.

For purposes of scientific research, the University Farm is invaluablely representative of the topographic, climatic and soil conditions facing small-scale farmers in North Carolina. Forested acreage on the University Farm is ideally suited for research into, and educational demonstrations related to agroforestry, urban forestry and landscape architecture. Pasture land is available for experiments with forages and livestock grazing.

A long-standing working relationship with the nearby Triad Farmer's Market offers an exceptionally strong base for research into agricultural economics and marketing, and the Triad Farmer's Market also opens the door for workshops and educational programs of unrivaled timeliness and practicality.

Although the A&T State University Farm has been used primarily for research projects, it has facilities which hold tremendous potential for instructional purposes in addition to the applied and basic research for which they were originally intended. This resource base includes:

- Administrative Offices and Storage Facilities
- Constructed Wetlands
- Beef and Sheep Research Unit (complete with a surgical suite)
- Dairy Unit
- Environmental Sciences Lab (complete with greenhouses)
- Poultry Unit (complete with processing facilities)
- A "farrow-to-feeder" Swine Research Unit (complete with surgical facilities, outdoor farrowing huts, and waste lagoons)
- Tillage and Runoff Plots (equipped to measure erosion and chemical movement through soils)
- Weather Station

Agricultural Research Program

Among the current research efforts which reflect the overall and ongoing objectives at the University Farm are studies into:

- The impact of agricultural production on water quality
- Tissue culture biotechnology, as applied to the development of varieties of alfalfa which will have a greater tolerance to aluminum-rich soils
- The effects of poultry and green manures on soybeans, corn and other vegetable crops
- Swine breeding, and studies in bovine and ovine reproductive physiology
- Soil erosion and nitrogen transformation

Cooperative Extension Program

The North Carolina A&T Cooperative Extension provides research-based information and educational programs to communities, families and individuals. To accomplish its objectives, Cooperative Extension utilizes a vast array of delivery methods — ranging from time-tested on-farm demonstrations and one-on-one instruction, to such cutting-edge information delivery methods as videoconferencing and online computer-assisted training. North Carolina A&T Cooperative Extension has a Congressional mandate to focus its educational programs and outreaches on individuals and families without the financial resources and educational backgrounds mainstream America enjoys.

North Carolina A&T Extension's programs have gained regional, national and international recognition for their success in addressing the needs of individuals, families and communities with limited resources. Among the A&T Extension Program's landmark efforts to assist small-scale farmers are:

- Down-to-Earth — using the scientific method to unlock young minds and help them understand sustainable agricultural production
- The Farm Opportunities Program — delivering one-on-one, hands-on instruction in efforts to help small-scale and limited-resource farmers
- Small Farmer Outreach Training and Technical Assistance Project — basic business management training for farmers with overextended credit and cash-flow problems
- Ways To Grow — helping small-scale farmers explore alternatives to traditional crops and livestock enterprises

Two other programs coordinated by the North Carolina A&T Cooperative Extension Program have received numerous awards for their innovative approaches to rural leadership development and community economic development:

- Community Voices — building communities by developing untapped leadership potential.
- Voices Reaching Visions — fostering regional and local economic development.

The Plan

For the **Small Farm Center** to function as a place where researchers, educators, and agribusiness professionals can exchange ideas, and investigate breaking agricultural technologies it must have enough space to support research, and extension and community activities. Proposed facilities improvements include:

- Multipurpose rooms capable of accommodating large gatherings for workshops, educational programs, and new product expositions
- A telecommunications system fully equipped to tap into the broad array of educational programming and information sources which are now available
- A greenhouse specifically equipped for the propagation of woody ornamentals
- A farm land directory and data base, to help newcomers to small-scale agriculture locate reasonably priced farm land, and to help retiring farmers pass along their farms to individuals interested in keeping the land in production
- A greenhouse capable of accommodating emerging technologies in horticultural crops production, such as hydroponic production and aquaculture

New and expanded educational outreaches will include:

- Farmers Adopting Computer Training (FACT) — a program which will rely on "pass it along" training to help small-scale farmers acquire home computers inexpensively, and basic knowledge of spreadsheet, record keeping and other business management software
- The Beginning Farmers Mentoring Program — a program which will link individuals just getting into agriculture with established farmers willing to serve as mentors

Staffing and Administration

The **Small Farm Center** will be staffed by a mix of faculty already employed by the School of Agriculture, and new faculty in: forestry, environmental toxicity, horticulture, plant pathology, entomology, farming systems and sustainable agriculture. The Center will be ideally suited to interdisciplinary research into the development of sustainable agricultural systems, improved natural resource management, and business management methods for increasing earnings of North Carolina's small-scale farmers. Multidisciplinary staffing will give the **Small Farm Center** the human resources to serve the North Carolina small-farm sector through innovative research into alternative enterprises and educational programs that will result in improved economic conditions both locally and statewide.

The operational and fiscal policies affecting the **Small Farm Center** would be parallel to those governing the Experiment Station of the North Carolina Agricultural Research Service and North Carolina Cooperative Extension Service. Collaborative activities will at times include the North Carolina Department of Agriculture and Consumer Sciences, the North Carolina Farm Bureau, the North Carolina State Grange, the Forest Service, the Natural Resources Conservation Service, the Cooperative State Research, Education and Extension Service, and other USDA agencies.

An executive committee consisting of the dean and associate deans of the School of Agriculture, the **Small Farms Center** Director and two representatives from among Departments will establish policies for the daily operations of the Center. An Advisory Committee, with membership from government and nongovernmental organizations, will be established to develop long-range plans for the Center.

Benefits

- New research into alternative enterprises and niche markets
- Stability for the current small farms in North Carolina, and an increase in the number of small farms

- Diversified income among North Carolina's small farms
- Increased environmentally sustainable production practices on small farms
- Growth in public awareness of laws and regulations affecting the economics and environmental viability of small-scale agriculture
- Diminished land loss among African-American farmers, and an increased number of minority owned farms
- Growth in the number of small, community-based businesses
- Greater access to local and global markets for small-scale farmers
- New models of decision-making and management skills to help producers effectively manage risks
- More farm cooperatives
- Increased networking and interaction among land-grant researchers, Extension specialists, community groups, and federal, state and local farm support agencies
- Greater public access to research and Extension information
- Greater utilization of distance learning technologies
- Greater efficiency in program design and implementation

Budget

Personnel Costs:

Professional (4 FTEs)\$240,000
Technical (4 FTEs)\$120,000

Capital Improvements:

Buildings \$1,400,000

Operating Costs:

Equipment\$275,000
Supplies\$125,000
Contractual Services\$50,000
Program Development\$60,000
Communications\$30,000

Total **\$2,300,000**

For more information, contact:

*Dr. D. D. Godfrey, Dean
North Carolina A&T State University School of Agriculture
Greensboro, NC 27411
(336) 334-7979*

VISITOR REGISTRATION SHEET

3/30/99

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Roger Bone	Bone & Assoc.
Jim - [unclear]	N.C. Pork Council
Cam [unclear]	BPMHL
Elizabeth De [unclear]	[unclear]
Maile English	NC Agribusiness Council
Bob [unclear]	NC Forestry Assoc.
Walter [unclear]	NC OATCS
[unclear]	[unclear]
John [unclear]	N.C. State [unclear]
Jim WILDER	NC SOYBEAN ASSN.
Lisa Martin	Upper Neuse River Basin Assoc.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Crissey Porter	Bone & Associates
Wp Her Cherry	NC Pork Council
JIM KUSZAK	NC ENVIRONMENTAL INSIGHT (NCEI)
Patrice Roubin	NCACC
Laura DeVivo	DENR
Nat Mud	CCNK
Jane Preyer	NC Environmental Defense Fund
Marian Dodd	League of Women Voters NC
Mimi Cornuta	NCHBA
Paul Wilsons	NCHBA
Molly Diggins	NC Sierra Club



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, April 13, 1999
11:00 a.m.
Room 544 – LOB

A G E N D A

- | | |
|--------|---|
| SB 365 | OBSOLETE AGRICULTURE STATUTES
Senator Albertson |
| SB 777 | SEDIMENTATION ACT REG. SOME EXCAVATION
Senator Albertson |
| HB 334 | OBSOLETE AGRICULTURE STATUTES
Representative Hill |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

April 13, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, April 13, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were thirteen committee members present.

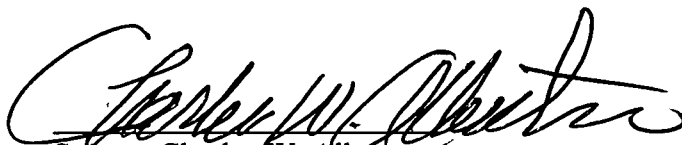
The following bills were on the agenda:

HB 334 – OBSOLETE AGRICULTURE STATUTES – Representative Hill, sponsor, was recognized to explain the bill. David McLeod, N. C. Department of Agriculture and Consumer Services, said this bill was simply for the purpose of eliminating old, out-of-date statutes. Senator Weinstein moved for a favorable report. Motion carried. (NOTE: This bill was not reported out of committee. See below.)

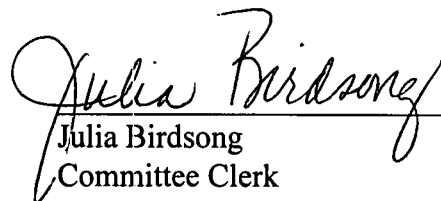
SB 365 – OBSOLETE AGRICULTURE STATUTES – Senator Albertson, sponsor. This bill was identical to HB 334. Senator East moved for a favorable report. Motion carried. Senator Albertson said that since these two bills were identical and both had received a favorable report that only the Senate bill would be reported out of committee.

SB 777 – SEDIMENTATION ACT REG. SOME EXCAVATION – Senator Albertson, sponsor, asked Senator Robinson, vice chairman of the committee, to chair the meeting so that he could explain the bill. There was a proposed committee substitute for the bill and Senator Albertson moved that it be adopted for discussion purposes. Motion carried. Charles Gardner, Director of Land Resources, N. C. Department of Environment & Natural Resources, further explained the bill and answered questions from committee members. Senator Martin made comments on the paragraph marked "F" of the committee substitute and said that he thought it should be made clearer. George Givens of staff said that he would incorporate Senator Martin's suggested change into the proposed committee substitute. Senator Phillips moved to give the proposed committee substitute a favorable report after Senator Martin's suggested change was incorporated. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Monday, April 19, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 365 OBSOLETE AGRICULTURE STATUTES
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 777 SEDIMENTATION ACT REG. SOME EXCAVATION
Draft Number: PCS3782
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: NO

TOTAL REPORTED: 2

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Monday, May 03, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

H.B. 334 OBSOLETE AGRICULTURE STATUTES
 Sequential Referral: NONE
 Recommended Referral: NONE

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 365

Short Title: Obsolete Agriculture Statutes.

(Public)

Sponsors: Senators Albertson; Harris, Kerr, and Warren.

Referred to: Agriculture/Environment/Natural Resources.

March 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL CERTAIN OBSOLETE AGRICULTURAL STATUTES.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 81A-41 is repealed.
5 Section 2. G.S. 81A-44 is repealed.
6 Section 3. Article 37 of Chapter 106 of the General Statutes is repealed.
7 Section 4. G.S. 106-456 through G.S. 106-460 are repealed.
8 Section 5. Article 41 of Chapter 106 of the General Statutes is repealed.
9 Section 6. Article 59 of Chapter 106 of the General Statutes is repealed.
10 Section 7. Article 60 of Chapter 106 of the General Statutes is repealed.
11 Section 8. This act is effective when it becomes law.



SB 365/HB 334: Repeal Obsolete Agricultural Statutes

BILL ANALYSIS

Committee: Ag/Env/Nat'l Resources
Date: March 22, 1999
Version: 1st Edition

Introduced by: Senator Albertson
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *The bill, filed on request of the Department of Agriculture and Consumer Resources, would repeal a number of statutes administered by the Department*

BILL ANALYSIS: Sections 1 and 2 repeal provisions in Chapter 81A of the General Statutes, the Weights and Measures Act of 1975. Specifically repealed are G.S. 81A-41, Establishment of standard loaves of bread and G.S. 81A-44, Authority to prescribe standards of weight or measurement for sale of milk or milk products. G.S. 81A-41 sets forth a requirement that bread loaves must be either 1lb., 11/2 lbs., or 21/2 lbs. in weight and setting the length and width for each size loaf. G.S. 81A-44 authorizes the Board of Agriculture to adopt standards for milk bottles.

Section 3 of the bill repeals Article 37 of Chapter 106 governing cotton grading.

Section 4 of the bill repeals a portion of Article 40 of Chapter 106 governing leaf tobacco sales. Specifically the bill repeals G.S. 106-456 through 460 requiring tobacco warehouse operators to keep records of the number of pounds sold and to report such to the Commissioner of Agriculture.

Section 5 of the bill repeals Article 41 of Chapter 106 governing scrap tobacco dealers.

Sections 6 and 7 repeal Articles 59 and 60 of Chapter 106 governing the Northeastern North Carolina Farmers Market Commission and the Southeastern North Carolina Farmers Market Commission respectively. Each Commission is charged with selecting a site for a farmers market, making programming decisions on its construction, and advising the Commissioner of Agriculture on its operation.

On the reverse of this memorandum is an explanation from the Department of Agriculture and Consumer Services detailing why each of the statutes covered in the bill is obsolete and should be repealed.

The act is effective when it becomes law.

Explanation of Bill to Repeal Obsolete Agricultural Statutes

Section 1. Repeal G.S. 81A-41. Establishes standard sizes for loaves of bread and prohibits all others. This law was preempted by the federal Nutrition Labeling and Education Act, P.L. 101-535, which prohibits states from establishing standards of identity for food products which differ from federal standards. Regulations of the U.S. Food & Drug Administration, 21 CFR 136, require bread products to be at least one-half pound. G.S. 81A-41 conflicts with this because it requires a loaf of bread to be at least one pound, and of certain lengths and widths. The American Bakers Association has been notified of the proposed repeal of this law, and we have received no comments either for or against.

Section 2. Repeal G.S. 81A-44. Authorizes the Board of Agriculture to establish standard sizes for milk containers. There are no such rules currently in effect, and we have no record of when there were such rules in the past. The Carolina-Virginia Dairy Products Association has been notified of the proposed repeal of this law, and has no objection.

Section 3. Repeal G.S. 106-424 through 106-429. These statutes authorize the Department to provide cotton grading services. The Department has not done this for many years because cotton is now graded by the United States Department of Agriculture.

Section 4. Repeal G.S. 106-456 through 106-460. Enacted in 1907, these statutes require tobacco warehouses to report tobacco sales to the Commissioner of Agriculture. This information is now available from the USDA. Repeal of this law will remove an unnecessary burden on the tobacco warehouse operator.

Section 5. Repeal Article 41 of Chapter 106. This 1935 law requires dealers in scrap or untied tobacco to obtain a \$500 license from the Secretary of Revenue for each county in which they do business. There are no dealers currently licensed under this law.

Section 6. Repeal Article 59 of Chapter 106. The Northeastern Farmers Market Commission was created in 1986 to study the feasibility of establishing a State farmers market in the northeastern part of the state. It was determined that a market was not feasible, but the commission's work led to the establishment of a marketing assistance office in Elizabeth City and the Senator Bob Martin Eastern North Carolina Agricultural Center in Williamston. The commission has completed its work and should be abolished.

Section 7. Repeal Article 60 of Chapter 106. The Southeastern Farmers Market Commission has likewise served its purpose and should be abolished. The Department is nearing completion of the Southeastern Agricultural Center in Lumberton, which will include a farmers market.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 334

Short Title: Obsolete Agriculture Statutes.

(Public)

Sponsors: Representatives Hill, Brown; Barefoot, Buchanan, Church, Cox, Davis, Hurley, Kiser, McCrary, McLawhorn, Mitchell, Owens, Teague, Tolson, Warren, and Yongue.

Referred to: Agriculture.

March 4, 1999

1

A BILL TO BE ENTITLED

2 AN ACT TO REPEAL CERTAIN OBSOLETE AGRICULTURAL STATUTES.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 81A-41 is repealed.

5 Section 2. G.S. 81A-44 is repealed.

6 Section 3. Article 37 of Chapter 106 of the General Statutes is repealed.

7 Section 4. G.S. 106-456 through G.S. 106-460 are repealed.

8 Section 5. Article 41 of Chapter 106 of the General Statutes is repealed.

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10 Section 7. Article 60 of Chapter 106 of the General Statutes is repealed.

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



SB 365/HB 334: Repeal Obsolete Agricultural Statutes

BILL ANALYSIS

Committee: Ag/Env/Nat'l Resources
Date: March 22, 1999
Version: 1st Edition

Introduced by: Senator Albertson
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *The bill, filed on request of the Department of Agriculture and Consumer Resources, would repeal a number of statutes administered by the Department*

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Sections 6 and 7 repeal Articles 59 and 60 of Chapter 106 governing the Northeastern North Carolina Farmers Market Commission and the Southeastern North Carolina Farmers Market Commission respectively. Each Commission is charged with selecting a site for a farmers market, making programming decisions on its construction, and advising the Commissioner of Agriculture on its operation.

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Section 7. Repeal Article 60 of Chapter 106. The Southeastern Farmers Market Commission has likewise served its purpose and should be abolished. The Department is nearing completion of the Southeastern Agricultural Center in Lumberton, which will include a farmers market.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

D

SENATE BILL 777
Proposed Committee Substitute S777-PCS3782-RT

Short Title: Sedimentation Act Reg. Some Excavation.

(Public)

Sponsors:

Referred to:

April 7, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION
3 AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION
4 CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 74-49(7) reads as rewritten:
7 "(7) 'Mining' means:
8 a. The breaking of the surface soil in order to facilitate or
9 accomplish the extraction or removal of minerals, ores, or
10 other solid matter.
11 b. Any activity or process constituting all or part of a process
12 for the extraction or removal of minerals, ores, soils, and
13 other solid matter from their original location.
14 c. The preparation, washing, cleaning, or other treatment of
15 minerals, ores, or other solid matter so as to make them
16 suitable for commercial, industrial, or construction use.
17 'Mining' does not include:
18 a. Those aspects of deep mining not having significant effect
19 on the surface, where the affected land does not exceed one
20 acre in area.
21 b. Mining operations where the affected land does not exceed
22 one acre in area.

- 1 c. Plants engaged in processing minerals produced elsewhere
2 and whose refuse does not affect more than one acre of
3 land.
- 4 d. Excavation or grading when conducted solely in aid of
5 on-site farming or of on-site construction for purposes other
6 than mining.
- 7 e. Removal of overburden and mining of limited amounts of
8 any ores or mineral solids when done only for the purpose
9 and to the extent necessary to determine the location,
10 quantity, or quality of any natural deposit, provided that no
11 ores or mineral solids removed during exploratory
12 excavation or mining are sold, processed for sale, or
13 consumed in the regular operation of a business, and
14 provided further that the affected land resulting from any
15 exploratory excavation does not exceed one acre in area.
- 16 f. Excavation or grading where all of the following apply:
- 17 1. The excavation or grading is conducted to provide
18 soil or other unconsolidated material to be used
19 without further processing for a single off-site
20 construction project for which an erosion control plan
21 has been approved in accordance with Article 4 of
22 Chapter 113A of the General Statutes.
- 23 2. The affected land, including nonpublic access roads,
24 does not exceed five acres.
- 25 3. The excavation or grading is completed within one
26 year.
- 27 4. The excavation or grading does not involve blasting,
28 the removal of material from rivers or streams, the
29 disposal of off-site waste on the affected land, or the
30 surface disposal of groundwater beyond the affected
31 land.
- 32 5. The excavation or grading is not in violation of any
33 local ordinance.
- 34 6. An erosion control plan for the excavation or grading
35 has been approved in accordance with Article 4 of
36 Chapter 113A of the General Statutes."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 777

Short Title: Sedimentation Act Reg. Some Excavation.

(Public)

Sponsors: Senator Albertson.

Referred to: Agriculture/Environment/Natural Resources.

April 7, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION
3 AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION
4 CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 74-49(7) reads as rewritten:
7 "(7) 'Mining' means:
8 a. The breaking of the surface soil in order to facilitate or
9 accomplish the extraction or removal of minerals, ores, or
10 other solid matter.
11 b. Any activity or process constituting all or part of a process
12 for the extraction or removal of minerals, ores, soils, and
13 other solid matter from their original location.
14 c. The preparation, washing, cleaning, or other treatment of
15 minerals, ores, or other solid matter so as to make them
16 suitable for commercial, industrial, or construction use.
17 'Mining' does not include:
18 a. Those aspects of deep mining not having significant effect
19 on the surface, where the affected land does not exceed one
20 acre in area.
21 b. Mining operations where the affected land does not exceed
22 one acre in area.

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- 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 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.



SENATE BILL 777: Sedimentation Act Reg. Some Excavation

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: April 13, 1999

Version: 1st Edition

Introduced by: Senator Albertson

Summary by: Rick Zechini
Committee Counsel

SUMMARY: *Senate Bill 777 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: Senate Bill 777 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 a construction project. One of the conditions for exempting these activities from regulation under the Mining Act is that they be regulated under the Sedimentation Act. The exemption added by Senate Bill 777 is narrower than the current exemption for on-site construction and is designed to apply to excavation and grading activities conducted in aid of off-site construction.

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 act is effective October 1, 1999.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

4/13/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom James	NC S Grange
David Meredith	NC State Grange
John Cyrus	N.C. State Grange
Lou-Ann Coe	FFF
Natalie English	NC Agribusiness Council
R. ROGERS	DENR
Charles Gardner	DCNR/DLR
John R BRATTON	Sed. Control Comm. / Mining Comm.
Fred R. Allen	NC Aggregates Assn.
Mac Boxley	NC Aggregates Assn.
Thomas Pulls	DNSS



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, April 20, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

- | | |
|---------|--|
| SB 247 | PRESCRIBED BURNING IN FORESTS
Senator Lee |
| SB 323 | WATERFOWL LICENSE CHANGES
Senator Kerr |
| SB 872 | NEW RIVER STATE PARK/ACREAGE LIMIT
Senator Foxx |
| SB 1159 | LAND-USE/CONTAMINATED SITES
Senator Plyler |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

April 20, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, April 20, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fourteen committee members present.

The following bills were on the agenda:

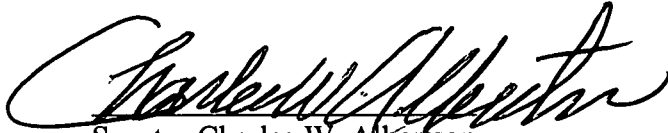
SB 1159 – LAND-USE/CONTAMINATED SITES – Senator Plyler, sponsor, was recognized to explain the bill. Mike Kelly, Division of Waste Management, N. C. Department of Environment & Natural Resources, spoke in favor of this bill and answered questions from committee members. Kathleen Waylett of the Attorney General's Office, representing DENR, said this bill was greatly needed. George Givens of staff also made comments on the bill. Senators Martin, Clodfelter and Webster requested that the committee be able to see letters from DENR to those people who had cleaned up their sites. Mike Kelly was requested to supply this information to the members before the bill came to the floor for a vote. Senator Wellons moved for a favorable report. Motion carried.

SB 247 – PRESCRIBED BURNING IN FORESTS/AB - Senator Lee, sponsor, was recognized to explain the bill. He said the bill was a win/win for all parties, and that there were members from the Division of Forestry in the audience to answer questions. Barbara Riley of staff, as well as Stan Adams of N. C. Forest Service, answered questions from members. Senator Clodfelter moved for a favorable report. Motion carried.

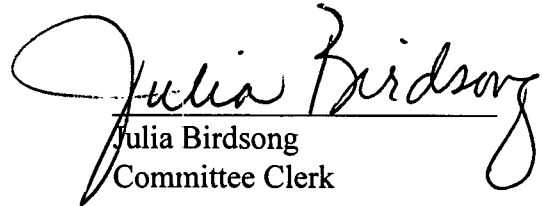
SB 323 – WATERFOWL LICENSE CHANGES/AB - Senator Kerr, sponsor, was recognized to explain the bill. There was a proposed committee substitute and Senator Phillips moved that it be adopted for discussion purposes. Motion carried. Senator Wellons moved that the proposed committee substitute be given a favorable report, unfavorable as to bill. Motion carried, and the bill was sequentially referred to Finance.

SB 872 – NEW RIVER STATE PARK/ACREAGE LIMIT – Senator Foxx, sponsor, was recognized to explain the bill. Senator Wellons sent forth a technical amendment to more clearly define designated area. Senator Phillips moved for its adoption. Motion carried. Senator Horton moved that the bill, as amended, be made into a proposed committee substitute and that the PCS be given a favorable report, unfavorable as to bill. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Wednesday, April 21, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 247 PRESCRIBED BURNING IN FORESTS/AB
 Sequential Referral: NONE
 Recommended Referral: NONE

S.B. 1159 LAND-USE RESTRICTIONS/CONTAMINATED SITES
 Sequential Referral: NONE
 Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 323 WATERFOWL LICENSE CHANGES/AB
 Draft Number: PCS1710
 Sequential Referral: FINANCE
 Recommended Referral: NONE
 Long Title Amended: NO

S.B. 872 NEW RIVER STATE PARK/ACREAGE LIMIT
 Draft Number: PCS6657
 Sequential Referral: NONE
 Recommended Referral: NONE
 Long Title Amended: YES

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 247*

Short Title: Prescribed Burning in Forests/AB.

(Public)

Sponsors: Senators Lee and Wellons.

Referred to: Agriculture/Environment/Natural Resources.

March 4, 1999

A BILL TO BE ENTITLED

1 AN ACT TO ENCOURAGE PRESCRIBED BURNING FOR FORESTRY AND
2 WILDLIFE PURPOSES UNDER CERTAIN CONDITIONS.

3 The General Assembly of North Carolina enacts:

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

6 "ARTICLE 4E.

7 "North Carolina Prescribed Burning Act.

8 "§ 113-60.40. Legislative findings.

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

13 (1) Prescribed burning reduces the naturally occurring buildup of
14 vegetative fuels on forestlands, thereby reducing the risk and
15 severity of wildfires and lessening the loss of life and property.

16 (2) The State's ever-increasing population is resulting in urban
17 development directly adjacent to fire prone forestlands, referred to
18 as a woodland-urban interface area. The use of prescribed burning
19 in these woodland-urban interface areas substantially reduces the
20 risk of wildfires that cause damage.

21 (3) Many of North Carolina's natural ecosystems require periodic fire
22 for their survival. Prescribed burning is essential to the
23 perpetuation, restoration, and management of many plant and
24

1 animal communities. Prescribed burning benefits game, nongame,
2 and endangered wildlife species by increasing the growth and yield
3 of plants that provide forage and an area for escape and brooding
4 and that satisfy other habitat needs.

5 (4) Forestlands are economic, biological, and aesthetic resources of
6 statewide significance. In addition to reducing the frequency and
7 severity of wildfires, prescribed burning of forestlands helps to
8 prepare sites for replanting and natural seeding, to control insects
9 and diseases, and to increase productivity.

10 (5) Prescribed burning enhances the resources on public use lands,
11 such as State and national forests, wildlife refuges, nature
12 preserves, and game lands. Prescribed burning enhances private
13 lands that are managed for wildlife refuges, nature preserves, and
14 game lands. Prescribed burning enhances private lands that are
15 managed for wildlife, recreation, and other purposes.

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

22 **"§ 113-60.41. Definitions.**

23 As used in this Article:

24 (1) 'Certified prescribed burner' means an individual who has
25 successfully completed a certification program approved by the
26 Division of Forest Resources of the Department of Environment
27 and Natural Resources.

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

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

37 **"§ 113-60.42. Immunity from liability.**

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

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

43 (c) This section does not apply when a nuisance or damage results from a
44 negligently or improperly conducted prescribed burning.

1 "§ 113-60.43. Prescribed burning.

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

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

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

32 (c) Prior to conducting a prescribed burning, the landowner or the landowner's
33 agent shall obtain an open-burning permit under Article 4C of this Chapter from the
34 Division of Forest Resources, Department of Environment and Natural Resources.
35 This open-burning permit must remain in effect throughout the period of the
36 prescribed burning. The prescribed burning shall be conducted in compliance with
37 all the following:

- 38 (1) The terms and conditions of the open-burning permit under
39 Article 4C of this Chapter.
40 (2) The State's air pollution control statutes under Article 21 and
41 Article 21B of Chapter 143 of the General Statutes and any rules
42 adopted pursuant to these statutes.
43 (3) Any applicable local ordinances relating to open burning.

1 (4) The voluntary smoke management guidelines adopted by the
2 Division of Forest Resources, Department of Environment and
3 Natural Resources.

4 (5) Any rules adopted by the Division of Forest Resources,
5 Department of Environment and Natural Resources, to implement
6 this Article.

7 **"§ 113-60.44. Adoption of rules.**

8 The Division of Forest Resources, Department of Environment and Natural
9 Resources, may adopt rules that govern prescribed burning under this Article.

10 **"§ 113-60.45. Exemption.**

11 This Article does not apply when the Secretary of Environment and Natural
12 Resources has cancelled burning permits pursuant to G.S. 113-60.27 or prohibited all
13 open burning pursuant to G.S. 113-60.25."

14 Section 2. This act becomes effective January 1, 2000.



SENATE BILL 247: Prescribed Burning in Forests/AB

BILL ANALYSIS

Committee: Ag., Env. & Natural Resources
Date: April 19, 1999
Version: 1st Edition

Introduced by: Lee & Wellons
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *Senate Bill 247 would add a new Article 4E to Chapter 113 of the General Statutes setting forth the conditions for conducting a "prescribed burning" of forestland and limiting the liability of landowners and their agents for nuisance and smoke damage from a properly conducted burning.*

BACKGROUND: A "prescribed burning" is a planned and controlled application of fire to naturally occurring vegetative fuels under safe weather and environmental conditions, while following appropriate measures to confine the fire to a predetermined area and to accomplish the intended management objectives. The legislative findings contained in proposed G.S.113-60.40 establish that prescribed burning is a beneficial management tool that reduces the naturally occurring buildup of vegetative fuels thus reducing the risk and severity of wildfires and their damage. According to the Division of Forestry, there has been a 600% increase in fuel loading in North Carolina as a result of the recent hurricanes. Prescribed burning is also found to benefit game, nongame and endangered species of wildlife by improving habitat, and to improve forestland by preparing sites for replanting and natural seeding, controlling insects and disease. The legislation is supported by a number of conservancy groups in North Carolina. Similar legislation exists in a number of other states including Florida, Georgia, South Carolina and Virginia.

BILL ANALYSIS New G.S. 113-60.42 provides that a prescribed burning conducted pursuant to the provisions of G.S. 113-60.43 does not constitute a public or private nuisance. A landowner or his agent conducting a prescribed burning in accordance with the statute shall not be not liable in a civil action for damages or injury resulting from smoke. The limitation on liability does not apply, however, where the nuisance or damage results from the negligent or improper conduct of the prescribed burning.

G.S. 113-60.43 sets forth the guidelines for a prescribed burning. Subsection (a) requires that a prescription for a prescribed burning must be prepared by a certified prescribed burner and be filed with the Division of Forest Resources prior to the burn. A certified prescribed burner is an individual who has successfully completed a certification program approved by the Division of Forest Resources. G.S. 113-60.41(1). The prescription shall include:

1. The landowner's name and address.
2. A description of the area to be burned.
3. A map of the area.
4. An estimate of the fuel tonnage in the area.
5. The objectives of the prescribed burning.
6. A list of acceptable weather conditions for the burning.

SENATE BILL 247

Page 2

7. The certified burner responsible for the burning.
8. A summary of the methods used to start, control, and extinguish the burn.
9. Provision for reasonable notice to homes and businesses in the area.

The prescribed burning must be conducted by the certified prescribed burner who shall be present on site and in charge throughout the burn. An exception to this provision allows a landowner to conduct the prescribed burning when the forestland acreage to be burned is less than 50 acres and the landowner conducts the prescribed burning according to a prescription prepared by a certified prescription burner.

The landowner or his agent must obtain an open burning permit from the Division of Forest Resources. The prescribed burning also must be conducted in accordance with the terms of the open burning permit, all State air pollution control statutes, local open burning ordinances, the voluntary smoke management guidelines set by the Division of Forest Resources, and any rules the Division adopts to implement this Article.

The terms of this article are not applicable when the Secretary of DENR has cancelled burning permits or prohibited all open burning.

The act becomes effective January 1, 2000.

3/16/99

Division of Forest Resources

Question and Answer Sheet
S.B. 247 & H.B. 316

Prescribed Burning in Forests/AB

NARRATIVE: This bill would not affect open burning or liability under the State's current laws. However, the bill would provide limited liability from smoke resulting from prescribed burning under new requirements for planning and managing a burn. Prescribed fire (planned reduction of forest fuels, under prescription, using controlled burning) is used to reduce the occurrence and destruction of forest land and woodland homes from uncontrolled forest fires, promotes habitats for plants and animals, reduces forest insect and disease populations, prepares harvested forest areas for natural or artificial regeneration and improves private woodlands multi-use potentials.

Q – Why should we promote the use of prescribed burning in N.C.?

A – Prescribed fire is used to reduce the danger to forest land and woodland homes from uncontrolled forest fires, to improve habitat for many plants and animals and to reduce forest insect and disease populations. It also is a very efficient and effective way to prepare harvested forest areas for natural or artificial regeneration. Much of North Carolina historically is a fire dependent ecosystem. Effective fire suppression has reduced many of the fire dependent species. Prescribed Burning is needed to retain or regain these important ecosystems.

Q – Would an individual be required to burn only under this law?

A – No. Only if the individual wished to have his/her smoke liability reduced.

Q – What is a certified burner?

A – A landowner, forestry or wildlife consultant, private industry representative or other individual who completes a certified burner training program, designed and conducted by the NC Division of Forest Resources.

Q – What does the certified burner training consist of?

A – The certified burner training would follow similar training criteria as the existing Burning Manager program in use by the NC Division of Forest Resources. It involves classroom training and actual field application experience in fire behavior, weather parameters, forest fuel types and other pertinent factors in prescribed burning.

Q – Why is it necessary to include limited immunity from liability in the bill?

A – Without any type of liability exclusion, there is no incentive to have a certified prescribed burner conducting a burn. Burning can presently be conducted by and would continue to be conducted by any individual who obtains a valid burning permit, under the state's current law.

Q – What restrictions must a certified burner comply with prior to and during a burn?

A – Must have completed the certified burner training program; must obtain a valid burning permit and notify nearby homes and business; must comply with smoke management guidelines including the requirement that smoke sensitive areas not be impacted; must ensure that weather conditions prescribed in the burning plan are present during the burning; must comply with Environmental Management rules and regulations; must comply with all local ordinances and must stay with the burn until the burn is complete.

Q – Does limited immunity from liability from smoke relieve the certified burner from damage caused by the actual burn?

A – No.

Q – Who is liable if negligence is found or improper execution of the burn takes place?

A – The person who conducts the prescribed burn. This would be the landowner if the landowner is the certified burner conducting the burn. Otherwise the prescribed burner would be liable.

Q- Why is this bill not scheduled to take effect until January 1, 2000?

A – The scheduled effective date for this bill gives the Division of Forest Resources time to provide burner certification courses and to prepare operationally to support this effort.

Q – Why does the bill offer provision for landowners burning less than 50 acres?

A – This special case does not exempt anyone from following the exact same standards of burning that all must follow. All it does is allow a landowner burning 50 acres or less on his/her own property to follow a burning plan developed by another certified burner instead of having to personally go through the training on how to develop a plan.

Q – Will this bill promote open burning to the detriment of our environment, specifically air quality?

A – A large part of the burner certification training deals with effective smoke management. By choosing best weather parameters and burning methods, impact of the smoke can be controlled. Prescribed burns almost always result in less smoke than wildfires of the same size. It is advantageous to release smoke into the atmosphere at a time we can control its amount, direction and duration, thus reducing the forest fuels that could support a wildfire and its huge amount of uncontrolled smoke. The multiple benefits from properly executed prescribed burns far exceed the limited inconvenience.

Q – Will this bill prevent me from contracting the NCFS to do my burning as in the past?

A – No, the Division of Forest Resources will continue to contract prescribed burning as in the past. It is hoped that this bill will stimulate those landowners who have the capability to conduct their own burns.

Q – How does this bill affect wildlife?

A – Wildlife habitat and forage are improved by burning as nutrients are cycled back into the soil and vegetation that grows after a fire often attracts more animals to browse.

For more information contact:

Dianne Beasley
Assistant Director
919/733-2162 ext. 203
dianne_beasley@mail.enr.state.nc.us

Division of Forest Resources

S.B. 247 & H.B. 316

Prescribed Burning in Forests/AB

Organizations/Groups in support of this bill:

Quail Unlimited, Inc.
Nature Conservancy
Farm Bureau
NC Forest Landowners Association
Wildlife Resources Commission
NC Forestry Association
NC Society of American Foresters
NC Wildlife Federation

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 323
Proposed Committee Substitute S323-PCS1710-RF

Short Title: Waterfowl License Changes/AB.

(Public)

Sponsors:

Referred to:

March 11, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS
3 OF COMPREHENSIVE HUNTING LICENSES, TO INCREASE THE FEE
4 CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO
5 INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR
6 MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH
7 SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING
8 LICENSE.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 113-129 is amended by adding a new subdivision to read:
11 "(11c) Migratory Waterfowl: Waterfowl. -- Those migratory birds for
12 which open seasons are prescribed by the United States
13 Department of the Interior and belonging to the Family Anatidae
14 (wild ducks, geese, brant, and swans)."

15 Section 2. G.S. 113-129(11c) reads as rewritten:
16 "~~(11e)~~ (11d) Nongame Animals. -- All wild animals except game and fur-
17 bearing animals."

18 Section 3. G.S. 113-129(11d) reads as rewritten:
19 "~~(11d)~~ (11e) Nongame Birds. -- All wild birds except game birds."

20 Section 4. G.S. 113-270.1D(a) reads as rewritten:
21 "(a) Annual Sportsman License -- \$40.00. This license shall be issued only to an
22 individual resident of the State and entitles the holder to take all wild animals and
23 wild birds, ~~other than~~ including waterfowl, by all lawful methods in all open seasons,

1 including the use of game lands, and to fish with hook and line for all fish in all
2 inland and joint fishing waters, including public mountain trout waters."

3 Section 5. G.S. 113-270.2(a) reads as rewritten:

4 "(a) The hunting licenses set forth in subdivisions (1), (3), and (6) of subsection
5 (c) of this section entitle the holder to take, except on game lands, wild birds and
6 wild animals, other than big game and waterfowl, by all lawful methods and in all
7 open seasons. The comprehensive hunting licenses of subdivisions (2) and (5) of
8 subsection (c) of this section further entitle the holder to take big game and
9 waterfowl and to use game lands."

10 Section 6. G.S. 113-270.3(b)(5) reads as rewritten:

11 "(5) Migratory Waterfowl Hunting License -- ~~\$5.00.~~ \$10.00. This
12 license shall be issued to an individual resident or nonresident of
13 the State and entitles the holder to take migratory waterfowl in
14 accordance with applicable laws and regulations. The Wildlife
15 Resources Commission may implement this license requirement
16 through the sale of an official waterfowl stamp which may be a
17 facsimile, in an appropriate size, of the waterfowl conservation
18 print authorized by G.S. 113-270.2B. An amount not less than one-
19 half of the annual proceeds from the sale of this license shall be
20 used by the Commission for cooperative waterfowl habitat
21 improvement projects through contracts with local waterfowl
22 interests, with the remainder of the proceeds to be used by the
23 Commission in its statewide programs for the conservation of
24 waterfowl."

25 Section 7. G.S. 113-291.2(a) reads as rewritten:

26 "(a) In accordance with the supply of wildlife and other factors it determines to
27 be of public importance, the Wildlife Resources Commission may fix seasons and bag
28 limits upon the wild animals and wild birds authorized to be taken that it deems
29 necessary or desirable in the interests of the conservation of wildlife resources. The
30 authority to fix seasons includes the closing of seasons completely when necessary and
31 fixing the hours of hunting. The authority to fix bag limits includes the setting of
32 season and possession limits. Different seasons and bag limits may be set in differing
33 areas; early or extended seasons and different or unlimited bag limits may be
34 authorized on controlled shooting preserves, game lands, and public hunting grounds;
35 and special or extended seasons may be fixed for those engaging in falconry, using
36 primitive weapons, or taking wildlife under other special conditions. Unless modified
37 by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag
38 limits, and possession limits fixed by the United States Department of Interior or any
39 successor agency for migratory game birds in North Carolina must be followed, and a
40 violation of the applicable federal rules is hereby made unlawful. When the
41 applicable federal rules require that the State limit participation in seasons and/or bag
42 limits for migratory game birds, the Wildlife Resources Commission may schedule
43 managed hunts for migratory game birds. Participants in such hunts shall be selected
44 at random by computer from properly licensed applicants. A nonrefundable fee of

1 ~~five dollars (\$5.00)~~ ten dollars (\$10.00) shall be required of each applicant to defray
2 the cost of processing the applications. Each applicant shall provide proof
3 satisfactory to the Wildlife Resources Commission that the applicant is the lawful
4 holder of a North Carolina hunting license that includes waterfowl privileges.

5 Where there is a muzzle-loading firearm season for deer, with a bag limit of five or
6 more, one antlerless deer may be taken. Dogs may not be used for hunting deer
7 during such season."

8 Section 8. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 323

Short Title: Waterfowl License Changes/AB.

(Public)

Sponsors: Senator Kerr.

Referred to: Agriculture/Environment/Natural Resources.

March 11, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND WATERFOWL HUNTING PRIVILEGES TO HOLDERS
3 OF COMPREHENSIVE HUNTING LICENSES, TO INCREASE THE FEE
4 CHARGED FOR MIGRATORY WATERFOWL LICENSES, AND TO
5 INCREASE THE APPLICATION FEE FOR MANAGED HUNTS FOR
6 MIGRATORY WATERFOWL AND REQUIRE APPLICANTS TO FURNISH
7 SATISFACTORY PROOF OF POSSESSION OF THE NECESSARY HUNTING
8 .. LICENSE.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 113-270.2(a) reads as rewritten:

11 "(a) The hunting licenses set forth in subdivisions (1), (3), and (6) of subsection
12 (c) of this section entitle the holder to take, except on game lands, wild birds and
13 wild animals, other than big game and waterfowl, by all lawful methods and in all
14 open seasons. The comprehensive hunting licenses of subdivisions (2) and (5) of
15 subsection (c) of this section further entitle the holder to take big game and
16 waterfowl and to use game lands."

17 Section 2. G.S. 113-270.3(b)(5) reads as rewritten:

18 "(5) Migratory Waterfowl Hunting License -- ~~\$5.00.~~ \$10.00. This
19 license shall be issued to an individual resident or nonresident of
20 the State and entitles the holder to take migratory waterfowl in
21 accordance with applicable laws and regulations. The Wildlife
22 Resources Commission may implement this license requirement
23 through the sale of an official waterfowl stamp which may be a
24 facsimile, in an appropriate size, of the waterfowl conservation

1 print authorized by G.S. 113-270.2B. An amount not less than one-
2 half of the annual proceeds from the sale of this license shall be
3 used by the Commission for cooperative waterfowl habitat
4 improvement projects through contracts with local waterfowl
5 interests, with the remainder of the proceeds to be used by the
6 Commission in its statewide programs for the conservation of
7 waterfowl."

8 Section 3. G.S. 113-291.2(a) reads as rewritten:

9 "(a) In accordance with the supply of wildlife and other factors it determines to
10 be of public importance, the Wildlife Resources Commission may fix seasons and bag
11 limits upon the wild animals and wild birds authorized to be taken that it deems
12 necessary or desirable in the interests of the conservation of wildlife resources. The
13 authority to fix seasons includes the closing of seasons completely when necessary and
14 fixing the hours of hunting. The authority to fix bag limits includes the setting of
15 season and possession limits. Different seasons and bag limits may be set in differing
16 areas; early or extended seasons and different or unlimited bag limits may be
17 authorized on controlled shooting preserves, game lands, and public hunting grounds;
18 and special or extended seasons may be fixed for those engaging in falconry, using
19 primitive weapons, or taking wildlife under other special conditions. Unless modified
20 by rules of the Wildlife Resources Commission, the seasons, shooting hours, bag
21 limits, and possession limits fixed by the United States Department of Interior or any
22 successor agency for migratory game birds in North Carolina must be followed, and a
23 violation of the applicable federal rules is hereby made unlawful. When the
24 applicable federal rules require that the State limit participation in seasons and/or bag
25 limits for migratory game birds, the Wildlife Resources Commission may schedule
26 managed hunts for migratory game birds. Participants in such hunts shall be selected
27 at random by computer from properly licensed applicants. A nonrefundable fee of
28 ~~five dollars (\$5.00)~~ ten dollars (\$10.00) shall be required of each applicant to defray
29 the cost of processing the applications. Each applicant shall provide proof
30 satisfactory to the Wildlife Resources Commission that the applicant is the lawful
31 holder of a North Carolina hunting license that includes waterfowl privileges.

32 Where there is a muzzle-loading firearm season for deer, with a bag limit of five or
33 more, one antlerless deer may be taken. Dogs may not be used for hunting deer
34 during such season."

35 Section 4. This act becomes effective July 1, 1999.



SENATE BILL 323: Waterfowl License Changes/AB

BILL ANALYSIS

Committee: Ag/Env/Natural Resources
Date: April 19, 1999
Version: Proposed Committee Substitute

Introduced by: Senator Kerr
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *Senate Bill 323 makes a number of changes to the license laws for the hunting of waterfowl and increases the fees for a waterfowl hunting license and for a special swan hunting permit.*

CURRENT LAW: Under the current hunting licensure laws, an Annual Sportsman License allows the hunting of all wild animals and wild birds, except migratory waterfowl. G.S. 113-27.1D(a). Comprehensive hunting licenses set out in G.S. 113-270.2 (c)(2) and (5) allow the taking of wild animals, wild birds, and big game. Waterfowl are not included in the comprehensive hunting licenses.

BILL ANALYSIS: Senate Bill 323 would add the waterfowl hunting privilege to both the Annual Sportsman License and the Comprehensive hunting licenses. According to the Wildlife Resources Commission, the omission of the waterfowl privilege in these licenses has caused some to mistakenly believe that they have obtained all the necessary licenses to hunt waterfowl.. The Commission believes the amendments would remedy the situation and the loss of revenue would be minimal.

The bill also increases the cost of a Migratory Waterfowl Hunting License from \$5 to \$10. In addition, G.S. 113-291.2 is amended to increase the cost of a swan permit from \$5 to \$10 and to require that an applicant for a swan permit provide proof to the Wildlife Resources Commission that they hold a valid North Carolina hunting license that includes waterfowl hunting privileges.

The comments of the Wildlife Resources Commission on the provisions of Senate Bill 323 are contained on the reverse of this memo.

Explanation of SB 323, Waterfowl License Changes

The Wildlife Resources Commission has proposed some minor adjustments to the waterfowl hunting license fee and the procedure used to administer special swan hunting permits. These changes are contained in SB 323.

- Section 1 adds the waterfowl hunting privilege to the annual and lifetime comprehensive hunting licenses. This is advisable because the omission of this privilege in the comprehensive hunting license causes many people to mistakenly think that they have all the licenses they need to hunt waterfowl. This amendment will remedy this situation and the loss of license revenue will be insignificant.
- Section 2 raises the cost of the waterfowl hunting license from \$5.00 to \$ 10.00. This fee has not been increased since the waterfowl hunting license was established in 1987. The Wildlife Resources Commission is required to spend the funds from this license on waterfowl conservation projects. About 27,000 waterfowl hunting license are sold annually; so, the new revenue generated by this change would be about \$135,000 to support additional waterfowl conservation work.
- Section 3 increases the application fee for the special swan hunting permit from \$5.00 to \$10.00. About 5,500 applications for swan permits are received each year; so, about \$27,500 in new funds would be generated from this increase. The application fee is used to pay the cost associated with administering the special drawing and hunting requirements, such as the swan tag and hunt report.
- Section 3 also requires that an applicant show proof that he or she has a North Carolina hunting license, including the waterfowl license, in order to establish eligibility to apply for the special swan hunting permit. This change is necessary because only 5,000 swan permits are allocated to North Carolina; therefore, these applications should be limited to licensed hunters. Instances of anti-hunters applying for swan permits to deny legitimate hunters a chance to hunt swans have occurred. This change would not eliminate that possibility; but, it would raise the cost.

If this bill is enacted, the cost to hunt swans would be increased from \$25 to \$35 for residents. A resident would be required to have a regular hunting license (\$15), a waterfowl license (\$10), and a swan permit (\$10). A nonresident's cost would be increased from \$35 to \$45. Nonresidents would need a regular hunting license (\$25 for six days), a waterfowl license (\$10), and a swan permit (\$10). Persons who hold lifetime and annual sportsman or comprehensive hunting licenses will only have to pay \$5 more for the swan permit because the waterfowl hunting privilege is or will be included in their license.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

D

SENATE BILL 872*
Proposed Committee Substitute S872-PCS6657-RT

Short Title: New River State Park/Acreage Limit.

(Public)

Sponsors:

Referred to:

April 13, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO
2 REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY
3 ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF
4 THE NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 113A-35.1(a) reads as rewritten:

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

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

21 For purposes of implementing this section and the management plan, the
22 Department is ~~authorized to~~ may acquire lands or interests in lands ~~not to exceed~~
23 ~~2,200 acres, to acquire such lands in fee simple or to acquire such interests in lands as~~

1 easements, ~~to~~ lands, provide for protection of scenic values as described in G.S.
2 113A-38, and ~~to~~ provide for public access. Easements obtained for the purpose of
3 implementing this section and the management plan shall not abridge the water rights
4 being exercised on May 26, 1975.

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

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 872*

Short Title: New River State Park/Acreage Limit.

(Public)

Sponsors: Senators Foxx; Albertson, Allran, Ballantine, Carpenter, Carrington, Carter, Clodfelter, Cochrane, East, Forrester, Garrou, Garwood, Gulley, Horton, Kinnaird, Lee, Metcalf, Phillips, Rand, Reeves, Rucho, Shaw of Guilford, and Wellons.

Referred to: Agriculture/Environment/Natural Resources.

April 13, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NATURAL AND SCENIC RIVERS ACT OF 1971 TO
3 REMOVE THE LIMIT ON THE AMOUNT OF ACREAGE THE STATE MAY
4 ACQUIRE FOR INCLUSION IN THE NEW RIVER STATE PARK.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 113A-35.1(a) reads as rewritten:
7 "(a) That segment of the south fork of the New River extending from its
8 confluence with Dog Creek in Ashe County downstream through Ashe and
9 Alleghany Counties to its confluence with the north fork of the New River and the
10 main fork of the New River in Ashe and Alleghany Counties downstream to the
11 Virginia State line shall be a scenic river area and shall be included in the North
12 Carolina Natural and Scenic Rivers System.
13 The Department shall prepare and implement a management plan for ~~said~~ this
14 river section. This management plan shall recognize and provide for the protection of
15 the existing undeveloped scenic and pastoral features of the river. Furthermore, it
16 shall specifically provide for continued use of the lands adjacent to the river for
17 normal agricultural activities, including, but not limited to, cultivation of crops,
18 raising of cattle, growing of trees and other practices necessary to ~~such~~ these
19 agricultural pursuits.
20 For purposes of implementing this section and the management plan, the
21 Department is ~~authorized to~~ may acquire lands or interests in ~~lands not to exceed~~

1 ~~2,200 acres, to~~ lands, acquire ~~such~~ the lands in fee simple or ~~to~~ acquire ~~such~~ the
2 interests in lands as easements, for inclusion in the New River State Park, ~~to~~ provide
3 for protection of scenic values as described in G.S. 113A-38, and ~~to~~ provide for
4 public access. Easements obtained for the purpose of implementing this section and
5 the management plan shall not abridge the water rights being exercised on May 26,
6 1975.

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

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



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 872

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

S872V1-ART-001.01

Date _____, 1999

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

Senator ~~_____~~ Wellons

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

3
4 "ACQUIRE FOR INCLUSION IN THE NEW RIVER SCENIC RIVER AREA OF THE
5 NORTH CAROLINA NATURAL AND SCENIC RIVERS SYSTEM" and

6
7 on page 2 lines 1 and 2,
8 by rewriting those lines to read:

9
10 "~~2,200 acres, to acquire such lands in fee simple or to acquire such~~
11 ~~interests in lands as easements, to~~ lands, provide".

SIGNED Wellons
Amendment Sponsor

SIGNED Charles W. Albritton
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



SENATE BILL 872: New River State Park/Acreage Limit

BILL ANALYSIS

Committee: Senate Ag., Environ., & Nat. Res.
Date: April 20, 1999
Version: First Edition

Introduced by: Senator Foxx
Summary by: Rick Zechini
Committee Counsel

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 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: Senate Bill 872 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

FILED - SENATE

S

D

SENATE DRS2721-RT005.02(4.1)

APR 14 1999

APR 14 1999

CLERK

Short Title: Land-Use Restrictions/Contaminated Sites.

(Public)

Sponsors: Senator Plyler.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE CIRCUMSTANCES UNDER WHICH THE
3 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES MAY
4 ALLOW THE USE OF LAND-USE RESTRICTIONS TO PROTECT PUBLIC
5 HEALTH AT CONTAMINATED SITES.
6 The General Assembly of North Carolina enacts:
7 Section 1. Part 1 of Article 7 of Chapter 143B of the General Statutes is
8 amended by adding two new sections to read:
9 "§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public
10 health at contaminated sites.
11 In order to reduce or eliminate the danger to public health or the environment
12 posed by the presence of contamination at a site, an owner, operator, or other
13 responsible party may impose restrictions on the current or future use of the real
14 property comprising any part of the site where the contamination is located if the
15 restrictions meet the requirements of this section. The restrictions must be agreed to
16 by the owner of the real property, included in a remedial action plan for the site that
17 has been approved by the Secretary, and implemented as a part of the remedial
18 action program for the site. The Secretary may approve restrictions included in a
19 remedial action plan in accordance with standards that the Secretary determines to
20 be applicable to the site. Restrictions may apply to activities on, over, or under the
21 land, including, but not limited to, use of groundwater, building, filling, grading,
22 excavating, and mining. Any approved restriction shall be enforced by any owner,
23 operator, or other party responsible for the contaminated site. Any land-use
24 restriction may also be enforced by the Department through the remedies provided
25 by any provision of law that is implemented or enforced by the Department or by

1 means of a civil action. The Department may enforce any land-use restriction
2 without first having exhausted any available administrative remedies. A land-use
3 restriction may also be enforced by any unit of local government having jurisdiction
4 over any part of the site. A land-use restriction shall not be declared unenforceable
5 due to lack of privity of estate or contract, due to lack of benefit to particular land, or
6 due to lack of any property interest in particular land. Any person who owns or
7 leases a property subject to a land-use restriction under this Part shall abide by the
8 land-use restriction.

9 "§ 143B-279.10. Recordation of contaminated sites.

10 (a) The owner of the real property on which a site is located that is subject to
11 current or future use restrictions approved as provided in G.S. 143B-279.9 shall
12 submit to the Department a survey plat as required by this section within 180 days
13 after the owner is notified to do so. The survey plat shall identify areas designated by
14 the Department, shall be prepared and certified by a professional land surveyor, and
15 shall be entitled 'NOTICE OF CONTAMINATED SITE'. Where a contaminated
16 site is located on more than one parcel or tract of land, a composite map or plat
17 showing all parcels or tracts may be recorded. The Notice shall include a legal
18 description of the site that would be sufficient as a description in an instrument of
19 conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall
20 identify:

- 21 (1) The location and dimensions of any disposal areas and areas of
22 potential environmental concern with respect to permanently
23 surveyed benchmarks.
24 (2) The type, location, and quantity of contamination known to the
25 owner of the site to exist on the site.
26 (3) Any restriction approved by the Department on the current or
27 future use of the site.

28 (b) After the Department approves and certifies the Notice, the owner of the site
29 shall file the certified copy of the Notice in the register of deeds office in the county
30 or counties in which the land is located within 15 days of the date on which the
31 owner receives approval of the Notice from the Department.

32 (c) The register of deeds shall record the certified copy of the Notice and index it
33 in the grantor index under the names of the owners of the land.

34 (d) In the event that the owner of the site fails to submit and file the Notice
35 required by this section within the time specified, the Secretary may prepare and file
36 the Notice. The costs thereof may be recovered by the Secretary from any responsible
37 party. In the event that an owner of a site who is not a responsible party submits and
38 files the Notice required by this section, the owner may recover the reasonable costs
39 thereof from any responsible party.

40 (e) When a contaminated site that is subject to current or future land-use
41 restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of
42 transfer shall contain in the description section, in no smaller type than that used in
43 the body of the deed or instrument, a statement that the property is a contaminated
44 site and a reference by book and page to the recordation of the Notice.

1 (f) A Notice of Contaminated Site filed pursuant to this section may, at the
2 request of the owner of the land, be cancelled by the Secretary after the
3 contamination has been eliminated. If requested in writing by the owner of the land
4 and if the Secretary concurs with the request, the Secretary shall send to the register
5 of deeds of each county where the Notice is recorded a statement that the
6 contamination has been eliminated and request that the Notice be cancelled of
7 record. The Secretary's statement shall contain the names of the owners of the land
8 as shown in the Notice and reference the plat book and page where the Notice is
9 recorded. The register of deeds shall record the Secretary's statement in the deed
10 books and index it on the grantor index in the names of the owners of the land as
11 shown in the Notice and on the grantee index in the name 'Secretary of Environment
12 and Natural Resources'. The register of deeds shall make a marginal entry on the
13 Notice showing the date of cancellation and the book and page where the Secretary's
14 statement is recorded, and the register of deeds shall sign the entry. If a marginal
15 entry is impracticable because of the method used to record maps and plats, the
16 register of deeds shall not be required to make a marginal entry."

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



SENATE BILL 1159: Land-Use Restrictions/ Contaminated Sites

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: April 20, 1999

Version: First Edition

Introduced by: Senator Plyler

Summary by: Hannah Holm,
Research Assistant

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.

SENATE BILL 1159

Page 2

- Any restrictions approved by DENR on the use of the site.

Within 15 days after receiving DENR's approval of a Notice, the owner must file the Notice in the recordation of deeds office in the county or counties where the property is located. The Notice shall then be indexed in the grantor index under the names of the owners of the property. The Secretary may prepare and file the Notice if the owner fails to do so within the time allowed, the cost of which the Secretary may recover from any responsible party. An owner who files a Notice but is not a responsible party may also recover costs relating to the filing of the Notice from any responsible party. When a contaminated site subject to a land-use restriction is leased or changes ownership, the instrument of transfer must clearly state that the property is contaminated and reference the Notice. The Secretary may, at the request of the owner, cancel a Notice after the contamination on the site has been eliminated.

BACKGROUND: DENR supports Senate Bill 1159 and provided language to assist in the drafting of the bill.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
Name of Committee

4/20/99
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Walter Cherry

NC Park Council

JIM KUSZAK

NCEI

Kim Hibberd

NCLM

~~John Adams~~

NC Park Council

John Cyrus

N.C. State Grange

David Meredith

N.C. State Grange

John Adams

FARMER

Roger Bon

Box + Assoc - NCC

Kathleen Waylett

Attorney General's Office - representing DENR

DIANE BURTON

NC HWS

Jan Speed

Dick Hamilton

Wildlife Com

KATHERINE SKINNER

The Nature Conservancy

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steve Woodson	NC Farm Bureau
Lou-Ann Coe	Farmers for Fairness, Inc.
Natalie English	NC Agribusiness Council
C. Porter	Bone & Associates
Cam Coover	RPMHL
Steve Latta	Brooker, Pierce
Michelle Cook	Weyerhaeuser
Bob Slocum	NC Forestry Assoc.
Dianne Beasley	NC Forest Service
Lu ROGERS	NC DENR
Stan Adams	NC Forest Service



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, April 22, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

- SB 593 AMBIENT AIR QUALITY IMPROVEMENT
 Senator Miller
- SB 953 WETLANDS RESTORATION PROG. AMENDS
 Senator Clodfelter
- SB 979 ENV. CLEANUP COST REIMBURSEMENTS
 Senator Carter
- SB 1083 LP GAS REGISTRATION/TRAINING
 Senator Albertson
- SB 1084 EXTEND ANIMAL WASTE PILOT
 Senator Albertson
- SB 1127 STATE NATURE & HISTORIC PRESERVE
 Senator Horton
- SB 1132 ENV. TECH. CORRECTIONS
 Senator Odom
- SB 1139 NATURE & HISTORIC PRESERVE
 Senator Horton

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

April 22, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, April 22, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fifteen committee members present.

The following bills were on the agenda:

S.J.R. 1139 – NATURE & HISTORIC PRESERVE - Senator Horton, sponsor, was recognized to explain the bill. Senator Horton sent forth an amendment and moved for its adoption. Motion passed. Senator Robinson moved that the bill, as amended, be made into a Committee Substitute Joint Resolution and given a favorable report, unfavorable as to joint resolution. Motion carried.

SB 1127 – STATE NATURE & HISTORIC PRESERVE – Senator Horton, sponsor, was recognized to explain the bill. Senator Horton sent forth an amendment and moved for its adoption. Motion carried. Senator Robinson moved that the bill, as amended, be made into a proposed committee substitute and that the PCS be given a favorable report, unfavorable as to bill. Motion carried.

SB 953 – WETLANDS RESTORATION PRGM. AMENDS – Senator Clodfelter, sponsor, was recognized to explain the bill. Senator Harris moved that the bill be given a favorable report. Motion carried.

SB 979 – ENV. CLEANUP COST REIMBURSEMENTS – Senator Carter, sponsor, was recognized to explain the bill. Senator Horton sent forth a technical amendment and moved for its adoption. Motion carried. Dan McLawhorn, General Counsel for the N. C. Department of Environment & Natural Resources, answered questions from committee members. Senator Clodfelter moved that the bill, as amended, be rolled into a proposed committee substitute and given a favorable report, unfavorable as to original bill. Motion carried.

SB 1083 – LP GAS REGISTRATION/TRAINING – Senator Albertson, sponsor, asked Senator Robinson to chair the committee so that he could handle the bill. Barbara Riley of staff explained the bill. Roger Bone, N. C. Propane Gas Association, spoke in favor of the bill. David Smith, Standards Division, N. C. Department of Agriculture & Consumer Services, spoke on the bill. Alton Overby, President, N. C. Propane Association, said this law was needed because there was not one in place.

Senator Wellons moved for a favorable report. Motion carried, with a recommended referral to Appropriations.

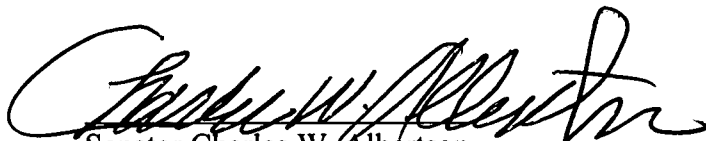
SB 1132 – ENV. TECH. CORRECTIONS – Senator Odom, sponsor, was not present so George Givens of staff explained the bill. Senator Wellons moved for a favorable report. Motion carried.

The following bills were on the agenda but were not discussed:

SB 593 – AMBIENT AIR QUALITY IMPROVEMENT – Senator Miller, sponsor.

SB 1084 – EXTEND ANIMAL WASTE PILOT – Senator Albertson, sponsor.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Thursday, April 22, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 953 WETLANDS RESTORATION PRGM. AMENDS.
 Sequential Referral: NONE
 Recommended Referral: NONE

S.B. 1083 LP GAS REGISTRATION/TRAINING
 Sequential Referral: NONE
 Recommended Referral: APPROPRIATIONS

S.B. 1132 ENV. TECH. CORRECTIONS.
 Sequential Referral: NONE
 Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 979 ENV. CLEANUP COST REIMBURSEMENTS.
 Draft Number: PCS6661
 Sequential Referral: NONE
 Recommended Referral: NONE
 Long Title Amended: NO

TOTAL REPORTED: 4

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Monday, April 26, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1014 REWISE CERTAIN LODGING RULES
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1047 AMEND ENV. & NAT. RESOURCES LAWS-1
Draft Number: PCS3795
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: Yes

S.B. 1048 AMEND ENV. & NAT. RESOURCES LAWS-2
Draft Number: PCS3796
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: Yes

S.B. 1127 STATE NATURE AND HISTORIC PRESERVE
Draft Number: PCS2751
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: No

UNFAVORABLE AS TO JOINT RESOLUTION, BUT FAVORABLE AS TO C.S. JOINT RESOLUTION

S.J.R. 1139 NATURE & HISTORIC PRESERVE
Draft Number: PCS2750
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 953

Short Title: Wetlands Restoration Prgm. Amends.

(Public)

Sponsors: Senators Clodfelter; Albertson and Kinnaird.

Referred to: Agriculture/Environment/Natural Resources.

April 14, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO DISTRIBUTE FUNDS FROM THE WETLANDS
4 RESTORATION FUND AND TO CONVEY INTERESTS IN REAL PROPERTY
5 ACQUIRED UNDER THE WETLANDS RESTORATION PROGRAM TO
6 FEDERAL AND STATE AGENCIES, LOCAL GOVERNMENTS, AND
7 PRIVATE NONPROFIT CONSERVATION ORGANIZATIONS.

8 The General Assembly of North Carolina enacts:

9 Section 1. G.S. 143-214.12 is amended by adding a new subsection to
10 read:

11 "(a1) The Department may distribute funds from the Wetlands Restoration Fund
12 directly to a federal or State agency, a local government, or a private, nonprofit
13 conservation organization to acquire, manage, and maintain real property or an
14 interest in real property for the purposes set out in subsection (a) of this section. A
15 recipient of funds under this subsection shall grant a conservation easement in the
16 real property or interest in real property acquired with the funds to the Department
17 in a form that is acceptable to the Department. The Department may convey real
18 property or an interest in real property that has been acquired under the Wetlands
19 Restoration Program to a federal or State agency, a local government, or a private,
20 nonprofit conservation organization to acquire, manage, and maintain real property
21 or an interest in real property for the purposes set out in subsection (a) of this
22 section. A grantee of real property or an interest in real property under this
23 subsection shall grant a conservation easement in the real property or interest in real
24 property to the Department in a form that is acceptable to the Department."

1

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



SENATE BILL 953: Wetlands Restoration Program Amends

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: April 22, 1999

Version: First Edition

Introduced by: Sen. Clodfelter

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 953 authorizes the Department of Environment and Natural Resources (DENR) to convey funds and interests in real property acquired under the Wetlands Restoration Program to other government agencies and nonprofit organizations for the purposes of wetland preservation, restoration, and creation.*

CURRENT LAW: The current law governing the Wetlands Restoration Program authorizes DENR to accept funds and interests in real property for the purposes of wetland preservation, restoration and creation but makes no provision for the transfer of these funds or interests in real property to other entities engaged in wetland preservation, restoration or creation.

BILL ANALYSIS: SB 953 amends the law governing the Wetlands Restoration Fund to authorize DENR to distribute funds and interests in real property acquired under the Wetlands Restoration Program to federal and State agencies, local governments, and private nonprofit conservation organizations. Entities receiving funds and interests in real property from DENR under the provisions of SB 953 are bound by the same restrictions on the use of these funds and interests in property as DENR is under the current law. SB 953 also stipulates that any grantee of real property or interest in real property must grant an easement to DENR in a form acceptable to DENR.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 979
Proposed Committee Substitute S979-PCS6661-SB

Short Title: Env. Cleanup Cost Reimbursements.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THAT FUNDS PAID TO THE STATE IN CONNECTION
3 WITH ENVIRONMENTAL CLEANUPS ARE CREDITED AS PROVIDED BY
4 THE APPLICABLE ENVIRONMENTAL LAW.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143-16.5 reads as rewritten:
7 "**§ 143-16.5. Public Settlement Reserve Fund.**
8 (a) The 'Public Settlement Reserve Fund' is established as a restricted reserve in
9 the General Fund. Except if prohibited by order of the court and except as provided
10 in G.S. ~~143-16.4~~, 143-16.4 and subsection (b) of this section, funds in excess of
11 seventy-five thousand dollars (\$75,000) paid to the State or a State agency pursuant
12 to a settlement agreement or final order or judgment of the court shall be deposited
13 to the Public Settlement Reserve Fund. Funds shall be expended from the Public
14 Settlement Reserve Fund only by appropriation by the General Assembly.
15 (b) Subsection (a) of this section does not apply to funds paid to the State or a
16 State agency pursuant to a settlement agreement or final order or judgment of a court
17 by or on behalf of a responsible party for any costs associated with the removal of
18 any pollutant or waste, remediation or cleanup of environmental damage, restoration
19 of an affected area, or any related costs that the State recovers pursuant to any
20 environmental law. Funds to which this subsection applies shall be credited as
21 provided in the applicable environmental law. For purposes of this subsection,
22 'environmental law' means any federal, State, or local law, code, statute, rule,

1 regulation, or ordinance relating to protection of the environment, public health, or
2 natural resources."

3 Section 2. This act is effective retroactively to 15 November 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 979

Short Title: Env. Cleanup Cost Reimbursements.

(Public)

Sponsors: Senator Carter.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE THAT FUNDS PAID TO THE STATE IN CONNECTION
3 WITH ENVIRONMENTAL CLEANUPS ARE CREDITED AS PROVIDED BY
4 THE APPLICABLE ENVIRONMENTAL LAW.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-16.5 reads as rewritten:

7 "**§ 143-16.5. Public Settlement Reserve Fund.**

8 (a) The 'Public Settlement Reserve Fund' is established as a restricted reserve in
9 the General Fund. Except if prohibited by order of the court and except as provided
10 in ~~G.S. 143-16.4~~, 143-16.4 and subsection (b) of this section, funds in excess of
11 seventy-five thousand dollars (\$75,000) paid to the State or a State agency pursuant
12 to a settlement agreement or final order or judgment of the court shall be deposited
13 to the Public Settlement Reserve Fund. Funds shall be expended from the Public
14 Settlement Reserve Fund only by appropriation by the General Assembly.

15 (b) Subsection (a) of this section does not apply to funds paid to the State or a
16 State agency pursuant to a settlement agreement or final order or judgment of a court
17 by or on behalf of a responsible party for any costs associated with the removal of
18 any pollutant or waste, remediation or cleanup of environmental damage, restoration
19 of an affected area, or any related costs that the State recovers pursuant to any
20 environmental law. Funds to which this subsection applies shall be credited as
21 provided in the applicable environmental law. For purposes of this subsection,
22 'environmental law' means any federal, State, or local law, code, statute, rule,
23 regulation, or ordinance relating to protection of the environment, public health, or
24 natural resources."

1 Section 2. This section is effective retroactively to 15 November 1998.



SENATE BILL 979: Environmental Cleanup Cost Reimbursements

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: April 22, 1999

Version: First Edition

Introduced by: Sen. Carter

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 979 requires funds paid to the State in connection with environmental cleanups to be credited as provided by the applicable environmental law.*

CURRENT LAW: The current law governing the Public Settlement Reserve Fund (Fund) states that all funds in excess of \$75,000 paid to the State or any State agency pursuant to a settlement agreement or court case shall be deposited in the Fund. The only exceptions to this requirement are for cases in which there is a conflicting order of the court and for circumstances specific to the Tobacco Settlement. The law further states that expenditures may be made from the Fund only by specific appropriation by the General Assembly.

BILL ANALYSIS: SB 979 stipulates that the requirement that all funds in excess of \$75,000 paid to a State agency pursuant to a settlement agreement or court case be deposited in the Fund *does not apply* to funds paid to the State by or on behalf of a responsible party for costs related to the removal of any pollutant or waste, remediation of environmental damage, or restoration of an affected area pursuant to any environmental law. SB 979 further stipulates that these funds shall be credited as provided in the applicable environmental law.

EFFECTIVE DATE: This act is effective retroactively to November 15, 1998.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 979

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

S979V1-ASB-001.01

Date 22 April, 1999

Comm. Sub. [NO]
Amends Title [NO]
FIRST EDITION

Senator Horton

- 1 moves to amend the bill on page 2, line 1,
- 2 by rewriting that line to read:
- 3 "Section 2. This act is effective retroactively to 15
- 4 November 1998."

SIGNED [Signature]
Amendment Sponsor

SIGNED [Signature]
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

1

SENATE BILL 1083

Short Title: LP Gas Registration/Training.

(Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE REGISTRATION REQUIREMENTS FOR DEALERS
3 IN LIQUIFIED PETROLEUM GAS AND TO PROVIDE FOR THE TRAINING
4 AND EXAMINATION OF PERSONS TRANSPORTING OR DISPENSING
5 LIQUIFIED PETROLEUM GAS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 119-56 reads as rewritten:

8 **"§ 119-56. Registration of dealers; liability insurance or substitute required.**

9 A person shall not hold himself out as a dealer without first having registered as
10 herein ~~provided. A dealer shall annually on or before January 1 of each year register~~
11 ~~with the Commissioner on a form to be furnished by the Commissioner.~~ provided on
12 a form to be furnished by the Commissioner. Such form shall give the name and
13 address of the dealer, the place ~~or places~~ of and type or types of business of such
14 dealer, and such other pertinent information as the Commissioner may deem
15 necessary. A dealer shall reregister on or before the renewal date of its liability
16 insurance policy by having the insurance provider submit satisfactory documentation
17 of insurance coverage to the Commissioner.

18 A dealer shall obtain and maintain comprehensive general liability insurance
19 including product liability of one hundred thousand dollars (\$100,000) combined
20 single limits and, when applicable, comprehensive automobile liability insurance of
21 one hundred thousand dollars (\$100,000) combined single limits. Verification of said
22 insurance coverage shall be made in a manner satisfactory to the Commissioner. In
23 lieu of insurance, the dealer may file and maintain a bond, certificate of deposit or
24 irrevocable letter of credit in a form satisfactory to the Commissioner which provides

1 protection for the public in the same amounts and to the same extent as said
2 insurance.

3 The provisions of this section shall not apply to a dealer who retails liquefied
4 petroleum gas in containers of less than 50 pounds water capacity and which retailing
5 does not involve the filling or transporting of such containers. However, training
6 shall be performed according to the provisions of G.S. 119-62(e)."

7 Section 2. Chapter 119 of the General Statutes is amended by adding
8 two new sections to read:

9 "**§ 119-62. Employee training requirements.**

10 (a) Employee Training Requirements. -- Except as otherwise provided in
11 subsection (b) of this section, no person may work or be employed for more than 90
12 days in any capacity that requires the transporting or dispensing of liquified
13 petroleum gas or performing any work on liquified petroleum gas systems unless that
14 person has enrolled in and successfully completed a training program and has taken
15 an examination that measures the competency of that person to perform liquified
16 petroleum gas-related activities and tests the person's working knowledge of the
17 applicable safety standards. A person who has not yet completed this training
18 program may perform the duties described in this subsection only under the direct
19 supervision of properly trained personnel until that training and examination are
20 complete. The training program and examination shall be prepared or approved by
21 the Commissioner. An examination may not be administered by a person employed
22 by the same company employing the person taking the test.

23 (b) Training and Examination of Existing Employees. -- Employees engaged in
24 service installation, safety, or delivery activities involving liquified petroleum gas on
25 January 1, 2000, shall enroll in an appropriate certified training program and
26 complete an examination no later than July 1, 2000, unless they can provide proof of
27 such training and examination within the previous three years.

28 (c) Retraining and Examination. -- All employees engaged in service installation,
29 safety, or delivery activities involving liquified petroleum gas shall be retrained and
30 reexamined no later than the third anniversary of the date of the completion of their
31 previous training and examination and every three years thereafter.

32 (d) Proof of Training. -- Proof of completion of an approved training and
33 examination shall be provided to the Commissioner from the approved testing agent
34 within 30 days of the examination and shall be maintained in a personnel training file
35 available for examination at the place of employment. Proof of previous training and
36 examination authorized by subsection (b) of this section shall be provided by the
37 dealer or designated manager to the Commissioner by July 1, 2000, and shall be
38 maintained in a personnel training file available for examination at the place of
39 employment.

40 (e) Limited Training for Certain Employees. -- Training for employees whose only
41 liquified petroleum gas activity involves the selling and receiving at retail of exchange
42 containers of less than 50 pounds water capacity shall be performed by the supplying
43 cylinder exchange company or by the manager or agent of the retail location. Such
44 training shall be documented by a sign-off sheet maintained at the employment

1 location and shall be supplemented by posting the training instructions at the point of
2 sale or the exchange cabinet. Proof of such training need not be provided to the
3 Commissioner. Persons involved in the sale of nominal one-pound LP-gas capacity
4 containers and smaller liquified petroleum gas containers are exempt from this
5 training requirement.

6 "§ 119-63. Training program and examination preparation.

7 Training programs and examinations required under G.S. 119-62 shall be
8 conducted by appropriate State personnel or training agents approved by the
9 Commissioner. Such training agents shall not conduct training or examinations until
10 they have registered on a form to be furnished by the Commissioner and have
11 received approval for conducting training and examination. The form shall give the
12 name and address of the agent applicant, documentation of appropriate qualification
13 for conducting training, and such other pertinent information as the Commissioner
14 may deem necessary."

15 Section 3. There is appropriated from the General Fund to the
16 Department of Agriculture and Consumer Services the sum of seventy-six thousand
17 eight hundred thirty-three dollars (\$76,833) for the 1999-2000 fiscal year and the sum
18 of eighty-three thousand three hundred ninety-eight dollars (\$84,398) for the 2000-
19 2001 fiscal year to implement safety training for liquified petroleum gas dealers and
20 their employees.

21 Section 4. This act becomes effective January 1, 2000.



SENATE BILL 1083: LP Gas Registration/Training

BILL ANALYSIS

Committee: Ag/Env/Natural Resources
Date: April 22, 1999
Version: 1st Edition

Introduced by: Albertson
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *Senate Bill 1083 modifies the registration requirements for liquid petroleum gas dealers and establishes training requirements for persons employed in transporting or dispensing liquefied petroleum gas..*

CURRENT LAW: The Board of Agriculture, under the authority of Article 5, Chapter 119 of the General Statutes, is authorized to establish standards for the handling of liquefied petroleum gas. LPG's are materials composed predominately of, or a mixture of, propane, propylene, butane, and butylene. The current statutes require dealers to register with the Commissioner of Agriculture each year and to maintain comprehensive liability insurance.

BILL ANALYSIS: Senate Bill 1083 amends the registration requirements of G.S. 119-56 to require LPG dealers to renew their registration each year on the renewal date of their liability insurance policy by having the insurer submit documentation of coverage to the Commissioner.

The bill also requires persons engaged in transporting or dispensing LPG to complete an approved training course and pass an examination measuring their competency to perform LPG related activities and knowledge of applicable safety standards. No person may be employed over 90 days in a capacity involving the transportation or dispensing of LPG without completing such training and passing an exam. A person who has not completed these requirements may work only under the direct supervision of properly trained personnel.

All employees engaged in service, installation, safety, or delivery activities as of January 1, 2000 must enroll in a training program and complete an examination by July 1, 2000 and retraining and examination must be completed every 3 years. Proof of training and examination must be provided to the Commissioner as well as being maintained in a personnel training file at the place of employment. Training programs and examinations shall be conducted by State personnel or training agents approved by the Commissioner.

Those persons whose only LPG activity involves the selling and receiving at retail of exchange containers of less than 50 pounds water capacity shall be trained by either the cylinder exchange company or the manager or agent of the retail location. Training is to be documented by a sign off sheet kept on location and need not be provided to the Commissioner. Persons involved in the sale of nominal 1 lb capacity containers are exempt from the training requirements.

The bill provides for an appropriation to the Department of Agriculture and Consumer Services of \$76,833 for fiscal year 1999-2000 and \$84,398 for fiscal year 2000-2001 to implement the safety training program.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1127
Proposed Committee Substitute S1127-PCS2751-RT

Short Title: State Nature and Historic Preserve.

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

1
2 AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES
3 AS PART OF THE STATE NATURE AND HISTORIC PRESERVE,
4 INCLUDING THE CODIFICATION OF NAME CHANGES OF CERTAIN
5 LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND
6 HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE
7 NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS;
8 AND TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM.

9 Whereas, Article XIV, Section 5 of the North Carolina Constitution
10 authorizes the dedication of State and local government properties as part of the
11 State Nature and Historic Preserve upon acceptance by resolution adopted by a vote
12 of three-fifths of the members of each house of the General Assembly and removal of
13 properties from that Preserve by law adopted by three-fifths of the members of each
14 house of the General Assembly; Now, therefore,
15 The General Assembly of North Carolina enacts:

16 Section 1. The following parcels of tracts of land are removed, pursuant
17 to Article XIV, Section 5 of the North Carolina Constitution, from the State Nature
18 and Historic Preserve:

19 (1) All lands and waters as follows: The portion of that certain tract or
20 parcel of land at Eno River State Park in Durham County,
21 Lebanon Township, described in Deed Book 1626-854, and more
22 particularly described in a Department of Transportation drawing
23 entitled "Sketch Showing a Portion of the Property of the State of

1 North Carolina, Division of Parks and Recreation, Durham County
2 Project 8.1351301 ID # U-2102 for tracts 155, 158, 159, and 163";
3 the portion of that certain tract or parcel of land at Eno River
4 State Park in Durham County, Lebanon Township, described in
5 Deed Book 1945-773 and more particularly described in a
6 Department of Transportation drawing entitled "Sketch Showing a
7 Portion of the Property of the State of North Carolina, Division of
8 Parks and Recreation, Durham County Project 8.1351301 ID # U-
9 2102 for tracts 155, 158, 159, and 163"; and the certain parcels or
10 tracts of land in Durham and Orange Counties identified as tracts
11 I, II, III, and IVA on the George C. Love, Jr. survey entitled "Plat
12 Prepared for Acquisition of Zener Forest for Eno River State
13 Park" dated December 2, 1993, and revised December 14, 1993.

14 (2) All lands and waters as follows: The portion of that certain tract or
15 property at Hanging Rock State Park in Stokes County, Danbury
16 Township, described in Deed Book 360, Page 160, that is a 30-foot
17 wide right-of-way beginning approximately 183 feet south of SR
18 1001 and extending in a southerly direction approximately 1,479
19 feet and more particularly shown on a survey titled, "J. Spot
20 Taylor Heirs, Danbury Township, Stokes County, N.C." by Grinski
21 Surveying Company, June 1985, as extending from the southwest
22 corner of the Bobby Joe Lankford tract.

23 (3) All lands and waters as follows: The portion of that certain tract or
24 property at South Mountains State Park in Burke County, Lower
25 Creek Township, described in Deed Book 862, Page 1471 for the
26 new right-of-way for SR 1904 needed for the relocation of this
27 road within the park and as described in the drawing and shown as
28 between the Rutherford Electric Membership Corporation right-of-
29 way and the southern property boundary dated January 28, 1999,
30 entitled "Survey for State of North Carolina" file name 12455.dwg
31 by Suttles Surveying P.A.; and the portions of those certain tracts
32 or property at South Mountains State Park in Burke County, in
33 Upper Fork Township described in Deed Book 860, Page 341 and
34 Deed Book 884, Page 1641 that are south of the centerline of the
35 CCC road and shown on the drawing entitled "Land Trade
36 Between South Mountains State Park and Adjacent Game Land
37 Along CCC Road" by the Division of Parks and Recreation dated
38 March 15, 1999.

39 Section 2. G.S. 143-260.10 reads as rewritten:

40 "§ 143-260.10. Components of State Nature and Historic Preserve.

41 The following are components of the State Nature and Historic Preserve accepted
42 by the North Carolina General Assembly pursuant to G.S. 143-260.8:

43 (1) All lands and waters within the boundaries of the following units
44 of the State Parks System as of ~~April 4, 1989~~; April 6, 1999:

1 Baldhead Island State Natural Area, Bay Tree Lake State Park,
 2 Boones Cave State Park, Bushy Lake State Natural Area, Carolina
 3 Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp
 4 State Natural Area, Dismal Swamp State Natural Area, Duke
 5 Power State Park, ~~Eno River State Park~~, Fort Fisher State
 6 Recreation Area, Fort Macon State Park, Goose Creek State Park,
 7 Hammocks Beach State Park, ~~Hanging Rock State Park~~, Hemlock
 8 Bluffs State Natural Area, Jockeys Ridge State Park, Jones Lake
 9 State Park, Lake James State Park, Lake Waccamaw State Park,
 10 Lumber River State Park, Medoc Mountain State Park, ~~Merchant's~~
 11 Merchants Millpond State Park, Mitchells Millpond State Natural
 12 ~~Area north of S.R. 2224~~, Area, ~~Mount Jefferson State Park~~, State
 13 Natural Area, Mount Mitchell State Park, Occoneechee Mountain
 14 State Natural Area, Pettigrew State Park, Pilot Mountain State
 15 Park, Raven Rock State Park, Run Hill State Natural Area,
 16 Singletary Lake State Park, ~~South Mountains State Park~~, Theodore
 17 Roosevelt State Natural Area, and Weymouth Woods-Sandhills
 18 Nature Preserve.

19 (2) All lands and waters within the boundaries of William B. Umstead
 20 State Park as of ~~April 4, 1989~~, April 6, 1999, with the exception of
 21 Tract Number 65, containing 22.93140 acres as shown on a survey
 22 prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS),
 23 entitled 'Property of The State of North Carolina William B.
 24 Umstead State Park', dated January 14, 1977, and as removed from
 25 the State Nature and Historic Preserve by Chapter 450, Section 1
 26 of the 1985 Session Laws. The tract excluded from the State
 27 Nature and Historic Preserve under this subdivision is deleted from
 28 the State Parks System in accordance with G.S. 113-44.14. The
 29 State of North Carolina may only exchange this land for other land
 30 for the expansion of William B. Umstead State Park or sell and use
 31 the proceeds for that purpose. The State of North Carolina may
 32 not otherwise sell or exchange this land.

33 (3) ~~All lands within the boundaries of Jockey's Ridge State Park as of~~
 34 ~~April 4, 1989, with the exception of the following tract: That~~
 35 ~~certain tract or parcel of land at Jockey's Ridge State Park in Dare~~
 36 ~~County, Nags Head Township, more particularly described as~~
 37 ~~follows: Beginning at an iron rod which is located North~~
 38 ~~39°07'08" West 74.96 feet from an iron pipe having a NC~~
 39 ~~Coordinate value of X-2996057.363 and Y-823796.892, said iron~~
 40 ~~rod also being located in a common property line between the~~
 41 ~~State of North Carolina and R. M. Ritchie, et al.; thence running~~
 42 ~~from said beginning point South 39°07'08" East 10 feet to a point;~~
 43 ~~thence North 49°10'51" East 47.98 feet to a point in the~~
 44 ~~right-of-way of U.S. 158 Bypass; thence northwesterly along the~~

1 ~~aforementioned right-of-way 10 feet to an iron rod, thence South~~
2 ~~49°10'51" West 47.98 feet to the point and place of beginning and~~
3 ~~containing 479.80 square feet more or less, and as drawn out by the~~
4 ~~Design and Development Section of the Division of Parks and~~
5 ~~Recreation on a map dated November 8, 1988.~~

- 6 (4) All lands within the boundaries of Morrow Mountain State Park as
7 of ~~April 4, 1989, April 6, 1999~~, with the exception of the following
8 tract: That certain tract or parcel of land at Morrow Mountain
9 State Park in Stanly County, North Albemarle Township,
10 containing 0.303 acres, more or less, as surveyed and platted by
11 Thomas W. Harris R.L.S., on a map dated August 27, 1988,
12 reference to which is hereby made for a more complete
13 description.

- 14 (5) ~~All lands within the boundaries of Pettigrew State Park as of April~~
15 ~~4, 1989, with the exception of the following tract: The portion of~~
16 ~~that certain tract or parcel of land at Pettigrew State Park in~~
17 ~~Washington County, Seuppernong Township, described in Deed~~
18 ~~Book 257, page 479, lying south of S.R. 1183 or the extension~~
19 ~~thereof along its present right-of-way.~~

- 20 (6) All land within the boundaries of Crowder's Crowders Mountain
21 State Park as of ~~April 4, 1989, April 6, 1999~~, with the exception of
22 the following tract: The portion of that certain tract or parcel of
23 land at Crowder's Crowders Mountain State Park in Gaston
24 County, Crowder's Crowders Mountain Township, described in
25 Deed Book 1939, page 800, and containing 757.28 square feet and
26 as shown in a survey by Tanner and McConnaughey, P.A. dated
27 7/22/88. The tract excluded from the State Nature and Historic
28 Preserve under this subdivision is deleted from the State Parks
29 System in accordance with G.S. 113-44.14. The State of North
30 Carolina may only exchange this land for other land for the
31 expansion of Crowders Mountain State Park or sell this land and
32 use the proceeds for that purpose. The State of North Carolina
33 may not otherwise sell or exchange this land.

- 34 (7) All lands owned in fee simple by the State at the New River
35 Scenic River as of ~~April 4, 1989, April 6, 1999~~, with the exception
36 of the following tract: That certain tract or parcel of land at the
37 New River Scenic River in Alleghany County, Piney Creek
38 Township, described in Deed Book 112, page 610, containing 16.54
39 acres, and consisting of lots #12 through #19 on the survey by
40 Dudley and Zeh, R.L.S. dated 9/21/79. The tract excluded from
41 the State Nature and Historic Preserve under this subdivision is
42 deleted from the State Parks System in accordance with G.S. 113-
43 44.14.

- 1 (8) All lands and waters within the boundaries of Stone Mountain
2 State Park as of ~~April 4, 1989~~, April 6, 1999, with the exception of
3 the following tract: The portion of that certain tract or parcel of
4 land at Stone Mountain State Park in Wilkes County, Traphill
5 Township, described as parcel 33-02 in Deed Book 633-193, and
6 more particularly described as all of the land in this parcel lying to
7 the west of the eastern edge of the Air Bellows Gap Road as
8 shown on the National Park Service Land Status Map 33 dated
9 3/24/81, containing approximately 72 acres. The tract excluded
10 from the State Nature and Historic Preserve under this subdivision
11 is deleted from the State Parks System in accordance with G.S.
12 113-44.14.
- 13 (9) All lands and waters located within the boundaries of the following
14 State Historic Sites as of ~~March 6, 1979~~: January 1, 1999: Alamance
15 Battleground Historic Site, Battleground, Charles B. Aycock
16 Birthplace, Historic Bath Historic Site, Bath, Bennett Place,
17 Bentonville Battleground Historic Site, Battleground, Brunswick
18 Town Historic Site, Town/Fort Anderson, Governor Richard
19 Caswell Memorial/C.S.S. Neuse Historic Site, C.S.S. Neuse and
20 Governor Caswell Memorial, Charlotte Hawkins Brown Memorial,
21 Duke Homestead Historic Site, Homestead, Historic Edenton, Fort
22 Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living
23 Historical Farm, House in the Horseshoe Historic Site, James
24 Iredell House Historic Site, Horseshoe, North Carolina
25 Transportation Museum, President James K. Polk Memorial
26 Historic Site, Memorial, Stagville Preservation Center Historic Site,
27 Stagville, State Capitol Historic Site, Capitol, Town Creek Indian
28 Mound Historic Site, Mound, Tryon Palace Historic Site, Governor
29 Sites & Gardens, Zebulon B. Vance Birthplace Historic Site,
30 Birthplace, and Thomas Wolfe Memorial Historic Site. Memorial.
- 31 (10) All lands and waters within the boundaries of Gorges State Park,
32 the purchase of which was approved by the Council of State at its
33 meeting on 2 March 1999, as of the date on which the lands and
34 waters are purchased by the State.
- 35 (11) All land and waters located within the boundaries of Eno River
36 State Park as of April 6, 1999, with the exception of six tracts: The
37 portion of that certain tract or parcel of land at Eno River State
38 Park in Durham County, Lebanon Township, described in Deed
39 Book 1626-854, and more particularly described in a Department
40 of Transportation drawing entitled 'Sketch Showing a Portion of
41 the Property of the State of North Carolina, Division of Parks and
42 Recreation, Durham County Project 8.1351301 ID # U-2102 for
43 tracts 155, 158, 159, and 163'; and the portion of that certain tract
44 or parcel of land at Eno River State Park in Durham County.

1 Lebanon Township, described in Deed Book 1945-773 and more
2 particularly described in a Department of Transportation drawing
3 entitled "Sketch Showing a Portion of the Property of the State of
4 North Carolina, Division of Parks and Recreation, Durham County
5 Project 8.1351301 ID# U-2102 for tracts 155, 158, 159 and 163".
6 These two tracts excluded from the State Nature and Historic
7 Preserve under this subdivision are deleted from the State Parks
8 System in accordance with G.S. 113-44.14. Further exclusions
9 from the State Nature and Historic Preserve are: the certain parcels
10 or tracts of land in Durham and Orange Counties identified as
11 tracts I, II, III, and IVA on the George C. Love, Jr. survey entitled
12 'Plat Prepared for Acquisition of Zener Forest for Eno River State
13 Park' dated December 2, 1993, and revised December 14, 1993.
14 The State of North Carolina may only exchange these six tracts for
15 other land for the expansion of Eno River State Park or sell these
16 tracts and use the proceeds for that purpose. The State of North
17 Carolina may not otherwise sell or exchange this land.

18 (12) All land and waters located within the boundaries of Hanging
19 Rock State Park as of April 6, 1999, with the exception of the
20 following tract: The portion of that certain tract or property at
21 Hanging Rock State Park in Stokes County, Danbury Township,
22 described in Deed Book 360, Page 160, that is a 30-foot wide right-
23 of-way beginning approximately 183 feet south of SR 1001 and
24 extending in a southerly direction approximately 1,479 feet and
25 more particularly shown on a survey titled, 'J. Spot Taylor Heirs,
26 Danbury Township, Stokes County, N.C.,' by Grinski Surveying
27 Company, June 1985, as extending from the southwest corner of
28 the Bobby Joe Lankford tract. The tract excluded from the State
29 Nature and Historic Preserve under this subdivision is deleted from
30 the State Parks System in accordance with G.S. 113-44.14.

31 (13) All land and waters located within the boundaries of South
32 Mountains State Park as of April 6, 1999, with the exception of the
33 following tracts: The portion of that certain tract or property at
34 South Mountains State Park in Burke County, Lower Creek
35 Township, described in Deed Book 862, Page 1471 for the new
36 right-of-way for SR 1904 needed for the relocation of this road
37 within the park and as described in the drawing and shown as
38 between the Rutherford Electric Membership Corporation right-of-
39 way and the southern property boundary dated January 28, 1999,
40 entitled 'Survey for State of North Carolina' file name 12455.dwg
41 by Suttles Surveying P.A.; and the portions of those certain tracts
42 or property at South Mountains State Park in Burke County, in
43 Upper Fork Township described in Deed Book 860, Page 341 and
44 Deed Book 884, Page 1641 that are south of the centerline of the

1 CCC road and shown on the drawing entitled 'Land Trade
2 Between South Mountains State Park and Adjacent Game Land
3 Along CCC Road' by the Division of Parks and Recreation dated
4 March 15, 1999. The tracts excluded from the State Nature and
5 Historic Preserve under this subdivision are deleted from the State
6 Parks System in accordance with G.S. 113-44.14. The State of
7 North Carolina may only exchange this land for other land for the
8 expansion of South Mountains State Park or sell this land and use
9 the proceeds for that purpose. The State may not otherwise sell or
10 exchange this land."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1127

Short Title: State Nature and Historic Preserve.

(Public)

Sponsors: Senator Horton.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE JOINT RESOLUTION DEDICATING PROPERTIES
3 AS PART OF THE STATE NATURE AND HISTORIC PRESERVE,
4 INCLUDING THE CODIFICATION OF NAME CHANGES OF CERTAIN
5 LANDS PREVIOUSLY ACCEPTED INTO THE STATE NATURE AND
6 HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE
7 NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS;
8 AND TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM.

9 Whereas, Article XIV, Section 5 of the North Carolina Constitution
10 authorizes the dedication of State and local government properties as part of the
11 State Nature and Historic Preserve upon acceptance by resolution adopted by a vote
12 of three-fifths of the members of each house of the General Assembly and removal of
13 properties from that Preserve by law adopted by three-fifths of the members of each
14 house of the General Assembly; Now, therefore,
15 The General Assembly of North Carolina enacts:

16 Section 1. The following parcels of tracts of land are removed, pursuant
17 to Article XIV, Section 5 of the North Carolina Constitution, from the State Nature
18 and Historic Preserve:

19 (1) All lands and waters as follows: The portion of that certain tract or
20 parcel of land at Eno River State Park in Durham County,
21 Lebanon Township, described in Deed Book 1626-854, and more
22 particularly described in a Department of Transportation drawing
23 entitled "Sketch Showing a Portion of the Property of the State of
24 North Carolina, Division of Parks and Recreation, Durham County

1 Project 8.1351301 ID# U-2102 for tracts 155, 158, 159, and 163";
2 the portion of that certain tract or parcel of land at Eno River
3 State Park in Durham County, Lebanon Township, described in
4 Deed Book 1945-773 and more particularly described in a
5 Department of Transportation drawing entitled "Sketch Showing a
6 Portion of the Property of the State of North Carolina, Division of
7 Parks and Recreation, Durham County Project 8.1351301 ID# U-
8 2102 for tracts 155, 158, 159, and 163"; and the certain parcels or
9 tracts of land in Durham and Orange Counties identified as tracts
10 I, II, III, and IVA on the George C. Love, Jr. survey entitled "Plat
11 Prepared for Acquisition of Zener Forest for Eno River State
12 Park" dated December 2, 1993, and revised December 14, 1993.

13 (2) All lands and waters as follows: The portion of that certain tract or
14 property at Hanging Rock State Park in Stokes County, Danbury
15 Township, described in Deed Book 360, Page 160, that is a 30-foot
16 wide right-of-way beginning approximately 183 feet south of SR
17 1001 and extending in a southerly direction approximately 1,479
18 feet and more particularly shown on a survey titled, "J. Spot
19 Taylor Heirs, Danbury Township, Stokes County, N.C." by Grinski
20 Surveying Company, June 1985, as extending from the southwest
21 corner of the Bobby Joe Lankford tract.

22 (3) All lands and waters as follows: The portion of that certain tract or
23 property at South Mountains State Park in Burke County, Lower
24 Creek Township, described in Deed Book 862, Page 1471 for the
25 new right-of-way for SR 1904 needed for the relocation of this
26 road within the park and as described in the drawing and shown as
27 between the Rutherford Electric Membership Corporation right-of-
28 way and the southern property boundary dated January 28, 1999,
29 entitled "Survey for State of North Carolina" file name 12455.dwg
30 by Suttles Surveying P.A.; and the portions of those certain tracts
31 or property at South Mountains State Park in Burke County, in
32 Upper Fork Township described in Deed Book 860, Page 341 and
33 Deed Book 884, Page 1641 that are south of the centerline of the
34 CCC road and shown on the drawing entitled "Land Trade
35 Between South Mountains State Park and Adjacent Game Land
36 Along CCC Road" by the Division of Parks and Recreation dated
37 March 15, 1999.

38 Section 2. G.S. 143-260.10 reads as rewritten:

39 **"§ 143-260.10. Components of State Nature and Historic Preserve.**

40 The following are components of the State Nature and Historic Preserve accepted
41 by the North Carolina General Assembly pursuant to G.S. 143-260.8:

42 (1) All lands and waters within the boundaries of the following units
43 of the State Parks System as of ~~April 4, 1989~~: April 6, 1999:
44 Baldhead Island State Natural Area, Bay Tree Lake State Park,

1 Boones Cave State Park, Bushy Lake State Natural Area, Carolina
2 Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp
3 State Natural Area, Dismal Swamp State Natural Area, Duke
4 Power State Park, ~~Eno River State Park~~, Fort Fisher State
5 Recreation Area, Fort Macon State Park, Goose Creek State Park,
6 Hammocks Beach State Park, ~~Hanging Rock State Park~~, Hemlock
7 Bluffs State Natural Area, Jockeys Ridge State Park, Jones Lake
8 State Park, Lake James State Park, Lake Waccamaw State Park,
9 Lumber River State Park, Medoc Mountain State Park, ~~Merchant's~~
10 Merchants Millpond State Park, Mitchells Millpond State Natural
11 ~~Area north of S.R. 2224, Area~~, Mount Jefferson ~~State Park~~, State
12 Natural Area, Mount Mitchell State Park, Occoneechee Mountain
13 State Natural Area, Pettigrew State Park, Pilot Mountain State
14 Park, Raven Rock State Park, Run Hill State Natural Area,
15 Singletary Lake State Park, ~~South Mountains State Park~~, Theodore
16 Roosevelt State Natural Area, and Weymouth Woods-Sandhills
17 Nature Preserve.

18 (2) All lands and waters within the boundaries of William B. Umstead
19 State Park as of ~~April 4, 1989~~, April 6, 1999, with the exception of
20 Tract Number 65, containing 22.93140 acres as shown on a survey
21 prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS),
22 entitled 'Property of The State of North Carolina William B.
23 Umstead State Park', dated January 14, 1977, and as removed from
24 the State Nature and Historic Preserve by Chapter 450, Section 1
25 of the 1985 Session Laws. The tract excluded from the State
26 Nature and Historic Preserve under this subdivision is deleted from
27 the State Parks System in accordance with G.S. 113-44.14. The
28 State of North Carolina may only exchange this land for other land
29 for the expansion of William B. Umstead State Park or sell and use
30 the proceeds for that purpose. The State of North Carolina may
31 not otherwise sell or exchange this land.

32 (3) ~~All lands within the boundaries of Jockey's Ridge State Park as of~~
33 ~~April 4, 1989, with the exception of the following tract: That~~
34 ~~certain tract or parcel of land at Jockey's Ridge State Park in Dare~~
35 ~~County, Nags Head Township, more particularly described as~~
36 ~~follows: Beginning at an iron rod which is located North~~
37 ~~39°07'08" West 74.96 feet from an iron pipe having a NC~~
38 ~~Coordinate value of X-2996057.363 and Y-823796.892, said iron~~
39 ~~rod also being located in a common property line between the~~
40 ~~State of North Carolina and R. M. Ritchie, et al.; thence running~~
41 ~~from said beginning point South 39°07'08" East 10 feet to a point;~~
42 ~~thence North 49°10'51" East 47.98 feet to a point in the~~
43 ~~right of way of U.S. 158 Bypass; thence northwesterly along the~~
44 ~~forementioned right of way 10 feet to an iron rod; thence South~~

1 ~~49°10'51" West 47.98 feet to the point and place of beginning and~~
2 ~~containing 479.80 square feet more or less, and as drawn out by the~~
3 ~~Design and Development Section of the Division of Parks and~~
4 ~~Recreation on a map dated November 8, 1988.~~

5 (4) All lands within the boundaries of Morrow Mountain State Park as
6 of ~~April 4, 1989~~, April 6, 1999, with the exception of the following
7 tract: That certain tract or parcel of land at Morrow Mountain
8 State Park in Stanly County, North Albemarle Township,
9 containing 0.303 acres, more or less, as surveyed and platted by
10 Thomas W. Harris R.L.S., on a map dated August 27, 1988,
11 reference to which is hereby made for a more complete
12 description. The tract excluded from the State Nature and Historic
13 Preserve under this subdivision is deleted from the State Parks
14 System in accordance with G.S. 113-44.14.

15 (5) ~~All lands within the boundaries of Pettigrew State Park as of April~~
16 ~~4, 1989, with the exception of the following tract: The portion of~~
17 ~~that certain tract or parcel of land at Pettigrew State Park in~~
18 ~~Washington County, Seuppernong Township, described in Deed~~
19 ~~Book 257, page 479, lying south of S.R. 1183 or the extension~~
20 ~~thereof along its present right-of-way.~~

21 (6) All land within the boundaries of ~~Crowder's~~ Crowders Mountain
22 State Park as of ~~April 4, 1989~~, April 6, 1999, with the exception of
23 the following tract: The portion of that certain tract or parcel of
24 land at ~~Crowder's~~ Crowders Mountain State Park in Gaston
25 County, ~~Crowder's~~ Crowders Mountain Township, described in
26 Deed Book 1939, page 800, and containing 757.28 square feet and
27 as shown in a survey by Tanner and McConnaughey, P.A. dated
28 7/22/88. The tract excluded from the State Nature and Historic
29 Preserve under this subdivision is deleted from the State Parks
30 System in accordance with G.S. 113-44.14. The State of North
31 Carolina may only exchange this land for other land for the
32 expansion of Crowders Mountain State Park or sell this land and
33 use the proceeds for that purpose. The State of North Carolina
34 may not otherwise sell or exchange this land.

35 (7) All lands owned in fee simple by the State at the New River
36 Scenic River as of ~~April 4, 1989~~, April 6, 1999, with the exception
37 of the following tract: That certain tract or parcel of land at the
38 New River Scenic River in Alleghany County, Piney Creek
39 Township, described in Deed Book 112, page 610, containing 16.54
40 acres, and consisting of lots #12 through #19 on the survey by
41 Dudley and Zeh, R.L.S. dated 9/21/79. The tract excluded from
42 the State Nature and Historic Preserve under this subdivision is
43 deleted from the State Parks System in accordance with G.S. 113-
44 44.14.

- 1 (8) All lands and waters within the boundaries of Stone Mountain
2 State Park as of ~~April 4, 1989~~, April 6, 1999, with the exception of
3 the following tract: The portion of that certain tract or parcel of
4 land at Stone Mountain State Park in Wilkes County, Traphill
5 Township, described as parcel 33-02 in Deed Book 633-193, and
6 more particularly described as all of the land in this parcel lying to
7 the west of the eastern edge of the Air Bellows Gap Road as
8 shown on the National Park Service Land Status Map 33 dated
9 3/24/81, containing approximately 72 acres. The tract excluded
10 from the State Nature and Historic Preserve under this subdivision
11 is deleted from the State Parks System in accordance with G.S.
12 113-44.14.
- 13 (9) All lands and waters located within the boundaries of the following
14 State Historic Sites as of ~~March 6, 1979~~; January 1, 1999: Alamance
15 Battleground Historic Site, Battleground, Charles B. Aycock
16 Birthplace, Historic Bath Historic Site, Bath, Bennett Place,
17 Bentonville Battleground Historic Site, Battleground, Brunswick
18 Town Historic Site, Town/Fort Anderson, Governor Richard
19 Caswell Memorial/C.S.S. Neuse Historic Site, C.S.S. Neuse and
20 Governor Caswell Memorial, Charlotte Hawkins Brown Memorial,
21 Duke Homestead Historic Site, Homestead, Historic Edenton, Fort
22 Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living
23 Historical Farm, House in the Hersheshoe Historic Site, James
24 Iredell House Historic Site, Horseshoe, North Carolina
25 Transportation Museum, President James K. Polk Memorial
26 Historic Site, Memorial, Stagville Preservation Center Historic Site,
27 Stagville, State Capitol Historic Site, Capitol, Town Creek Indian
28 Mound Historic Site, Mound, Tryon Palace Historic Site, Governor
29 Sites & Gardens, Zebulon B. Vance Birthplace Historic Site,
30 Birthplace, and Thomas Wolfe Memorial Historic Site. Memorial.
- 31 (10) All land and waters within the boundaries of Gorges State Park in
32 the transaction approved by the Council of State at their March 2,
33 1999, meeting and closed by ratification.
- 34 (11) All land and waters located within the boundaries of Eno River
35 State Park as of April 6, 1999, with the exception of six tracts: The
36 portion of that certain tract or parcel of land at Eno River State
37 Park in Durham County, Lebanon Township, described in Deed
38 Book 1626-854, and more particularly described in a Department
39 of Transportation drawing entitled 'Sketch Showing a Portion of
40 the Property of the State of North Carolina, Division of Parks and
41 Recreation, Durham County Project 8.1351301 ID# U-2102 for
42 tracts 155, 158, 159, and 163'; and the portion of that certain tract
43 or parcel of land at Eno River State Park in Durham County,
44 Lebanon Township, described in Deed Book 1945-773 and more

1 particularly described in a Department of Transportation drawing
2 entitled "Sketch Showing a Portion of the Property of the State of
3 North Carolina, Division of Parks and Recreation, Durham County
4 Project 8.1351301 ID# U-2102 for tracts 155, 158, 159 and 163".
5 These two tracts excluded from the State Nature and Historic
6 Preserve under this subdivision are deleted from the State Parks
7 System in accordance with G.S. 113-44.14. Further exclusions
8 from the State Nature and Historic Preserve are: the certain parcels
9 or tracts of land in Durham and Orange Counties identified as
10 tracts I, II, III, and IVA on the George C. Love, Jr. survey entitled
11 "Plat Prepared for Acquisition of Zener Forest for Eno River State
12 Park" dated December 2, 1993, and revised December 14, 1993.
13 The State of North Carolina may only exchange these six tracts for
14 other land for the expansion of Eno River State Park or sell these
15 tracts and use the proceeds for that purpose. The State of North
16 Carolina may not otherwise sell or exchange this land.

17 (12) All land and waters located within the boundaries of Hanging
18 Rock State Park as of April 6, 1999, with the exception of the
19 following tract: The portion of that certain tract or property at
20 Hanging Rock State Park in Stokes County, Danbury Township,
21 described in Deed Book 360, Page 160, that is a 30-foot wide right-
22 of-way beginning approximately 183 feet south of SR 1001 and
23 extending in a southerly direction approximately 1,479 feet and
24 more particularly shown on a survey titled, "J. Spot Taylor Heirs,
25 Danbury Township, Stokes County, N.C.," by Grinski Surveying
26 Company, June 1985, as extending from the southwest corner of
27 the Bobby Joe Lankford tract. The tract excluded from the State
28 Nature and Historic Preserve under this subdivision is deleted from
29 the State Parks System in accordance with G.S. 113-44.14. The
30 State of North Carolina may only exchange this land for other land
31 for the expansion of Hanging Rock State Park or sell this land and
32 use the proceeds for that purpose. The State may not otherwise
33 sell or exchange this land.

34 (13) All land and waters located within the boundaries of South
35 Mountains State Park as of April 6, 1999, with the exception of the
36 following tracts: The portion of that certain tract or property at
37 South Mountains State Park in Burke County, Lower Creek
38 Township, described in Deed Book 862, Page 1471 for the new
39 right-of-way for SR 1904 needed for the relocation of this road
40 within the park and as described in the drawing and shown as
41 between the Rutherford Electric Membership Corporation right-of-
42 way and the southern property boundary dated January 28, 1999,
43 entitled "Survey for State of North Carolina" file name 12455.dwg
44 by Suttles Surveying P.A.; and the portions of those certain tracts

1 or property at South Mountains State Park in Burke County, in
2 Upper Fork Township described in Deed Book 860, Page 341 and
3 Deed Book 884, Page 1641 that are south of the centerline of the
4 CCC road and shown on the drawing entitled "Land Trade
5 Between South Mountains State Park and Adjacent Game Land
6 Along CCC Road" by the Division of Parks and Recreation dated
7 March 15, 1999. The tracts excluded from the State Nature and
8 Historic Preserve under this subdivision are deleted from the State
9 Parks System in accordance with G.S. 113-44.14. The State of
10 North Carolina may only exchange this land for other land for the
11 expansion of South Mountains State Park or sell this land and use
12 the proceeds for that purpose. The State may not otherwise sell or
13 exchange this land."

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



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1127

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

S1127V1-ART-001.01

Date 22 April, 1999

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

Senator Horton

1 moves to amend the bill on page 4, lines 12 through 14,
2 by rewriting those lines to read:

3
4 "description.";

5
6 on page 5, lines 31 through 33,
7 by rewriting those lines to read:

8
9 "(10) All lands and waters within the boundaries of Gorges
10 State Park, the purchase of which was approved by the
11 Council of State at its meeting on 2 March 1999, as
12 of the date on which the lands and waters are
13 purchased by the State."; and

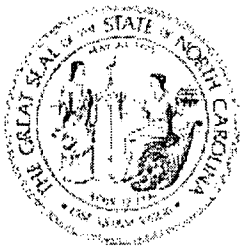
14
15 on page page 6, lines 29 through 33,
16 by rewriting those lines to read:

17
18 "the State Parks System in accordance with G.S.
19 113-44.14.".

SIGNED Horton
Amendment Sponsor

SIGNED Charles W. Blount
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



SEN. JOINT RESOLUTION 1139/SB 1127: State Nature & Historic Preserve

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: April 22, 1999

Version: First Editions

Introduced by: Senator Horton

Summary by: Rick Zechini,
Committee Counsel

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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1132*

Short Title: Env. Tech. Corrections.

(Public)

Sponsors: Senator Odom.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL
3 CHANGES TO VARIOUS ENVIRONMENTAL LAWS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 143-215.94E(i) reads as rewritten:

6 "(i) An owner or operator who notifies the Department of an intention to close or
7 upgrade a commercial underground storage tank as provided in G.S.
8 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and
9 shall complete the closure or upgrade prior to 1 January 1995. An owner who notifies
10 the Department of an intention to close or upgrade a commercial underground
11 storage tank and who fails to commence and complete the closure as specified in this
12 subsection is subject to a civil penalty as provided in ~~G.S. 143-215.94K~~. G.S.
13 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not apply if an owner or
14 operator who notifies the Department of an intention to close or upgrade a
15 commercial underground storage tank fails to commence or complete the closure or
16 upgrade within the dates specified in this subsection."

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



SENATE BILL 1132: Environmental Technical Corrections

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: April 22, 1999

Version: First Edition

Introduced by: Sen. Odom

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 1132 updates a cross-reference in G.S. 143-215E(i) (Water and Air Resources – Violations Requiring Immediate Notification). The act contains no substantive provisions.*

COMPANION BILL: The companion bill to SB 1132 is HB 1218, which was introduced in the House by Representative Gibson.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE JOINT RESOLUTION 1139
Proposed Committee Substitute S1139-PCS2750-RT

Sponsors:

Referred to:

April 15, 1999

1 A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE
2 NATURE AND HISTORIC PRESERVE.

3 Whereas, Article XIV, Section 5 of the North Carolina Constitution
4 authorizes the dedication of State and local government properties as part of the
5 State Nature and Historic Preserve upon acceptance by resolution adopted by a vote
6 of three-fifths of the members of each house of the General Assembly and the
7 removal of properties from that Preserve by law adopted by three-fifths of the
8 members of each house of the General Assembly; and

9 Whereas, the General Assembly enacted the State Nature and Historic
10 Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions
11 and procedures under which properties may be specifically dedicated for the
12 purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution;
13 and

14 Whereas, in accordance with G.S. 143-260.8, the Council of State has
15 petitioned the General Assembly to adopt a resolution pursuant to Article XIV,
16 Section 5 of the North Carolina Constitution accepting properties added to the State
17 Parks System since the last dedication of lands on May 29, 1989, and designated in
18 the petition for inclusion in the State Nature and Historic Preserve; and

19 Whereas, one component of the State Parks System and various State
20 Historic Sites properties, some of which remain unchanged in land mass and some of
21 which have acquired additional land, have different names since they were dedicated
22 to the State Nature and Historic Preserve; and

23 Whereas, the Council of State has petitioned the General Assembly to
24 remove certain properties from the State Nature and Historic Preserve; Now,
25 therefore,

1 Be it resolved by the Senate, the House of Representatives concurring:

2 Section 1. The General Assembly dedicates and accepts all the following
3 lands and waters to constitute components of the State Nature and Historic Preserve
4 as named or renamed:

- 5 (1) All lands and waters within the boundaries of the following units
6 of the State Parks System as of April 6, 1999: Baldhead Island
7 State Natural Area, Bushy Lake State Natural Area, Cliffs of the
8 Neuse State Park, Duke Power State Park, Goose Creek State
9 Park, Hammocks Beach State Park, Hemlock Bluffs State Natural
10 Area, Jockeys Ridge State Park, Lake James State Park, Lake
11 Waccamaw State Park, Lumber River State Park, Medoc Mountain
12 State Park, Merchants Millpond State Park, Mitchells Millpond
13 State Natural Area, Mount Mitchell State Park, Occoneetchee
14 Mountain State Natural Area, Pettigrew State Park, Pilot Mountain
15 State Park, Raven Rock State Park, Run Hill State Natural Area,
16 and Weymouth Woods-Sandhills Nature Preserve.
- 17 (2) All lands and waters within the boundaries of William B. Umstead
18 State Park as of April 6, 1999, with the exception of Tract Number
19 65, containing 22.93140 acres as shown on a survey prepared by
20 John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled
21 'Property of The State of North Carolina William B. Umstead
22 State Park', dated January 14, 1977, and as removed from the State
23 Nature and Historic Preserve by Chapter 450, Section 1 of the 1985
24 Session Laws. The State of North Carolina may only exchange this
25 land for other land for the expansion of William B. Umstead State
26 Park or sell and use the proceeds for that purpose. The State of
27 North Carolina may not otherwise sell or exchange this land.
- 28 (3) All land within the boundaries of Crowders Mountain State Park
29 as of April 6, 1999, with the exception of the following tract: The
30 portion of that certain tract or parcel of land at Crowders
31 Mountain State Park in Gaston County, Crowders Mountain
32 Township, described in Deed Book 1939, page 800, and containing
33 757.28 square feet and as shown in a survey by Tanner and
34 McConnaughey, P.A. dated 7/22/88.
- 35 (4) All lands owned in fee simple by the State at the New River
36 Scenic River as of April 6, 1999, with the exception of the
37 following tract: That certain tract or parcel of land at the New
38 River Scenic River in Alleghany County, Piney Creek Township,
39 described in Deed Book 112, page 610, containing 16.54 acres, and
40 consisting of lots #12 through #19 on the survey by Dudley and
41 Zeh, R.L.S. dated 9/21/79.
- 42 (5) All lands and waters within the boundaries of Stone Mountain
43 State Park as of April 6, 1999, with the exception of the following
44 tract: The portion of that certain tract or parcel of land at Stone

- 1 Mountain State Park in Wilkes County, Traphill Township,
2 described as parcel 33-02 in Deed Book 633-193, and more
3 particularly described as all of the land in this parcel lying to the
4 west of the eastern edge of the Air Bellows Gap Road as shown on
5 the National Park Service Land Status Map 33 dated 3/24/81,
6 containing approximately 72 acres.
- 7 (6) All land and waters located within the boundaries of Eno River
8 State Park as of April 6, 1999, with the exception of the six tracts
9 that the Council of State has petitioned the General Assembly to
10 remove from the State Nature and Historic Preserve.
- 11 (7) All land and waters located within the boundaries of Hanging
12 Rock State Park as of April 6, 1999, with the exception of the tract
13 that the Council of State has petitioned the General Assembly to
14 remove from the State Nature and Historic Preserve.
- 15 (8) All land and waters located within the boundaries of South
16 Mountains State Park as of April 6, 1999, with the exception of the
17 tracts that the Council of State has petitioned the General
18 Assembly to remove from the State Nature and Historic Preserve.
- 19 (9) All lands and waters located within the boundaries of the following
20 State Historic Sites as of January 1, 1999: Charles B. Aycock
21 Birthplace, Bennett Place, Bentonville Battleground (formerly
22 Bentonville Battleground Historic Site), Brunswick Town (formerly
23 Brunswick Town Historic Site)/Fort Anderson, C.S.S. Neuse and
24 Governor Caswell Memorial (formerly Governor Richard Caswell
25 Memorial/C.S.S. Neuse Historic Site), Charlotte Hawkins Brown
26 Memorial, Historic Edenton (formerly James Iredell House Historic
27 Site), Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek
28 Living Historical Farm, North Carolina Transportation Museum,
29 Reed Gold Mine, Somerset Place, Tryon Palace Historic Sites &
30 Gardens (formerly Tryon Palace Historic Site), and Thomas Wolfe
31 Memorial (formerly Thomas Wolfe Memorial Historic Site).
- 32 (10) All lands and waters within the boundaries of Gorges State Park,
33 the purchase of which was approved by the Council of State at its
34 meeting on 2 March 1999, as of the date on which the lands and
35 waters are purchased by the State.

36 Section 2. The General Assembly dedicates and accepts all the following
37 lands and waters, which were dedicated and accepted previously by the General
38 Assembly to the State Nature and Historic Preserve, which properties have not
39 changed their boundaries, but which have been renamed since their prior dedication
40 and acceptance, as components of the State Nature and Historic Preserve as renamed:

41 Mount Jefferson State Natural Area (formerly Mount Jefferson State
42 Park), Alamance Battleground (formerly Alamance Battleground Historic Site),
43 Historic Bath (formerly Historic Bath Historic Site), Duke Homestead (formerly
44 Duke Homestead Historic Site), House in the Horseshoe (formerly House in the

1 Horseshoe Historic Site), James K. Polk Memorial (formerly President James K. Polk
2 Memorial Historic Site), Historic Stagville (formerly Stagville Preservation Center
3 Historic Site), State Capitol (formerly State Capitol Historic Site), Town Creek
4 Indian Mound (formerly Town Creek Indian Mound Historic Site), and Zebulon B.
5 Vance Birthplace (formerly Governor Zebulon B. Vance Birthplace Historic Site).

6 Section 3. In accordance with G.S. 143-260.8(e), the Secretary of State is
7 directed to forward a certified copy of this resolution to the Register of Deeds of the
8 counties in which the dedicated properties named in Sections 1 and 2 of this act are
9 located.

10 Section 4. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE JOINT RESOLUTION 1139

Sponsors: Senators Horton; and Albertson.

Referred to: Rules and Operations of the Senate.

April 15, 1999

1 A JOINT RESOLUTION DEDICATING PROPERTIES AS PART OF THE STATE
2 NATURE AND HISTORIC PRESERVE.

3 Whereas, Article XIV, Section 5 of the North Carolina Constitution
4 authorizes the dedication of State and local government properties as part of the
5 State Nature and Historic Preserve upon acceptance by resolution adopted by a vote
6 of three-fifths of the members of each house of the General Assembly and the
7 removal of properties from that Preserve by law adopted by three-fifths of the
8 members of each house of the General Assembly; and

9 Whereas, the General Assembly enacted the State Nature and Historic
10 Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions
11 and procedures under which properties may be specifically dedicated for the
12 purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution;
13 and

14 Whereas, in accordance with G.S. 143-260.3, the Council of State has
15 petitioned the General Assembly to adopt a resolution pursuant to Article XIV,
16 Section 5 of the North Carolina Constitution accepting properties added to the State
17 Parks System since the last dedication of lands on May 29, 1989, and designated in
18 the petition for inclusion in the State Nature and Historic Preserve; and

19 Whereas, one component of the State Parks System and various State
20 Historic Sites properties, some of which remain unchanged in land mass and some of
21 which have acquired additional land, have different names since they were dedicated
22 to the State Nature and Historic Preserve; and

23 Whereas, the Council of State has petitioned the General Assembly to
24 remove certain properties from the State Nature and Historic Preserve; Now,
25 therefore,

26 Be it resolved by the Senate, the House of Representatives concurring:

1 Section 1. The General Assembly dedicates and accepts all the following
2 lands and waters to constitute components of the State Nature and Historic Preserve
3 as named or renamed:

4 (1) All lands and waters within the boundaries of the following units
5 of the State Parks System as of April 6, 1999: Baldhead Island
6 State Natural Area, Bushy Lake State Natural Area, Cliffs of the
7 Neuse State Park, Duke Power State Park, Goose Creek State
8 Park, Hammocks Beach State Park, Hemlock Bluffs State Natural
9 Area, Jockeys Ridge State Park, Lake James State Park, Lake
10 Waccamaw State Park, Lumber River State Park, Medoc Mountain
11 State Park, Merchants Millpond State Park, Mitchells Millpond
12 State Natural Area, Mount Mitchell State Park, Occoneechee
13 Mountain State Natural Area, Pettigrew State Park, Pilot Mountain
14 State Park, Raven Rock State Park, Run Hill State Natural Area,
15 and Weymouth Woods-Sandhills Nature Preserve.

16 (2) All lands and waters within the boundaries of William B. Umstead
17 State Park as of April 6, 1999, with the exception of Tract Number
18 65, containing 22.93140 acres as shown on a survey prepared by
19 John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled
20 'Property of The State of North Carolina William B. Umstead
21 State Park', dated January 14, 1977, and as removed from the State
22 Nature and Historic Preserve by Chapter 450, Section 1 of the 1985
23 Session Laws. The State of North Carolina may only exchange this
24 land for other land for the expansion of William B. Umstead State
25 Park or sell and use the proceeds for that purpose. The State of
26 North Carolina may not otherwise sell or exchange this land.

27 (3) All land within the boundaries of Crowders Mountain State Park
28 as of April 6, 1999, with the exception of the following tract: The
29 portion of that certain tract or parcel of land at Crowders
30 Mountain State Park in Gaston County, Crowders Mountain
31 Township, described in Deed Book 1939, page 800, and containing
32 757.28 square feet and as shown in a survey by Tanner and
33 McConnaughey, P.A. dated 7/22/88.

34 (4) All lands owned in fee simple by the State at the New River
35 Scenic River as of April 6, 1999, with the exception of the
36 following tract: That certain tract or parcel of land at the New
37 River Scenic River in Alleghany County, Piney Creek Township,
38 described in Deed Book 112, page 610, containing 16.54 acres, and
39 consisting of lots #12 through #19 on the survey by Dudley and
40 Zeh, R.L.S. dated 9/21/79.

41 (5) All lands and waters within the boundaries of Stone Mountain
42 State Park as of April 6, 1999, with the exception of the following
43 tract: The portion of that certain tract or parcel of land at Stone
44 Mountain State Park in Wilkes County, Traphill Township,

- 1 described as parcel 33-02 in Deed Book 633-193, and more
2 particularly described as all of the land in this parcel lying to the
3 west of the eastern edge of the Air Bellows Gap Road as shown on
4 the National Park Service Land Status Map 33 dated 3/24/81,
5 containing approximately 72 acres.
- 6 (6) All land and waters located within the boundaries of Eno River
7 State Park as of April 6, 1999, with the exception of the six tracts
8 that the Council of State has petitioned the General Assembly to
9 remove from the State Nature and Historic Preserve.
- 10 (7) All land and waters located within the boundaries of Hanging
11 Rock State Park as of April 6, 1999, with the exception of the tract
12 that the Council of State has petitioned the General Assembly to
13 remove from the State Nature and Historic Preserve.
- 14 (8) All land and waters located within the boundaries of South
15 Mountains State Park as of April 6, 1999, with the exception of the
16 tracts that the Council of State has petitioned the General
17 Assembly to remove from the State Nature and Historic Preserve.
- 18 (9) All lands and waters located within the boundaries of the following
19 State Historic Sites as of January 1, 1999: Charles B. Aycock
20 Birthplace, Bennett Place, Bentonville Battleground (formerly
21 Bentonville Battleground Historic Site), Brunswick Town (formerly
22 Brunswick Town Historic Site)/Fort Anderson, C.S.S. Neuse and
23 Governor Caswell Memorial (formerly Governor Richard Caswell
24 Memorial/C.S.S. Neuse Historic Site), Charlotte Hawkins Brown
25 Memorial, Historic Edenton (formerly James Iredell House Historic
26 Site), Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek
27 Living Historical Farm, North Carolina Transportation Museum,
28 Reed Gold Mine, Somerset Place, Tryon Palace Historic Sites &
29 Gardens (formerly Tryon Palace Historic Site), and Thomas Wolfe
30 Memorial (formerly Thomas Wolfe Memorial Historic Site).
- 31 (10) All land and waters within the boundaries of Gorges State Park in
32 the transaction approved by the Council of State at their March 2,
33 1999 meeting and closed by ratification.

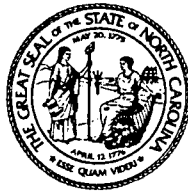
34 Section 2. The General Assembly dedicates and accepts all the following
35 lands and waters, which were dedicated and accepted previously by the General
36 Assembly to the State Nature and Historic Preserve, which properties have not
37 changed their boundaries, but which have been renamed since their prior dedication
38 and acceptance, as components of the State Nature and Historic Preserve as renamed:

39 Mount Jefferson State Natural Area (formerly Mount Jefferson State
40 Park), Alamance Battleground (formerly Alamance Battleground Historic Site),
41 Historic Bath (formerly Historic Bath Historic Site), Duke Homestead (formerly
42 Duke Homestead Historic Site), House in the Horseshoe (formerly House in the
43 Horseshoe Historic Site), James K. Polk Memorial (formerly President James K. Polk
44 Memorial Historic Site), Historic Stagville (formerly Stagville Preservation Center

1 Historic Site), State Capitol (formerly State Capitol Historic Site), Town Creek
2 Indian Mound (formerly Town Creek Indian Mound Historic Site), and Zebulon B.
3 Vance Birthplace (formerly Governor Zebulon B. Vance Birthplace Historic Site).

4 Section 3. In accordance with G.S. 143-260.8(e), the Secretary of State is
5 directed to forward a certified copy of this resolution to the Register of Deeds of the
6 counties in which the dedicated properties named in Sections 1 and 2 of this act are
7 located.

8 Section 4. This resolution is effective upon ratification.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1139

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

S1139V1-ART-001.01

Page 1 of 1

Date 22 April, 1999

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

Senator Horton

1 moves to amend the joint resolution on page 3, lines 31 through 33,
2 by rewriting those lines to read:

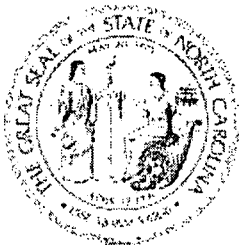
3
4
5
6
7
8

"(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.".

SIGNED [Signature]
Amendment Sponsor

SIGNED [Signature]
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



SEN. JOINT RESOLUTION ~~1139~~/SB 1127: State Nature & Historic Preserve

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: April 22, 1999

Version: First Editions

Introduced by: Senator Horton

Summary by: Rick Zechini,
Committee Counsel

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.

VISITOR REGISTRATION SHEET

4/22/99

Senate Agriculture/Environment/Natural Resources
Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mike Kelly	Div waste mgmt
Ed Regan	N.C. Assoc of Co. Comm.
Bob Stocum	NC Forestry Assoc.
Charles Case	Hunter + Williams
Jeff Cherry	Hunter-Williams
R. ROBERT	DFNR
David Muddell	N.C. State Exchange
DANIEL G. BRINSON	MALLARD C.F. GAS OIL KINSTON N.C.
David McLeod	NC Dept. of Ag. & Cons. Services
N. DAVID SMITH	NC DEPT. OF AGR & CONSUMER SERVICES
Steve Woodson	NC Farm Bureau

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JIM KUSZAJ	NCEI
Alan Briggs	Save Our State
RON FERRELL	DENR - DWQ
Sue Regier	DENR - DPR
Carol Tingley	DENR - DPR
Phil McEnally	DSNR / DPPE
Brock Nicholson	DENR - DAQ
Laura DiVivo	DENR
Al. Ltolm	DENR
David Knight	NC Sierra Club, NC Wildlife Fed
Net Mord	Conservation Council of NC

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Roberson

NC DMC-ENF Raleigh

Sherol Branan

NC Petroleum Council Raleigh

Bill Wetherston

NC Petroleum Council

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE

<u>MEMBER</u>	<u>LOCATION</u>	<u>PHONE</u>	<u>LEGISLATIVE ASST.</u>
Albertson, Charles W., Chairman	525 LOB	3-5705	Julia Birdsong Committee Assistant
Gulley, Wib, Vice Chairman	408 LOB	5-3036	Carol Resar
Horton, Hamilton C., Jr., Vice Chairman	1117 LB	3-7850	Genie Clark
Robinson, Dan, Vice Chairman	2113 LB	3-5880	Jean Robinson
Wellons, Allen H., Vice Chairman	1026 LB	3-5850	Peggy Anne Hogan
Cochrane, Betsy, Ranking Minority Member	1119 LB	3-5745	Phyllis Porter
Clodfelter, Dan	622 LOB	3-6275	Wanda Joyner
East, Don	521 LOB	3-5655	Nancy Pulley
Garrou, Linda	522 LOB	3-5620	Carole Lawler
Garwood, John A.	1118 LB	3-5742	Martha Jordan
Hagan, Kay	519 LOB	3-5856	Beth Wiley
Harris, Oscar	1414 LB	3-7659	Dale Howard
Hartsell, Fletcher	518 LOB	3-7223	Gerry Johnson
Kinnaird, Ellie	2115 LB	3-5804	Kathie Young
Martin, Bill	411 LOB	5-3042	Joyce Hodge
Odom, Fountain	300B LOB	3-5707	Anne Wilson
Perdue, Beverly M.	629 LOB	3-2055	Anne Canady
Phillips, Jim W., Sr.	628 LOB	3-5870	Gerry Bowles
Webster, Hugh	1101 LB	3-5665	Anne Soles
Weinstein, David F.	2108 LB	3-5651	Dee Bagley
<u>Committee Counsel</u>			
Givens, George	LOB 545	3-2578	
Hudson, Jeffrey	LOB 545	3-2578	
Riley, Barbara	LOB 545	3-2578	
Zechini, Rick	LOB 545	3-2578	
Holm, Hannah	LOB 545	3-2578	
July 1, 1999			

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through 24-AUG-1999
BILL	SHORT TITLE	LATEST ACTION ON BILL	IN DATE
H 168	EASTERLING	APPROPRIATIONS ACT OF 1999	06-03-99
H 236	GULLEY J	LICENSE SUSPENSION/BAITING	04-21-99
H 237	GULLEY J	BOAT AGENT FEES	05-11-99
H 316=	MCCOMAS	PRESCRIBED BURNING IN FORESTS	04-28-99
H 334=	HILL	OBSOLETE AGRICULTURE STATUTES	03-30-99
H 541	MITCHELL	BUOY FISHING/SPECIAL FISHING DEVICE	06-21-99
H 638	OWENS	TRANSFER CERTAIN SEPTIC SYSTEMS	04-13-99
H 746=	BAKER	NEW RIVER STATE PARK/ACREAGE LIMIT	04-26-99
H 978	NYE	DAMAGED PIERS/BOAT STALLS/WHITE LAKE	04-28-99
H1008=	COX	SEDIMENTATION ACT/EXCAVATION	04-26-99
H1010=	HILL	COTTON GINS, WAREHOUSES, MERCHANTS	07-12-99
H1027	FITCH	ALLOW STOCKING OF ANIMALS	04-28-99
H1039	REDWINE	BEACH MANAGEMENT STRATEGY	04-27-99
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	07-06-99
H1125	HACKNEY	CONFORM DEFINITION OF HAZ. SITE	04-28-99
H1127=	SMITH	REVISE CERTAIN LODGING RULES	04-28-99
H1160=	HACKNEY	CLEAN WATER ACT OF 1999	04-28-99
H1218=	GIBSON	ENV. TECH. CORRECTIONS	04-26-99
H1233=	HILL	STRUCTURAL PEST CONTROL AMENDMENTS	07-08-99
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	07-07-99
S 7	ODOM	AG TOURISM SIGNS	01-28-99
S 247	LEE	SOUTHEAST COMPACT COMMISSION	03-04-99
S 249=	ALBERTSON	CORE SOUND MORATORIUM/CRAB LICENSE	03-08-99
S 287=	REEVES	IMPROVE ENFORCEMENT OF LITTERING	03-10-99
S 323	KERR	WATERFOWL LICENSE CHANGES	03-11-99
S 365=	ALBERTSON	DEATH ROW INMATE RESTRICTIONS	03-15-99
S 560	HORTON	COUNTRY HAM PRESERVATION ACT	03-29-99
S 567	KINNAIRD	PROHIBIT BURNING BY DOT	03-29-99
S 593=	MILLER B	AMBIENT AIR QUALITY IMPROVEMENT	03-29-99
S 777=	ALBERTSON	DRY-CLEANING PROGRAM AMENDS	04-07-99

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	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through 24-AUG-1999
BILL	SHORT TITLE	LATEST ACTION ON BILL	IN DATE OUT DATE
S 777=	ALBERTSON	S -RE-REF COM ON AGRICUL&	07-19-99
S 782	PERDUE	S -REF TO COM ON AGRICUL&	04-07-99
S 872=	FOXX	*R -CH. SL 99-0147	04-13-99 04-21-99
S 900	WELLONS	S -REF TO COM ON AGRICUL&	04-14-99
S 922=	MILLER B	S -RE-REF COM ON AGRICUL&	07-19-99
S 930=	KINNAIRD	S -REF TO COM ON AGRICUL&	04-14-99
S 932	KINNAIRD	S -REF TO COM ON AGRICUL&	04-14-99
S 953	CLODFELTER	*R -CH. SL 99-0328	04-14-99 04-22-99
S 953	CLODFELTER	*R -CH. SL 99-0328	07-08-99
S 979	CARTER	*H -REF TO COM ON WAYS&MNS	04-15-99 04-22-99
S 983	MILLER B	S -REF TO COM ON AGRICUL&	04-15-99
S 987	MILLER B	S -REF TO COM ON AGRICUL&	04-15-99
S1014=	METCALF	S -RE-REF COM ON AGRICUL&	04-15-99 04-26-99
S1014=	METCALF	S -RE-REF COM ON AGRICUL&	04-15-99
S1028=	CLODFELTER	S -REF TO COM ON AGRICUL&	04-15-99
S1047	ALBERTSON	*R -CH. SL 99-0143	04-22-99 04-26-99
S1048	ALBERTSON	*R -CH. SL 99-0162	04-22-99 04-26-99
S1049	ALBERTSON	*R -CH. SL 99-0448	04-22-99 04-27-99
S1050	ALBERTSON	*S -RE-REF COM ON APPROPR	04-22-99 04-27-99
S1080=	ALBERTSON	S -REF TO COM ON AGRICUL&	04-15-99
S1083	ALBERTSON	S -RE-REF COM ON APPROPR	04-15-99 04-22-99
S1084=	ALBERTSON	S -REF TO COM ON AGRICUL&	04-15-99
S1088	COCHRANE	S -REF TO COM ON AGRICUL&	04-15-99
S1092	PURCELL	S -REF TO COM ON AGRICUL&	04-15-99
S1127	HORTON	*R -CH. SL 99-0268	04-15-99 04-26-99
S1128=	ROBINSON	S -RE-REF COM ON FINANCE	04-15-99 07-01-99
S1132=	ODOM	H -REF TO COM ON ENVIRON	04-15-99 04-22-99
S1139	HORTON	*R -CH. RES 99-18	04-20-99 04-26-99
S1159	PLYLER	*R -CH. SL 99-0198	04-15-99 04-21-99
S1161	HAGAN	*H -RE-REF COM ON APPROPR	04-15-99 04-27-99

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* AFTER NUMBERS INDICATES THAT TEXT OF BILL WAS ALTERED BY ACTION ON THE BILL.

BOLD LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, April 26, 1999
3:00 p.m.
Room 544 – LOB

AGENDA

- SB 593 AMBIENT AIR QUALITY IMPROVEMENT
 Senator Miller
- SB 1014 REVISE CERTAIN LODGING RULES
 Senator Metcalf
- SB 1047 AMEND ENV. & NAT. RES. LAWS – 1
 Senator Albertson
- SB 1048 AMEND ENV. & NAT. RES. LAWS – 2
 Senator Albertson
- SB 1161 WATER PRETREATMENT CONSULTATION
 Senator Hagan

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

April 26, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Monday, April 26, 1999, at 3:00 p.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were thirteen committee members present.

The following bills were on the agenda:

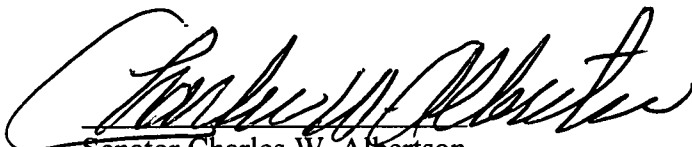
SB 1014 – REVISE CERTAIN LODGING RULES – Senator Metcalf, sponsor, was recognized to explain the bill. Jim Hobbs, President of the North Carolina Hotel & Motel Association, spoke on the bill. Senator Phillips moved for a favorable report. Motion carried.

SB 1047 – AMEND ENV. & NAT. RES. LAWS-1 – Senator Albertson, sponsor, asked Senator Robinson, vice chairman, to take over chairing the committee so that he could handle the next two bills. There was a proposed committee substitute for this bill and Senator Phillips moved that the PCS be adopted for discussion purposes. Motion carried. Jeff Hudson of staff further explained the proposed committee substitute. Senator Gulley moved that the proposed committee substitute be given a favorable report, unfavorable as to original bill. Motion carried.

SB 1048 – AMEND ENV. & NAT. RES. LAWS-2 – Senator Albertson, sponsor, said there was a proposed committee substitute and Senator Odom moved that it be adopted for discussion purposes. Motion carried. Senator Garwood moved that the PCS be given a favorable report, unfavorable as to original bill. Motion carried.

SB. 1161 – WATER PRETREATMENT CONSULTATION – Senator Hagan, sponsor, was recognized to explain the bill. There was a proposed committee substitute and Senator Odom moved that it be adopted for discussion purposes. Motion carried. Senator Odom moved that the PCS be given a favorable report, unfavorable as to original bill. Motion carried

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Monday, April 26, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1014 REWISE CERTAIN LODGING RULES
Sequential Referral: NONE
Recommended Referral: NONE

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1047 AMEND ENV. & NAT. RESOURCES LAWS-1
Draft Number: PCS3795
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: Yes

S.B. 1048 AMEND ENV. & NAT. RESOURCES LAWS-2
Draft Number: PCS3796
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: Yes

S.B. 1127 STATE NATURE AND HISTORIC PRESERVE
Draft Number: PCS2751
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: No

UNFAVORABLE AS TO JOINT RESOLUTION, BUT FAVORABLE AS TO C.S. JOINT RESOLUTION

S.J.R. 1139 NATURE & HISTORIC PRESERVE
Draft Number: PCS2750
Sequential Referral: NONE
Recommended Referral: NONE
Long Title Amended: No

TOTAL REPORTED: 5

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, April 27, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1049	AMEND ENV. & NAT. RESOURCES LAWS-3
	Draft Number: PCS2756
	Sequential Referral: NONE
	Recommended Referral: FINANCE
	Long Title Amended: YES
S.B. 1050	AMEND ENV. & NAT. RESOURCES LAWS-4
	Draft Number: PCS7672
	Sequential Referral: NONE
	Recommended Referral: APPROPRIATIONS
	Long Title Amended: YES
S.B. 1161	WATER PRETREATMENT CONSULTATION
	Draft Number: PCS2755
	Sequential Referral: NONE
	Recommended Referral: NONE
	Long Title Amended: YES

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1014

Short Title: Revise Certain Lodging Rules.

(Public)

Sponsors: Senators Metcalf; Carter and Foxx.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DIVISION OF ENVIRONMENTAL HEALTH OF
3 THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
4 CONDUCT A STUDY INVOLVING INTERESTED PARTIES TO REVIEW
5 AND REVISE THE CURRENT PROCEDURES CONCERNING COFFEE POTS
6 AND ICE BUCKETS PROVIDED BY LODGING ESTABLISHMENTS IN
7 GUEST ROOMS AND TO SUSPEND CURRENT APPLICABLE RULES
8 UNTIL REVISED RULES HAVE BEEN ADOPTED AS TEMPORARY RULES.
9 The General Assembly of North Carolina enacts:
10 Section 1.(a) The Division of Environmental Health of the Department
11 of Environment and Natural Resources shall review the current rules adopted
12 pursuant to Part 6 of Article 8 of Chapter 130A of the General Statutes that apply to
13 procedures that must be followed by lodging establishments concerning coffee pots
14 and ice buckets that are placed in guest rooms for use by guests of the establishment,
15 shall consult during this review with representatives of the affected industry and the
16 various agencies responsible for implementing the applicable rules, and shall
17 recommend rules, revised as needed, to the Commission for Health Services.
18 Section 1.(b) Current rules that apply to equipment concerning coffee
19 pots and ice buckets that are placed by lodging establishments in guest rooms for use
20 by guests of the establishment are suspended until revised rules under this act have
21 been adopted.
22 Section 1.(c) The Commission for Health Services shall adopt the revised
23 rules under subsection (a) of this section as temporary rules no later than January 31,
24 2000.

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



SENATE BILL 1014: Revise Certain Lodging Rules

BILL ANALYSIS

Committee: Senate Ag., Envir., & Nat. Res.

Date: April 26, 1999

Version: First Edition

Introduced by: Senator Metcalf

Summary by: Rick Zechini

Committee Counsel

SUMMARY: *Senate Bill 1014 directs the Division of Environmental Health of the Department of Environment and Natural Resources to review the rules regarding washing and sanitizing coffee pots and ice buckets provided by lodging establishments in guest rooms, consult with representatives of the affected industry and the various agencies responsible for implementing the rules, and recommend revised rules to the Commission for Health Services.*

CURRENT RULES: A lodging establishment must wash and sanitize any ice bucket provided in a guest room before providing the ice bucket to a succeeding guest. Ice buckets must also be stored and handled in a sanitary manner. The washing of ice buckets in room lavatories is prohibited. If disposable or single service plastic liners are provided for ice buckets, the sanitation of ice buckets is not required. Lodging establishments must also wash and sanitize coffee pots provided in guest rooms prior to their use by succeeding guests.

BILL ANALYSIS: Senate Bill 1014 requires the Division of Environmental Health of the Department of Environment and Natural Resources to review these rules in consultation with representatives of the lodging industry and the various agencies responsible for implementing the rules. The Division must recommend revised rules to the Commission for Health Services. The current rules are suspended until revised rules are adopted. The Commission for Health Services is directed to adopt the revised rules as temporary rules no later than January 31, 2000.

EFFECTIVE DATE: The bill 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.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

D

SENATE BILL 1047
Proposed Committee Substitute S1047-PCS3795-SB

Short Title: Protect Certain Cultch Planting Areas.

(Public)

Sponsors:

Referred to:

April 15, 1999

A BILL TO BE ENTITLED

1
2 AN ACT TO PROHIBIT THE TAKING OF SHELLFISH WITHIN ONE
3 HUNDRED FIFTY FEET OF A PUBLICALLY OWNED PIER BENEATH
4 WHICH THE DIVISION OF MARINE FISHERIES HAS DEPOSITED CULTCH
5 MATERIAL.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 113-207 reads as rewritten:

8 "~~§ 113-207. Clamming on posted oyster rocks~~ Taking shellfish from certain areas
9 forbidden; penalty.

10 (a) ~~The Department shall post to~~ To the extent that funds are ~~available~~ available,
11 the Department shall post oyster rocks or appropriate landing sites to forbid the
12 taking of clams upon such rocks by use of rakes or tongs or any other device which
13 will disturb or damage the oysters thereon. ~~Within the meaning of this section, oyster~~
14 ~~rocks shall be defined as those rocks producing oysters upon which the tide rises and~~
15 ~~falls.~~ As used in this section, 'oyster rocks' mean those rocks in the coastal fishing
16 waters upon which oysters grow.

17 (b) It ~~shall be~~ is unlawful for any person to take clams on oyster rocks posted by
18 the Department by use of rakes, tongs, or any other device which will disturb or
19 damage the oysters growing thereon. This section will not apply to the taking of
20 clams by signing. ~~A violation of this section shall constitute a Class 3 misdemeanor.~~

21 (c) It is unlawful for any person to take shellfish within 150 feet of any part of a
22 publically owned pier beneath which the Division of Marine Fisheries has deposited
23 cultch material.

- 1 (d) A person who violates this section is guilty of a Class 3 misdemeanor."
2 Section 2. This act becomes effective September 1, 1999, and applies to
3 violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1047

Short Title: Amend Env. & Nat. Resources Laws-1.

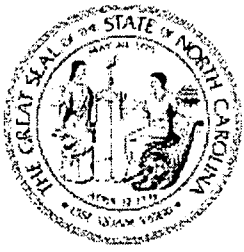
(Public)

Sponsors: Senator Albertson.

Referred to: Rules and Operations of the Senate.

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND LAWS RELATING TO THE ENVIRONMENT OR
3 NATURAL RESOURCES.
4 The General Assembly of North Carolina enacts:
5 Section 1. The General Assembly may amend laws relating to the
6 environment or natural resources.
7 Section 2. This act is effective when it becomes law.



SENATE BILL 1047: Protect Certain Cultch Planting Areas

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: April 26, 1999

Version: Proposed Committee Substitute

Introduced by: Senator Albertson

Summary by: Hannah Holm,
Research Assistant

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, is a blank bill.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1048
Proposed Committee Substitute S1048-PCS3796-SB

Short Title: Amend Fishery Resource Grant Program.

(Public)

Sponsors:

Referred to:

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A GRANTS COMMITTEE TO SET PRIORITIES FOR,
3 REVIEW APPLICATIONS TO, AND AWARD GRANTS UNDER THE
4 FISHERY RESOURCE GRANT PROGRAM AND TO MAKE CLARIFYING,
5 CONFORMING, AND TECHNICAL CHANGES TO THE FISHERY
6 RESOURCE GRANT PROGRAM STATUTE.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 113-200 reads as rewritten:
9 "§ 113-200. Fishery Resource Grant Program.
10 (a) Creation. -- There is created within the Sea Grant College Program at The
11 University of North Carolina, the Fishery Resource Grant Program. The purpose of
12 the program is to work within priorities established by the ~~Marine Fisheries~~
13 ~~Commission Grants Committee~~ to protect and enhance the State's coastal fishery
14 resources through individual grants in the following areas:
15 (1) New fisheries equipment or ~~gear~~; gear.
16 (2) Environmental pilot studies, including water quality and fisheries
17 ~~habitat~~; habitat.
18 (3) Aquaculture or mariculture of marine dependent ~~species~~; ~~or~~
19 species.
20 (4) Seafood technology.
21 (b) Definition: Annual Establishment of Priorities. -- For purposes of this section,
22 the term 'fishing related industry' means any of the following: (i) commercial fishing;
23 (ii) recreational fishing; (iii) aquaculture; (iv) mariculture; and (v) handling of

1 seafood products, including seafood dealing and seafood processing. The
2 Commission Grants Committee shall, in cooperation with fishermen, persons
3 involved in fishing related industries, the Division of Marine Fisheries, and the Sea
4 Grant College Program, establish funding priorities effective July 1 of each year for
5 the grant program. ~~The adoption of priorities by the Commission shall not be~~
6 ~~considered rule making within the meaning of the Administrative Procedure Act. In~~
7 adopting priorities, the Grants Committee is exempt from Article 2A of Chapter
8 150B of the General Statutes. The Commission Grants Committee shall provide
9 public notice of its proposed priorities at least 30 days before the Commission Grants
10 Committee meeting prior to a final determination of its priorities for the fiscal year.

11 (c) Procedure to Solicit Proposals. -- Following the establishment of priorities by
12 the Commission, Grants Committee, the Sea Grant College Program shall hold
13 workshops within ~~each of the~~ northern, southern, central, and Pamlico coastal regions
14 to solicit applications and to assist persons involved in fishing related industries in
15 writing proposals. ~~For purposes of this act, the term 'fishing industry' includes~~
16 ~~persons involved in: (i) commercial or recreational fishing; (ii) aquaculture or~~
17 ~~mariculture; or (iii) handling fish products such as seafood dealers or processors. The~~
18 Sea Grant College Program shall encourage preproposal conferences between
19 ~~individuals in the fisheries industry among persons involved in fishing related~~
20 industries and those with technical or research ~~background~~ backgrounds to work as
21 partners in developing and writing the proposals and in writing ~~final report results.~~
22 reports of final results. If the grants approved by the Commission Grants Committee
23 do not utilize all available funds, the Sea Grant College Program may advertise and
24 solicit additional applications during the applicable fiscal year.

25 (d) Application for Grant Program. -- An applicant may apply for grant funds to
26 the Sea Grant College Program. For purposes of this subsection, every proposal shall
27 include substantial involvement of ~~active North Carolina persons~~ residents of North
28 Carolina who are actively involved in a fishing related industry. A proposal generated
29 by a person not involved in a fishing related industry may be eligible for funding only
30 if the proposal includes written endorsements supporting the project from persons or
31 organizations representing fishing related industries. An application shall ~~include,~~
32 ~~but not be limited to, the following:~~ include:

- 33 (1) Name and address of the primary ~~applicant;~~ applicant.
- 34 (2) List of marine fishing licenses issued under Chapter 113 of the
35 General Statutes to the applicant by the State of North ~~Carolina;~~
36 Carolina.
- 37 (3) A description of the ~~project;~~ project.
- 38 (4) A detailed statement of the projected costs of the project including
39 the cost to plan and design the ~~project;~~ project.
- 40 (5) An explanation of how the project will enhance the fishery
41 ~~resource;~~ resource.
- 42 (6) List of names and addresses of any other persons who will
43 participate in the ~~project;~~ and project.

1 (7) Any other information necessary to make a recommendation on
2 the application.

3 (e) Review Process. -- The Sea Grant College Program shall conduct an
4 anonymous peer review of all applications for fisheries grants. At least one of the
5 peer reviewers shall be a person involved in a fishing related industry. Applications
6 shall be An application is confidential and shall not be defined as is not a public
7 record as defined under G.S. 132-1 until after the closing date for submission of
8 applications. Following the review of all proposals, the Sea Grant College Program
9 shall rank proposals in order of priority and shall present the recommendations to the
10 Commission. Grants Committee. Any criterion used by Sea Grant in ranking
11 proposals shall not require rule making within the meaning of the Administrative
12 Procedure Act, but such criteria shall be public records as defined in G.S. 132-1. The
13 Sea Grant College Program may adopt criteria to rank proposals. In adopting
14 criteria, the Sea Grant College Program is exempt from Article 2A of Chapter 150B
15 of the General Statutes. Criteria adopted pursuant to this subsection are public
16 records within the meaning of G.S. 132-1.

17 (e1) Grants Committee. -- The Grants Committee shall consist of eleven members
18 as follows:

- 19 (1) Three employees of the Sea Grant College Program, appointed by
20 the Director of the Sea Grant College Program.
- 21 (2) Two employees of the Division of Marine Fisheries, appointed by
22 the Fisheries Director.
- 23 (3) Two members of the Marine Fisheries Commission, appointed by
24 the Chair of the Marine Fisheries Commission.
- 25 (4) One member of the Northeast Regional Advisory Committee
26 established pursuant to G.S. 143B-289.57(e), appointed by the
27 Chair of the Northeast Regional Advisory Committee.
- 28 (5) One member of the Central Regional Advisory Committee
29 established pursuant to G.S. 143B-289.57(e), appointed by the
30 Chair of the Central Regional Advisory Committee.
- 31 (6) One member of the Southeast Regional Advisory Committee
32 established pursuant to G.S. 143B-289.57(e), appointed by the
33 Chair of the Southeast Regional Advisory Committee.
- 34 (7) One member of the Inland Regional Advisory Committee
35 established pursuant to G.S. 143B-289.57(e), appointed by the
36 Chair of the Inland Regional Advisory Committee.

37 (f) Award Process. -- ~~The Commission shall review the ranking of proposals, and~~
38 ~~if consistent with the priority rankings established under subsection (e) of this section,~~
39 ~~shall fund those proposals. The Grants Committee shall evaluate all grant proposals~~
40 ~~and the results of the peer review and ranking conducted pursuant to subsection (e)~~
41 ~~of this section. On the basis of this evaluation, the Grants Committee shall determine~~
42 ~~the amount of funding, if any, to be awarded to each grant applicant. To the extent~~
43 ~~practicable, the Sea Grant College Program shall distribute grant funding among the~~
44 ~~northern, southern, central, and Pamlico coastal regions. Applications Proposals for~~

1 projects that include involvement by fishermen of persons involved in a fishing
2 related industry in the project shall be accorded a priority in funding by the
3 ~~Commission. Grants Committee.~~ Following approval by the ~~Commission,~~ Grants
4 Committee, the Sea Grant College Program shall award the grants. ~~To the extent~~
5 ~~practicable, the Sea Grant College Program shall distribute grant funding among the~~
6 ~~northern, southern, central, and Pamlico coastal regions.~~

7 (g) Restrictions on Grants. -- No member of the ~~Commission~~ Grants Committee
8 may benefit financially from a grant. If a grant recipient from a prior year has failed
9 to perform a grant project to the satisfaction of the Sea Grant College Program or the
10 ~~Commission, Grants Committee,~~ the ~~Sea Grant College Program~~ Grants Committee
11 may decline to fund any new application involving the principal applicant.

12 (h) Grant Reports and Funding. -- Grant recipients shall provide quarterly
13 progress reports to the Sea Grant College Program and shall submit invoices for
14 expenditures for each quarter. Twenty-five percent (25%) of the total grant award
15 shall be held until the grant recipient has completed the project and submitted a final
16 written report. The remainder of the grant award shall be distributed upon approval
17 of each quarterly report and upon verification of the expenditures.

18 (i) Report on Grant Program. -- The Sea Grant College Program shall report on
19 ~~an annual basis~~ the Fishery Resource Grant Program to the Marine Fisheries
20 Commission and the Joint Legislative Commission on Seafood and ~~Aquaculture.~~
21 Aquaculture no later than January 1 of each year."

22 Section 2. The Sea Grant College Program shall submit the first report
23 required by G.S. 113-200(i), as amended by Section 1 of this act, no later than
24 January 1, 2000.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

1

SENATE BILL 1048

Short Title: Amend Env. & Nat. Resources Laws-2.

(Public)

Sponsors: Senator Albertson.

Referred to: Rules and Operations of the Senate.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND LAWS RELATING TO THE ENVIRONMENT OR
3 NATURAL RESOURCES.
4 The General Assembly of North Carolina enacts:
5 Section 1. The General Assembly may amend laws relating to the
6 environment or natural resources.
7 Section 2. This act is effective when it becomes law.



SENATE BILL 1048: Amend Fishery Resource Grant Program

BILL ANALYSIS

Committee: Sen. Ag., Envir., & Nat. Res.
Date: April 26, 1999
Version: Proposed Committee Substitute

Introduced by: Senator Albertson
Summary by: Rick Zechini
Committee Counsel

SUMMARY: *The Proposed Committee Substitute for 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 which ranks the applications in order of priority and presents its recommendations to the Marine Fisheries Commission.

BILL ANALYSIS: The *Proposed Committee Substitute for 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 comprised 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.

The *Proposed Committee Substitute for 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 *Proposed Committee Substitute for Senate Bill 1048* contains clarifying, conforming, and technical changes.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1161
Proposed Committee Substitute S1161-PCS2755-LH

Short Title: Water Pretreatment Consultation.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES AND REPRESENTATIVES OF THE FOOD
4 SERVICE INDUSTRY TO REVIEW THE RULES AND GUIDELINES
5 GOVERNING LOCAL OIL AND GREASE WATER PRETREATMENT
6 PROGRAMS TO DETERMINE WHETHER THOSE PROGRAMS ARE
7 EQUITABLE, EFFECTIVE, AND ECONOMICALLY MANAGEABLE.

8 The General Assembly of North Carolina enacts:

9 Whereas, local governments across the State are authorized to implement
10 pretreatment programs in connection with water and sewage treatment; and

11 Whereas, certain local governments have proposed to assess significant
12 fees or charges on food service establishments in connection with those programs
13 regardless of the measures that a particular establishment may have taken to address
14 the issue; and

15 Whereas, the State has an interest in both assuring that the fees and
16 charges are reasonable, necessary, and related to the goal of the pretreatment
17 program and in assuring the quality of the water discharged into the water of the
18 State; Now, therefore,

19 The General Assembly of North Carolina enacts:

20 Section 1. The Department of Environment and Natural Resources, in
21 consultation with the North Carolina Restaurant Association and other food retailers,
22 shall review all State and local rules and ordinances that govern or impact oil and
23 grease pretreatment programs across North Carolina to determine whether such

1 programs are fair, equitable, effective, and economically manageable. As part of that
2 review the parties shall examine fees and charges associated with such programs and
3 whether they are fair and reasonable. The Department shall report on the findings,
4 conclusions, and recommendations arising from this review to the Environmental
5 Management Commission by December 31, 1999, with any recommendations for rule
6 modification.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1161

Short Title: Water Pretreatment Consultation.

(Public)

Sponsors: Senators Hagan; and Warren.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO WORK WITH THE FOOD SERVICE INDUSTRY
4 TO IMPROVE THE EQUITY AND EFFECTIVENESS OF RULES AND
5 GUIDELINES GOVERNING LOCAL OIL AND GREASE PRETREATMENT
6 PROGRAMS.

7 The General Assembly of North Carolina enacts:

8 Whereas, local governments across the State are authorized to implement
9 pretreatment programs in connection with water and sewage treatment; and

10 Whereas, certain local governments have proposed to assess significant
11 fees or charges on food service establishments in connection with those programs
12 regardless of the measures that a particular establishment may have taken to address
13 the issue; and

14 Whereas, the State has an interest in both assuring that the fees and
15 charges are reasonable, necessary, and related to the goal of the pretreatment
16 program and in assuring the quality of the water discharged into the water of the
17 State; Now therefore,

18 The General Assembly of North Carolina enacts:

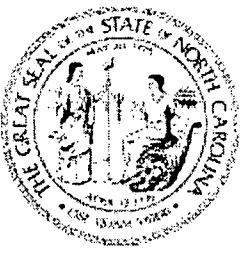
19 Section 1. The Department of Environment and Natural Resources is
20 directed to work with the North Carolina Restaurant Association and other food
21 service establishments and food retailers and other food retailers impacted by local
22 oil and grease pretreatment programs to:

23 (1) Assure that such programs are fair, equitable, economically
24 manageable, and effective;

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- (2) Determine whether it is appropriate to assess fees or charges against such business establishments without evidence of a violation of the applicable rules; and
- (3) Develop appropriate rules or guidelines for local oil and grease pretreatment programs.

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



SENATE BILL 1161: Water Pretreatment Consultation

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: April 26, 1999

Version: First Edition

Introduced by: Senator Hagan

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 1161 directs 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.*

CURRENT RULES: Under rules adopted by the Environmental Management Commission (EMC) for local pretreatment programs, any Significant Industrial User that discharges waste into a Publicly Owned Treatment Works (POTW) must obtain a permit from the agency that implements the pretreatment program for the treatment works. Application fees and procedures may be prescribed by that agency. POTWs that meet certain conditions may be granted the authority to implement their own pretreatment programs. Oil and grease are among the pollutants that must be addressed in any pretreatment program.

BILL ANALYSIS: SB 1161 directs DENR to work with representatives of the food industry that are affected by local oil and grease pretreatment programs in order to:

- Assure that the programs are fair, economically feasible, and effective.
- Determine if it is appropriate to assess charges against affected businesses without evidence of a rule violation.
- Develop appropriate rules or guidelines for local oil and grease pretreatment programs.

NOTE: Any rule developed by DENR for local pretreatment programs would have to be adopted by the EMC before it could be implemented.

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

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

(DATE)

4/26/99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bart Campbell	DENR
Malcolm Blalock	DENR / DEH
Laura DeVito	DENR
Bruce Nicholson	DAQ
Jim Kusza J	NCEF
Sherol Bremen	NC Petroleum Council
Eddie Caldwell	NCHMA
Jim Hobbs	NORTH CAROLINA HOTEL; MOTEL ASSN
Kim Hibbard	NCLM
Bill Weatherman	NC Petroleum Council



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, April 27, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

- SB 593 AMBIENT AIR QUALITY IMPROVEMENT
 Senator Miller
- SB 1049 AMEND ENV. & NAT. RESOURCES LAWS – 3
 Senator Albertson
- SB 1050 AMEND ENV. & NAT. RESOURCES LAWS – 4
 Senator Albertson
- SB 1084 EXTEND ANIMAL WASTE PILOT
 Senator Albertson

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

April 27, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, April 27, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fifteen committee members present.

The following bills were on the agenda:

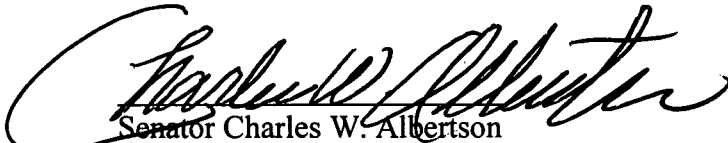
SB 1084 – EXTEND ANIMAL WASTE PILOT - Senator Albertson, sponsor. Senator Albertson said this bill would be heard at a later date.

SB 593 – AMBIENT AIR QUALITY IMPROVEMENT – Senator Miller, sponsor. There was a proposed committee substitute before the committee, and Senator Phillips moved that the PCS be adopted for discussion purposes. Motion carried. George Givens of staff explained the proposed committee substitute. Senator Albertson said the bill would not be reported out of committee at this time but committee would simply add an appropriation so that the bill would have continued life while interested parties got together and worked out the differences. Senator Weinstein moved that an appropriation be attached to the bill and that it be rolled into a proposed committee substitute. Motion carried.

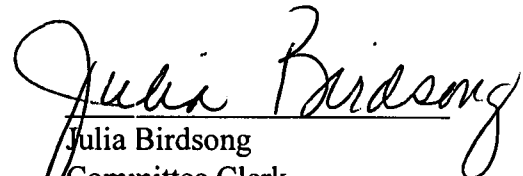
SB 1049 – AMEND ENV. & NAT. RESOURCES LAWS – 3 - Senator Albertson, sponsor, asked Senator Robinson, vice chairman, to chair the committee so that he could explain the next two bills. There was a proposed committee substitute and Senator Albertson moved that it be adopted for discussion purposes. Motion carried. Annette Lucas, Division of Water Quality, N. C. Department of Environment and Natural Resources made comments on the bill. George Givens of staff answered questions from committee members. Senator Clodfelter moved that the proposed committee substitute be given a favorable report with a recommended referral to Finance, unfavorable as to original bill. Motion carried.

SB 1050 – AMEND ENV. & NAT. RESOURCES LAWS – 4 – Senator Albertson, sponsor. There was a proposed committee substitute before the committee and Senator Albertson moved that it be adopted for discussion purposes. Motion carried. Senator Wellons moved that the proposed committee substitute be given a favorable report with a recommended referral to Appropriations, unfavorable as to original bill. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, April 27, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B.	1049	AMEND ENV. & NAT. RESOURCES LAWS-3
		Draft Number: PCS2756
		Sequential Referral: NONE
		Recommended Referral: FINANCE
		Long Title Amended: YES
S.B.	1050	AMEND ENV. & NAT. RESOURCES LAWS-4
		Draft Number: PCS7672
		Sequential Referral: NONE
		Recommended Referral: APPROPRIATIONS
		Long Title Amended: YES
S.B.	1161	WATER PRETREATMENT CONSULTATION
		Draft Number: PCS2755
		Sequential Referral: NONE
		Recommended Referral: NONE
		Long Title Amended: YES

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

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SENATE BILL 593*
Corrected Copy 3/31/99
Proposed Committee Substitute S593-PCS1722-RT

Short Title: Ambient Air Quality Improvement.

(Public)

Sponsors:

Referred to:

March 29, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO REDUCE EMISSIONS
3 FROM MOBILE SOURCES, TO PROVIDE FOR A PROGRAM OF
4 INCENTIVES TO PROMOTE VOLUNTARY REDUCTIONS OF EMISSIONS
5 OF AIR CONTAMINANTS, AND TO ADJUST THE CHARGE FOR THE
6 INSPECTION OF A MOTOR VEHICLE.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 143-215.107(a) reads as rewritten:
9 "(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed
10 and empowered, as rapidly as possible within the limits of funds and facilities
11 available to it, and subject to the procedural requirements of this Article and Article
12 21:
13 (1) To prepare and develop, after proper study, a comprehensive plan
14 or plans for the prevention, abatement and control of air pollution
15 in the State or in any designated area of the State.
16 (2) To determine by means of field sampling and other studies,
17 including the examination of available data collected by any local,
18 State or federal agency or any person, the degree of air
19 contamination and air pollution in the State and the several areas
20 of the State.
21 (3) To develop and adopt, after proper study, air quality standards
22 applicable to the State as a whole or to any designated area of the

- 1 State as the Commission deems proper in order to promote the
2 policies and purposes of this Article and Article 21 most
3 effectively.
- 4 (4) To collect information or to require reporting from classes of
5 sources which, in the judgment of the Environmental Management
6 Commission, may cause or contribute to air pollution. Any person
7 operating or responsible for the operation of air contaminant
8 sources of any class for which the Commission requires reporting
9 shall make reports containing such information as may be required
10 by the Commission concerning location, size, and height of
11 contaminant outlets, processes employed, fuels used, and the
12 nature and time periods or duration of emissions, and such other
13 information as is relevant to air pollution and available or
14 reasonably capable of being assembled.
- 15 (5) To develop and adopt emission control standards as in the
16 judgment of the Commission may be necessary to prohibit, abate,
17 or control air pollution commensurate with established air quality
18 standards. The standards may be applied uniformly to the State as
19 a whole or to any area of the State designated by the Commission.
20 This subdivision does not apply to that portion of the National
21 Emission Standards for Hazardous Air Pollutants for asbestos that
22 governs demolition and renovation as set out in 40 C.F.R. §
23 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- 24 (6) ~~To adopt, when necessary and practicable, a program for testing~~
25 ~~emissions from motor vehicles and to adopt motor vehicle emission~~
26 ~~standards in compliance with applicable federal regulations; adopt~~
27 ~~motor vehicle emissions standards; to adopt, when necessary and~~
28 ~~practicable, a motor vehicle emissions inspection and maintenance~~
29 ~~program to improve ambient air quality; to require, as part of the~~
30 ~~emissions inspection and maintenance program, that motor vehicle~~
31 ~~emissions be monitored while the vehicle is in operation by means~~
32 ~~of diagnostic equipment installed on the vehicle; and to certify to~~
33 ~~the Commissioner of Motor Vehicles that the ambient air quality in~~
34 ~~an area will be improved by the implementation of a motor vehicle~~
35 ~~emissions inspection and maintenance program. The Commission~~
36 ~~may adopt different motor vehicle emissions standards and~~
37 ~~different motor vehicle emissions inspection and maintenance~~
38 ~~programs for different areas or counties as may be necessary and~~
39 ~~appropriate to improve ambient air quality.~~
- 40 (7) To develop and adopt standards and plans necessary to implement
41 programs for the prevention of significant deterioration and for the
42 attainment of air quality standards in nonattainment areas.
- 43 (8) To develop and adopt standards and plans necessary to implement
44 programs to control acid deposition and to regulate the use of

- 1 sulfur dioxide allowances and nitrogen oxides emissions in
2 accordance with Title IV and implementing regulations adopted by
3 the United States Environmental Protection Agency.
- 4 (9) To regulate the oxygen and sulfur content of gasoline, to require
5 use of reformulated gasoline as the Commission determines
6 necessary, to implement the requirements of Title II and
7 implementing regulations adopted by the United States
8 Environmental Protection Agency, and to develop standards and
9 plans to implement this subdivision. Rules adopted under this
10 subdivision may specify standards for a particular area of the State
11 that differ from standards specified for other areas as may be
12 necessary to improve ambient air quality within a particular area,
13 achieve attainment or preclude violations of the National Ambient
14 Air Quality Standards, or to meet other federal requirements.
15 Rules may authorize the use of marketable oxygen credits for
16 gasoline as provided in federal requirements.
- 17 (10) To develop and adopt standards and plans necessary to implement
18 requirements of the federal Clean Air Act and implementing
19 regulations adopted by the United States Environmental Protection
20 Agency.
- 21 (11) To develop and adopt economically feasible standards and plans
22 necessary to implement programs to control the emission of odors
23 from animal operations, as defined in G.S. 143-215.10B.
- 24 (12) To develop and adopt a program of incentives to promote
25 voluntary reductions of emissions of air contaminants."

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

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

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

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

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

2 **"§ 20-183.2. Description of vehicles subject to safety or emissions inspection;**
3 **definitions.**

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

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

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

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

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

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

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

18 (3) It is a 1975 or later model.

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

20 (5) It meets any of the following descriptions:

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

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

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

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

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

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

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

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

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

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

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

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

20 "**§ 119-26.1. Oxygen and sulfur content standards and reformulated gasoline.**

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

- 27 (1) Will improve the ambient air quality within the specified county or
28 counties;
29 (2) Is necessary to achieve attainment or preclude violations of the
30 National Ambient Air Quality Standards; or
31 (3) Is otherwise necessary to meet federal requirements.

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

36 (c) The Commissioner of Agriculture may assess and collect civil penalties for
37 violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance
38 with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action
39 for injunctive relief to restrain, abate, or prevent a violation or threatened violation of
40 rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S.
41 143-215.114C. The assessment of a civil penalty under this section and G.S.
42 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section
43 shall not relieve any person from any other penalty or remedy authorized under this
44 Article.

1 The clear proceeds of civil penalties assessed pursuant to this subsection shall be
 2 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
 3 115C-457.2.

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

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

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

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

16 <u>Type</u>	<u>Inspection</u>	<u>Sticker</u>
17 Safety Only, Without After-		
18 Factory Tinted Window	\$ 8.25 <u>11.25</u>	\$ 1.00
19 Safety Only, With After-Factory Tinted Window	18.25 <u>21.25</u>	1.00
20 Emissions and Safety Without After-Factory		
21 Tinted Window	17.00 <u>22.00</u>	2.40
22 Emissions and Safety With After-Factory		
23 Tinted Window	27.00 <u>32.00</u>	2.40.

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

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

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 593*
Corrected Copy 3/31/99

Short Title: Ambient Air Quality Improvement/AB.

(Public)

Sponsors: Senator Miller.

Referred to: Agriculture/Environment/Natural Resources.

March 29, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY BY AUTHORIZING THE
3 ENVIRONMENTAL MANAGEMENT COMMISSION TO EXPAND THE
4 MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143-215.107(a) reads as rewritten:
7 "(a) Duty to Adopt Plans, Standards, etc. -- The Commission is hereby directed
8 and empowered, as rapidly as possible within the limits of funds and facilities
9 available to it, and subject to the procedural requirements of this Article and Article
10 21:
11 (1) To prepare and develop, after proper study, a comprehensive plan
12 or plans for the prevention, abatement and control of air pollution
13 in the State or in any designated area of the State.
14 (2) To determine by means of field sampling and other studies,
15 including the examination of available data collected by any local,
16 State or federal agency or any person, the degree of air
17 contamination and air pollution in the State and the several areas
18 of the State.
19 (3) To develop and adopt, after proper study, air quality standards
20 applicable to the State as a whole or to any designated area of the
21 State as the Commission deems proper in order to promote the
22 policies and purposes of this Article and Article 21 most
23 effectively.

- 1 (4) To collect information or to require reporting from classes of
2 sources which, in the judgment of the Environmental Management
3 Commission, may cause or contribute to air pollution. Any person
4 operating or responsible for the operation of air contaminant
5 sources of any class for which the Commission requires reporting
6 shall make reports containing such information as may be required
7 by the Commission concerning location, size, and height of
8 contaminant outlets, processes employed, fuels used, and the
9 nature and time periods or duration of emissions, and such other
10 information as is relevant to air pollution and available or
11 reasonably capable of being assembled.
- 12 (5) To develop and adopt emission control standards as in the
13 judgment of the Commission may be necessary to prohibit, abate,
14 or control air pollution commensurate with established air quality
15 standards. The standards may be applied uniformly to the State as
16 a whole or to any area of the State designated by the Commission.
17 This subdivision does not apply to that portion of the National
18 Emission Standards for Hazardous Air Pollutants for asbestos that
19 governs demolition and renovation as set out in 40 C.F.R. §
20 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- 21 (6) ~~To adopt, when necessary and practicable, a program for testing~~
22 ~~emissions from motor vehicles and to adopt motor vehicle emission~~
23 ~~standards in compliance with applicable federal regulations; adopt~~
24 motor vehicle emissions standards; to adopt, when necessary and
25 practicable, a motor vehicle emissions inspection and maintenance
26 program to improve ambient air quality; to designate emissions
27 counties; and to certify to the Commissioner of Motor Vehicles
28 that the ambient air quality in an area will be improved by the
29 implementation of a motor vehicle emissions inspection and
30 maintenance program. The Commission may adopt different
31 motor vehicle emissions standards and different motor vehicle
32 emissions inspection and maintenance programs for different areas
33 or counties as may be necessary and appropriate to improve
34 ambient air quality.
- 35 (7) To develop and adopt standards and plans necessary to implement
36 programs for the prevention of significant deterioration and for the
37 attainment of air quality standards in nonattainment areas.
- 38 (8) To develop and adopt standards and plans necessary to implement
39 programs to control acid deposition and to regulate the use of
40 sulfur dioxide allowances and nitrogen oxides emissions in
41 accordance with Title IV and implementing regulations adopted by
42 the United States Environmental Protection Agency.
- 43 (9) To regulate the oxygen content of gasoline, to require use of
44 reformulated gasoline as the Commission determines necessary, to

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

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

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

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

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

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

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

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

39 "§ 20-183.2. Description of vehicles subject to safety or emissions inspection;
40 definitions.

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

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

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

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

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

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

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

11 (3) It is a 1975 or later model.

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

13 (5) It meets any of the following descriptions:

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

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

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

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

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

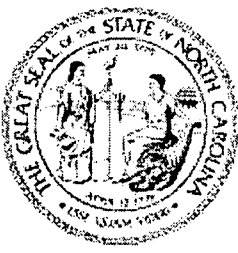
27 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
28 an emissions inspection.

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

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

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

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



SENATE BILL 593: Ambient Air Quality Improvement/AB

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources
Date: April 27, 1999
Version: Proposed Committee Substitute

Introduced by: Senator Brad Miller
Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 593 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. SB 593 also removes an exemption from emissions inspection requirements for vehicles not powered by gasoline. The Proposed Committee Substitute for SB 593 additionally authorizes the EMC to adopt incentives to promote voluntary reductions of emissions of air contaminants and to regulate the sulfur content of gasoline; provides that an emissions inspection may include the analysis of data gathered by an on-board monitoring system; and increases fees for motor vehicle safety and emissions inspections.*

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: SB 593, 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 SB 593 contains all the provisions of the bill as introduced and additionally:

- Authorizes the EMC to adopt incentives to promote voluntary reductions of emissions of air contaminants.
- 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.
- Increases the fees for motor vehicle safety and emissions inspections. The fees for inspections for safety only are increased by \$3.00; the fees for inspections for safety and emissions are increased by \$5.00.

BACKGROUND: The Proposed Committee Substitute for SB 593 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 SB 593 is HB 323, which was introduced in the House by Representative Joe Hackney.

EFFECTIVE DATE: The Proposed Committee Substitute for SB 593 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1049
Proposed Committee Substitute S1049-PCS2756-RT

Short Title: Neuse River Buffer Amends.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND AND CODIFY THE LAW THAT PROVIDES FOR
3 COMPENSATORY MITIGATION AS AN ALTERNATIVE TO THE
4 MAINTENANCE OF RIPARIAN BUFFERS AND THAT AUTHORIZES THE
5 ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE
6 RESPONSIBILITY FOR THE IMPLEMENTATION AND ENFORCEMENT OF
7 THE STATE'S RIPARIAN BUFFER PROTECTION REQUIREMENTS TO
8 LOCAL GOVERNMENTS, AS RECOMMENDED BY THE NEUSE RIVER
9 BUFFER RULES STAKEHOLDER ADVISORY COMMITTEE AND
10 REQUESTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

11 Whereas, in 1996 the General Assembly established a goal to reduce the
12 average annual load of nitrogen delivered from point and nonpoint sources to the
13 Neuse River Estuary by a minimum of thirty percent (30%) of the average load for
14 the period 1991 through 1995 by the year 2001 and directed the Environmental
15 Management Commission to develop and adopt a plan to achieve this goal; and

16 Whereas, in 1997 the General Assembly directed the Environmental
17 Management Commission to develop and implement a basinwide water quality plan
18 for each of the State's 17 major river basins; and

19 Whereas, in 1997, in response to these legislative mandates, the
20 Environmental Management Commission adopted a Neuse River Nutrient Sensitive
21 Waters Management Strategy as temporary and permanent rules and adopted
22 revisions to these rules in 1998; and

1 Whereas, in 1998 the General Assembly enacted legislation to disapprove
2 15A NCAC 2B.0203 (Neuse River Nutrient Sensitive Waters Management Strategy:
3 Protection and Maintenance of Riparian Areas with Existing Forest Vegetation) as a
4 permanent rule while continuing this rule in effect as a temporary rule with certain
5 modifications until the Environmental Management Commission adopted a revised
6 temporary and permanent rule; and

7 Whereas, the 1998 legislation established a Stakeholder Advisory
8 Committee to assist the Environmental Management Commission with the
9 development of (i) a revised temporary rule, (ii) rules and recommended legislation
10 to provide for compensatory mitigation as an alternative to the maintenance of
11 riparian buffers, and (iii) rules and recommended legislation to authorize the
12 Environmental Management Commission to delegate responsibility for the
13 implementation and enforcement of the State's riparian buffer protection
14 requirements to local governments; and

15 Whereas, the Stakeholder Advisory Committee, after many hours of
16 work, submitted a report and recommendations to the Environmental Management
17 Commission; and

18 Whereas, that report included recommended legislation pertaining to
19 compensatory mitigation and delegation to local governments; and

20 Whereas, at its meeting on 8 April 1999, the Environmental Management
21 Commission accepted these recommendations and forwarded them to the
22 Environmental Review Commission; Now, therefore,
23 The General Assembly of North Carolina enacts:

24 Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is
25 amended by adding two new sections to read:

26 **"§ 143-214.20. Riparian Buffer Protection Program: Alternatives to maintaining**
27 **riparian buffers: compensatory mitigation fees.**

28 **(a) The Commission shall establish a program to provide alternatives for persons**
29 **who would otherwise be required to maintain riparian buffers and who can**
30 **demonstrate that they have attempted to avoid and minimize the loss of the riparian**
31 **buffer and that there is no practical alternative to the loss of the buffer. This**
32 **program is intended to allow these persons to perform compensatory mitigation in**
33 **lieu of complying with laws and rules that require that riparian buffers be protected**
34 **and maintained. Alternatives shall include, but are not limited to:**

35 (1) **Payment of a compensatory mitigation fee into the Riparian Buffer**
36 **Restoration Fund.**

37 (2) **Donation of real property or of an interest in real property to the**
38 **Department, another State agency, a unit of local government, or a**
39 **private nonprofit conservation organization if both the donee**
40 **organization and the donated real property or interest in real**
41 **property are approved by the Department. The Department may**
42 **approve a donee organization only if the donee agrees to maintain**
43 **the real property or interest in real property as a riparian buffer.**
44 **The Department may approve a donation of real property or an**

- 1 interest in real property only if the real property or interest in real
2 property either:
- 3 a. Is a riparian buffer that will provide protection of water
4 quality that is equivalent to or greater than that provided by
5 the riparian buffer that is lost in the same river basin as the
6 riparian buffer that is lost; or
- 7 b. Will be used to restore, create, enhance, or maintain a
8 riparian buffer that will provide protection of water quality
9 that is equivalent to or greater than that provided by the
10 riparian buffer that is lost in the same river basin as the
11 riparian buffer that is lost.
- 12 (3) Establishment, restoration, or enhancement of a riparian buffer that
13 is not otherwise required to be protected.
- 14 (b) Compensatory mitigation is available for loss of a riparian buffer along an
15 intermittent stream, a perennial stream, or a perennial waterbody.
- 16 (c) The Commission shall establish a standard schedule of compensatory
17 mitigation fees. The compensatory mitigation fee schedule shall be based on the area
18 of the riparian buffer that is permitted to be lost and the cost to provide equivalent or
19 greater protection of water quality by:
- 20 (1) Restoring existing riparian buffers.
21 (2) Acquiring land for and creation of new riparian buffers.
22 (3) Monitoring and maintaining the restored or created riparian
23 buffers over time.
24 (4) Constructing approved alternative measures that reduce nutrient
25 loading as well or better than the riparian buffer that is lost.
- 26 (d) The Commission may adopt rules to implement this section.
- 27 "§ 143-215.23. Riparian Buffer Protection Program: Delegation of riparian buffer
28 protection requirements to local governments.
- 29 (a) The Commission may delegate responsibility for the implementation and
30 enforcement of the State's riparian buffer protection requirements to units of local
31 government that have the power to regulate land use. A delegation under this
32 section shall not affect the jurisdiction of the Commission over State agencies and
33 units of local government. Any unit of local government that has the power to
34 regulate land use may request that responsibility for the implementation and
35 enforcement of the State's riparian buffer protection requirements be delegated to the
36 unit of local government. To this end, units of local government may adopt
37 ordinances and regulations necessary to establish and enforce the State's riparian
38 buffer protection requirements.
- 39 (b) Within 90 days after the Commission receives a complete application
40 requesting delegation of responsibility for the implementation and enforcement of the
41 State's riparian buffer protection requirement, the Commission shall review the
42 application and notify the unit of local government that submitted the application
43 whether the application has been approved, approved with modifications, or
44 disapproved. The Commission shall not approve a delegation unless the Commission

1 finds that local implementation and enforcement of the State's riparian buffer
2 protection requirements will equal implementation and enforcement by the State.

3 (c) If the Commission determines that a unit of local government is failing to
4 implement or enforce the State's riparian buffer protection requirements, the
5 Commission shall notify the unit of local government in writing and shall specify the
6 deficiencies in implementation and enforcement. If the local government has not
7 corrected the deficiencies within 90 days after the unit of local government receives
8 the notification, the Commission shall rescind delegation and shall implement and
9 enforce the State's riparian buffer protection program. If the unit of local
10 government indicates that it is willing and able to resume implementation and
11 enforcement of the State's riparian buffer protection requirements, the unit of local
12 government may reapply for delegation under this section.

13 (d) The Department shall provide technical assistance to units of local
14 government in the development, implementation, and enforcement of the State's
15 riparian buffer protection requirements.

16 (e) The Department shall provide a stream identification training program to train
17 individuals to determine the existence of surface water for purposes of rules adopted
18 by the Commission for the protection and maintenance of riparian buffers. The
19 Department may charge a fee to cover the full cost of the training program. No fee
20 shall be charged to an employee of the State who attends the training program in
21 connection with the employee's official duties.

22 (f) The Commission may adopt rules to implement this section."

23 Section 2. G.S. 143-214.21 reads as rewritten:

24 **"§ 143-214.21. Riparian Buffer Protection Program: Riparian Buffer Restoration**
25 **Fund.**

26 The Riparian Buffer Restoration Fund is established as a nonreverting fund within
27 the Department. The Fund shall be treated as a special trust fund and shall be
28 credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-
29 69.3. The Riparian Buffer Restoration Fund shall provide a repository for monetary
30 contributions to promote projects for the restoration, enhancement, or creation of
31 riparian buffers or to construct approved alternative measures that reduce nutrient
32 loading as well or better than the riparian buffer that is lost and for compensatory
33 mitigation fees paid to the Department. The Fund shall be administered by the
34 Division of Water Quality within the Department. ~~Monies~~ ~~[Moneys]~~ Moneys shall be
35 expended from the Fund only for those purposes directly related to the restoration,
36 acquisition, creation, enhancement, and maintenance of riparian buffers or to
37 construct approved alternative measures that reduce nutrient loading as well or better
38 than the riparian buffer that is lost to offset the benefits to water quality, including
39 the removal of nutrients, lost through the loss of buffers. Compensatory mitigation
40 fees paid into the Fund in connection with the loss of riparian buffers in a river basin
41 and the interest earned on those fees may be used only for projects in that river
42 basin."

43 Section 3. The catch line to G.S. 143-214.22 reads as rewritten:

1 "§ 143-214.22. Riparian Buffer Protection Program: Department may accept
2 donations of real property."

3 Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1049

Short Title: Amend Env. & Nat. Resources Laws-3.

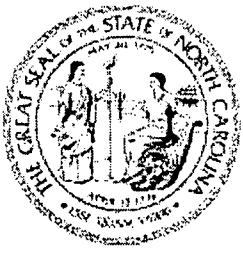
(Public)

Sponsors: Senator Albertson.

Referred to: Rules and Operations of the Senate.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND LAWS RELATING TO THE ENVIRONMENT OR
3 NATURAL RESOURCES.
4 The General Assembly of North Carolina enacts:
5 Section 1. The General Assembly may amend laws relating to the
6 environment or natural resources.
7 Section 2. This act is effective when it becomes law.



SENATE BILL 1049: Neuse River Buffer Amendments

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Introduced by: Albertson

Summary by: Hannah Holm,
Research Assistant

Date: April 27, 1999

Version: Proposed Committee Substitute

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 instructed the EMC on implementing and revising the Neuse River Basin Rule, which is designed to protect water quality 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 the Department of Environment and Natural Resources (DENR), another State agency, a unit of local government, or a private nonprofit, provided that the property is a buffer or will be used to restore a buffer and will provide equal or greater water quality protection as the lost buffer. The property must also be in the same river basin as the lost buffer.
- The establishment, restoration, or enhancement of a buffer that is not otherwise required to be protected.
- The construction of an alternative mechanism that will provide equal or greater water quality protection 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 that will provide provide equal or greater waterquality protection as the lost buffer.

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 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1050
Proposed Committee Substitute S1050-PCS7672-RT

Short Title: Neuse River Buffer Funds.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF
3 ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP STATEWIDE
4 STREAM DELINEATION MAPS AND TO APPROPRIATE FUNDS TO THE
5 WETLANDS RESTORATION FUND IN THE DEPARTMENT OF
6 ENVIRONMENT AND NATURAL RESOURCES FOR THE RESTORATION
7 OF RIPARIAN BUFFERS, AS RECOMMENDED BY THE NEUSE RIVER
8 BUFFER RULES STAKEHOLDER ADVISORY COMMITTEE AND
9 REQUESTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

10 Whereas, in 1996 the General Assembly established a goal to reduce the
11 average annual load of nitrogen delivered from point and nonpoint sources to the
12 Neuse River Estuary by a minimum of thirty percent (30%) of the average load for
13 the period 1991 through 1995 by the year 2001 and directed the Environmental
14 Management Commission to develop and adopt a plan to achieve this goal; and

15 Whereas, in 1997 the General Assembly directed the Environmental
16 Management Commission to develop and implement a basinwide water quality plan
17 for each of the State's 17 major river basins; and

18 Whereas, in 1997, in response to these legislative mandates, the
19 Environmental Management Commission adopted a Neuse River Nutrient Sensitive
20 Waters Management Strategy as temporary and permanent rules and adopted
21 revisions to these rules in 1998; and

22 Whereas, in 1998 the General Assembly enacted legislation to disapprove
23 15A NCAC 2B.0203 (Neuse River Nutrient Sensitive Waters Management Strategy;

1 Protection and Maintenance of Riparian Areas with Existing Forest Vegetation) as a
2 permanent rule while continuing this rule in effect as a temporary rule with certain
3 modifications until the Environmental Management Commission adopted a revised
4 temporary and permanent rule; and

5 Whereas, the 1998 legislation established a Stakeholder Advisory
6 Committee to assist the Environmental Management Commission with the
7 development of (i) a revised temporary rule, (ii) rules and recommended legislation
8 to provide for compensatory mitigation as an alternative to the maintenance of
9 riparian buffers, and (iii) rules and recommended legislation to authorize the
10 Environmental Management Commission to delegate responsibility for the
11 implementation and enforcement of the State's riparian buffer protection
12 requirements to local governments; and

13 Whereas, the Stakeholder Advisory Committee, after many hours of
14 work, submitted a report and recommendations to the Environmental Management
15 Commission; and

16 Whereas, that report included recommendations that funds be
17 appropriated as set out in this act; and

18 Whereas, at its meeting on 8 April 1999, the Environmental Management
19 Commission accepted the recommendation that these funds be appropriated and
20 forwarded this request to the Environmental Review Commission; Now, therefore,
21 The General Assembly of North Carolina enacts:

22 Section 1. There is appropriated from the General Fund to the
23 Department of Environment and Natural Resources the sum of five million dollars
24 (\$5,000,000) for the 1999-2000 fiscal year and the sum of two hundred thousand
25 dollars (\$200,000) for the 2000-2001 fiscal year to develop statewide stream
26 delineation maps to identify streams and other bodies of water to which the riparian
27 buffer rules apply and to administer the mapping program.

28 Section 2. There is appropriated from the General Fund to the Wetlands
29 Restoration Fund, established in the Department of Environment and Natural
30 Resources by G.S. 143-214.12, the sum of one million dollars (\$1,000,000) for the
31 1999-2000 fiscal year for the restoration of riparian buffers.

32 Section 3. This act becomes effective 1 July 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1050

Short Title: Amend Env. & Nat. Resources Laws-4.

(Public)

Sponsors: Senator Albertson.

Referred to: Appropriations/Base Budget.

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND LAWS RELATING TO THE ENVIRONMENT OR
3 NATURAL RESOURCES.
4 The General Assembly of North Carolina enacts:
5 Section 1. The General Assembly may amend laws relating to the
6 environment or natural resources.
7 Section 2. This act is effective when it becomes law.



SENATE BILL 1050: Neuse River Buffer Funds

BILL ANALYSIS

Committee: Senate Ag., Envir., & Nat. Res.
Date: April 27, 1999
Version: Proposed Committee Substitute

Introduced by: Senator Albertson
Summary by: Rick Zechini
Committee Counsel

SUMMARY: *The Proposed Committee Substitute for Senate Bill 1050 appropriates from the General Fund five million dollars (\$5,000,000) for the 1999-2000 fiscal year and two hundred thousand dollars (\$200,000) for the 2000-2001 fiscal year to the Department of Environment and Natural Resources to develop statewide stream delineation maps to identify streams and other bodies of water to which riparian buffer rules apply. The Proposed Committee Substitute also appropriates from the General Fund one million dollars (\$1,000,000) for the 1999-2000 fiscal year to Wetlands Restoration Fund for the restoration of riparian buffers.*

BACKGROUND: This legislation was recommended by the Neuse River Buffer Rules Stakeholder Advisory Committee. The Environmental Management Commission accepted the recommendation and forwarded the request to the Environmental Review Commission. The Wetlands Restoration Fund is a fund that currently exists within the Department of Environment and Natural Resources that was created for the acquisition, perpetual maintenance, enhancement, restoration, and creation of wetlands and riparian areas.

EFFECTIVE DATE: This act is effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1084*

Short Title: Extend Animal Waste Pilot.

(Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE PILOT PROGRAM UNDER WHICH THE DIVISION
3 OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF
4 ENVIRONMENT AND NATURAL RESOURCES CONDUCTS ALL
5 INSPECTIONS OF ANIMAL WASTE MANAGEMENT SYSTEMS IN
6 CERTAIN COUNTIES.
7 The General Assembly of North Carolina enacts:
8 Section 1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:
9 "(a) The Department of ~~Environment, Health, Environment~~ and Natural
10 Resources shall develop and implement a pilot program to begin no later than
11 November 1, 1997, and to terminate ~~October 31, 1998~~, December 31, 2000, regarding
12 the annual inspections of animal operations that are subject to a permit under Part
13 1A of Article 21 of Chapter 143 of the General Statutes. The Department shall select
14 two counties located in a part of the State that has a high concentration of swine
15 farms to participate in this pilot program. Notwithstanding G.S. 143-215.10F, the
16 Division of Soil and Water Conservation of the Department of Environment and
17 Natural Resources shall conduct inspections of all animal operations that are subject
18 to a permit under Part 1A of Article 21 of Chapter 143 of the General Statutes in
19 these two counties at least once a year to determine whether any animal waste
20 management system is causing a violation of water quality standards and whether the
21 system is in compliance with its animal waste management plan or any other
22 condition of the permit. The personnel of the Division of Soil and Water
23 Conservation who are to conduct these inspections in each of these two counties shall
24 be located in an office in the county in which that person will be conducting

1 inspections. As part of this pilot program, the Department of ~~Environment, Health,~~
2 Environment and Natural Resources shall establish procedures whereby resources
3 within the local Soil and Water Conservation Districts serving the two counties are
4 used for the quick response ~~of to~~ complaints and reported problems previously
5 referred only to the Division of Water ~~Quality.~~ Quality of the Department of
6 Environment and Natural Resources."

7 Section 2. The two counties that were selected for the pilot program
8 pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County,
9 shall remain in the pilot program.

10 Section 3. The Division of Soil and Water Conservation of the
11 Department of Environment and Natural Resources and the Division of Water
12 Quality of the Department of Environment and Natural Resources shall jointly submit
13 interim reports no later than October 15, 1999; April 15, 2000; October 15, 2000; and
14 a final report no later than January 15, 2001, to the Environmental Review
15 Commission and to the Fiscal Research Division. These reports shall indicate
16 whether the pilot program has increased the effectiveness of the annual inspections
17 program or the response to complaints and reported problems, specifically whether
18 the pilot program had resulted in identifying violations earlier, taking corrective
19 actions earlier, increasing compliance with the animal waste management plans and
20 permit conditions, improving the time to respond to discharges, complaints, and
21 reported problems, improving communications between farmers and Department
22 employees, and any other consequences deemed pertinent by the Department. The
23 final report shall include a recommendation as to whether to continue or expand the
24 pilot program under this act. The Environmental Review Commission may
25 recommend to the 2001 General Assembly whether to continue or expand the pilot
26 program under this act and may make any related legislative proposals.

27 Section 4. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

4/27/99
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mae Boxley	N.C. Aggregates Assoc.
Nat Mard	Conservation Council of NC
Kelly Collins Hawkins	Environmental Defense Fund
Thomson Mills	OWSS
Marion Dodd	League of Women Voters NC
David Knight	NC Sierra Club, NC Wildlife Fed
Annette Lucas	Division of Water Quality
Brock Nicholson	DENR - DAQ
Laura DeVivo	DENR
Elton Brand	NBA
Chris Burgess	U of Utah

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sheroi Brannen	NC Petroleum Council, Raleigh NC.
Lu-Ann Coe	Farmers for Fairness, Inc.
Steve Woodson	NC Farm Bureau
Cissy Porter	Bone & Associates
Ed Regan	N.C. Assoc. of Co. Comm
Anni McDillon	The National Conservation NC Chapter
Kim Hibbard	NC League of Municipalities
Shalee English	NC Agribusiness Council
ELLIS HANKINS	NCLM
Michelle Cook	Weyerhaeuser
John Cyrus	N.C. State Grange

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Walter Cherry	NC Pork Council
Jon Glendon	NC Pork Council
Beth Anne Mumford	N.C. Pork Council
Roger Bone	Bone & Assoc
Sharon Mill	ONSS
Jim Kuszag	NCEI
Danell Strawberry	New York
Thomas Cooper	Co
Ian Rose	UNC
George Everett	Duke Energy
Charles Case	Hunter & Williams



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, May 11, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

- | | |
|---------|---|
| HB 236 | LICENSE SUSPENSION/BAITING
Representative Gulley |
| HB 1008 | SEDIMENTATION ACT/EXCAVATION
Representative Cox |
| HB 1125 | CONFORM DEFINITION OF HAZ. SITE
Representative Hackney |
| HB 1127 | REVISE CERTAIN LODGING RULES
Representative Smith |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

May 11, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, May 11, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fifteen committee members present.

The following bills were on the agenda:

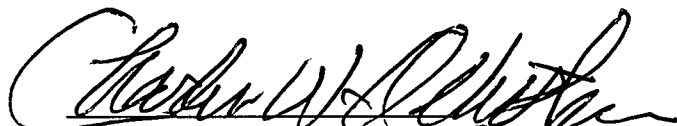
HB 236 – LICENSE SUSPENSION/BAITING – Representative Gulley, sponsor, was recognized to explain the bill. Dick Hamilton of the N. C. Wildlife Resources Commission answered questions from members, as did Barbara Riley and Jeff Hudson of staff. Senator Robinson made the motion that the bill be given a favorable report. Motion carried.

HB 1127 – REVISE CERTAIN LODGING RULES – Representative Smith, sponsor, was recognized to explain the bill. Jim Hobbs, representing North Carolina Hotel & Motel Association, said there were no other states with such a bill. Senator Wellons moved that the bill be given a favorable report. Motion carried.

HB 1008 – SEDIMENTATION ACT/EXCAVATION – Representative Cox, sponsor, was not present so Rick Zechini of staff explained the bill. Senator Albertson pointed out that the Senate version of this bill had been passed previously. Senator Martin moved that the bill be given a favorable report. Motion carried.

HB 1125 – CONFORM DEFINITION OF HAZ. SITE – Representative Hackney, sponsor, was not present so George Givens of staff explained the bill. Senator Odom moved that the bill be given a favorable report. Motion carried.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, May 11, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS#1)236	LICENSE SUSPENSION/BAITING Sequential Referral: NONE Recommended Referral: NONE
H.B.(CS#1)1008	SEDIMENTATION ACT/EXCAVATION Sequential Referral: NONE Recommended Referral: NONE
H.B. 1125	CONFORM DEFINITION OF HAZ. SITE Sequential Referral: NONE Recommended Referral: NONE
H.B. 1127	REVISE CERTAIN LODGING RULES Sequential Referral: NONE Recommended Referral: NONE

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 236
Committee Substitute Favorable 4/15/99

Short Title: License Suspension/Baiting.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGARDING THE BAITING OF ANIMALS
3 AND TO MAKE CORRECTIONS IN THE LAW REGARDING THE
4 MANDATORY SUSPENSION OF HUNTING LICENSES AND PERMITS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 113-291.1(b) reads as rewritten:

7 "(b) No wild animals or wild birds may be taken:

8 (1) From or with the use of any vehicle; vessel, other than one
9 manually propelled; airplane; or other conveyance except that the
10 use of vehicles and vessels is authorized:

11 a. As hunting stands, subject to the following limitations. No
12 wild animal or wild bird may be taken from any vessel
13 under sail, under power, or with the engine running or
14 while still in motion from such propulsion. No wild animal
15 or wild bird may be taken from any vehicle if it is in
16 motion, the engine is running, or the passenger area of the
17 vehicle is occupied. The prohibition of occupying the
18 passenger area of a vehicle does not apply to a disabled
19 individual whose mobility is restricted.

20 b. For transportation incidental to the taking.
21 (2) With the use or aid of any artificial light, net, trap, snare,
22 electronic or recorded animal or bird call, or fire, except as may be
23 otherwise provided by statute[;] provided, however, that crows and

1 coyotes may be taken with the aid of electronic calling devices. No
2 wild birds may be taken with the use or aid of salt, grain, fruit, or
3 other ~~bait, except as may be otherwise provided by statute.~~ bait.
4 No bear or wild boar may be taken with the use or aid of any salt,
5 salt lick, grain, fruit, honey, sugar-based material, animal parts or
6 products, or other ~~bait.~~ bait, and no wild turkey may be taken from
7 an area in which bait has been placed until the expiration of 10
8 days after the bait has been consumed or otherwise removed. The
9 taking of wild animals and wild birds with poisons, drugs,
10 explosives, and electricity is governed by G.S. 113-261, G.S. 113-
11 262, and Article 22A of this Subchapter. Any person who
12 unlawfully takes bear or wild boar with the use or aid of any type
13 of bait is punishable as provided by ~~G.S. 113-294(e).~~ G.S. 113-
14 294(c1)."

15 Section 2. G.S. 113-276.3(d) reads as rewritten:

16 "(d) Any violation of this Subchapter or of any rule adopted by the Wildlife
17 Resources Commission under the authority of this Subchapter which is subject to a
18 penalty greater than the one provided in G.S. 113-135(a)(1) is a suspension offense.
19 Conviction of any of the following suspension offenses results in a suspension for a
20 period of two years:

- 21 (1) A violation of G.S. 113-294(b).
22 (2) A violation of G.S. 113-294(c).
23 (2a) A violation of G.S. 113-294(c1).
24 (3) A violation of G.S. 113-294(e).
25 ~~(4) A violation of G.S. 113-294(k).~~

26 A conviction of any other suspension offense results in a suspension for a period of
27 one year."

28 Section 3. This act becomes effective October 1, 1999.



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Legislative Services Office**

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May 10, 1999

TO: Senator Committee on Agriculture, Environment, and Natural Resources

FROM: Barbara Riley, Committee Counsel

RE: House Bill 236, 2nd Edition: License Suspension/Baiting

House Bill 236, introduced by Representative Gulley, makes three amendments to G.S. 113-291.1(b)(2) regarding prohibitions on the manner of taking of wild birds and animals. This statute currently provides that it is unlawful to take wild birds or wild animals, except for crows, using an electronic calling device. The statute also prohibits taking wild birds, bear and boar with the use of bait.

The first amendment to G.S. 113-291(b)(2) would allow the use of electronic calls in hunting coyote. The second amendment to the statute makes it unlawful to take wild turkey from an area where bait has been placed until 10 days after the bait has been removed or consumed.

The third change to G.S. 113-291(b)(2) makes a correction to the statutes dealing with suspension offenses. That section currently provides that the unlawful taking of bear or wild boar with bait is punishable as provided in G.S. 113-294(c). Subdivision (c) references wild turkey, and not bear, and provides that persons unlawfully taking wild turkey are guilty of a Class 2 misdemeanor and subject to a \$250 fine. The bill changes the citation to refer to subdivision (c1), which deals expressly with the unlawful taking of bear. Such an offense is a Class 1 misdemeanor and carries \$2,000 fine.

Section 2 of House Bill 236 adds G.S. 113-294(c1) to the list of offenses that result in a 2 year suspension of a license.

The bill becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1008*
Committee Substitute Favorable 4/21/99

Short Title: Sedimentation Act Reg. Some Excavation.

(Public)

Sponsors:

Referred to:

April 13, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION
3 AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION
4 CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 74-49(7) reads as rewritten:
7 "(7) 'Mining' means:
8 a. The breaking of the surface soil in order to facilitate or
9 accomplish the extraction or removal of minerals, ores, or
10 other solid matter.
11 b. Any activity or process constituting all or part of a process
12 for the extraction or removal of minerals, ores, soils, and
13 other solid matter from their original location.
14 c. The preparation, washing, cleaning, or other treatment of
15 minerals, ores, or other solid matter so as to make them
16 suitable for commercial, industrial, or construction use.
17 'Mining' does not include:
18 a. Those aspects of deep mining not having significant effect
19 on the surface, where the affected land does not exceed one
20 acre in area.
21 b. Mining operations where the affected land does not exceed
22 one acre in area.

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- 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 1008: Sedimentation Act Reg. Some Excavation

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: May 11, 1999

Version: Second Edition

Introduced by: Representative Cox

Summary by: Rick Zechini
Committee Counsel

SUMMARY: *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. 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1125

Short Title: Conform Definition of Haz. Site.

(Public)

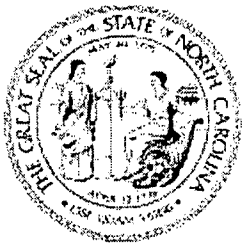
Sponsors: Representative Hackney.

Referred to: Environment and Natural Resources.

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO CONFORM THE DEFINITION OF AN INACTIVE HAZARDOUS
3 SUBSTANCE OR WASTE DISPOSAL SITE UNDER THE INACTIVE
4 HAZARDOUS SITES RESPONSE ACT OF 1987 TO FEDERAL LAW.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 130A-310 reads as rewritten:
7 "§ 130A-310. Definitions.
8 Unless a different meaning is required by the context, the following definitions
9 shall apply throughout this Part:
10 (1) 'CERCLA/SARA' means the Comprehensive Environmental
11 Response, Compensation, and Liability Act of 1980, Pub. L.
12 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the
13 Superfund Amendments and Reauthorization Act of 1986, Pub. L.
14 99-499, 100 Stat. 1613, as amended.
15 (2) 'Hazardous substance' means hazardous substance as defined in
16 CERCLA/SARA.
17 (3) 'Inactive hazardous substance or waste disposal site' or 'site' means
18 any ~~facility, structure, or area where disposal of any hazardous~~
19 ~~substance or waste has occurred.~~ Such facility, as defined in
20 CERCLA/SARA. These sites do not include hazardous waste
21 facilities permitted or in interim status under this Article.
22 (4) 'Operator' means the person responsible for the overall operation
23 of an inactive hazardous substance or waste disposal site.

- 1 (5) 'Owner' means any person who owns an inactive hazardous
2 substance or waste disposal site, or any part thereof.
- 3 (6) 'Release' means release as defined in the CERCLA/SARA.
- 4 (7) 'Remedy' or 'Remedial Action' means remedy or remedial action
5 as defined in CERCLA/SARA.
- 6 (8) 'Remove' or 'Removal' means remove or removal as defined in
7 CERCLA/SARA.
- 8 (9) 'Responsible party' means any person who is liable pursuant to
9 G.S. 130A-310.7."
- 10 Section 2. This act is effective when it becomes law.



HOUSE BILL 1125: Conform Definition of Hazardous Site

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: May 11, 1999

Version: First Edition

Introduced by: Representative Hackney

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *HB 1125 amends the definition of an inactive hazardous site 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.

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

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DIVISION OF ENVIRONMENTAL HEALTH OF
3 THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
4 CONDUCT A STUDY INVOLVING INTERESTED PARTIES TO REVIEW
5 AND REVISE THE CURRENT PROCEDURES CONCERNING COFFEE POTS
6 AND ICE BUCKETS PROVIDED BY LODGING ESTABLISHMENTS IN
7 GUEST ROOMS AND TO SUSPEND CURRENT APPLICABLE RULES
8 UNTIL REVISED RULES HAVE BEEN ADOPTED AS TEMPORARY RULES.
9 The General Assembly of North Carolina enacts:
10 Section 1.(a) The Division of Environmental Health of the Department
11 of Environment and Natural Resources shall review the current rules adopted
12 pursuant to Part 6 of Article 8 of Chapter 130A of the General Statutes that apply to
13 procedures that must be followed by lodging establishments concerning coffee pots
14 and ice buckets that are placed in guest rooms for use by guests of the establishment,
15 shall consult during this review with representatives of the affected industry and the
16 various agencies responsible for implementing the applicable rules, and shall
17 recommend rules, revised as needed, to the Commission for Health Services.
18 Section 1.(b) Current rules that apply to equipment concerning coffee
19 pots and ice buckets that are placed by lodging establishments in guest rooms for use
20 by guests of the establishment are suspended until revised rules under this act have
21 been adopted.
22 Section 1.(c) The Commission for Health Services shall adopt the revised
23 rules under subsection (a) of this section as temporary rules no later than January 31,
24 2000.

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



HOUSE BILL 1127: Revise Certain Lodging Rules

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Introduced by: Representative Smith

Summary by: Rick Zechini

Date: May 11, 1999

Committee Counsel

Version: First Edition

SUMMARY: *House Bill 1127 directs the Division of Environmental Health of the Department of Environment and Natural Resources to review the rules regarding washing and sanitizing coffee pots and ice buckets provided by lodging establishments in guest rooms, consult with representatives of the affected industry and the various agencies responsible for implementing the rules, and recommend revised rules to the Commission for Health Services.*

CURRENT RULES: A lodging establishment must wash and sanitize any ice bucket provided in a guest room before providing the ice bucket to a succeeding guest. Ice buckets must also be stored and handled in a sanitary manner. The washing of ice buckets in room lavatories is prohibited. If disposable or single service plastic liners are provided for ice buckets, the sanitation of ice buckets is not required. Lodging establishments must also wash and sanitize coffee pots provided in guest rooms prior to their use by succeeding guests.

BILL ANALYSIS: House Bill 1127 requires the Division of Environmental Health of the Department of Environment and Natural Resources to review these rules in consultation with representatives of the lodging industry and the various agencies responsible for implementing the rules. The Division must recommend revised rules to the Commission for Health Services. The current rules are suspended until revised rules are adopted. The Commission for Health Services is directed to adopt the revised rules as temporary rules no later than January 31, 2000.

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

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

5/11/99

(DATE)

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bradley Arlt	Bentley & Assoc.
John Baldwin	NCHBA
Paul Wilms	NCHBA
Barb Rote	NCWRC
Richard Hamilton	NCWRC
Kim Hibbard	NCLM
Babara Wyle	Sierra Club
Sandra Ray	Marki Menoff
Mae Boxley	N.C. Aggregators Assoc.
Jim Kusznis	NCEI
Walter Cherry	NCPC

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

(DATE)

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charles Gardner	DENR - Div. of Land Resources
BERRY Jenkins	CAROLINAS AGC
Ed Regan	N.C. Assoc. of Co. Comm
Natalie English	N.C. Agribusiness Council
Steve Woodson	NC Farm Bureau
AS	NCFB
Crispy Porter	Bone & Associates
Roger Bone	Bone + Assoc -
John Crut	N.C. State Grange
Tommy James	NC State Grange
Jim Speed	Bone + Associates

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

(DATE)

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Malcolm Baloch	DENR / DEN
Jim Hobbs	NCHMA
Eddie Caldwell	NC HMA
Amy Hobbs	NCHMA
Doug Lassiter	N.C. Septic Tank Assoc
Steve Halstead	Integon Corp
Laura DeVivo	DENR
Bill Maxon	DENR - DWM
Charlotte Jesneck	DENR - DWM
Bobby Bryan	RR C



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, May 18, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

HB 316

PRESCRIBED BURNING IN FORESTS/AB.
Representatives McComas and Representative Owens

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

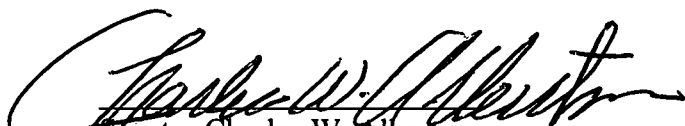
May 18, 1999

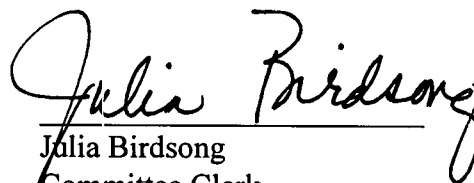
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, May 18, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were ten committee members present.

The following bill was discussed:

HB 316 – PRESCRIBED BURNING IN FORESTS/AB – Representative McComas and Representative Owens, sponsors. Representative McComas was recognized to explain the bill. After discussion of the bill, Senator Weinstein made the motion that the bill be given a favorable report. Motion carried.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, May 18, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS#1) 316 PRESCRIBED BURNING IN FORESTS/AB.
Sequential Referral: NONE
Recommended Referral: NONE

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 316
Committee Substitute Favorable 4/23/99

Short Title: Prescribed Burning in Forests/AB.

(Public)

Sponsors:

Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ENCOURAGE PRESCRIBED BURNING FOR FORESTRY AND
3 WILDLIFE PURPOSES UNDER CERTAIN CONDITIONS.

4 The General Assembly of North Carolina enacts:

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

7 "ARTICLE 4E.

8 "North Carolina Prescribed Burning Act.

9 "§ 113-60.40. Legislative findings.

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

14 (1) Prescribed burning reduces the naturally occurring buildup of
15 vegetative fuels on forestlands, thereby reducing the risk and
16 severity of wildfires and lessening the loss of life and property.

17 (2) The State's ever-increasing population is resulting in urban
18 development directly adjacent to fire-prone forestlands, referred to
19 as a woodland-urban interface area. The use of prescribed burning
20 in these woodland-urban interface areas substantially reduces the
21 risk of wildfires that cause damage.

22 (3) Many of North Carolina's natural ecosystems require periodic fire
23 for their survival. Prescribed burning is essential to the

1 perpetuation, restoration, and management of many plant and
2 animal communities. Prescribed burning benefits game, nongame,
3 and endangered wildlife species by increasing the growth and yield
4 of plants that provide forage and an area for escape and brooding
5 and that satisfy other habitat needs.

6 (4) Forestlands are economic, biological, and aesthetic resources of
7 statewide significance. In addition to reducing the frequency and
8 severity of wildfires, prescribed burning of forestlands helps to
9 prepare sites for replanting and natural seeding, to control insects
10 and diseases, and to increase productivity.

11 (5) Prescribed burning enhances the resources on public use lands,
12 such as State and national forests, wildlife refuges, nature
13 preserves, and game lands. Prescribed burning enhances private
14 lands that are managed for wildlife refuges, nature preserves, and
15 game lands. Prescribed burning enhances private lands that are
16 managed for wildlife, recreation, and other purposes.

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

23 **"§ 113-60.41. Definitions.**

24 As used in this Article:

25 (1) 'Certified prescribed burner' means an individual who has
26 successfully completed a certification program approved by the
27 Division of Forest Resources of the Department of Environment
28 and Natural Resources.

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

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

38 **"§ 113-60.42. Immunity from liability.**

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

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

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

4 "§ 113-60.43. Prescribed burning.

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

11 (1) The landowner's name and address.

12 (2) A description of the area to be burned.

13 (3) A map of the area to be burned.

14 (4) An estimate in tons of the fuel located on the area.

15 (5) The objectives of the prescribed burning.

16 (6) A list of the acceptable weather conditions and parameters for the
17 prescribed burning sufficient to minimize the likelihood of smoke
18 damage and fire escaping onto adjacent areas.

19 (7) The name of the certified prescribed burner responsible for
20 conducting the prescribed burning.

21 (8) A summary of the methods that are adequate for the particular
22 circumstances involved to be used to start, control, and extinguish
23 the prescribed burning.

24 (9) Provision for reasonable notice of the prescribed burning to be
25 provided to nearby homes and businesses to avoid effects on health
26 and property.

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

35 (c) Prior to conducting a prescribed burning, the landowner or the landowner's
36 agent shall obtain an open-burning permit under Article 4C of this Chapter from the
37 Division of Forest Resources, Department of Environment and Natural Resources.
38 This open-burning permit must remain in effect throughout the period of the
39 prescribed burning. The prescribed burning shall be conducted in compliance with
40 all the following:

41 (1) The terms and conditions of the open-burning permit under
42 Article 4C of this Chapter.

1 (2) The State's air pollution control statutes under Article 21 and
2 Article 21B of Chapter 143 of the General Statutes and any rules
3 adopted pursuant to these statutes.

4 (3) Any applicable local ordinances relating to open burning.

5 (4) The voluntary smoke management guidelines adopted by the
6 Division of Forest Resources, Department of Environment and
7 Natural Resources.

8 (5) Any rules adopted by the Division of Forest Resources,
9 Department of Environment and Natural Resources, to implement
10 this Article.

11 "§ 113-60.44. Adoption of rules.

12 The Division of Forest Resources, Department of Environment and Natural
13 Resources, may adopt rules that govern prescribed burning under this Article.

14 "§ 113-60.45. Exemption.

15 This Article does not apply when the Secretary of Environment and Natural
16 Resources has cancelled burning permits pursuant to G.S. 113-60.27 or prohibited all
17 open burning pursuant to G.S. 113-60.25."

18 Section 2. This act becomes effective January 1, 2000.



HOUSE BILL 316: Prescribed Burning in Forests/AB

BILL ANALYSIS

Committee: Agriculture/Env/Nat'l Resources
Date: May 17, 1999
Version: 2nd Edition

Introduced by: McComas and Owens
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *House Bill 316 would add a new Article 4E to Chapter 113 of the General Statutes setting forth the conditions for conducting a "prescribed burning" of forestland and limiting the liability of landowners and their agents for nuisance and smoke damage from a properly conducted burning.*

BACKGROUND: A "prescribed burning" is a planned and controlled application of fire to naturally occurring vegetative fuels under safe weather and environmental conditions, while following appropriate measures to confine the fire to a predetermined area and to accomplish the intended management objectives. The legislative findings contained in proposed G.S.113-60.40 establish that prescribed burning is a beneficial management tool that reduces the naturally occurring buildup of vegetative fuels thus reducing the risk and severity of wildfires and their damage. Prescribed burning is also found to benefit game, nongame and endangered species of wildlife by improving habitat, and to improve forestland by preparing sites for replanting and natural seeding, controlling insects and disease.

BILL ANALYSIS New G.S. 113-60.42 provides that a prescribed burning conducted pursuant to the provisions of G.S. 113-60.43 does not constitute a public or private nuisance. A landowner or his agent conducting a prescribed burning in accordance with the statute shall not be liable in a civil action for damages or injury resulting from smoke. The limitation on liability does not apply, however, where the nuisance or damage results from the negligent or improper conduct of the prescribed burning.

G.S. 113-60.43 sets forth the guidelines for a prescribed burning. Subsection (a) requires that a prescription for a prescribed burning must be prepared by a certified prescribed burner and be filed with the Division of Forest Resources prior to the burn. A certified prescribed burner is an individual who has successfully completed a certification program approved by the Division of Forest Resources. G.S. 113-60.41(1). The prescription shall include:

1. The landowner's name and address.
2. A description of the area to be burned.
3. A map of the area.
4. An estimate of the fuel tonnage in the area.
5. The objectives of the prescribed burning.
6. A list of acceptable weather conditions for the burning.
7. The certified burner responsible for the burning.
8. A summary of the methods used to start, control, and extinguish the burn.
9. Provision for reasonable notice to homes and businesses in the area.

HOUSE BILL 316

Page 2

The prescribed burning must be conducted by the certified prescribed burner who shall be present on site and in charge throughout the burn. An exception to this provision allows a landowner to conduct the prescribed burning when the forestland acreage to be burned is less than 50 acres and the landowner conducts the prescribed burning according to a prescription prepared by a certified prescription burner.

The landowner or his agent must obtain an open burning permit from the Division of Forest Resources. The prescribed burning also must be conducted in accordance with the terms of the open burning permit, all State air pollution control statutes, local open burning ordinances, the voluntary smoke management guidelines set by the Division of Forest Resources, and any rules the Division adopts to implement this Article.

The terms of this article are not applicable when the Secretary of DENR has cancelled burning permits or prohibited all open burning.

The act becomes effective January 1, 2000.

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

(DATE)

5/18/99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cam Creech	BPMHL
Dianne Beasley	Fousting - ENR
Steve Woodson	NC Farm Bureau
Lu Ann Coe	F ³
Barbara Wyse	Sierra Club
David Knight	NC Sierra Club, NC Wildlife Fed
Thomas Mills	DNSS
Steven Leathers	Brook, Picure
Jal Welch	Sen. Lee



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, May 25, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

HB 237

BOAT AGENT FEES/AB.
Representative Gulley

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

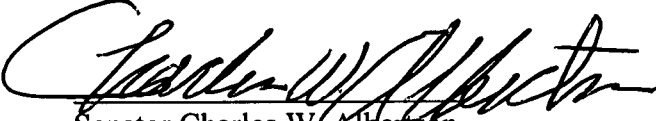
May 25, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, May 25, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present.

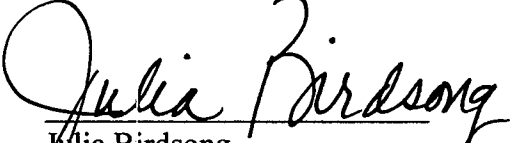
The following bill was discussed:

HB 237 – BOAT AGENT FEES/AB. – Representative Gulley, sponsor, was recognized to explain the bill. Dick Hamilton, Assistant Director, North Carolina Wildlife Resources Commission, spoke in favor of the bill. Barbara Riley of staff answered questions from committee members. Senator Odom moved that the bill be given a favorable report. Motion carried and the bill was sequentially referred to Finance.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, May 25, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

H.B. 237 BOAT AGENT FEES/AB.
 Sequential Referral: FINANCE
 Recommended Referral: NONE

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 237

Short Title: Boat Agent Fees/AB.

(Public)

Sponsors: Representative Gulley.

Referred to: Wildlife Resources, if favorable, Finance.

March 4, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE FEE PAID TO AGENTS OF THE WILDLIFE
3 RESOURCES COMMISSION TO AWARD CERTIFICATES OF BOAT
4 NUMBER OR OTHER VESSEL TRANSACTION AND TO AMEND THE
5 DUTIES OF THE WILDLIFE RESOURCES COMMISSION WITH REGARD
6 TO THE APPOINTMENT OF AGENTS FOR THE ISSUANCE OF BOAT
7 NUMBERS, TO RAISE THE REPORTING REQUIREMENT FOR BOATING
8 ACCIDENTS TO DAMAGES IN EXCESS OF FIVE HUNDRED DOLLARS,
9 AND TO REPEAL THE LAW REQUIRING PERMITS FROM THE WILDLIFE
10 RESOURCES COMMISSION TO HOLD REGATTAS AND OTHER EVENTS.
11 The General Assembly of North Carolina enacts:
12 Section 1. G.S. 75A-5(e) reads as rewritten:
13 "(e) The Wildlife Resources Commission may ~~award~~ issue any ~~certificate of~~
14 ~~number vessel transaction pursuant to the provisions of Article 1 or 4 of this Chapter~~
15 directly or may authorize any person qualified as prescribed in subsection (l) of this
16 section to act as agent for the ~~awarding thereof.~~ issuance of vessel transactions subject
17 to the requirements set forth in this Chapter. ~~In the event that a person accepts such~~
18 ~~authorization, he may be assigned a block of numbers and certificates therefor which~~
19 ~~upon award,~~ Upon acceptance of this authorization, an agent's actions in issuing any
20 vessel transaction pursuant to this Chapter in conformity with this Chapter and with
21 ~~any rules and regulations of the Commission,~~ shall be valid as if awarded issued
22 directly by the Commission. As compensation for his services any such agent shall be
23 ~~allowed to retain for his own use fifty cents (50¢).~~ services rendered to the

1 Commission and to the general public, the agent shall receive the following specified
2 commission from the statutory fee for each listed transaction:

- 3 (1) Renewal of vessel registration - \$1.25.
4 (2) Transfer of ownership and registration of a vessel - \$3.00.
5 (3) Issuance of new certificate of vessel number and registration -
6 \$3.00.
7 (4) Issuance of duplicate vessel registration - \$0.50.
8 (5) Issuance, transfer, duplication, or lien recordation of vessel title -
9 \$3.00.

10 It is a Class 1 misdemeanor for any such agent to charge or accept any additional fee,
11 remuneration, or other thing of value for such services."

12 Section 2. G.S. 75A-5(1) reads as rewritten:

13 "(1) When certificates of number are to be issued by agents as provided by
14 subsection (e) of this section, the Wildlife Resources Commission ~~is authorized by~~
15 ~~regulation to establish the qualifications of such agents, including, but not limited to,~~
16 ~~their financial responsibility, the locations and types of business operated by them~~
17 ~~and their facilities for safekeeping of unused certificates of number, validation decals,~~
18 ~~and the monetary proceeds of certificates which have been issued; to prescribe the~~
19 ~~duties of such agents, including, but not limited to, the methods of issuing certificates~~
20 ~~of number and validation decals, the evidence of ownership of vessels to be~~
21 ~~numbered by applicants for number, the times and methods of making periodic and~~
22 ~~final reports of certificates and decals issued and remaining unissued and remittances~~
23 ~~of public moneys and unissued certificates and decals; to establish methods and~~
24 ~~procedures of ensuring accountability of such agents for the proceeds of certificates~~
25 ~~and decals issued and for certificates and decals remaining unissued; to require~~
26 ~~individual or blanket bonds of such agents in amounts sufficient to protect the State~~
27 ~~against loss of public moneys and unissued certificates and decals, the premiums for~~
28 ~~such bonds to be paid by the agents; to permit such agents to issue both original~~
29 ~~certificates of number and validation decals and renewals thereof or to limit such~~
30 ~~agents, or any of them, to the issuance of the originals only; to authorize some or all~~
31 ~~of such agents to issue temporary certificates of number for use during a limited time~~
32 ~~pending delivery of regular certificates of number and validation decals; to establish~~
33 ~~methods and procedures, including submission of the amounts and kinds of evidence~~
34 ~~which the Commission may deem sufficient, whereby any such agent may be relieved~~
35 ~~of accountability for the value of unissued certificates and validation decals, or of the~~
36 ~~monetary proceeds of those which have been issued, which have been lost or~~
37 ~~destroyed as the result of any occurrence which is beyond the control of such agent;~~
38 ~~and to prescribe such other reasonable requirements and conditions as the~~
39 ~~Commission may, in its discretion, deem necessary or desirable to expedite and~~
40 ~~control the issuance of certificates of number by such agents. may establish~~
41 administrative guidelines that prescribe:

- 42 (1) The qualifications of agents;
43 (2) The duties of agents;

- 1 (3) Methods and procedures to ensure accountability and security for
2 proceeds and unissued certificates of number;
3 (4) Requirements for security bonds in amounts sufficient to protect
4 the State against loss of public funds or documents;
5 (5) Methods and procedures, including submission of the kinds and
6 amounts of evidence deemed sufficient to relieve an agent of
7 responsibility for losses due to occurrences beyond the agent's
8 control; and
9 (6) Any other reasonable requirement or condition deemed necessary
10 and desirable to expedite and control the issuance of certificates of
11 boat number by agents.

12 In accordance with ~~such regulations~~, administrative guidelines developed pursuant
13 to this section, the executive director ~~is authorized to prepare and distribute all forms~~
14 ~~necessary or convenient for application for and the appointment and bonding of such~~
15 ~~agents and for receipts, reports and remittances by such agents; to select and appoint~~
16 ~~such agents in areas most convenient to the boating public and to limit the number of~~
17 ~~such agents in any locality; to require prompt and accurate reporting and remission of~~
18 ~~public moneys and unissued certificates and decals by such agents, and to require~~
19 ~~periodic or special audits of their accounts; to revoke or terminate any such agency~~
20 ~~for failure to make timely reports and remittances or to comply with any~~
21 ~~administrative directive or regulation of the Commission, or when he has reason to~~
22 ~~believe that State money or property is in jeopardy; and to require immediate~~
23 ~~surrender of all agency accounts, forms, certificates, decals and State moneys in the~~
24 ~~event of such revocation or termination of any such agency.~~ may:

- 25 (1) Select and appoint agents in the areas most convenient to the
26 boating public and limit the number of agents in any one area if
27 necessary for efficiency of operation;
28 (2) Require prompt and accurate reporting and remittance of public
29 funds or documents by agents;
30 (3) Conduct periodic and special audits of accounts;
31 (4) Terminate the authorization of any agent found to be in
32 noncompliance with administrative guidelines or directives of the
33 Commission or when State funds or property are reasonably
34 believed to be in jeopardy; and
35 (5) Demand the immediate surrender of all accounts, forms,
36 certificates, decals, records, and State funds and property in the
37 event of the termination of an agency.

38 A person who is denied the authority to act as an agent for the issuance of
39 certificates of number and validation decals or whose authority to do so is revoked
40 may not commence a contested case under G.S. 150B-23. ~~Any violation of the~~
41 ~~regulations authorized by this subsection shall be a Class 1 misdemeanor.~~ If any
42 check or draft of any agent for the issuance of certificates of boat number shall be
43 returned by the banking facility upon which the same is drawn for lack of funds, such
44 agent shall be liable to the Wildlife Resources Commission for a penalty of five

1 percent (5%) of the amount of such check or draft, but in no event shall such penalty
2 be less than five dollars (\$5.00) or more than two hundred dollars (\$200.00). Agents
3 shall be assessed a penalty of twenty-five percent (25%) of their issuing fee on all
4 remittances to the Commission after the fifteenth day of the month immediately
5 following the month of sale."

6 Section 3. G.S. 75A-11(b) reads as rewritten:

7 "(b) In the case of collision, accident, or other casualty involving a vessel, the
8 operator thereof, if the collision, accident, or other casualty results in death or injury
9 to a person or damage to property in excess of ~~one~~ five hundred dollars (~~\$100.00~~;
10 \$500.00), shall, within 10 days, file with the Wildlife Resources Commission a full
11 description of the collision, accident, or other casualty, including such information as
12 said agency may, by regulation, require. Such report shall not be admissible as
13 evidence."

14 Section 4. G.S. 75A-14 is repealed.

15 Section 5. This act becomes effective July 1, 1999.



HOUSE BILL 237: Boat Agent Fees

BILL ANALYSIS

Committee:	Ag/Env/Nat'l Resources	Introduced by:	Rep. Gulley
Date:	May 24, 1999	Summary by:	Barbara Riley
Version:	1st Edition		Committee Counsel

SUMMARY:

House Bill 237 amends Chapter 75A of the General Statutes to increase the amount that authorized agents of the Wildlife Resources Commission may receive for handling various vessel transactions, and makes other changes to the State boating laws to conform to changes in the US Coast Guard's regulations.

CURRENT LAW:

The Wildlife Resources Commission is charged with administering the Boating Safety Act, Chapter 75A of the General Statutes. As a part of those duties, the WRC issues boat numbers (required by law for all vessels), issues and renews vessel registrations, and handles transfers of ownership. G.S. 75A-5 provides that the WRC may authorize persons to act on behalf of the Commission in handling these transactions and issuing various documents and decals. As compensation for services, agents retain 50 cents per transaction.

BILL ANALYSIS:

House Bill 237 increases the amount of compensation that authorized agents of the WRC may receive according to the following schedule.

- | | | |
|----|--|--------|
| 1. | Renewal of vessel registration | \$1.25 |
| 2. | Transfer of ownership & registration | \$3.00 |
| 3. | Issuance of new certificate of number and registration | \$3.00 |
| 4. | Issuance of duplicate registration | \$0.50 |
| 5. | Issuance, transfer, duplication, or lien recordation of vessel title | \$3.00 |

Section 2 of the bill amends G.S. 75A-5(1) rewriting the WRC's authority to establish administrative guidelines regarding agent qualifications, duties, methods to insure accountability, and security. The amendments also provide for a penalty assessment of 25% of the issuing fee on all remittances made to the Commission after the 15th of the month following the month of the transaction.

Section 3 of the bill increases the threshold for reporting a boating accident from \$100 to \$500 consistent with the changes in Coast Guard regulations

Section 4 of the bill repeals the permit requirements for regattas, boat races, exhibitions and marine parades on waters of the State. This change is also made to align the State laws with Coast Guard regulations.

The act becomes effective July 1, 1999.

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

5/25/99

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 Strangle
Patricia Raulen	NDAEC
Steph Tranel	aide to Senator Kinnaird
Anita Watkins	DENR
Barb Rote	NCURC
Dick Hammeton	NCURC
Marian Doud	League of Women Voters NC
Dana Kusch	NC Sierra Club, NC Wildlife Feed
Nat Mord	Conservation Council of NC
ALAN BRIGGS	S.O.S.
R. ROBERTS	DENR
Laura DeVivo	DENR



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, July 1, 1999
10:00 a.m.
Room 544 – LOB

AGENDA

- | | |
|---------|---|
| HB 1160 | EXTEND ANIMAL WASTE PILOT
Representative Hackney |
| SB 1128 | AMEND SEDIMENTATION ACT
Senator Robinson |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 1, 1999

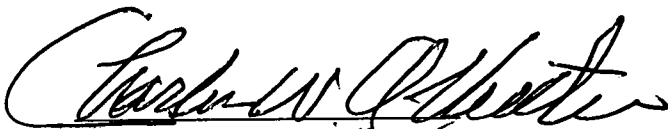
The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, July 1, 1999, at 10:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were sixteen committee members present.

The following bills were discussed:

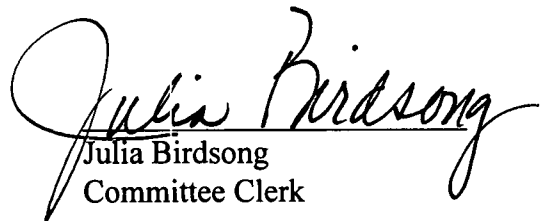
HB 1160 – EXTEND ANIMAL WASTE PILOT – Representative Hackney, sponsor. Senator Albertson announced that no vote would be taken today on the bill, that it would be further discussed by the working group on Monday, July 5, in an effort to work out some rough edges in the bill. There was a proposed committee substitute before the committee and Senator Wellons moved that it be adopted for discussion purposes. Motion carried. Senator Odom then explained the proposed committee substitute in the absence of Representative Hackney. George Givens of staff offered clarification of some of the technology in the bill. Many questions were generated by the committee members as well as the public. Senator Albertson pointed out that there had been 3,400 waste spills, of which 190,000,000 gallons had reached surface waters of our state. Most of these spills consisted of untreated human waste. As stated earlier, no vote was taken on the bill.

SB 1128 – AMEND SEDIMENTATION ACT – Senator Robinson, sponsor, was recognized to explain the bill. There was a proposed committee substitute before the committee and Senator Robinson moved that it be adopted for discussion purposes. Motion carried. George Givens of staff further elaborated on the proposed committee substitute stating that because of changes in the wording it should now have a recommended referral to Finance. Senator Weinstein moved that the proposed committee substitute be given a favorable report, unfavorable as to original bill, with a recommended referral to Finance. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Thursday, July 01, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1128	Amend Sedimentation Act	
	Draft Number:	PCS6692
	Sequential Referral:	None
	Recommended Referral:	Finance
	Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1160*

Proposed Senate Committee Substitute H1160-PCS7268-RT-010

Short Title: Clean Water Act of 1999.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE CLEAN WATER ACT OF 1999.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. TITLE.**

6 Section 1.1. This act shall be known as the "Clean Water Act of 1999".
7

8 **PART II. EXTEND MORATORIA ON CONSTRUCTION OR EXPANSION OF**
9 **SWINE FARMS.**

10 Section 2.1. Subsection (a1) of S.L. 1997-458, as amended by Section 2
11 of S.L. 1998-188, reads as rewritten:

12 "(a1) There is hereby established a moratorium on the construction or expansion
13 of swine farms and on lagoons and animal waste management systems for swine
14 farms. The purposes of this moratorium are to allow counties time to adopt zoning
15 ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time
16 for the completion of the studies authorized by the 1995 General Assembly (1996
17 Second Extra Session); and to allow the 1999 General Assembly to receive and act on
18 the findings and recommendations of those studies. Except as provided in subsection
19 (b) of this section, the Environmental Management Commission shall not issue a
20 permit for an animal waste management system for a new swine farm or the
21 expansion of an existing swine farm for a period beginning on 1 March 1997 and
22 ending on ~~1 September 1999~~ 1 July 2001. The construction or expansion of a swine
23 farm or animal waste management system for a swine farm is prohibited during the

1 period of the moratorium regardless of the date on which a site evaluation for the
2 swine farm is completed and regardless of whether the animal waste management
3 system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of
4 the General Statutes or deemed permitted under 15A North Carolina Administrative
5 Code 2H.0217."

6 Section 2.2. Section 1.2 of S.L. 1997-458, as amended by Section 3 of
7 S.L. 1998-188, reads as rewritten:

8 "Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same
9 meaning as in G.S. 106-802. As used in this section, 'animal waste management
10 system' has the same meaning as in G.S. 143-215.10B. There is hereby established a
11 moratorium for any new or expanding swine farm or lagoon for which a permit is
12 required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in
13 any county in the State: (i) that has a population of less than 75,000 according to the
14 most recent decennial federal census; (ii) in which there is more than one hundred
15 fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on
16 the most recent figures of the Department of Commerce; and (iii) that is not in the
17 coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until ~~4~~
18 ~~September 1999~~, 1 July 2001, the Environmental Management Commission shall not
19 issue a permit for an animal waste management system, as defined in G.S.
20 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S.
21 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not
22 apply to the moratorium established under this section.

23 (b) In order to protect travel and tourism, effective ~~1 September 1999~~, 1 July 2001,
24 no animal waste management system shall be permitted except under an individual
25 permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in
26 any county in the State: (i) that has a population of less than 75,000 according to the
27 most recent decennial federal census; (ii) in which there is more than one hundred
28 fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on
29 the most recent figures of the Department of Commerce; and (iii) that is not in the
30 coastal area as defined by G.S. 113A-103."

31

32 PART III. EXTEND AND EXPAND PILOT PROGRAM FOR INSPECTION OF 33 ANIMAL WASTE MANAGEMENT SYSTEMS.

34 Section 3.1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:

35 "(a) The Department of ~~Environment, Health, Environment~~ and Natural
36 Resources shall develop and implement a pilot program to begin no later than
37 November 1, 1997, and to terminate ~~October 31, 1998~~, 1 July 2001, regarding the
38 annual inspections of animal operations that are subject to a permit under Part 1A of
39 Article 21 of Chapter 143 of the General Statutes. The Department shall select two
40 counties located in a part of the State that has a high concentration of swine farms to
41 participate in this pilot program. In addition, Brunswick County shall be added to
42 the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water
43 Conservation of the Department of Environment and Natural Resources shall conduct
44 inspections of all animal operations that are subject to a permit under Part 1A of

1 Article 21 of Chapter 143 of the General Statutes in these ~~two~~ three counties at least
2 once a year to determine whether any animal waste management system is causing a
3 violation of water quality standards and whether the system is in compliance with its
4 animal waste management plan or any other condition of the permit. The personnel
5 of the Division of Soil and Water Conservation who are to conduct these inspections
6 in each of these ~~two~~ three counties shall be located in an office in the county in
7 which that person will be conducting inspections. As part of this pilot program, the
8 Department of ~~Environment, Health, Environment~~ and Natural Resources shall
9 establish procedures whereby resources within the local Soil and Water Conservation
10 Districts serving the ~~two~~ three counties are used for the quick response ~~of to~~
11 complaints and reported problems previously referred only to the Division of Water
12 ~~Quality. Quality of the Department of Environment and Natural Resources.~~"

13 Section 3.2. The two counties that were selected for the pilot program
14 pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County,
15 shall remain in the pilot program. In addition, Brunswick County shall be added to
16 the program.

17 Section 3.3. The Department of Environment and Natural Resources, in
18 consultation with both the Division of Water Quality and the Division of Soil and
19 Water Conservation, shall submit interim reports no later than 15 October 1999, 15
20 April 2000, 15 October 2000, 15 April 2001, and a final report no later than 15 July
21 2001 to the Environmental Review Commission and to the Fiscal Research Division.
22 These reports shall indicate whether the pilot program has increased the effectiveness
23 of the annual inspections program or the response to complaints and reported
24 problems, specifically whether the pilot program had resulted in identifying violations
25 earlier, taking corrective actions earlier, increasing compliance with the animal waste
26 management plans and permit conditions, improving the time to respond to
27 discharges, complaints, and reported problems, improving communications between
28 farmers and Department employees, and any other consequences deemed pertinent
29 by the Department. The final report shall include a recommendation as to whether
30 to continue or expand the pilot program under this act. The Environmental Review
31 Commission may recommend to the 2001 General Assembly whether to continue or
32 expand the pilot program under this act and may make any related legislative
33 proposals.

34

35 PART IV. INVENTORY INACTIVE LAGOONS.

36 Section 4.1. The definitions set out in G.S. 143-215.10B apply to this
37 Part. As used in this Part:

- 38 (1) "Inactive lagoon" means a lagoon into which animal waste has not
39 been lawfully discharged for a period of one year or more.
40 (2) "Lagoon" means a lagoon, as defined in G.S. 106-802, that is a
41 component of an animal waste management system that serves an
42 animal operation.

43 Section 4.2. The Department of Environment and Natural Resources
44 shall develop an inventory of all inactive lagoons. The Department shall rank each

1 inactive lagoon on the inventory based on the extent to which the lagoon constitutes
2 a threat to public health, the environment, or the State's natural resources. The
3 Department shall submit this inventory to the Environmental Review Commission on
4 or before 1 March 2000.

5

6 **PART V. INCREASE CIVIL PENALTIES FOR VIOLATIONS OF WATER QUALITY**
7 **LAWS; MINIMUM INCREASES OF CIVIL PENALTIES FOR REPEATED**
8 **VIOLATIONS.**

9 Section 5.1. G.S. 143-215.6A reads as rewritten:

10 "§ 143-215.6A. Enforcement procedures: civil penalties.

11 "(a) A civil penalty of not more than ~~ten thousand dollars (\$10,000)~~ twenty-five
12 thousand dollars (\$25,000) may be assessed by the Secretary against any person who:

- 13 (1) Violates any classification, standard, limitation, or management
14 practice established pursuant to G.S. 143-214.1, 143-214.2, or
15 143-215.
- 16 (2) Is required but fails to apply for or to secure a permit required by
17 G.S. 143-215.1, or who violates or fails to act in accordance with
18 the terms, conditions, or requirements of such permit or any other
19 permit or certification issued pursuant to authority conferred by
20 this Part, including pretreatment permits issued by local
21 governments and laboratory certifications.
- 22 (3) Violates or fails to act in accordance with the terms, conditions, or
23 requirements of any special order or other appropriate document
24 issued pursuant to G.S. 143-215.2.
- 25 (4) Fails to file, submit, or make available, as the case may be, any
26 documents, data, or reports required by this Article or G.S.
27 143-355(k) relating to water use information.
- 28 (5) Refuses access to the Commission or its duly designated
29 representative to any premises for the purpose of conducting a
30 lawful inspection provided for in this Article.
- 31 (6) Violates a rule of the Commission implementing this Part, Part 2A
32 of this Article, or G.S. 143-355(k).
- 33 (7) Violates or fails to act in accordance with the statewide minimum
34 water supply watershed management requirements adopted
35 pursuant to G.S. 143-214.5, whether enforced by the Commission
36 or a local government.
- 37 (8) Violates the offenses set out in G.S. 143-215.6B.
- 38 (9) Is required, but fails, to apply for or to secure a certificate required
39 by G.S. 143-215.22I, or who violates or fails to act in accordance
40 with the terms, conditions, or requirements of the certificate.
- 41 (10) Violates subsections (c1) through (c5) of G.S. 143-215.1 or a rule
42 adopted pursuant to subsections (c1) through (c5) of G.S.
43 143-215.1.

1 (b) If any action or failure to act for which a penalty may be assessed under this
2 section is continuous, the Secretary may assess a penalty not to exceed ~~ten thousand~~
3 ~~dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) per day for so long as the
4 violation continues, unless otherwise stipulated.

5 (b1) The Secretary shall not assess a civil penalty of more than ten thousand
6 dollars (\$10,000) or, in the case of a continuing violation, more than ten thousand
7 dollars (\$10,000) per day, if the violator has not been assessed a civil penalty within
8 the 12 months preceding the violation. The Secretary shall not assess a civil penalty
9 of more than ten thousand dollars (\$10,000) or, in the case of a continuing violation,
10 more than ten thousand dollars (\$10,000) per day for so long as the violation
11 continues, for a violation of subdivision (4) of subsection (a) of this section unless the
12 Secretary determines that the violation is intentional.

13 (b2) In determining the amount of the penalty, the Secretary shall consider the
14 factors set out in G.S. 143B-282.1(b). After all factors set out in G.S. 143B-282.1(b)
15 have been considered and the base amount of a civil penalty has been determined, if
16 the Secretary has assessed a civil penalty:

17 (1) In four of the immediately preceding six months, the civil penalty
18 assessment shall be multiplied by not less than 1.25.

19 (2) In five of the immediately preceding six months, the civil penalty
20 assessment shall be multiplied by not less than 1.35.

21 (3) In six of the immediately preceding six months, the civil penalty
22 assessment shall be multiplied by not less than 1.45.

23 ~~(c) In determining the amount of the penalty the Secretary shall consider the~~
24 ~~factors set out in G.S. 143B-282.1(b).~~ The procedures set out in G.S. 143B-282.1 shall
25 apply to civil penalty assessments that are presented to the Commission for final
26 agency decision.

27 (d) The Secretary shall notify any person assessed a civil penalty of the assessment
28 and the specific reasons therefor by registered or certified mail, or by any means
29 authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30
30 days of receipt of the notice of assessment.

31 (e) Consistent with G.S. 143B-282.1, a civil penalty of not more than ten thousand
32 dollars (\$10,000) per month may be assessed by the Commission against any local
33 government that fails to adopt a local water supply watershed protection program as
34 required by G.S. 143-214.5, or willfully fails to administer or enforce the provisions
35 of its program in substantial compliance with the minimum statewide water supply
36 watershed management requirements. No such penalty shall be imposed against a
37 local government until the Commission has assumed the responsibility for
38 administering and enforcing the local water supply watershed protection program.
39 Civil penalties shall be imposed pursuant to a uniform schedule adopted by the
40 Commission. The schedule of civil penalties shall be based on acreage and other
41 relevant cost factors and shall be designed to recoup the costs of administration and
42 enforcement.

43 (f) Requests for remission of civil penalties shall be filed with the Secretary.
44 Remission requests shall not be considered unless made within 30 days of receipt of

1 the notice of assessment. Remission requests must be accompanied by a waiver of the
2 right to a contested case hearing pursuant to Chapter 150B and a stipulation of the
3 facts on which the assessment was based. Consistent with the limitations in G.S.
4 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the
5 violator. If the Secretary and the violator are unable to resolve the request, the
6 Secretary shall deliver remission requests and his recommended action to the
7 Committee on Civil Penalty Remissions of the Environmental Management
8 Commission appointed pursuant to G.S. 143B-282.1(c).

9 (g) If any civil penalty has not been paid within 30 days after notice of assessment
10 has been served on the violator, the Secretary shall request the Attorney General to
11 institute a civil action in the Superior Court of any county in which the violator
12 resides or has his or its principal place of business to recover the amount of the
13 assessment, unless the violator contests the assessment as provided in subsection (d)
14 of this section, or requests remission of the assessment in whole or in part as provided
15 in subsection (f) of this section. If any civil penalty has not been paid within 30 days
16 after the final agency decision or court order has been served on the violator, the
17 Secretary shall request the Attorney General to institute a civil action in the Superior
18 Court of any county in which the violator resides or has his or its principal place of
19 business to recover the amount of the assessment. Such civil actions must be filed
20 within three years of the date the final agency decision or court order was served on
21 the violator.

22 (h) Repealed by Session Laws 1995 (Regular Session, 1996), c. 743, s. 14.

23 (h1) The clear proceeds of civil penalties assessed by the Secretary or the
24 Commission pursuant to this section shall be remitted to the Civil Penalty and
25 Forfeiture Fund in accordance with G.S. 115C-457.2.

26 (i) As used in this subsection, 'municipality' refers to any unit of local government
27 which operates a wastewater treatment plant. As used in this subsection, 'unit of local
28 government' has the same meaning as in G.S. 130A-290. The provisions of this
29 subsection shall apply whenever a municipality that operates a wastewater treatment
30 plant with an influent bypass diversion structure and with a permitted discharge of 10
31 million gallons per day or more into any of the surface waters of the State that have
32 been classified as nutrient sensitive waters (NSW) under rules adopted by the
33 Commission is subject to a court order which specifies (i) a schedule of activities with
34 respect to the treatment of wastewater by the municipality; (ii) deadlines for the
35 completion of scheduled activities; and (iii) stipulated penalties for failure to meet
36 such deadlines. A municipality as specified herein that violates any provision of such
37 order for which a penalty is stipulated shall pay the full amount of such penalty as
38 provided in the order unless such penalty is modified, remitted, or reduced by the
39 court.

40 (j) Local governments certified and approved to administer and enforce
41 pretreatment programs by the Commission pursuant to G.S. 143-215.3(a)(14) may
42 assess civil penalties for violations of their respective programs in accordance with the
43 powers conferred upon the Commission and the Secretary in this section, except that
44 actions for collection of unpaid civil penalties shall be referred to the attorney

1 representing the assessing local government. The total of the civil penalty assessed by
2 a local government and the civil penalty assessed by the Secretary for any violation
3 may not exceed the maximum civil penalty for such violation under this section.

4 (k) A person who has been assessed a civil penalty by a local government as
5 provided by subsection (j) of this section may request a review of the assessment by
6 filing a request for review with the local government within 30 days of the date the
7 notice of assessment is received. If a local ordinance provides for a local
8 administrative hearing, the hearing shall afford minimum due process including an
9 unbiased hearing official. The local government shall make a final decision on the
10 request for review within 90 days of the date the request for review is filed. The final
11 decision on a request for review shall be subject to review by the superior court
12 pursuant to Article 27 of Chapter 1 of the General Statutes. If the local ordinance
13 does not provide for a local administrative hearing, a person who has been assessed a
14 civil penalty by a local government as provided by subsection (j) of this section may
15 contest the assessment by filing a civil action in superior court within 60 days of the
16 date the notice of assessment is received."

17

18 **PART VI. AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
19 **RESOURCES TO DISTRIBUTE FUNDS FROM THE WETLANDS RESTORATION**
20 **FUND AND CONVEY INTERESTS IN REAL PROPERTY ACQUIRED UNDER THE**
21 **WETLANDS RESTORATION PROGRAM TO FEDERAL AND STATE AGENCIES,**
22 **LOCAL GOVERNMENTS, AND PRIVATE NONPROFIT CONSERVATION**
23 **ORGANIZATIONS.**

24 Section 6.1. G.S. 143-214.12 is amended by adding a new subsection to
25 read:

26 "(a1) The Department may distribute funds from the Wetlands Restoration Fund
27 directly to a federal or State agency, a local government, or a private, nonprofit
28 conservation organization to acquire, manage, and maintain real property or an
29 interest in real property for the purposes set out in subsection (a) of this section. A
30 recipient of funds under this subsection shall grant a conservation easement in the
31 real property or interest in real property acquired with the funds to the Department
32 in a form that is acceptable to the Department. The Department may convey real
33 property or an interest in real property that has been acquired under the Wetlands
34 Restoration Program to a federal or State agency, a local government, or a private,
35 nonprofit conservation organization to acquire, manage, and maintain real property
36 or an interest in real property for the purposes set out in subsection (a) of this
37 section. A grantee of real property or an interest in real property under this
38 subsection shall grant a conservation easement in the real property or interest in real
39 property to the Department in a form that is acceptable to the Department."

40

41 **PART VII. AUTHORIZE TEMPORARY RULES TO PROTECT THE CAPE FEAR,**
42 **CATAWBA, AND TAR-PAMLICO RIVER BASINS.**

43 Section 7.1. Notwithstanding G.S. 150B-21.1(a)(2) and Section 8.6 of
44 S.L. 1997-458, the Environmental Management Commission may adopt temporary

1 rules to protect water quality standards and uses and to implement basinwide water
2 quality management plans for the Cape Fear, Catawba, and Tar-Pamlico River Basins
3 pursuant to G.S. 143-214.1, 143-214.7, 143-215.3, and 143B-282. Notwithstanding 26
4 NCAC 2C.0102(11), this section shall continue in effect until 31 December 2000.

5

6 **PART VIII. REQUIRE REPORTS TO WASTEWATER SYSTEM CUSTOMERS ON**
7 **SYSTEM PERFORMANCE AND PUBLICATION OF NOTICE OF DISCHARGES OF**
8 **UNTREATED WASTEWATER.**

9 Section 8.1. G.S. 143-215.1 is amended by adding a new subsection to
10 read:

11 "(i) The owner or operator of a municipal or domestic wastewater collection
12 system or treatment works for which a permit is issued under this section shall, as a
13 condition of the permit:

14 (1) Provide to the users or customers of the collection system or
15 treatment works and to the Department an annual report that
16 summarizes the performance of the collection system or treatment
17 works and the extent to which the collection system or treatment
18 works has violated the permit or federal or State laws, regulations,
19 or rules related to the protection of water quality. The report shall
20 be prepared on either a calendar or fiscal year basis and shall be
21 provided no later than 60 days after the end of the calendar or
22 fiscal year.

23 (2) Publish a notice of any discharge of untreated wastewater of 5,000
24 gallons or more into the surface waters of the State in a newspaper
25 having general circulation in the county in which the discharge
26 occurs and in each county downstream from the point of discharge
27 that is affected by the discharge. The Secretary shall determine, at
28 the Secretary's sole discretion, which counties are affected by the
29 discharge and shall approve the form and content of the notice and
30 the newspapers in which the notice is to be published. The notice
31 shall be captioned: 'NOTICE OF DISCHARGE OF RAW
32 SEWAGE'. The owner or operator shall publish the notice within
33 10 days of the discharge and file a copy of the notice and proof of
34 publication with the Department within 30 days of the discharge."

35

36 **PART IX. PILOT PROGRAM FOR INSPECTION OF MUNICIPAL AND DOMESTIC**
37 **WASTEWATER TREATMENT WORKS.**

38 Section 9.1. The Department of Environment and Natural Resources
39 shall develop and implement a pilot program to begin no later than 1 January 2000
40 and to terminate 1 July 2001 to inspect and provide technical assistance to municipal
41 and domestic wastewater treatment works for which a permit is required under Part 1
42 of Article 21 of Chapter 143 of the General Statutes. The Department shall select a
43 county in which there is located a representative cross section of the types of
44 municipal and domestic wastewater treatment works in operation in the State for this

1 pilot program. The Technical Assistance and Certification Unit of the Non-Discharge
2 Branch of the Water Quality Section of the Division of Water Quality in the
3 Department shall conduct an inspection of each municipal and domestic wastewater
4 treatment works for which a permit is required under Part 1 of Article 21 of Chapter
5 143 of the General Statutes at least once each six months to determine whether the
6 treatment works is in violation of any water quality classification, standard, limitation,
7 or management practice or is in violation of any term, condition, or requirement of
8 the permit for the treatment works. The personnel of the Technical Assistance and
9 Certification Unit of the Non-Discharge Branch of the Water Quality Section of the
10 Division of Water Quality who are assigned to conduct these inspections shall be
11 assigned to an office in the county selected for the pilot program.

12 Section 9.2. The Division of Water Quality of the Department of
13 Environment and Natural Resources shall submit interim reports no later than 15
14 April 2000, 15 October 2000, 15 April 2001, and a final report no later than 15 July
15 2001 to the Environmental Review Commission and to the Fiscal Research Division
16 on the implementation of the pilot program established by this Part. These reports
17 shall indicate the extent to which the pilot program has improved compliance with
18 the laws governing water quality and has resulted in actual improvements in water
19 quality by earlier identification of violations; reduction in the time required to
20 respond to discharges, complaints, and reported problems; improved communication
21 between owners and operators of treatment works and Department employees; and
22 any other factors deemed pertinent by the Department. The final report shall include
23 a recommendation as to whether to continue or expand the pilot program established
24 by this Part. The Environmental Review Commission may recommend to the 2001
25 General Assembly whether to continue or expand the pilot program established by
26 this Part.

27

28 **PART X. ISSUANCE OF PERMITS FOR NEW OR EXPANDED MUNICIPAL OR**
29 **DOMESTIC WASTEWATER TREATMENT WORKS THAT DISCHARGE TO THE**
30 **WATERS OF THE STATE.**

31 Section 10.1. G.S. 143-215.1(b) is amended by adding a new subdivision
32 to read:

33 "(5) The Commission shall not issue a permit for a new municipal or
34 domestic wastewater treatment works that would discharge to the
35 surface waters of the State or for the expansion of an existing
36 municipal or domestic wastewater treatment works that would
37 discharge to the surface waters of the State unless the applicant for
38 the permit demonstrates to the satisfaction of the Commission that:
39 a. The applicant has prepared and considered an engineering,
40 environmental, and fiscal analysis of alternatives to the
41 proposed facility.
42 b. The applicant is in compliance with the requirements of the
43 systemwide municipal and domestic wastewater collection
44 systems permit program adopted by the Commission."

1
2 **PART XI. ENVIRONMENTAL MANAGEMENT COMMISSION TO DEVELOP**
3 **ENGINEERING STANDARDS AND IMPLEMENT A PERMIT PROGRAM FOR**
4 **MUNICIPAL AND DOMESTIC WASTEWATER COLLECTIONS.**

5 Section 11.1. The Environmental Management Commission shall develop
6 engineering standards governing municipal and domestic wastewater collection
7 systems and treatment works that will allow interconnection of these systems and
8 treatment works on a regional basis. The Commission shall report on its progress in
9 developing the engineering standards required by this section as a part of each
10 quarterly report the Commission makes to the Environmental Review Commission
11 pursuant to G.S. 143B-282(b).

12 Section 11.2. The Environmental Management Commission shall develop
13 and implement a permit program for municipal and domestic wastewater collection
14 systems on a systemwide basis. The collection system permit program shall provide
15 for performance standards, minimum design and construction requirements, a capital
16 improvement plan, operation and maintenance requirements, and minimum reporting
17 requirements. In order to ensure an orderly and cost-effective phase-in of the
18 collection system permit program, the Commission shall implement the permit
19 program over a five-year period beginning 1 July 2000. The Commission shall issue
20 permits for approximately twenty percent (20%) of municipal and domestic
21 wastewater collection systems that are in operation on 1 July 2000 during each of the
22 five calendar years beginning 1 July 2000 and shall give priority to those collection
23 systems serving the largest populations, those under a moratorium imposed by the
24 Commission under G.S. 143-215.67, and those for which the Department of
25 Environment and Natural Resources has issued a notice of violation for the discharge
26 of untreated wastewater. The Commission shall report on its progress in developing
27 and implementing the collection system permit program required by this section as a
28 part of each quarterly report the Environmental Management Commission makes to
29 the Environmental Review Commission pursuant to G.S. 143B-282(b).

30
31 **PART XII. CLARIFY THAT THE DEPARTMENT OF ENVIRONMENT AND**
32 **NATURAL RESOURCES MAY LIMIT TO TWO MILLION DOLLARS RATHER**
33 **THAN THREE MILLION DOLLARS THE MAXIMUM AMOUNT OF CLEAN**
34 **WATER GRANTS TO LOCAL GOVERNMENT UNITS WITH HIGH BOND**
35 **RATINGS; REALLOCATE CLEAN WATER LOAN BOND FUNDS AS AUTHORIZED**
36 **BY THE CLEAN WATER AND NATURAL GAS CRITICAL NEEDS BOND ACT OF**
37 **1998; AND, FOR CLEAN WATER LOANS FROM BOND FUNDS, TO CHANGE THE**
38 **TIME BY WHICH A LOCAL GOVERNMENT UNIT MUST SATISFY THE**
39 **REQUIREMENTS FOR HOLDING A PUBLIC HEARING AND FILING A PETITION**
40 **FOR A VOTE PRIOR TO DISBURSEMENT OF THE LOAN FUNDS.**

41 Section 12.1. G.S. 159G-3 is amended by adding a new subdivision to
42 read:

43 "(2a) 'Bond rating' means the numerical rating of a local government
44 unit developed by the North Carolina Municipal Council, Inc., or

1 any successor thereto. The rating formula is based on 100 being a
2 theoretically 'perfect' local government unit and is an assessment
3 of the creditworthiness of the unit. Local government units with a
4 rating below 75 or with no ratings have limited, if any, access to
5 the private markets for financing water and sewer or other debt."

6 Section 12.2. G.S. 159G-6(a) reads as rewritten:

7 "(a) Revolving loans and grants.

8 (1) All funds appropriated or accruing to the Clean Water Revolving
9 Loan and Grant Fund, other than funds set aside for administrative
10 expenses, shall be used for revolving loans and grants to local
11 government units for construction costs of wastewater treatment
12 works, wastewater collection systems and water supply systems and
13 other assistance as provided in this Chapter.

14 (2) The maximum principal amount of a revolving loan or a grant may
15 be one hundred percent (100%) of the nonfederal share of the
16 construction costs of any eligible project. The maximum principal
17 amount of revolving loans made to any one local government unit
18 during any fiscal year shall be eight million dollars (\$8,000,000).

19 (2a) The maximum principal amount of grants made to any one local
20 government unit during any fiscal year shall be three million
21 dollars (\$3,000,000). The Department of Environment and Natural
22 Resources may limit the maximum principal amount of the grant
23 to two million dollars (\$2,000,000) or two-thirds of the eligible
24 project cost, whichever is less, when the bond rating of the local
25 government unit equals or is greater than 75 during any fiscal year
26 and when one million dollars (\$1,000,000) or one-third of the
27 eligible project cost, whichever is less, is available to the local
28 government unit as a loan from any source.

29 (3) The State Treasurer shall be responsible for investing and
30 distributing all funds appropriated or accruing to the Clean Water
31 Revolving Loan and Grant Fund for revolving loans and grants
32 under this Chapter. In fulfilling his or her responsibilities under
33 this section, the State Treasurer shall make a written request to the
34 Department of Environment and Natural Resources to arrange for
35 the appropriated funds to be (i) transferred from the appropriate
36 accounts to a local government unit to provide funds for one or
37 more revolving loans or grants or (ii) invested as authorized by this
38 Chapter with the interest on and the principal of such investments
39 to be transferred to the local government unit to provide funds for
40 one or more revolving loans or grants."

41 Section 12.3. Subsection (h) of Section 5.1 of S.L. 1998-132 reads as
42 rewritten:

43 "(h) Loans to Local Governments. The proceeds of three hundred million dollars
44 (\$300,000,000) of Clean Water Bonds shall be used for the purpose of making loans

1 to local government units to pay the cost of water supply systems, water conservation
 2 projects, water reuse projects, wastewater collection systems, and wastewater
 3 treatment works. The proceeds shall be allocated as follows:

- 4 (1) Wastewater collection systems and
 5 wastewater treatment works: \$150,000,000.
- 6 a. ~~Reserved for loans to local~~
 7 ~~government units whose bond~~
 8 ~~rating is less than 75 or~~
 9 ~~who have no bond rating~~ \$10,000,000
- 10 b. ~~Reserved for loans to local~~
 11 ~~government units whose bond~~
 12 ~~rating is 75 or more~~ \$140,000,000.
- 13 (2) Water supply and distribution systems and water conservation
 14 projects: \$150,000,000.
- 15 a. ~~Reserved for loans to local~~
 16 ~~government units whose bond~~
 17 ~~rating is less than 75 or~~
 18 ~~who have no bond rating~~ \$10,000,000
- 19 b. ~~Reserved for loans to local~~
 20 ~~government units whose bond~~
 21 ~~rating is 75 or more~~ \$140,000,000.

22 The proceeds shall be used to make loans directly to local government units
 23 qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or
 24 loaned in such other manner as shall effectuate the purposes of this act. To qualify
 25 for a loan for the purpose of paying the cost of water supply systems, a local
 26 government unit must have a water supply facility plan approved by the Department
 27 of Environment and Natural Resources. A water supply facility plan submitted by a
 28 local government unit to the Department under G.S. 143-355(1) will be sufficient to
 29 meet this requirement. To qualify for a loan for the purpose of paying the cost of
 30 wastewater collection systems or wastewater treatment works, a local government unit
 31 must have a wastewater facility plan approved by the Department of Environment
 32 and Natural Resources. A wastewater facility plan must project future wastewater
 33 treatment needs, must present a long-range plan to meet those needs, and must
 34 include plans for system operations and maintenance of the facilities being built with
 35 the bond proceeds. In addition to the requirements listed above and the special
 36 emphases in subsection (a) of this section, significant consideration and weight in
 37 awarding a clean water grant to an eligible local government unit for expanding
 38 infrastructure to support significant additional development shall be given if the
 39 applicant, or the local government unit or units having jurisdiction over the service
 40 area of the applicant, has adopted a comprehensive land-use plan that meets the
 41 requirements of G.S. 159G-10. Any point scheme developed for awarding clean
 42 water grants or loans from the clean water bond proceeds for expanding
 43 infrastructure to support significant additional development shall assign a significant
 44 number of points for having a comprehensive land-use plan that is approved or

1 adopted by the applicant or the local government unit or units having jurisdiction
2 over the service area of the applicant. However, additional points awarded for
3 having a comprehensive land-use plan shall be considered only in the evaluation of
4 competing applications for expanding infrastructure to support significant additional
5 development and shall not disadvantage other applicants for clean water loans to
6 meet critical infrastructure needs.

7 A county may apply for a loan on behalf of a rural school located in the county for
8 a school water or wastewater project.

9 The Department of Environment and Natural Resources shall set the priorities and
10 determine the eligibility of local government units for these loans in accordance with
11 Section 10 of this act. The form of the loans and the details thereof including,
12 without limitation, the maturity, interest rate, and amortization schedule shall be
13 determined, from time to time, by the State Treasurer. In making these
14 determinations, the State Treasurer shall consider the purpose of the loans, the ability
15 of local government units to repay the loans, and the security for the loans. The
16 interest rates on these loans shall reflect the self-supporting nature of the loan
17 program and shall be sufficient to cover substantially all payments of debt service on
18 the three hundred million dollars (\$300,000,000) of Clean Water Bonds and the
19 issuance costs and administrative expenses associated with the issuance of these bonds
20 and the making of these loans, subject to any applicable requirements of the federal
21 tax law.

22 Repayments of the loans shall be credited to the General Fund and may be used to
23 pay, directly or indirectly, debt service on the bonds and notes issued. Repayments
24 may be initially placed into such fund or account as may be determined by the State
25 Treasurer for the purpose of determining compliance with applicable requirements of
26 the federal tax law and shall be expended and disbursed therefrom under the
27 direction and supervision of the Director of the Budget."

28 Section 12.4. Subsection (c) of Section 10 of S.L. 1998-132 reads as
29 rewritten:

30 "(c) Application for Loans; Hearings.

31 (1) ~~Eligibility/Initial Hearing.~~ Eligibility. --

32 a. ~~Prior to filing an application for a loan, a~~ A local
33 government unit shall hold a public hearing. A notice of
34 the public hearing shall be published once at least 10 days
35 before the date fixed for the hearing. The public hearing
36 may be held at any time prior to the disbursement of loan
37 funds under subsection (e) of this section.

38 b. All applications for loans shall be filed with the Department
39 of Environment and Natural Resources. The form of the
40 application shall be prescribed by the Department and shall
41 require any information necessary to determine the
42 eligibility for a loan under the provisions of this section. All
43 applications approved by the Department of Environment
44 and Natural Resources shall be filed with the Local

1 Government Commission. Each applicant shall furnish to
2 the Department of Environment and Natural Resources and
3 the Local Government Commission information in addition
4 or supplemental to the information contained in its
5 application, upon request.

6 c. A local government unit shall not be eligible for a loan
7 unless it demonstrates to the satisfaction of the Department
8 of Environment and Natural Resources and the Local
9 Government Commission that:

- 10 1. The applicant is a local government unit;
- 11 2. The applicant has the financial capacity to pay the
12 principal of and interest on its proposed loan as
13 evidenced by the approval of the Local Government
14 Commission;
- 15 3. The applicant has substantially complied or will
16 substantially comply with all applicable laws, rules,
17 regulations, and ordinances, whether federal, State, or
18 local; and
- 19 4. The applicant has agreed by official resolution to
20 adopt and place into effect a schedule of fees and
21 charges or the application of other sources of revenue
22 which will provide adequate funds for proper
23 operation, maintenance, and administration of the
24 project and repayment of all principal and interest on
25 the loan.

26 (2) Assessment. -- The Department of Environment and Natural
27 Resources may require any applicant to file with its application an
28 assessment of the impact the project for which the funds are sought
29 will have upon meeting the facility needs of the area within which
30 the project is to be located.

31 (3) Hearing by the Department of Environment and Natural Resources
32 or the Local Government Commission. -- A public hearing may be
33 held by the Department of Environment and Natural Resources or
34 the Local Government Commission at any time on any application.
35 Public hearings may also be held by the Department of
36 Environment and Natural Resources in its discretion upon written
37 request from any citizen or taxpayer who is a resident of the
38 county or counties in which the project is to be located or a
39 resident of the local government unit that proposes to borrow
40 moneys under this act, if it appears that the public interest will be
41 served by the hearing. The written request shall set forth each
42 objection to the proposed project or other reason for requesting a
43 hearing on the application and shall contain the name and address
44 of the persons submitting it. In deciding whether to grant a

1 request for a hearing on an application, the Department of
2 Environment and Natural Resources may consider the application,
3 the written objections to the proposed project, and the facility
4 needs and shall determine if the public interest will be served by a
5 hearing. The determination by the Department of Environment
6 and Natural Resources shall be conclusive, and all written requests
7 for a hearing shall be retained as a permanent part of the records
8 pertaining to the application.

- 9 (4) Petition for Vote. = A petition, demanding that the question of
10 whether to enter into a loan agreement with the State under this
11 act be submitted to voters, may be filed with the clerk of the local
12 government unit applying for the loan within 15 days after the
13 public hearing required by this ~~section~~ section and prior to the
14 disbursement of loan funds under subsection (e) of this section.
15 The petition's sufficiency shall be determined and a referendum, if
16 any, shall be conducted according to the standards, procedures,
17 and limitations set out in G.S. 159-60 through G.S. 159-62."
18

19 **PART XIII. STUDIES; REPORTS; MISCELLANEOUS PROVISIONS; EFFECTIVE**
20 **DATES.**

21 Section 13.1. The Department of Environment and Natural Resources
22 shall submit periodic reports to the Environmental Review Commission on the
23 progress of the State Wetlands Stream Management Advisory Committee no later
24 than 1 November 1999, 1 April 2000, 1 October 2000, and 15 December 2000. As a
25 part of this report, the Department shall evaluate the current federal and State
26 wetlands protection programs and shall develop recommendations to improve and
27 simplify the State's wetlands protection program. The Department shall present
28 interim findings and recommendations, including any legislative proposals, as a part
29 of the 1 April 2000 report and final findings and recommendations, including any
30 legislative proposals, as a part of the 15 December 2000 report.

31 Section 13.2. The Department of Environment and Natural Resources
32 shall prepare a detailed analysis of discharges of untreated and partially treated
33 municipal and domestic wastewater from publicly and privately owned treatment
34 works and collection systems to determine the causes of these discharges. The
35 analysis shall include both unpermitted discharges and violations of permitted
36 discharges. The Department shall evaluate the extent to which more frequent
37 inspection of these systems would reduce the number and severity of these discharges.
38 In addition, the Department shall develop specific recommendations to: (i) reduce the
39 frequency and severity of discharges of untreated or partially treated municipal and
40 domestic wastewater from publicly and privately owned treatment works, (ii) reduce
41 the number of point sources and the quantity of waste that is discharged into the
42 surface waters of the State, and (iii) promote the consolidation of municipal and
43 domestic wastewater collection systems and treatment works on a regional basis. The

1 Department shall report its findings and recommendations to the Environmental
2 Review Commission on or before 1 February 2000.

3 Section 13.3. The Environmental Management Commission shall study
4 issues related to whether and under what circumstances a privately owned wastewater
5 collection system or treatment works may be required to connect to a publicly owned
6 treatment works in order to protect public health or the environment. The
7 Environmental Management Commission shall report its findings and
8 recommendations, including any legislative proposals, to the Environmental Review
9 Commission no later than 1 March 2000.

10 Section 13.4. The Environmental Management Commission shall report
11 on its progress in implementing the Lagoon Conversion Plan pursuant to the letter
12 from Governor James B. Hunt, Jr. to Dr. David Moreau, Chairman, Environmental
13 Management Commission, dated 13 May 1999, as a part of each quarterly report the
14 Environmental Management Commission makes to the Environmental Review
15 Commission pursuant to G.S. 143B-282(b).

16 Section 13.5. The Commission for Health Services shall study issues
17 related to the proper maintenance of septic tank systems. The Commission shall
18 specifically study measures that prevent the failure of septic tank systems and the
19 harm to public health, the environment, and natural resources that results from the
20 failure of septic tank systems. The Commission for Health Services shall report its
21 findings and recommendations, including any legislative proposals, to the
22 Environmental Review Commission no later than 1 March 2000.

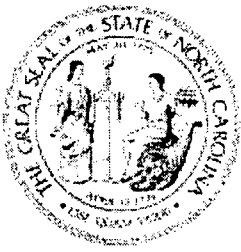
23 Section 13.6. The headings to the Parts of this act are a convenience to
24 the reader and are for reference only. The headings do not expand, limit, or define
25 the text of this act.

26 Section 13.7. This act shall not be construed to obligate the General
27 Assembly to appropriate funds to implement the provisions of this act. Every State
28 agency to which this act applies shall implement the provisions of this act from funds
29 otherwise appropriated or available to that agency.

30 Section 13.8. If any section or provision of this act is declared
31 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
32 provision does not affect the validity of this act as a whole or any part of this act
33 other than the part declared to be unconstitutional or invalid.

34 Section 13.9. Part III of this act is effective retroactively to 31 October
35 1998. Part V of this act is effective 1 October 1999 and applies to violations that
36 occur on or after 1 October 1999. Part V of this act shall not be construed to affect
37 the validity of any civil penalty that is assessed prior to 1 October 1999. G.S.
38 143-215.1(i)(1), as enacted by Part VIII of this act, becomes effective 1 January 1999.
39 The first report required by G.S. 143-215.1(i)(1) shall summarize performance and
40 violations during the 1999 calendar year or the fiscal year that begins 1 July 1999.
41 G.S. 143-215.1(i)(2), as enacted by Part VIII of this act, becomes effective 1 October
42 1999. Part IX of this act becomes effective 1 July 1999. Part X of this act becomes
43 effective 1 October 1999 and applies to any application for a permit that is submitted
44 to the Department of Environment and Natural Resources on or after that date. Part

1 XII of this act is effective 1 August 1999 and applies to grants and revolving loans
2 applied for on or after that date in accordance with Chapter 159G of the General
3 Statutes and S.L. 1998-132, as amended by Part XII of this act. All other Parts and
4 sections of this act are effective when this act becomes law.



HOUSE BILL 1160: Clean Water Act of 1999

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: July 1, 1999

Version: Proposed Committee Substitute

Introduced by: Rep. Hackney

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *The PCS for HB 1160 contains measures regarding swine farms, sewage treatment systems, the enforcement of water quality laws, wetlands, river basins, and Clean Water Bond moneys.*

Swine Farms: The PCS for HB 1160:

- Extends the current moratoria on construction or expansion of swine farms until July 1, 2001.
- Extends the pilot program under which the Division of Soil and Water Conservation inspects animal waste management systems in Jones and Columbus County until July 1, 2001 and adds Brunswick County.
- Directs the Department of Environment and Natural Resources (DENR) to develop an inventory and risk ranking of inactive animal waste lagoons.
- Directs the Environmental Management Commission (EMC) to report to the Environmental Review Commission (ERC) on its implementation of Governor Hunt's Lagoon Conversion Plan.

Sewage Treatment Systems: The PCS for HB 1160:

- Requires public notice of unpermitted discharges from municipal and domestic wastewater systems.
- Directs the EMC to:
 - Implement a program to permit collection systems on a system-wide basis.
 - Issue a permit to construct or expand a treatment works only if the applicant first analyzes alternatives to the proposed facility and complies with the new collection system permit program requirements.
 - Develop engineering standards to facilitate the regional interconnection of wastewater systems.
 - Study issues related to requiring a privately owned wastewater system to connect to a publicly owned system if the connection would protect public health or the environment.
- Directs DENR to:
 - Implement a pilot program for more intensive inspections of wastewater treatment works.
 - Analyze the causes of discharges of untreated and partially treated sewage and make recommendations for reducing these discharges.
- Directs the Commission for Health Services to study septic tank maintenance issues.

Enforcement of Water Quality Laws: The PCS for HB 1160 increases the maximum civil penalties for water quality violations and requires minimum increases in penalties for repeated violations.

Wetlands: The PCS for HB 1160:

- Authorizes DENR to convey funds and property acquired under the Wetlands Restoration Program to other government agencies and nonprofit organizations for wetland preservation, restoration, and creation.
- Directs DENR to report to the ERC on the progress of the State Wetlands Stream Advisory Committee and recommend measures to improve and simplify the State's wetlands protection program.

River Basins: The PCS for HB 1160 authorizes the EMC to adopt temporary rules to protect water quality in the Cape Fear, Catawba, and Tar-Pamlico River Basins.

Clean Water Bonds: The PCS for HB 1160 authorizes DENR to allocate less grant money to applicants with credit ratings that are strong enough to give them access to loans.

HOUSE BILL 1160

Page 2

BILL ANALYSIS

Part I: Title

Part II: Extend Moratoria on Construction or Expansion of Swine Farms

Part II extends the Statewide and Moore County moratoria on the construction or expansion of swine farms and swine waste management systems until July 1, 2001. This Part is effective when this act becomes law. *Under existing law, the moratoria will end September 1, 1999.*

Part III: Extend and Expand Pilot Program for Inspection of Animal Waste Management Systems

Part III extends the pilot program under which locally-stationed personnel from the Division of Soil and Water Conservation conduct all inspections of animal waste management systems in Columbus and Jones counties until July 1, 2001. Part III also adds Brunswick County to the pilot program. This Part is effective retroactively to October 31, 1998. *Existing law ended the pilot October 31, 1998.*

Part IV: Inventory Inactive Lagoons

Part IV directs DENR to develop an inventory of inactive animal waste lagoons and rank the lagoons based on the extent to which they threaten public health or the environment. This Part is effective when this act becomes law.

Part V: Increase Civil Penalties for Violations of Water Quality Laws; Minimum Increases of Civil Penalties for Repeated Violations

Part V increases the maximum civil penalty for water quality violations from \$10,000 to \$25,000 and requires increased assessments for repeated violations. The maximum civil penalty will remain at \$10,000 for a first violation within a year and for an unintentional violation of reporting requirements.

Under current law, DENR must determine the amount of a civil penalty by considering the following factors:

- The degree of harm to natural resources, public health, or private property from the violation.
- The duration and gravity of the violation.
- The effect on ground or surface water quantity or quality or on air quality.
- The cost of rectifying the damage.
- The money saved by noncompliance.
- Whether the violation was intentional.
- The violator's prior record of compliance with environmental laws.
- The cost to the State of enforcement proceedings.

The PCS for HB 1160 directs DENR to multiply this base civil penalty assessment by the following numbers if the violator has a history of repeated violations:

- At least 1.25 if the violator has been assessed a civil penalty in four of the preceding six months.
- At least 1.35 if the violator has been assessed a civil penalty in five of the preceding six months.
- At least 1.45 if the violator has been assessed a civil penalty in six of the preceding six months.

This Part is effective October 1, 1999 and applies to violations that occur on or after October 1, 1999.

By including these multipliers, The PCS for HB 1160 is codifying the Division of Water Quality's recently implemented enforcement policy. Raising the maximum civil penalty for a water quality violation to \$25,000 brings the State's maximum closer to the federal maximum of \$27,500.

HOUSE BILL 1160

Page 3

Part VI: Wetlands Program Amendments

Part VI amends the law governing the Wetlands Restoration Fund to authorize DENR to distribute funds and interests in real property acquired under the Wetlands Restoration Program to federal and State agencies, local governments, and private nonprofit conservation organizations. Entities receiving funds and interests in real property from DENR under this Part are bound by the same restrictions on the use of these funds and interests in property as DENR is under the current law. The PCS for HB 1160 also stipulates that any grantee of real property or interest in real property must grant an easement to DENR in a form acceptable to DENR. This Part is effective when this act becomes law. *The current law governing the Wetlands Restoration Program authorizes DENR to accept funds and interests in real property for the purposes of wetland preservation, restoration and creation but makes no provision for the transfer of these funds or interests in real property to other entities engaged in wetland preservation, restoration, or creation.*

Part VII. Authorize Temporary Rules to Protect the Cape Fear, Catawba, and Tar-Pamlico River Basins

Part VII authorizes the EMC to adopt temporary rules to protect water quality and implement basinwide water quality management plans for the Cape Fear, Catawba, and Tar-Pamlico River Basins. This Part is effective when this act becomes law and shall remain effective until December 31, 2000.

Part VIII: Require Reports to Wastewater System Customers on System Performance and Publication of Notice of Discharges of Untreated Wastewater

Part VIII requires municipal and domestic wastewater systems to:

- Provide their customers and DENR with annual reports on their performance and the extent to which they have violated their discharge permits and water quality laws. This provision is effective January 1, 1999, and the first report shall cover performance during either the 1999 calendar year or the fiscal year beginning in 1999.
- Publish a notice of any discharge of untreated wastewater of 5,000 gallons or more in a newspaper of general circulation in the county where the discharge occurs and in the affected counties downstream. The Secretary of Environment and Natural Resources shall determine which downstream counties are affected by a spill. This provision is effective October 1, 1999.

Part IX: Pilot Program for Inspections Of Municipal And Domestic Wastewater Treatment Works

Part IX directs DENR to implement a pilot program to inspect and provide technical assistance to municipal and domestic wastewater treatment works in one county, starting January 1, 2000 and ending July 1, 2001. Under the pilot program, personnel from the Division of Water Quality (DWQ) Technical Assistance and Certification Unit will be assigned to an office in the selected county and will inspect each treatment works at least once every six months. DWQ is to report to the ERC and the Fiscal Research Division on the pilot's effectiveness in:

- Improving compliance.
- Improving water quality through earlier identification of violations.
- Reducing response time to discharges, complaints, and reported problems.
- Improving communication between DENR and treatment works operators.

This Part is effective July 1, 1999.

Part X: Issuance of Permits for New or Expanded Municipal or Domestic Wastewater Treatment Works that Discharge to the Waters of the State

Part X provides that the EMC shall not issue a discharge permit for a new treatment works or an expansion of an existing treatment works until the applicant has both:

- Analyzed alternatives to the proposed facility.

HOUSE BILL 1160

Page 4

- Implemented a plan for the maintenance and improvement of its collection system in accordance with the requirements of the collection system permit program the EMC is directed to develop in Part XI of this act.

This Part is effective October 1, 1999 and applies to any permit submitted to DENR on or after that date.

Part XI: Environmental Management Commission to Develop Engineering Standards and Implement a Permit Program for Municipal and Domestic Wastewater Collections

Part XI directs to the EMC to:

- Develop engineering standards for wastewater systems that will allow interconnection of these systems on a regional basis. The EMC is to report quarterly to the ERC on progress in developing these standards.
- Develop and implement a program to permit municipal and domestic wastewater collection systems on a system-wide basis. The program shall include performance and construction standards and planning requirements. The program is to be phased in over 5 years, starting July 1, 2000. Priority is to be given to addressing systems that serve the largest populations, systems under a moratorium imposed by the EMC, and systems that have received notices of violation for discharging untreated wastewater. *The EMC currently permits each extension of a collection system separately.*

This Part is effective when this act becomes law.

Part XII: Clean Water Bonds Amendments

Part XII amends the Clean Water and Natural Gas Critical Needs Bond Act of 1998 by:

- Authorizing DENR to limit the maximum principal amount of a grant awarded to a local government unit with a bond rating high enough to obtain outside loans to 2 million dollars or 2/3 of the eligible project cost, whichever is less.
- Deleting provisions that specify how funds allocated for providing loans to fund water and wastewater systems are to be divided between local government units with high and low bond ratings.
- Allowing a loan applicant to hold a public hearing at any time prior to the disbursement of loan funds, rather than requiring the applicant to hold the hearing prior to applying for the loan.

This Part is effective August 1, 1999 and applies to grants and revolving loans applied for on or after that date.

Part XIII: Studies; Reports; Miscellaneous Provisions; Effective Dates

Studies and Reports

Part XIII directs DENR to

- Report to the ERC on the progress of the State Wetlands Stream Management Advisory Committee. The report shall include an evaluation of current federal and State wetlands protection programs and recommendations to improve and simplify the State's program.
- Prepare a detailed analysis of discharges of untreated and partially treated municipal and domestic wastewater and recommend measures to reduce these discharges; reduce the total quantity of waste discharged to surface waters; and promote the regional consolidation of wastewater systems.

Part XIII directs the EMC to:

- Study issues related to requiring a privately owned wastewater system to connect to a publicly owned system if the connection would protect public health or the environment. The EMC is to report its findings and recommendations to the ERC.
- Report quarterly to the ERC on progress in implementing the Governor's Lagoon Conversion Plan pursuant to the May 13, 1999 written request from Governor Hunt to the Chair of the EMC.

HOUSE BILL 1160

Page 5

Part XIII directs the Commission for Health Services (CHS) to study issues relates to the proper maintenance of septic tank systems to prevent failures and the consequent harm to public health and the environment. CHS is to report its findings and recommendations to the ERC.

BACKGROUND

HB 1160, as introduced and passed by the House, contains the provisions of Part III of this act (Extend Pilot Program for Inspection of Animal Waste Management Systems) without the addition of Brunswick County.

Clean Water Act of 1999

PCS for HB 1160

- Part I. Title**
- Part II. Extend Moratoria on Construction or Expansion of Swine Farms**
- Part III. Extend and Expand Pilot Program for Inspection of Animal Waste Management Systems**
- Part IV. Inventory Inactive Lagoons**
- Part V. Increase Civil Penalties for Violations of Water Quality Laws; Minimum Increases of Civil Penalties for Repeated Violations**
- Part VI. Authorize the Department of Environment and Natural Resources to Distribute Funds from the Wetlands Restoration Fund and Convey Interests in Real Property Acquired under the Wetlands Restoration Program to Federal and State Agencies, Local Governments, and Private Nonprofit Conservation Organizations**
- Part VII. Authorize Temporary Rules to Protect the Cape Fear, Catawba, and Tar-Pamlico River Basins**
- Part VIII. Require Reports to Wastewater System Customers on System Performance and Publication of Notice of Discharges of Untreated Wastewater**
- Part IX. Pilot Program for Inspection of Municipal and Domestic Wastewater Treatment Works**
- Part X. Issuance of Permits for New or Expanded Municipal or Domestic Wastewater Treatment Works that Discharge to the Waters of the State**
- Part XI. Environmental Management Commission to Develop Engineering Standards and Implement a Permit Program for Municipal and Domestic Wastewater Collections**
- Part XII. Clarify that the Department of Environment and Natural Resources May Limit to Two Million Dollars Rather than Three Million Dollars the Maximum Amount of Clean Water Grants to Local Government Units with High Bond Ratings; Reallocate Clean Water Loan Bond Funds as Authorized by the Clean Water and Natural Gas Critical Needs Bond Act of 1998; and, for Clean Water Loans from Bond Funds, To Change the time by which a Local Government Unit Must Satisfy the Requirements for Holding a Public Hearing and Filing a Petition for a Vote Prior to Disbursement of the Loan Funds**
- Part XIII. Studies; Reports; Miscellaneous Provisions; Effective Dates**



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES B. HUNT JR.
GOVERNOR

May 13, 1999

Dr. David Moreau, Chairman
Environmental Management Commission
P.O. Box 29535
Raleigh, North Carolina 27626-0535

Re: Implementation of Lagoon Conversion Plan

Dear Dave:

Last month, I announced my Lagoon Conversion Plan. I consider high-risk lagoons to be one of the most serious environmental problems confronting our state, and I am committed to finding solutions that overcome the risks and maintain this important element of our agricultural economy. The plan was developed by the Department of Environment and Natural Resources after extensive discussions with interested parties from all perspectives on the issue. It is designed to expeditiously resolve the problems created by swine lagoons and sprayfields both active and inactive that are causing environmental and health problems.

My plan calls for action by several executive branch agencies, including the Environmental Management Commission. The EMC has already made a significant contribution in addressing the problems presented by the use of the conventional anaerobic lagoon and sprayfields systems. I commend you and the other members of the commission for your excellent work on those difficult subjects. Unfortunately, the task of protecting the public health and the environment from problem swine lagoons is not complete. The success of implementing the Lagoon Conversion Plan will depend in large measure on more hard work by the EMC.

I am writing to ask the Environmental Management Commission to work with the Department of Environment and Natural Resources and other interested parties to implement my Lagoon Conversion Plan. My plan calls for the EMC to develop and adopt new performance and/or technical standards for new animal waste management technology by September 2000. Secretary McDevitt will soon be appointing a Technology Panel for animal waste systems. I request the commission to incorporate the Technology Panel's findings in the development of those standards. Performance and/or technical standards will be useful to innovators and entrepreneurs, the swine industry and the citizens of North Carolina as soon as they can be adopted by the commission.

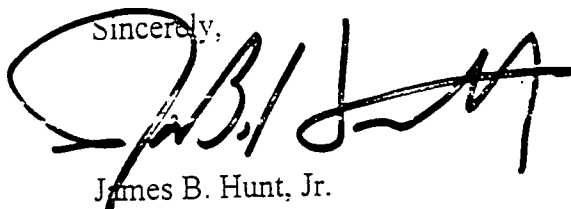


Dr. David Moreau
Page Two
May 13, 1999

Please convey my thanks to the other commission members for the important work that each of you do. I appreciate the willingness of the commission to tackle complicated issues like those presented by high-risk lagoons and sprayfields, and I trust you will apply the same dedicated effort to the implementation of the Lagoon Conversion Plan as you have to other issues before you.

My warmest personal regards.

Sincerely,

A handwritten signature in black ink, appearing to read "J.B. Hunt, Jr.", written in a cursive style.

James B. Hunt, Jr.

JBH:dm

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

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE PILOT PROGRAM UNDER WHICH THE DIVISION
3 OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF
4 ENVIRONMENT AND NATURAL RESOURCES CONDUCTS ALL
5 INSPECTIONS OF ANIMAL WASTE MANAGEMENT SYSTEMS IN
6 CERTAIN COUNTIES.
7 The General Assembly of North Carolina enacts:
8 Section 1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:
9 "(a) The Department of ~~Environment, Health, Environment~~ and Natural
10 Resources shall develop and implement a pilot program to begin no later than
11 November 1, 1997, and to terminate ~~October 31, 1998~~, December 31, 2000, regarding
12 the annual inspections of animal operations that are subject to a permit under Part
13 1A of Article 21 of Chapter 143 of the General Statutes. The Department shall select
14 two counties located in a part of the State that has a high concentration of swine
15 farms to participate in this pilot program. Notwithstanding G.S. 143-215.10F, the
16 Division of Soil and Water Conservation of the Department of Environment and
17 Natural Resources shall conduct inspections of all animal operations that are subject
18 to a permit under Part 1A of Article 21 of Chapter 143 of the General Statutes in
19 these two counties at least once a year to determine whether any animal waste
20 management system is causing a violation of water quality standards and whether the
21 system is in compliance with its animal waste management plan or any other
22 condition of the permit. The personnel of the Division of Soil and Water
23 Conservation who are to conduct these inspections in each of these two counties shall
24 be located in an office in the county in which that person will be conducting

1 inspections. As part of this pilot program, the Department of ~~Environment, Health,~~
2 Environment and Natural Resources shall establish procedures whereby resources
3 within the local Soil and Water Conservation Districts serving the two counties are
4 used for the quick response of ~~to~~ complaints and reported problems previously
5 referred only to the Division of Water ~~Quality~~. Quality of the Department of
6 Environment and Natural Resources."

7 Section 2. The two counties that were selected for the pilot program
8 pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County,
9 shall remain in the pilot program.

10 Section 3. The Division of Soil and Water Conservation of the
11 Department of Environment and Natural Resources and the Division of Water
12 Quality of the Department of Environment and Natural Resources shall jointly submit
13 interim reports no later than October 15, 1999; April 15, 2000; October 15, 2000; and
14 a final report no later than January 15, 2001, to the Environmental Review
15 Commission and to the Fiscal Research Division. These reports shall indicate
16 whether the pilot program has increased the effectiveness of the annual inspections
17 program or the response to complaints and reported problems, specifically whether
18 the pilot program had resulted in identifying violations earlier, taking corrective
19 actions earlier, increasing compliance with the animal waste management plans and
20 permit conditions, improving the time to respond to discharges, complaints, and
21 reported problems, improving communications between farmers and Department
22 employees, and any other consequences deemed pertinent by the Department. The
23 final report shall include a recommendation as to whether to continue or expand the
24 pilot program under this act. The Environmental Review Commission may
25 recommend to the 2001 General Assembly whether to continue or expand the pilot
26 program under this act and may make any related legislative proposals.

27 Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1128*
Proposed Committee Substitute S1128-PCS6692-RT

Short Title: Amend Sedimentation Act.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED

2 AN ACT TO STRENGTHEN THE SEDIMENTATION POLLUTION CONTROL
3 ACT OF 1973 AND TO REQUIRE THAT THE EXAMINATION FOR A
4 GENERAL CONTRACTOR'S LICENSE INCLUDE QUESTIONS THAT TEST
5 AN APPLICANT'S KNOWLEDGE OF THE REQUIREMENTS OF THE
6 SEDIMENTATION POLLUTION CONTROL ACT OF 1973.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 113A-54.1 reads as rewritten:

9 "**§ 113A-54.1. Approval of erosion control plans.**

10 (a) A draft erosion control plan must contain the applicant's address and, if the
11 applicant is not a resident of North Carolina, designate a North Carolina agent for
12 the purpose of receiving notice from the Commission or the Secretary of compliance
13 or noncompliance with the plan, this Article, or any rules adopted pursuant to this
14 Article. The Commission shall approve, approve with modifications, or disapprove a
15 draft erosion control plan for those land-disturbing activities for which prior plan
16 approval is required within 30 days of receipt. The Commission shall condition
17 approval of a draft erosion control plan upon the applicant's compliance with federal
18 and State water quality laws, regulations, and rules. Failure to approve, approve with
19 modifications, or disapprove a completed draft erosion control plan within 30 days of
20 receipt shall be deemed approval of the plan. If the Commission disapproves a draft
21 erosion control plan or a revised erosion control plan, it must state in writing the
22 specific reasons that the plan was disapproved. Failure to approve, approve with
23 modifications, or disapprove a revised erosion control plan within 15 days of receipt

1 shall be deemed approval of the plan. The Commission may establish an expiration
2 date for erosion control plans approved under this Article.

3 (b) If, following commencement of a land-disturbing activity pursuant to an
4 approved erosion control plan, the Commission determines that the plan is
5 inadequate to meet the requirements of this Article, the Commission may require any
6 revision of the plan that is necessary to comply with this Article. Failure to approve,
7 approve with modifications, or disapprove a revised erosion control plan within 15
8 days of receipt shall be deemed approval of the plan.

9 (c) ~~The Director of the Division of Land Resources~~ Commission shall disapprove
10 an erosion control plan if ~~the plan, when implemented,~~ implementation of the plan
11 would result in a violation of rules adopted by the Environmental Management
12 Commission to protect riparian buffers along surface waters. The Director of the
13 Division of Land Resources may disapprove an erosion control plan upon finding
14 that an applicant or a parent, subsidiary, or other affiliate of the applicant:

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

20 (2) Has failed to pay a civil penalty assessed pursuant to this Article or
21 a local ordinance adopted pursuant to this Article by the time the
22 payment is due;

23 (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b)
24 or any criminal provision of a local ordinance adopted pursuant to
25 this Article; or

26 (4) Has failed to substantially comply with State rules or local
27 ordinances and regulations adopted pursuant to this Article.

28 (d) In the event that an erosion control plan is disapproved by the Director
29 pursuant to subsection (c) of this section, the Director shall state in writing the
30 specific reasons that the plan was disapproved. The applicant may appeal the
31 Director's disapproval of the plan to the Commission. For purposes of this
32 subsection and subsection (c) of this section, an applicant's record may be considered
33 for only the two years prior to the application date."

34 Section 2. G.S. 113A-57(4) reads as rewritten:

35 "(4) No person shall initiate any land-disturbing activity on a tract if
36 more than one acre is to be uncovered unless, 30 or more days
37 prior to initiating the activity, an erosion and sedimentation control
38 plan for such activity is filed with the agency having jurisdiction.
39 The agency having jurisdiction shall forward to the Director of the
40 Division of Water Quality a copy of each erosion and
41 sedimentation control plan for a land-disturbing activity that
42 involves the utilization of ditches for the purpose of de-watering or
43 lowering the water table of the tract."

44 Section 3. G.S. 113A-61(b1) reads as rewritten:

1 "(b1) A local government shall condition approval of a draft erosion control plan
2 upon the applicant's compliance with federal and State water quality laws,
3 regulations, and rules. A local government shall disapprove an erosion control plan
4 ~~if the plan, when implemented,~~ implementation of the plan would result in a
5 violation of rules adopted by the Environmental Management Commission to protect
6 riparian buffers along surface waters. A local government may disapprove an erosion
7 control plan upon finding that an applicant or a parent, subsidiary, or other affiliate
8 of the applicant:

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

22 Section 4. G.S. 113A-64(a) reads as rewritten:

23 "(a) Civil Penalties. --

- 24 (1) Any person who violates any of the provisions of this Article or
25 any ordinance, rule, or order adopted or issued pursuant to this
26 Article by the Commission or by a local government, or who
27 initiates or continues a land-disturbing activity for which an
28 erosion control plan is required except in accordance with the
29 terms, conditions, and provisions of an approved plan, is subject to
30 a civil penalty. ~~The maximum civil penalty for a violation, other~~
31 ~~than a violation of a stop work order issued under G.S. 113A-65.1,~~
32 ~~is five hundred dollars (\$500.00). The maximum civil penalty for a~~
33 ~~violation of a stop work order violation~~ is five thousand dollars
34 (\$5,000). ~~No penalty shall be assessed until the person alleged to~~
35 ~~be in violation has been notified of the violation as provided in~~
36 ~~G.S. 113A-61.1(b).~~ A civil penalty may be assessed from the date
37 ~~the notice of violation is served.~~ of the violation. Each day of a
38 continuing violation shall constitute a separate violation.
39 (2) The Secretary or a local government that administers an erosion
40 and sediment control program approved under G.S. 113A-60 shall
41 determine the amount of the civil penalty and shall notify the
42 person who is assessed the civil penalty of the amount of the
43 penalty and the reason for assessing the penalty. The notice of
44 assessment shall be served by any means authorized under G.S.

1 1A-1, Rule 4, and shall direct the violator to either pay the
2 assessment or contest the assessment within 30 days by filing a
3 petition for a contested case under Article 3 of Chapter 150B of
4 the General Statutes. If a violator does not pay a civil penalty
5 assessed by the Secretary within 30 days after it is due, the
6 Department shall request the Attorney General to institute a civil
7 action to recover the amount of the assessment. If a violator does
8 not pay a civil penalty assessed by a local government within 30
9 days after it is due, the local government may institute a civil
10 action to recover the amount of the assessment. The civil action
11 may be brought in the superior court of any county where the
12 violation occurred or the violator's residence or principal place of
13 business is located. A civil action must be filed within three years
14 of the date the assessment was due. An assessment that is not
15 contested is due when the violator is served with a notice of
16 assessment. An assessment that is contested is due at the conclusion
17 of the administrative and judicial review of the assessment.

18 (3) In determining the amount of the penalty, the Secretary shall
19 consider the degree and extent of harm caused by the violation, the
20 cost of rectifying the damage, the amount of money the violator
21 saved by noncompliance, whether the violation was committed
22 willfully and the prior record of the violator in complying or
23 failing to comply with this Article.

24 (4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

25 (5) The clear proceeds of civil penalties collected by the Department
26 or other State agency under this subsection shall be remitted to the
27 Civil Penalty and Forfeiture Fund in accordance with G.S.
28 115C-457.2. Civil penalties collected by a local government under
29 this subsection shall be credited to the general fund of the local
30 government as nontax revenue."

31 Section 5. G.S. 113A-54.2(a) reads as rewritten:

32 "(a) The Commission may establish a fee schedule for the review and approval of
33 erosion control plans under this Article. In establishing the fee schedule, the
34 Commission shall consider the administrative and personnel costs incurred by the
35 Department for reviewing the plans and for related compliance activities. ~~The total
36 amount of fees collected under this section in any fiscal year may not exceed
37 one-third of the total administrative and personnel costs incurred by the Department
38 for reviewing the plans and for related compliance activities in the prior fiscal year.~~
39 An application fee may not exceed fifty dollars (\$50.00) per acre of disturbed land
40 shown on an erosion control plan or of land actually disturbed during the life of the
41 project."

42 Section 6. G.S. 113A-61.1(c) reads as rewritten:

43 "(c) If the Secretary, a local government that administers an erosion and sediment
44 control program approved under G.S. 113A-60, or other approving authority

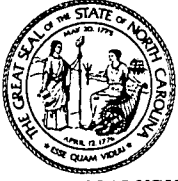
1 determines that the person engaged in the land-disturbing activity has failed to
2 comply with this Article, the Secretary, local government, or other approving
3 authority shall immediately serve a notice of violation upon that person. The notice
4 may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of
5 violation shall specify a date by which the person must comply with this Article and
6 inform the person of the actions that need to be taken to comply with this Article.
7 Any person who fails to comply within the time specified is subject to ~~the~~ additional
8 civil and criminal penalties for a continuing violation as provided in G.S. 113A-64."

9 Section 7. G.S. 87-10(b), as amended by Section 1 of S.L. 1999-123,
10 reads as rewritten:

11 "(b) The Board shall conduct an examination, either oral or written, of all
12 applicants for license to ~~ascertain~~ ascertain, for the classification of license for which
13 the applicant has applied: (i) the ability of the applicant to make a practical
14 application of his ~~the applicant's~~ knowledge of the profession of ~~contracting,~~
15 ~~contracting; under the classification contained in the application, and to ascertain (ii)~~
16 the qualifications of the applicant in reading plans and specifications, knowledge of
17 estimating costs, construction, ~~ethics~~ ethics, and other similar matters pertaining to
18 the contracting ~~business~~ business; (iii) the knowledge of the applicant as to the
19 responsibilities of a contractor to the public and of the requirements of the laws of
20 the State of North Carolina relating to contractors, ~~construction and liens~~
21 construction, and liens; and (iv) the applicant's knowledge of requirements of the
22 Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the
23 General Statutes, and the rules adopted pursuant to that Article. If the results of the
24 examination of the applicant shall be satisfactory to the Board, then the Board shall
25 issue to the applicant a certificate to engage as a general contractor in the State of
26 North Carolina, as provided in said certificate, which may be limited into five
27 classifications as ~~the common use of the terms are known -- that is, follows:~~

- 28 (1) Building contractor, which shall include private, public,
29 commercial, industrial and residential buildings of all ~~types;~~ types.
30 (1a) Residential contractor, which shall include any general contractor
31 constructing only residences which are required to conform to the
32 residential building code adopted by the Building Code Council
33 pursuant to G.S. ~~143-138;~~ 143-138.
34 (2) Highway ~~contractor;~~ contractor.
35 (3) Public utilities contractors, which shall include those whose
36 operations are the performance of construction work on the
37 following subclassifications of facilities:
38 a. Water and sewer ~~mains and~~ mains, water service ~~lines~~ lines,
39 and house and building sewer lines as defined in the North
40 Carolina State Building Code, and water storage tanks, lift
41 stations, pumping stations, and appurtenances to water
42 storage tanks, lift ~~stations~~ stations, and pumping ~~stations;~~
43 stations.

- 1 b. Water and wastewater treatment facilities and appurtenances
2 ~~thereto; thereto.~~
3 c. Electrical power transmission facilities, and primary and
4 secondary distribution facilities ahead of the point of
5 delivery of electric service to the ~~customer; customer.~~
6 d. Public communication distribution ~~facilities; and facilities.~~
7 e. Natural gas and other petroleum products distribution
8 facilities; provided the General Contractors Licensing Board
9 may issue license to a public utilities contractor limited to
10 any of the above subclassifications for which the general
11 contractor ~~qualifies; and qualifies.~~
12 (4) Specialty contractor, which shall include those whose operations as
13 such are the performance of construction work requiring special
14 skill and involving the use of specialized building trades or crafts,
15 but which shall not include any operations now or hereafter under
16 the jurisdiction, for the issuance of license, by any board or
17 commission pursuant to the laws of the State of North Carolina.
18 **(b1)** Public utilities contractors constructing water service lines and house and
19 building sewer lines as provided in ~~(3) a above~~ sub-subdivision a. of subdivision (3) of
20 subsection (b) of this section shall terminate said lines at a valve, box, meter, or
21 manhole or cleanout at which the facilities from the building may be connected.
22 Public utilities contractors constructing fire service mains for connection to fire
23 sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the
24 building one foot above the finished floor. All fire service mains shall comply with
25 the NFPA standards for fire service mains as incorporated into and made applicable
26 by Volume V of the North Carolina Building Code."
27 Section 8. This act becomes effective 1 October 1999 and applies to
28 land-disturbing activity that occurs on or after that date.



BILL ANALYSIS

SENATE BILL 1128: Strengthen Sedimentation Act

Committee:	Senate Ag., Env. & Nat. Res.	Introduced by:	Senator Robinson
Date:	July 1, 1999	Summary by:	Rick Zechini
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: *Senate Bill 1128 amends the Sedimentation Pollution Control Act of 1973 by raising the maximum civil penalty for a violation to \$5,000, clarifying when civil penalties may be assessed, removing a cap on the total amount of fees that may be collected in a fiscal year, requiring that erosion control plans for certain types of land-disturbing activities be forwarded to the Division of Water Quality, requiring the State Licensing Board for General Contractors to include questions regarding the Sedimentation Pollution Control Act on the general contractors examination, and requiring applicants for erosion control plans to comply with federal and State water quality laws, regulations, and rules.*

CURRENT LAW: The Sedimentation Pollution Control Act (Act) requires a person conducting a land-disturbing activity involving the uncovering of more than one acre to file an erosion control plan at least 30 days prior to initiating the activity. In addition, the Act requires the installation of sedimentation and erosion control devices and practices that are sufficient to retain the sediment generated by the construction within the boundaries of the tract during construction and provide for permanent ground cover after completion of construction.

BILL ANALYSIS: Senate Bill 1128 raises the maximum civil penalty for a violation of the Act to \$5,000. The current maximum civil penalty for a violation of the Act, other than a violation of a stop-work order, is \$500. The current maximum civil penalty for a violation of a stop-work order is \$5,000. The bill also clarifies that a person may be assessed a civil penalty from the date of the original violation and may be assessed additional civil penalties for continuing violations. In addition, the bill removes the cap that limits the total amount of fees that may be collected in a fiscal year for the review and approval of erosion control plans to one-third of the total administrative and personnel costs incurred by the Department of Environment and Natural Resources in reviewing the plans and for related compliance activities in the prior fiscal year. The bill provides that the approval of an erosion control plan is conditioned on the applicant's compliance with federal and State water quality laws, regulations, and rules. The bill also adds the requirement that a copy of any erosion control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table be forwarded to the Director of the Division of Water Quality. Furthermore, the bill adds the requirement that the State Licensing Board for General Contractors is to include questions on the Sedimentation Pollution Control Act and the rules adopted pursuant to the Act on the general contractors examination.

EFFECTIVE DATE: The act becomes effective October 1, 1999, and applies to land-disturbing activity that occurs on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

1

SENATE BILL 1128*

Short Title: Amend Sedimentation Act.

(Public)

Sponsors: Senators Robinson; and Metcalf.

Referred to: Agriculture/Environment/Natural Resources.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT
3 OF 1973.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 113A-54.1 reads as rewritten:
6 "§ 113A-54.1. Approval of erosion control plans.
7 (a) A draft erosion control plan must contain the applicant's address and, if the
8 applicant is not a resident of North Carolina, designate a North Carolina agent for
9 the purpose of receiving notice from the Commission or the Secretary of compliance
10 or noncompliance with the plan, this Article, or any rules adopted pursuant to this
11 Article. The Commission shall approve, approve with modifications, or disapprove a
12 draft erosion control plan for those land-disturbing activities for which prior plan
13 approval is required within 30 days of receipt. The Commission shall condition
14 approval of a draft erosion control plan upon the plan's complying with State and
15 federal water quality laws, rules, and regulations. The Commission shall disapprove
16 an erosion control plan if the plan, when implemented, would result in a violation of
17 State or federal water quality laws, rules, or regulations. The Commission shall
18 disapprove an erosion control plan if the plan, when implemented, would result in a
19 violation of rules adopted by the Environmental Management Commission to protect
20 riparian buffers along surface waters. Failure to approve, approve with modifications,
21 or disapprove a completed draft erosion control plan within 30 days of receipt shall
22 be deemed approval of the plan. If the Commission disapproves a draft erosion
23 control plan, plan or a revised erosion control plan, it must state in writing the
24 specific reasons that the plan was disapproved. Failure to approve, approve with

1 ~~modifications, modifications or conditions,~~ or disapprove a revised erosion control
2 plan within 15 days of receipt shall be deemed approval of the plan. The
3 Commission may establish an expiration date for erosion control plans approved
4 under this Article.

5 (b) If, following commencement of a land-disturbing activity pursuant to an
6 approved erosion control plan, the Commission determines that the plan is
7 inadequate to meet the requirements of this Article, the Commission may require any
8 revision of the plan that is necessary to comply with this Article. Failure to approve,
9 approve with ~~modifications, modifications or conditions,~~ or disapprove a revised
10 erosion control plan within 15 days of receipt shall be deemed approval of the plan.

11 ~~(c) The Director of the Division of Land Resources shall disapprove an erosion~~
12 ~~control plan if the plan, when implemented, would result in a violation of rules~~
13 ~~adopted by the Environmental Management Commission to protect riparian buffers~~
14 ~~along surface waters.~~ The Director of the Division of Land Resources may
15 disapprove an erosion control plan upon finding that an applicant or a parent,
16 subsidiary, or other affiliate of the applicant:

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

30 (d) In the event that an erosion control plan is disapproved by the Director
31 pursuant to subsection (c) of this section, the Director shall state in writing the
32 specific reasons that the plan was disapproved. The applicant may appeal the
33 Director's disapproval of the plan to the Commission. For purposes of this
34 subsection and subsection (c) of this section, an applicant's record may be considered
35 for only the two years prior to the application date."

36 Section 2. G.S. 113A-57 is amended by adding two new subdivisions to
37 read:

38 "(5) No person shall initiate any land-disturbing activity on a tract
39 comprised of more than one acre if the land-disturbing activity
40 includes ditching or channelization that may increase the transport
41 of sediment from the tract, unless, 30 or more days prior to
42 initiating the activity, an erosion control plan for the activity is
43 filed with the agency having jurisdiction.

1 (6) No person shall initiate any land-disturbing activity on a tract if
2 more than one-half acre and no more than one acre is to be
3 uncovered unless, prior to obtaining a building permit and 30 or
4 more days prior to initiating the activity, that person files an
5 erosion control plan with the local government agency that issues
6 building permits. A building permit shall not be issued if an
7 erosion control plan is not filed as required by this subdivision. A
8 building permit is not valid if the erosion control plan, when
9 implemented, fails to comply with this Article."

10 Section 3. G.S. 113A-61(b1) reads as rewritten:

11 "(b1) A local government shall disapprove an erosion control plan if the plan,
12 when implemented, would result in a violation of State or federal water quality laws,
13 rules, or regulations. A local government shall disapprove an erosion control plan if
14 the plan, when implemented, would result in a violation of rules adopted by the
15 Environmental Management Commission to protect riparian buffers along surface
16 waters. A local government may disapprove an erosion control plan upon finding
17 that an applicant or a parent, subsidiary, or other affiliate of the applicant:

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

31 Section 4. G.S. 113A-64(a) reads as rewritten:

32 "(a) Civil Penalties. --

- 33 (1) Any person who violates any of the provisions of this Article or
34 any ordinance, rule, or order adopted or issued pursuant to this
35 Article by the Commission or by a local government, or who
36 initiates or continues a land-disturbing activity for which an
37 erosion control plan is required except in accordance with the
38 terms, conditions, and provisions of an approved plan, is subject to
39 a civil penalty. The maximum civil penalty for a ~~violation, other~~
40 ~~than a violation of a stop work order issued under G.S. 113A-65.1,~~
41 ~~is five hundred dollars (\$500.00). The maximum civil penalty for a~~
42 ~~violation of a stop work order~~ violation is five thousand dollars
43 (\$5,000). ~~No penalty shall be assessed until the person alleged to~~
44 ~~be in violation has been notified of the violation as provided in~~

1 ~~G.S. 113A-61.1(b)~~. A civil penalty may be assessed from the date
2 ~~the notice of violation is served; the violation is documented.~~ Each
3 day of a continuing violation shall constitute a separate violation.

4 (2) The Secretary or a local government that administers an erosion
5 and sediment control program approved under G.S. 113A-60 shall
6 determine the amount of the civil penalty and shall notify the
7 person who is assessed the civil penalty of the amount of the
8 penalty and the reason for assessing the penalty. The notice of
9 assessment shall be served by any means authorized under G.S.
10 1A-1, Rule 4, and shall direct the violator to either pay the
11 assessment or contest the assessment within 30 days by filing a
12 petition for a contested case under Article 3 of Chapter 150B of
13 the General Statutes. If a violator does not pay a civil penalty
14 assessed by the Secretary within 30 days after it is due, the
15 Department shall request the Attorney General to institute a civil
16 action to recover the amount of the assessment. If a violator does
17 not pay a civil penalty assessed by a local government within 30
18 days after it is due, the local government may institute a civil
19 action to recover the amount of the assessment. The civil action
20 may be brought in the superior court of any county where the
21 violation occurred or the violator's residence or principal place of
22 business is located. A civil action must be filed within three years
23 of the date the assessment was due. An assessment that is not
24 contested is due when the violator is served with a notice of
25 assessment. An assessment that is contested is due at the conclusion
26 of the administrative and judicial review of the assessment.

27 (3) In determining the amount of the penalty, the Secretary shall
28 consider the degree and extent of harm caused by the violation, the
29 cost of rectifying the damage, the amount of money the violator
30 saved by noncompliance, whether the violation was committed
31 willfully and the prior record of the violator in complying or
32 failing to comply with this Article.

33 (4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

34 (5) The clear proceeds of civil penalties collected by the Department
35 or other State agency under this subsection shall be remitted to the
36 Civil Penalty and Forfeiture Fund in accordance with G.S.
37 115C-457.2. Civil penalties collected by a local government under
38 this subsection shall be credited to the general fund of the local
39 government as nontax revenue."

40 Section 5. G.S. 113A-61.1(c) reads as rewritten:

41 "(c) If the Secretary, a local government that administers an erosion and sediment
42 control program approved under G.S. 113A-60, or other approving authority
43 determines that the person engaged in the land-disturbing activity has failed to
44 comply with this Article, the Secretary, local government, or other approving

1 authority shall immediately serve a notice of violation upon that person. The notice
2 may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of
3 violation shall specify a date by which the person must comply with this Article and
4 inform the person of the actions that need to be taken to comply with this Article.
5 Any person who fails to comply within the time specified is subject to the additional
6 civil and criminal penalties for continuing violations provided in G.S. 113A-64."

7 Section 6. G.S. 113A-54.2(a) reads as rewritten:

8 "(a) The Commission may establish a fee schedule for the review and approval of
9 erosion control plans under this Article. In establishing the fee schedule, the
10 Commission shall consider the administrative and personnel costs incurred by the
11 Department for reviewing the plans and for related compliance activities. ~~The total~~
12 ~~amount of fees collected under this section in any fiscal year may not exceed~~
13 ~~one-third of the total administrative and personnel costs incurred by the Department~~
14 ~~for reviewing the plans and for related compliance activities in the prior fiscal year.~~
15 An application fee may not exceed fifty dollars (\$50.00) per acre of disturbed land
16 shown on an erosion control plan or of land actually disturbed during the life of the
17 project."

18 Section 7. This act becomes effective October 1, 1999, and applies to
19 land-disturbing activity that occurs on or after that date.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

7/1/99

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Wilms	NCMISA
Katie Elmer	Bennett Fleming Inc.
David McLeod	NCDR LCS
George Everett	Duke Energy
Jim Kuszas	NCEI
Barbara Wylfe	NC Sierra Club
Andrew Nelson	LA Gov. office
Molly Diggs	NC Sierra
Nat Mood	CCNE
Tim Anute	NCRSA
David Knight	NC Sierra Club, NC Wildlife Res

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

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Francis M. Neale Jr	DLR-LQS
Charles Gardner	DENR-DLR
John Long	Martin Maudslayi
Richard Bennett	Gov. Office
Cissy Porter	Bone & Associates
An-Ann Cole	F ³
Natalie English	NCAC
Cam Over	BP MHL
Michelle Cook	Weyerhaeuser
Walter Cherry	NC Pork
Roger Boh	NC Pork Council
PRESTON HOWARD	MCIC
JOHN ADAMS	Pork Producer

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Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

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Heidi Gaxa	Attorney General's Office
Craig Bromby	H&W
Kelli Kulma	Dept
Nancy Thompson	NCLC
ELLIS HANKINS	NCLM
Kim Hibbard	NCLM
DG	NCLM
SAW	"
Lisa Math	Upper New River Basin Area
Bob "Gimp" Slocum	NCEA
Lois Butt	M.F.F.
Beeth Anne Mumford Don Butler Deborah Johnson John Adams	NCFE Corroll's Food Prestage Farms Greene Co. farmer



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, July 6, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

- | | |
|---------|--|
| HB 541 | BUOY FISHING/SPECIAL FISHING DEVICE
Representative Mitchell |
| HB 638 | TRANSFER CERTAIN SEPTIC SYSTEMS
Representative Owens |
| HB 978 | DAMAGED PIERS IN STATE PARKS
Representative Nye |
| HB 1160 | EXTEND ANIMAL WASTE PILOT
Representative Hackney |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 6, 1999

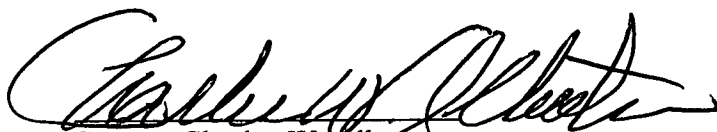
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, July 6, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were fourteen committee members present.

The following bill was discussed:

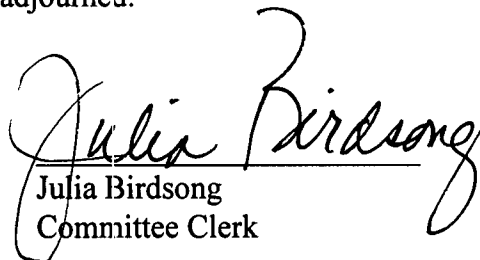
HB 1160 – EXTEND ANIMAL WASTE PILOT – Representative Hackney, sponsor. There was a proposed committee substitute before the committee, and Senator Odom moved that it be adopted for discussion purposes. Motion carried. Senator Odom was asked to explain the proposed committee substitute in Representative Hackney's absence. Senator Albertson expressed his appreciation to all who had worked on the working committee to prepare this proposed committee substitute and also to the staff for their long and hard hours. George Givens of staff answered questions from committee members. Senator Gulley expressed some concerns with the proposed committee substitute. Dan McLawhorn, General Counsel for N. C. Department of Environment and Natural Resources, said he agreed with Senator Gulley's comments on the bill, and George Givens of staff said that Senator Gulley's concerns/comments would be incorporated into another proposed committee substitute. Senator Kerr was a visitor to our committee and made comments on financing. Dewey Botts, Assistant Secretary, Natural Resources, DENR, said he agreed with the comments that had been made, that Natural Resources used the same criteria as Division of Water Quality. Jeff Hudson answered questions from committee members. Senator Odom asked George Givens of staff to read the changes that had been suggested and moved that the proposed committee substitute be retyped to include these changes, that the reworked proposed committee substitute be given a favorable report, unfavorable as to original bill. Motion carried

Other bills on the agenda were not discussed due to shortage of time.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chairman**

Wednesday, July 07, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL .

H.B. 1160	Extend Animal Waste Pilot	
	Draft Number:	PCS4277
	Sequential Referral:	None
	Recommended Referral:	None
	Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 638
Committee Substitute Favorable 4/8/99

Short Title: Transfer of Certain Septic Systems.

(Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE OWNERS OF CERTAIN INNOVATIVE SEPTIC
2 SYSTEMS IN THE COUNTIES OF CAMDEN, CHOWAN, CURRITUCK,
3 GATES, HERTFORD, PASQUOTANK, PERQUIMANS, TYRRELL, AND
4 WASHINGTON TO TRANSFER THE OWNERSHIP OF THE SYSTEMS TO
5 ONE OR MORE UNITS OF LOCAL GOVERNMENT.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. The full title of Chapter 577 of the 1995 Session Laws reads as
9 rewritten:

10 "AN ACT TO AUTHORIZE THE COUNTIES OF CAMDEN, CHOWAN,
11 CURRITUCK, PASQUOTANK, PERQUIMANS, TYRRELL, AND WASHINGTON
12 TO TAKE A LIEN ON REAL PROPERTY FOR DELINQUENT FEES FOR
13 CERTAIN ~~INSPECTIONS.~~ INSPECTIONS AND TO AUTHORIZE THE OWNERS
14 OF CERTAIN INNOVATIVE SEPTIC SYSTEMS IN THE COUNTIES OF
15 CAMDEN, CHOWAN, CURRITUCK, GATES, HERTFORD, PASQUOTANK,
16 PERQUIMANS, TYRRELL, AND WASHINGTON TO TRANSFER THE
17 OWNERSHIP OF THE SYSTEMS TO ONE OR MORE UNITS OF LOCAL
18 GOVERNMENT."

19 Section 2. Chapter 577 of the 1995 Session Laws is amended by adding a
20 new section to read:

21 "Section 1.1. The owners of any provisional septic tanks or other innovative septic
22 systems may transfer ownership of any lands, easements, rights to maintain drainage
23 facilities associated with the systems, including pumps, tanks, lines, buildings, fences,

1 and other elements of the system, to one or more units of local government. As used
2 in this section, 'unit of local government' has the same meaning as in G.S. 160A-
3 460."

4 Section 3. Section 2 of Chapter 577 of the 1995 Session Laws reads as
5 rewritten:

6 "Sec. 2. This Section 1 of this act applies to the Counties of Camden, Chowan,
7 Currituck, Pasquotank, Perquimans, Tyrrell, and Washington only. Section 1.1 of this
8 act applies to the Counties of Camden, Chowan, Currituck, Gates, Hertford,
9 Pasquotank, Perquimans, Tyrrell, and Washington only."

10 Section 4. Section 3 of Chapter 577 of the 1995 Session Laws reads as
11 rewritten:

12 "Sec. 3. This Section 1.1 of this act is effective when it becomes law. The
13 remainder of this act becomes effective July 1, 1996, and applies to fees imposed for
14 inspections performed on or after that date."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 978

Short Title: Damaged Piers in State Parks.

(Public)

Sponsors: Representatives Nye; and Davis.

Referred to: Environment and Natural Resources.

April 12, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO PERMIT ANY OWNER OF PRIVATE
4 PROPERTY ON A LAKE LOCATED IN A STATE PARK TO RESTORE THE
5 PROPERTY OWNER'S PIER TO THE CONDITION THAT THE PIER WAS IN
6 IMMEDIATELY PRECEDING THE TIME OF THE DAMAGE WHEN THE
7 DAMAGE IS CAUSED BY A NATURAL DISASTER.

8 The General Assembly of North Carolina enacts:

9 Section 1. Article 2 of Chapter 113 of the General Statutes is amended
10 by adding a new section to read:

11 "**§ 113-42.1. Repair of certain private piers on lakes in State parks.**

12 The Division of Parks and Recreation, Department of Environment and Natural
13 Resources, shall permit an owner of private property on a lake located in a State
14 park to restore the property owner's pier to the condition that the pier was in
15 immediately preceding the time of the damage when the damage is caused by a
16 natural disaster."

17 Section 2. Any person who owns property located in a State park on the
18 date this act becomes effective, who has applied for a permit to restore a pier that
19 was damaged and whose application was denied on or after January 1, 1996, may
20 reapply for a permit no later than January 1, 2001.

21 Section 3. This act is effective when it becomes law and applies to
22 permits to rebuild piers issued on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 541
Committee Substitute Favorable 6/9/99

Short Title: Buoy Fishing/Special Fishing Device.

(Public)

Sponsors:

Referred to:

March 23, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT TROTLINES, BUOY SETS, AND SET HOOKS
3 ARE SPECIAL FISHING DEVICES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G. S. 113-272.3 reads as rewritten:
6 "**§ 113-272.3. Special provisions respecting special devices; fishing licenses; grabbling;
7 taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources
8 Commission headquarters; personalized lifetime sportsman combination licenses.**
9 (a) The Wildlife Resources Commission by rule may define the meaning of 'hook
10 and line' and 'special device' as applied to fishing techniques. Any technique of
11 fishing that may be lawfully authorized which employs neither the use of any special
12 device nor hook and line must be pursued under the appropriate hook-and-line
13 fishing license.
14 (a1) Notwithstanding subsection (a) of this section, trotlines, buoy sets, and set
15 hooks as defined in this section are special fishing devices. The use of any of these
16 special fishing devices requires the special device fishing license as provided by G.S.
17 113-272.2. A licensed individual fishing any set hook in inland public water shall be
18 within 100 yards of the set hook at all times. Buoy sets, trotlines, gill nets, fish traps,
19 and any other special device that the Wildlife Resources Commission determines
20 should be marked for the convenience and safety of the public shall be marked with
21 yellow buoys made of solid foam or other solid buoyant material no less than five
22 inches in their smallest dimension. Double buoys as described in this subsection shall
23 be used to mark each end of anchored, fixed, or drift gill nets and trotlines. Buoys

1 shall be marked with the owner's name and address, special device fishing license
2 number, or vessel registration number either by engraving the buoys or by attaching
3 engraved metal or plastic tags to the buoys.

4 (b) In accordance with established fishing customs and the orderly conservation of
5 wildlife resources, the Wildlife Resources Commission may by rule provide for use of
6 nets or other special devices which it may authorize as an incident to hook-and-line
7 fishing or for procuring bait fish without requiring a special device license. In this
8 instance, however, the individual fishing must meet applicable hook-and-line license
9 requirements.

10 (c) Lifetime licenses are issued from the Wildlife Resources Commission
11 headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime
12 Sportsman License must be accompanied by a certified copy of the birth certificate of
13 the individual to be named as the license holder.

14 (d) In issuing lifetime sportsman combination licenses, the Wildlife Resources
15 Commission is authorized to adopt rules to establish a personalized series and to
16 charge a five dollar (\$5.00) administrative fee, to be deposited in the Wildlife Fund,
17 to defray the cost of issuance of the personalized license.

18 (e) The following definitions apply in this section:

19 (1) Buoy set. -- A hook and line affixed to an approved buoy as
20 provided in G.S. 113-272.3(a1).

21 (2) Set hook. -- A hook and line affixed to a stationary object or
22 anchor and not under the immediate control of a licensed
23 individual.

24 (3) Trotline. -- A line having multiple hooks that is attached to a
25 stationary object or anchor at either or both ends."

26 Section 3. This act becomes effective October 1, 1999.

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

1 AN ACT TO EXTEND THE PILOT PROGRAM UNDER WHICH THE DIVISION
2 OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF
3 ENVIRONMENT AND NATURAL RESOURCES CONDUCTS ALL
4 INSPECTIONS OF ANIMAL WASTE MANAGEMENT SYSTEMS IN
5 CERTAIN COUNTIES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:

9 "(a) The Department of ~~Environment, Health,~~ Environment and Natural
10 Resources shall develop and implement a pilot program to begin no later than
11 November 1, 1997, and to terminate ~~October 31, 1998,~~ December 31, 2000, regarding
12 the annual inspections of animal operations that are subject to a permit under Part
13 1A of Article 21 of Chapter 143 of the General Statutes. The Department shall select
14 two counties located in a part of the State that has a high concentration of swine
15 farms to participate in this pilot program. Notwithstanding G.S. 143-215.10F, the
16 Division of Soil and Water Conservation of the Department of Environment and
17 Natural Resources shall conduct inspections of all animal operations that are subject
18 to a permit under Part 1A of Article 21 of Chapter 143 of the General Statutes in
19 these two counties at least once a year to determine whether any animal waste
20 management system is causing a violation of water quality standards and whether the
21 system is in compliance with its animal waste management plan or any other
22 condition of the permit. The personnel of the Division of Soil and Water
23 Conservation who are to conduct these inspections in each of these two counties shall
24 be located in an office in the county in which that person will be conducting

1 inspections. As part of this pilot program, the Department of ~~Environment, Health,~~
2 Environment and Natural Resources shall establish procedures whereby resources
3 within the local Soil and Water Conservation Districts serving the two counties are
4 used for the quick response of ~~to~~ complaints and reported problems previously
5 referred only to the Division of Water ~~Quality~~. Quality of the Department of
6 Environment and Natural Resources."

7 Section 2. The two counties that were selected for the pilot program
8 pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County,
9 shall remain in the pilot program.

10 Section 3. The Division of Soil and Water Conservation of the
11 Department of Environment and Natural Resources and the Division of Water
12 Quality of the Department of Environment and Natural Resources shall jointly submit
13 interim reports no later than October 15, 1999; April 15, 2000; October 15, 2000; and
14 a final report no later than January 15, 2001, to the Environmental Review
15 Commission and to the Fiscal Research Division. These reports shall indicate
16 whether the pilot program has increased the effectiveness of the annual inspections
17 program or the response to complaints and reported problems, specifically whether
18 the pilot program had resulted in identifying violations earlier, taking corrective
19 actions earlier, increasing compliance with the animal waste management plans and
20 permit conditions, improving the time to respond to discharges, complaints, and
21 reported problems, improving communications between farmers and Department
22 employees, and any other consequences deemed pertinent by the Department. The
23 final report shall include a recommendation as to whether to continue or expand the
24 pilot program under this act. The Environmental Review Commission may
25 recommend to the 2001 General Assembly whether to continue or expand the pilot
26 program under this act and may make any related legislative proposals.

27 Section 4. This act is effective when it becomes law.

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1160*
Proposed Senate Committee Substitute H1160-PCS4277-RT/SB013

Short Title: Clean Water Act of 1999.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE CLEAN WATER ACT OF 1999.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. TITLE.**

6 Section 1.1. This act shall be known as the "Clean Water Act of 1999".
7

8 **PART II. EXTEND MORATORIA ON CONSTRUCTION OR EXPANSION OF**
9 **SWINE FARMS.**

10 Section 2.1. Subsection (a1) of S.L. 1997-458, as amended by Section 2
11 of S.L. 1998-188, reads as rewritten:

12 "(a1) There is hereby established a moratorium on the construction or expansion
13 of swine farms and on lagoons and animal waste management systems for swine
14 farms. The purposes of this moratorium are to allow counties time to adopt zoning
15 ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time
16 for the completion of the studies authorized by the 1995 General Assembly (1996
17 Second Extra Session); and to allow the 1999 General Assembly to receive and act on
18 the findings and recommendations of those studies. Except as provided in subsection
19 (b) of this section, the Environmental Management Commission shall not issue a
20 permit for an animal waste management system for a new swine farm or the
21 expansion of an existing swine farm for a period beginning on 1 March 1997 and
22 ending on ~~1 September 1999~~. 1 July 2001. The construction or expansion of a swine
23 farm or animal waste management system for a swine farm is prohibited during the

1 period of the moratorium regardless of the date on which a site evaluation for the
2 swine farm is completed and regardless of whether the animal waste management
3 system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of
4 the General Statutes or deemed permitted under 15A North Carolina Administrative
5 Code 2H.0217."

6 Section 2.2. Section 1.2 of S.L. 1997-458, as amended by Section 3 of
7 S.L. 1998-188, reads as rewritten:

8 "Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same
9 meaning as in G.S. 106-802. As used in this section, 'animal waste management
10 system' has the same meaning as in G.S. 143-215.10B. There is hereby established a
11 moratorium for any new or expanding swine farm or lagoon for which a permit is
12 required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in
13 any county in the State: (i) that has a population of less than 75,000 according to the
14 most recent decennial federal census; (ii) in which there is more than one hundred
15 fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on
16 the most recent figures of the Department of Commerce; and (iii) that is not in the
17 coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until ~~1~~
18 ~~September 1999~~, 1 July 2001, the Environmental Management Commission shall not
19 issue a permit for an animal waste management system, as defined in G.S.
20 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S.
21 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not
22 apply to the moratorium established under this section.

23 (b) In order to protect travel and tourism, effective ~~1 September 1999~~, 1 July 2001,
24 no animal waste management system shall be permitted except under an individual
25 permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in
26 any county in the State: (i) that has a population of less than 75,000 according to the
27 most recent decennial federal census; (ii) in which there is more than one hundred
28 fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on
29 the most recent figures of the Department of Commerce; and (iii) that is not in the
30 coastal area as defined by G.S. 113A-103."
31

32 PART III. EXTEND AND EXPAND PILOT PROGRAM FOR INSPECTION OF 33 ANIMAL WASTE MANAGEMENT SYSTEMS.

34 Section 3.1. Section 15.4(a) of S.L. 1997-443 reads as rewritten:

35 "(a) The Department of ~~Environment, Health, Environment~~ and Natural
36 Resources shall develop and implement a pilot program to begin no later than
37 November 1, 1997, and to terminate ~~October 31, 1998~~, 1 July 2001, regarding the
38 annual inspections of animal operations that are subject to a permit under Part 1A of
39 Article 21 of Chapter 143 of the General Statutes. The Department shall select two
40 counties located in a part of the State that has a high concentration of swine farms to
41 participate in this pilot program. In addition, Brunswick County shall be added to
42 the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water
43 Conservation of the Department of Environment and Natural Resources shall conduct
44 inspections of all animal operations that are subject to a permit under Part 1A of

1 Article 21 of Chapter 143 of the General Statutes in these ~~two~~ three counties at least
2 once a year to determine whether any animal waste management system is causing a
3 violation of water quality standards and whether the system is in compliance with its
4 animal waste management plan or any other condition of the permit. The personnel
5 of the Division of Soil and Water Conservation who are to conduct these inspections
6 in each of these ~~two~~ three counties shall be located in an office in the county in
7 which that person will be conducting inspections. As part of this pilot program, the
8 Department of ~~Environment, Health, Environment~~ and Natural Resources shall
9 establish procedures whereby resources within the local Soil and Water Conservation
10 Districts serving the ~~two~~ three counties are used for the quick response ~~of to~~
11 complaints and reported problems previously referred only to the Division of Water
12 ~~Quality. Quality of the Department of Environment and Natural Resources.~~"

13 Section 3.2. The two counties that were selected for the pilot program
14 pursuant to Section 15.4(a) of S.L. 1997-443, Columbus County and Jones County,
15 shall remain in the pilot program. In addition, Brunswick County shall be added to
16 the program.

17 Section 3.3. The Department of Environment and Natural Resources, in
18 consultation with both the Division of Water Quality and the Division of Soil and
19 Water Conservation, shall submit interim reports no later than 15 October 1999, 15
20 April 2000, 15 October 2000, 15 April 2001, and a final report no later than 15 July
21 2001 to the Environmental Review Commission and to the Fiscal Research Division.
22 These reports shall indicate whether the pilot program has increased the effectiveness
23 of the annual inspections program or the response to complaints and reported
24 problems, specifically whether the pilot program had resulted in identifying violations
25 earlier, taking corrective actions earlier, increasing compliance with the animal waste
26 management plans and permit conditions, improving the time to respond to
27 discharges, complaints, and reported problems, improving communications between
28 farmers and Department employees, and any other consequences deemed pertinent
29 by the Department. The final report shall include a recommendation as to whether
30 to continue or expand the pilot program under this act. The Environmental Review
31 Commission may recommend to the 2001 General Assembly whether to continue or
32 expand the pilot program under this act and may make any related legislative
33 proposals.

34 35 **PART IV. INVENTORY INACTIVE LAGOONS.**

36 Section 4.1. The definitions set out in G.S. 143-215.10B apply to this
37 Part. The definitions set out in this section apply only to this Part and shall not be
38 construed to apply to any regulatory program. As used in this Part:

- 39 (1) "Inactive lagoon" means a lagoon into which animal waste has not
40 been lawfully discharged for a period of one year or more.
41 (2) "Lagoon" means a lagoon, as defined in G.S. 106-802, that is a
42 component of an animal waste management system that serves an
43 animal operation.

1 Section 4.2. The Department of Environment and Natural Resources
2 shall develop an inventory of all inactive lagoons. The Department shall rank each
3 inactive lagoon on the inventory based on the extent to which the lagoon constitutes
4 a threat to public health, the environment, or the State's natural resources. The
5 Department shall submit this inventory to the Environmental Review Commission on
6 or before 1 March 2000.

7

8 **PART V. INCREASE CIVIL PENALTIES FOR VIOLATIONS OF WATER QUALITY**
9 **LAWS; MINIMUM INCREASES OF CIVIL PENALTIES FOR REPEATED**
10 **VIOLATIONS.**

11 Section 5.1. G.S. 143-215.6A reads as rewritten:

12 **"§ 143-215.6A. Enforcement procedures: civil penalties.**

13 "(a) A civil penalty of not more than ~~ten thousand dollars (\$10,000)~~ twenty-five
14 thousand dollars (\$25,000) may be assessed by the Secretary against any person who:

- 15 (1) Violates any classification, standard, limitation, or management
16 practice established pursuant to G.S. 143-214.1, 143-214.2, or
17 143-215.
- 18 (2) Is required but fails to apply for or to secure a permit required by
19 G.S. 143-215.1, or who violates or fails to act in accordance with
20 the terms, conditions, or requirements of such permit or any other
21 permit or certification issued pursuant to authority conferred by
22 this Part, including pretreatment permits issued by local
23 governments and laboratory certifications.
- 24 (3) Violates or fails to act in accordance with the terms, conditions, or
25 requirements of any special order or other appropriate document
26 issued pursuant to G.S. 143-215.2.
- 27 (4) Fails to file, submit, or make available, as the case may be, any
28 documents, data, or reports required by this Article or G.S.
29 143-355(k) relating to water use information.
- 30 (5) Refuses access to the Commission or its duly designated
31 representative to any premises for the purpose of conducting a
32 lawful inspection provided for in this Article.
- 33 (6) Violates a rule of the Commission implementing this Part, Part 2A
34 of this Article, or G.S. 143-355(k).
- 35 (7) Violates or fails to act in accordance with the statewide minimum
36 water supply watershed management requirements adopted
37 pursuant to G.S. 143-214.5, whether enforced by the Commission
38 or a local government.
- 39 (8) Violates the offenses set out in G.S. 143-215.6B.
- 40 (9) Is required, but fails, to apply for or to secure a certificate required
41 by G.S. 143-215.22I, or who violates or fails to act in accordance
42 with the terms, conditions, or requirements of the certificate.

1 (10) Violates subsections (c1) through (c5) of G.S. 143-215.1 or a rule
2 adopted pursuant to subsections (c1) through (c5) of G.S.
3 143-215.1.

4 (b) If any action or failure to act for which a penalty may be assessed under this
5 section is continuous, the Secretary may assess a penalty not to exceed ~~ten thousand~~
6 ~~dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) per day for so long as the
7 violation continues, unless otherwise stipulated.

8 (b1) The Secretary may assess a civil penalty of more than ten thousand dollars
9 (\$10,000) or, in the case of a continuing violation, more than ten thousand dollars
10 (\$10,000) per day, only if the violator has been assessed a civil penalty within the five
11 years preceding the violation. The Secretary may assess a civil penalty of more than
12 ten thousand dollars (\$10,000) or, in the case of a continuing violation, more than ten
13 thousand dollars (\$10,000) per day for so long as the violation continues, for a
14 violation of subdivision (4) of subsection (a) of this section only if the Secretary
15 determines that the violation is intentional.

16 (b2) In determining the amount of the penalty, the Secretary shall consider the
17 factors set out in G.S. 143B-282.1(b). After all factors set out in G.S. 143B-282.1(b)
18 have been considered and the base amount of a civil penalty has been determined, if
19 a civil penalty has been imposed under this section:

20 (1) In four of the immediately preceding six months, the civil penalty
21 assessment shall be multiplied by not less than 1.25.

22 (2) In five of the immediately preceding six months, the civil penalty
23 assessment shall be multiplied by not less than 1.35.

24 (3) In six of the immediately preceding six months, the civil penalty
25 assessment shall be multiplied by not less than 1.45.

26 (c) ~~In determining the amount of the penalty the Secretary shall consider the~~
27 ~~factors set out in G.S. 143B-282.1(b).~~ The procedures set out in G.S. 143B-282.1 shall
28 apply to civil penalty assessments that are presented to the Commission for final
29 agency decision.

30 (d) The Secretary shall notify any person assessed a civil penalty of the assessment
31 and the specific reasons therefor by registered or certified mail, or by any means
32 authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30
33 days of receipt of the notice of assessment.

34 (e) Consistent with G.S. 143B-282.1, a civil penalty of not more than ten thousand
35 dollars (\$10,000) per month may be assessed by the Commission against any local
36 government that fails to adopt a local water supply watershed protection program as
37 required by G.S. 143-214.5, or willfully fails to administer or enforce the provisions
38 of its program in substantial compliance with the minimum statewide water supply
39 watershed management requirements. No such penalty shall be imposed against a
40 local government until the Commission has assumed the responsibility for
41 administering and enforcing the local water supply watershed protection program.
42 Civil penalties shall be imposed pursuant to a uniform schedule adopted by the
43 Commission. The schedule of civil penalties shall be based on acreage and other

1 relevant cost factors and shall be designed to recoup the costs of administration and
2 enforcement.

3 (f) Requests for remission of civil penalties shall be filed with the Secretary.
4 Remission requests shall not be considered unless made within 30 days of receipt of
5 the notice of assessment. Remission requests must be accompanied by a waiver of the
6 right to a contested case hearing pursuant to Chapter 150B and a stipulation of the
7 facts on which the assessment was based. Consistent with the limitations in G.S.
8 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the
9 violator. If the Secretary and the violator are unable to resolve the request, the
10 Secretary shall deliver remission requests and his recommended action to the
11 Committee on Civil Penalty Remissions of the Environmental Management
12 Commission appointed pursuant to G.S. 143B-282.1(c).

13 (g) If any civil penalty has not been paid within 30 days after notice of assessment
14 has been served on the violator, the Secretary shall request the Attorney General to
15 institute a civil action in the Superior Court of any county in which the violator
16 resides or has his or its principal place of business to recover the amount of the
17 assessment, unless the violator contests the assessment as provided in subsection (d)
18 of this section, or requests remission of the assessment in whole or in part as provided
19 in subsection (f) of this section. If any civil penalty has not been paid within 30 days
20 after the final agency decision or court order has been served on the violator, the
21 Secretary shall request the Attorney General to institute a civil action in the Superior
22 Court of any county in which the violator resides or has his or its principal place of
23 business to recover the amount of the assessment. Such civil actions must be filed
24 within three years of the date the final agency decision or court order was served on
25 the violator.

26 (h) Repealed by Session Laws 1995 (Regular Session, 1996), c. 743, s. 14.

27 (h1) The clear proceeds of civil penalties assessed by the Secretary or the
28 Commission pursuant to this section shall be remitted to the Civil Penalty and
29 Forfeiture Fund in accordance with G.S. 115C-457.2.

30 (i) As used in this subsection, 'municipality' refers to any unit of local government
31 which operates a wastewater treatment plant. As used in this subsection, 'unit of local
32 government' has the same meaning as in G.S. 130A-290. The provisions of this
33 subsection shall apply whenever a municipality that operates a wastewater treatment
34 plant with an influent bypass diversion structure and with a permitted discharge of 10
35 million gallons per day or more into any of the surface waters of the State that have
36 been classified as nutrient sensitive waters (NSW) under rules adopted by the
37 Commission is subject to a court order which specifies (i) a schedule of activities with
38 respect to the treatment of wastewater by the municipality; (ii) deadlines for the
39 completion of scheduled activities; and (iii) stipulated penalties for failure to meet
40 such deadlines. A municipality as specified herein that violates any provision of such
41 order for which a penalty is stipulated shall pay the full amount of such penalty as
42 provided in the order unless such penalty is modified, remitted, or reduced by the
43 court.

1 (j) Local governments certified and approved to administer and enforce
2 pretreatment programs by the Commission pursuant to G.S. 143-215.3(a)(14) may
3 assess civil penalties for violations of their respective programs in accordance with the
4 powers conferred upon the Commission and the Secretary in this section, except that
5 actions for collection of unpaid civil penalties shall be referred to the attorney
6 representing the assessing local government. The total of the civil penalty assessed by
7 a local government and the civil penalty assessed by the Secretary for any violation
8 may not exceed the maximum civil penalty for such violation under this section.

9 (k) A person who has been assessed a civil penalty by a local government as
10 provided by subsection (j) of this section may request a review of the assessment by
11 filing a request for review with the local government within 30 days of the date the
12 notice of assessment is received. If a local ordinance provides for a local
13 administrative hearing, the hearing shall afford minimum due process including an
14 unbiased hearing official. The local government shall make a final decision on the
15 request for review within 90 days of the date the request for review is filed. The final
16 decision on a request for review shall be subject to review by the superior court
17 pursuant to Article 27 of Chapter 1 of the General Statutes. If the local ordinance
18 does not provide for a local administrative hearing, a person who has been assessed a
19 civil penalty by a local government as provided by subsection (j) of this section may
20 contest the assessment by filing a civil action in superior court within 60 days of the
21 date the notice of assessment is received."

22

23 **PART VI. AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
24 **RESOURCES TO DISTRIBUTE FUNDS FROM THE WETLANDS RESTORATION**
25 **FUND, TO AUTHORIZE SOIL AND WATER CONSERVATION DISTRICTS TO**
26 **ACQUIRE EASEMENTS UNDER THE CONSERVATION RESERVE**
27 **ENHANCEMENT PROGRAM, AND TO AUTHORIZE THE DEPARTMENT TO**
28 **CONVEY INTERESTS IN REAL PROPERTY ACQUIRED UNDER THE WETLANDS**
29 **RESTORATION PROGRAM OR THE CONSERVATION RESERVE ENHANCEMENT**
30 **PROGRAM TO FEDERAL AND STATE AGENCIES, LOCAL GOVERNMENTS, AND**
31 **PRIVATE NONPROFIT CONSERVATION ORGANIZATIONS.**

32 Section 6.1. G.S. 143-214.12 is amended by adding a new subsection to
33 read:

34 "(a1) The Department may distribute funds from the Wetlands Restoration Fund
35 directly to a federal or State agency, a local government, or a private, nonprofit
36 conservation organization to acquire, manage, and maintain real property or an
37 interest in real property for the purposes set out in subsection (a) of this section. A
38 recipient of funds under this subsection shall grant a conservation easement in the
39 real property or interest in real property acquired with the funds to the Department
40 in a form that is acceptable to the Department. The Department may convey real
41 property or an interest in real property that has been acquired under the Wetlands
42 Restoration Program to a federal or State agency, a local government, or a private,
43 nonprofit conservation organization to acquire, manage, and maintain real property
44 or an interest in real property for the purposes set out in subsection (a) of this

1 section. A grantee of real property or an interest in real property under this
2 subsection shall grant a conservation easement in the real property or interest in real
3 property to the Department in a form that is acceptable to the Department."

4 Section 6.2. G.S. 143-214.13 reads as rewritten:

5 "**§ 143-214.13. Wetlands Restoration Program: reporting requirement.**

6 (a) The Department of Environment and Natural Resources shall report each year
7 by November 1 to the Environmental Review Commission regarding its progress in
8 implementing the Wetlands Restoration Program and its use of the funds in the
9 Wetlands Restoration Fund. The report shall document statewide wetlands losses and
10 gains and compensatory mitigation performed under G.S. 143-214.8 through G.S.
11 143-214.12. The report shall also provide an accounting of receipts and
12 disbursements of the Wetlands Restoration Fund, an analysis of the per-acre cost of
13 wetlands restoration, and a cost comparison on a per-acre basis between the State's
14 ~~Wetland~~ Wetlands Restoration Program and private mitigation banks. The
15 Department shall also send a copy of its report to the Fiscal Research Division of the
16 General Assembly.

17 (b) The Department shall maintain an inventory of all property that is held,
18 managed, maintained, enhanced, restored, or used to create wetlands under the
19 Wetlands Restoration Program. The inventory shall also list all conservation
20 easements held by the Department. The inventory shall be included in the annual
21 report required under subsection (a) of this section."

22 Section 6.3. G.S. 113A-235 reads as rewritten:

23 "**§ 113A-235. Conservation easements.**

24 (a) Ecological systems and appropriate public use of these systems may be
25 protected through conservation easements, including conservation agreements under
26 Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic
27 Preservation Agreements ~~Act.~~ Act, and conservation easements under the
28 Conservation Reserve Enhancement Program. The Department of Environment and
29 Natural Resources shall work cooperatively with State and local agencies and
30 qualified nonprofit organizations to monitor compliance with conservation easements
31 and conservation agreements and to ensure the continued viability of the protected
32 ecosystems. Soil and water conservation districts established under Chapter 139 of
33 the General Statutes may acquire easements under the Conservation Reserve
34 Enhancement Program by purchase or gift.

35 (b) The Department may convey real property or an interest in real property that
36 has been acquired under the Conservation Reserve Enhancement Program to a
37 federal or State agency, a local government, or a private, nonprofit conservation
38 organization to acquire, manage, and maintain real property or an interest in real
39 property for the purposes set out in subsection (a) of this section. A grantee of real
40 property or an interest in real property under this subsection shall grant a
41 conservation easement in the real property or interest in real property to the
42 Department in a form that is acceptable to the Department.

43 (c) The Department shall report on the implementation of this Article to the
44 Environmental Review Commission no later than 1 November of each year. The

1 Department shall maintain an inventory of all conservation easements held by the
2 Department. The inventory shall be included in the report required by this
3 subsection."
4

5 **PART VII. AUTHORIZE TEMPORARY RULES TO PROTECT THE CAPE FEAR,**
6 **CATAWBA, AND TAR-PAMLICO RIVER BASINS.**

7 Section 7.1. Notwithstanding G.S. 150B-21.1(a)(2) and Section 8.6 of
8 S.L. 1997-458, the Environmental Management Commission may adopt temporary
9 rules as provided in this section to protect water quality standards and uses as
10 required to implement basinwide water quality management plans for the Cape Fear,
11 Catawba, and Tar-Pamlico River Basins pursuant to G.S. 143-214.1, 143-214.7,
12 143-215.3, and 143B-282. Prior to the adoption of a temporary rule under this
13 subsection, the Commission shall:

- 14 (1) Consult with persons who may be interested in the subject matter
15 of the temporary rule during the development of the text of the
16 proposed temporary rule.
17 (2) Publish a notice of intent to adopt a temporary rule in the North
18 Carolina Register. The notice shall set out the text of the proposed
19 temporary rule and include the name of the person to whom
20 questions and written comment on the proposed rule may be
21 submitted. The Commission shall accept written comment on the
22 proposed temporary rule for at least 30 days after the notice of
23 intent to adopt the temporary rule is published in the North
24 Carolina Register.
25 (3) Hold a public hearing on the proposed temporary rule in the river
26 basin to which the proposed temporary rule applies.

27 Section 7.2. Notwithstanding 26 NCAC 2C.0102(11), Section 7.1 of this
28 act shall continue in effect until 1 July 2001.
29

30 **PART VIII. REQUIRE REPORTS TO WASTEWATER SYSTEM CUSTOMERS ON**
31 **SYSTEM PERFORMANCE AND PUBLICATION OF NOTICE OF DISCHARGES OF**
32 **UNTREATED WASTEWATER OR ANIMAL WASTE.**

33 Section 8.1. G.S. 143-215.1 is amended by adding two new subsections to
34 read:

35 "(i) The owner or operator of a municipal or domestic wastewater collection
36 system or treatment works for which a permit is issued under this section shall
37 provide to the users or customers of the collection system or treatment works and to
38 the Department an annual report that summarizes the performance of the collection
39 system or treatment works and the extent to which the collection system or treatment
40 works has violated the permit or federal or State laws, regulations, or rules related to
41 the protection of water quality. The report shall be prepared on either a calendar or
42 fiscal year basis and shall be provided no later than 60 days after the end of the
43 calendar or fiscal year.

1 (j) The owner or operator of a municipal or domestic wastewater collection
2 system or treatment works for which a permit is issued under this section shall:

3 (1) In the event of a discharge of 1,000 gallons or more of untreated
4 wastewater to the surface waters of the State, issue a press release
5 to all print and electronic news media that provide general
6 coverage in the county where the discharge occurred setting out
7 the details of the discharge. The owner or operator shall retain a
8 copy of the press release and a list of the news media to which it
9 was distributed for at least one year after the discharge and shall
10 provide a copy of the press release and the list of the news media
11 to which it was distributed to any person upon request.

12 (2) In the event of a discharge of 10,000 gallons or more of untreated
13 wastewater to the surface waters of the State, publish a notice of
14 the discharge in a newspaper having general circulation in the
15 county in which the discharge occurs and in each county
16 downstream from the point of discharge that is affected by the
17 discharge. The Secretary shall determine, at the Secretary's sole
18 discretion, which counties are affected by the discharge and shall
19 approve the form and content of the notice and the newspapers in
20 which the notice is to be published. The notice shall be captioned
21 'NOTICE OF DISCHARGE OF RAW SEWAGE'. The owner or
22 operator shall publish the notice within 10 days of the discharge
23 and file a copy of the notice and proof of publication with the
24 Department within 30 days of the discharge. Publication of a
25 notice of discharge under this subdivision is in addition to the
26 requirement to issue a press release under subdivision (1) of this
27 subsection."

28 Section 8.2. G.S. 143-215.10C is amended by adding a new subsection to

29 read:

30 "(h) The owner or operator of an animal waste management system shall:

31 (1) In the event of a discharge of 1,000 gallons or more of animal
32 waste to the surface waters of the State, issue a press release to all
33 print and electronic news media that provide general coverage in
34 the county where the discharge occurred setting out the details of
35 the discharge. The owner or operator shall retain a copy of the
36 press release and a list of the news media to which it was
37 distributed for at least one year after the discharge and shall
38 provide a copy of the press release and the list of the news media
39 to which it was distributed to any person upon request.

40 (2) In the event of a discharge of 10,000 gallons or more of animal
41 waste to the surface waters of the State, publish a notice of the
42 discharge in a newspaper having general circulation in the county
43 in which the discharge occurs and in each county downstream
44 from the point of discharge that is affected by the discharge. The

1 Secretary shall determine, at the Secretary's sole discretion, which
2 counties are affected by the discharge and shall approve the form
3 and content of the notice and the newspapers in which the notice
4 is to be published. The notice shall be captioned 'NOTICE OF
5 DISCHARGE OF ANIMAL WASTE'. The owner or operator
6 shall publish the notice within 10 days of the discharge and file a
7 copy of the notice and proof of publication with the Department
8 within 30 days of the discharge. Publication of a notice of
9 discharge under this subdivision is in addition to the requirement
10 to issue a press release under subdivision (1) of this subsection."
11

12 **PART IX. PILOT PROGRAM FOR INSPECTION OF MUNICIPAL AND DOMESTIC**
13 **WASTEWATER TREATMENT WORKS.**

14 Section 9.1. The Department of Environment and Natural Resources
15 shall develop and implement a pilot program to begin no later than 1 January 2000
16 and to terminate 1 July 2001 to inspect and provide technical assistance to municipal
17 and domestic wastewater treatment works for which a permit is required under Part 1
18 of Article 21 of Chapter 143 of the General Statutes. The Department shall select a
19 county in which there is located a representative cross section of the types of
20 municipal and domestic wastewater treatment works in operation in the State for this
21 pilot program. The Technical Assistance and Certification Unit of the Non-Discharge
22 Branch of the Water Quality Section of the Division of Water Quality in the
23 Department shall conduct an inspection of each municipal and domestic wastewater
24 treatment works for which a permit is required under Part 1 of Article 21 of Chapter
25 143 of the General Statutes at least once each six months to determine whether the
26 treatment works is in violation of any water quality classification, standard, limitation,
27 or management practice or is in violation of any term, condition, or requirement of
28 the permit for the treatment works. The personnel of the Technical Assistance and
29 Certification Unit of the Non-Discharge Branch of the Water Quality Section of the
30 Division of Water Quality who are assigned to conduct these inspections shall be
31 assigned to an office in the county selected for the pilot program.

32 Section 9.2. The Division of Water Quality of the Department of
33 Environment and Natural Resources shall submit interim reports no later than 15
34 April 2000, 15 October 2000, 15 April 2001, and a final report no later than 15 July
35 2001 to the Environmental Review Commission and to the Fiscal Research Division
36 on the implementation of the pilot program established by this Part. These reports
37 shall indicate the extent to which the pilot program has improved compliance with
38 the laws governing water quality and has resulted in actual improvements in water
39 quality by earlier identification of violations; reduction in the time required to
40 respond to discharges, complaints, and reported problems; improved communication
41 between owners and operators of treatment works and Department employees; and
42 any other factors deemed pertinent by the Department. The final report shall include
43 a recommendation as to whether to continue or expand the pilot program established
44 by this Part. The Environmental Review Commission may recommend to the 2001

1 General Assembly whether to continue or expand the pilot program established by
2 this Part.

3

4 **PART X. ISSUANCE OF PERMITS FOR NEW OR EXPANDED MUNICIPAL OR**
5 **DOMESTIC WASTEWATER TREATMENT WORKS THAT DISCHARGE TO THE**
6 **WATERS OF THE STATE.**

7 Section 10.1. G.S. 143-215.1(b) is amended by adding a new subdivision
8 to read:

9 "(5) The Commission shall not issue a permit for a new municipal or
10 domestic wastewater treatment works that would discharge to the
11 surface waters of the State or for the expansion of an existing
12 municipal or domestic wastewater treatment works that would
13 discharge to the surface waters of the State unless the applicant for
14 the permit demonstrates to the satisfaction of the Commission that:

15 a. The applicant has prepared and considered an engineering,
16 environmental, and fiscal analysis of alternatives to the
17 proposed facility.

18 b. The applicant is in compliance with the applicable
19 requirements of the systemwide municipal and domestic
20 wastewater collection systems permit program adopted by
21 the Commission."

22

23 **PART XI. ENVIRONMENTAL MANAGEMENT COMMISSION TO DEVELOP**
24 **ENGINEERING STANDARDS AND IMPLEMENT A PERMIT PROGRAM FOR**
25 **MUNICIPAL AND DOMESTIC WASTEWATER COLLECTIONS.**

26 Section 11.1. The Environmental Management Commission shall develop
27 engineering standards governing municipal and domestic wastewater collection
28 systems that will allow interconnection of these systems on a regional basis. The
29 Commission shall report on its progress in developing the engineering standards
30 required by this section as a part of each quarterly report the Commission makes to
31 the Environmental Review Commission pursuant to G.S. 143B-282(b).

32 Section 11.2. The Environmental Management Commission shall develop
33 and implement a permit program for municipal and domestic wastewater collection
34 systems on a systemwide basis. The collection system permit program shall provide
35 for performance standards, minimum design and construction requirements, a capital
36 improvement plan, operation and maintenance requirements, and minimum reporting
37 requirements. In order to ensure an orderly and cost-effective phase-in of the
38 collection system permit program, the Commission shall implement the permit
39 program over a five-year period beginning 1 July 2000. The Commission shall issue
40 permits for approximately twenty percent (20%) of municipal and domestic
41 wastewater collection systems that are in operation on 1 July 2000 during each of the
42 five calendar years beginning 1 July 2000 and shall give priority to those collection
43 systems serving the largest populations, those under a moratorium imposed by the
44 Commission under G.S. 143-215.67, and those for which the Department of

1 Environment and Natural Resources has issued a notice of violation for the discharge
2 of untreated wastewater. The Commission shall report on its progress in developing
3 and implementing the collection system permit program required by this section as a
4 part of each quarterly report the Environmental Management Commission makes to
5 the Environmental Review Commission pursuant to G.S. 143B-282(b).

6
7 **PART XII. CLARIFY THAT THE DEPARTMENT OF ENVIRONMENT AND**
8 **NATURAL RESOURCES MAY LIMIT TO TWO MILLION DOLLARS RATHER**
9 **THAN THREE MILLION DOLLARS THE MAXIMUM AMOUNT OF CLEAN**
10 **WATER GRANTS TO LOCAL GOVERNMENT UNITS WITH HIGH BOND**
11 **RATINGS AND, FOR CLEAN WATER LOANS FROM BOND FUNDS, TO CHANGE**
12 **THE TIME BY WHICH A LOCAL GOVERNMENT UNIT MUST SATISFY THE**
13 **REQUIREMENTS FOR HOLDING A PUBLIC HEARING AND FILING A PETITION**
14 **FOR A VOTE PRIOR TO DISBURSEMENT OF THE LOAN FUNDS.**

15 Section 12.1. G.S. 159G-3 is amended by adding a new subdivision to
16 read:

17 "(2a) 'Bond rating' means the numerical rating of a local government
18 unit developed by the North Carolina Municipal Council, Inc., or
19 any successor thereto. The rating formula is based on 100 being a
20 theoretically 'perfect' local government unit and is an assessment
21 of the creditworthiness of the unit. Local government units with a
22 rating below 75 or with no ratings have limited, if any, access to
23 the private markets for financing water and sewer or other debt."

24 Section 12.2. G.S. 159G-6(a) reads as rewritten:

25 "(a) Revolving loans and grants.

26 (1) All funds appropriated or accruing to the Clean Water Revolving
27 Loan and Grant Fund, other than funds set aside for administrative
28 expenses, shall be used for revolving loans and grants to local
29 government units for construction costs of wastewater treatment
30 works, wastewater collection systems and water supply systems and
31 other assistance as provided in this Chapter.

32 (2) The maximum principal amount of a revolving loan or a grant may
33 be one hundred percent (100%) of the nonfederal share of the
34 construction costs of any eligible project. The maximum principal
35 amount of revolving loans made to any one local government unit
36 during any fiscal year shall be eight million dollars (\$8,000,000).

37 (2a) The maximum principal amount of grants made to any one local
38 government unit during any fiscal year shall be three million
39 dollars (\$3,000,000). The Department of Environment and Natural
40 Resources may limit the maximum principal amount of the grant
41 to two million dollars (\$2,000,000) or two-thirds of the eligible
42 project cost, whichever is less, when the bond rating of the local
43 government unit equals or is greater than 75 during any fiscal year
44 and when one million dollars (\$1,000,000) or one-third of the

1 eligible project cost, whichever is less, is available to the local
2 government unit as a loan from any source.

- 3 (3) The State Treasurer shall be responsible for investing and
4 distributing all funds appropriated or accruing to the Clean Water
5 Revolving Loan and Grant Fund for revolving loans and grants
6 under this Chapter. In fulfilling his or her responsibilities under
7 this section, the State Treasurer shall make a written request to the
8 Department of Environment and Natural Resources to arrange for
9 the appropriated funds to be (i) transferred from the appropriate
10 accounts to a local government unit to provide funds for one or
11 more revolving loans or grants or (ii) invested as authorized by this
12 Chapter with the interest on and the principal of such investments
13 to be transferred to the local government unit to provide funds for
14 one or more revolving loans or grants."

15 Section 12.3. Subsection (c) of Section 10 of S.L. 1998-132 reads as
16 rewritten:

17 "(c) Application for Loans; Hearings.

18 (1) ~~Eligibility/Initial Hearing:~~ Eligibility. --

- 19 a. ~~Prior to filing an application for a loan, a~~ A local
20 government unit shall hold a public hearing. A notice of
21 the public hearing shall be published once at least 10 days
22 before the date fixed for the hearing. The public hearing
23 may be held at any time prior to the disbursement of loan
24 funds under subsection (e) of this section.
- 25 b. All applications for loans shall be filed with the Department
26 of Environment and Natural Resources. The form of the
27 application shall be prescribed by the Department and shall
28 require any information necessary to determine the
29 eligibility for a loan under the provisions of this section. All
30 applications approved by the Department of Environment
31 and Natural Resources shall be filed with the Local
32 Government Commission. Each applicant shall furnish to
33 the Department of Environment and Natural Resources and
34 the Local Government Commission information in addition
35 or supplemental to the information contained in its
36 application, upon request.
- 37 c. A local government unit shall not be eligible for a loan
38 unless it demonstrates to the satisfaction of the Department
39 of Environment and Natural Resources and the Local
40 Government Commission that:
- 41 1. The applicant is a local government unit;
 - 42 2. The applicant has the financial capacity to pay the
43 principal of and interest on its proposed loan as

- 1 evidenced by the approval of the Local Government
2 Commission;
- 3 3. The applicant has substantially complied or will
4 substantially comply with all applicable laws, rules,
5 regulations, and ordinances, whether federal, State, or
6 local; and
- 7 4. The applicant has agreed by official resolution to
8 adopt and place into effect a schedule of fees and
9 charges or the application of other sources of revenue
10 which will provide adequate funds for proper
11 operation, maintenance, and administration of the
12 project and repayment of all principal and interest on
13 the loan.
- 14 (2) Assessment. -- The Department of Environment and Natural
15 Resources may require any applicant to file with its application an
16 assessment of the impact the project for which the funds are sought
17 will have upon meeting the facility needs of the area within which
18 the project is to be located.
- 19 (3) Hearing by the Department of Environment and Natural Resources
20 or the Local Government Commission. -- A public hearing may be
21 held by the Department of Environment and Natural Resources or
22 the Local Government Commission at any time on any application.
23 Public hearings may also be held by the Department of
24 Environment and Natural Resources in its discretion upon written
25 request from any citizen or taxpayer who is a resident of the
26 county or counties in which the project is to be located or a
27 resident of the local government unit that proposes to borrow
28 moneys under this act, if it appears that the public interest will be
29 served by the hearing. The written request shall set forth each
30 objection to the proposed project or other reason for requesting a
31 hearing on the application and shall contain the name and address
32 of the persons submitting it. In deciding whether to grant a
33 request for a hearing on an application, the Department of
34 Environment and Natural Resources may consider the application,
35 the written objections to the proposed project, and the facility
36 needs and shall determine if the public interest will be served by a
37 hearing. The determination by the Department of Environment
38 and Natural Resources shall be conclusive, and all written requests
39 for a hearing shall be retained as a permanent part of the records
40 pertaining to the application.
- 41 (4) Petition for Vote. -- A petition, demanding that the question of
42 whether to enter into a loan agreement with the State under this
43 act be submitted to voters, may be filed with the clerk of the local
44 government unit applying for the loan within 15 days after the

1 public hearing required by this ~~section~~ section and prior to the
2 disbursement of loan funds under subsection (e) of this section.
3 The petition's sufficiency shall be determined and a referendum, if
4 any, shall be conducted according to the standards, procedures,
5 and limitations set out in G.S. 159-60 through G.S. 159-62."
6

7 **PART XIII. STUDIES; REPORTS; MISCELLANEOUS PROVISIONS; EFFECTIVE**
8 **DATES.**

9 Section 13.1. The Department of Environment and Natural Resources
10 shall submit periodic reports to the Environmental Review Commission on the
11 progress of the State Wetlands Stream Management Advisory Committee no later
12 than 1 November 1999, 1 April 2000, 1 October 2000, and 15 December 2000. As a
13 part of this report, the Department shall evaluate the current federal and State
14 wetlands protection programs and shall develop recommendations to improve and
15 simplify the State's wetlands protection program. The Department shall present
16 interim findings and recommendations, including any legislative proposals, as a part
17 of the 1 April 2000 report and final findings and recommendations, including any
18 legislative proposals, as a part of the 15 December 2000 report.

19 Section 13.2. The Department of Environment and Natural Resources
20 shall prepare a detailed analysis of discharges of untreated and partially treated
21 municipal and domestic wastewater from publicly and privately owned treatment
22 works and collection systems to determine the causes of these discharges. The
23 analysis shall include both unpermitted discharges and violations of permitted
24 discharges. The Department shall evaluate the extent to which more frequent
25 inspection of these systems would reduce the number and severity of these discharges.
26 In addition, the Department shall develop specific recommendations to: (i) reduce the
27 frequency and severity of discharges of untreated or partially treated municipal and
28 domestic wastewater from publicly and privately owned treatment works, (ii) reduce
29 the number of point sources and the quantity of waste that is discharged into the
30 surface waters of the State, and (iii) promote the consolidation of municipal and
31 domestic wastewater collection systems and treatment works on a regional basis. The
32 Department shall present interim findings and recommendations, including any
33 legislative proposals, to the Environmental Review Commission no later than 1
34 March 2000 and shall present final findings and recommendations, including any
35 legislative proposals, to the Environmental Review Commission no later than 15
36 December 2000.

37 Section 13.3. The Environmental Management Commission shall study
38 issues related to whether and under what circumstances a privately owned wastewater
39 collection system or treatment works may be required to connect to a publicly owned
40 treatment works in order to protect public health or the environment. The
41 Environmental Management Commission shall report its findings and
42 recommendations, including any legislative proposals, to the Environmental Review
43 Commission no later than 1 March 2000.

1 Section 13.4. The Environmental Management Commission shall report
2 on its progress in implementing the Lagoon Conversion Plan pursuant to the letter
3 from Governor James B. Hunt, Jr. to Dr. David Moreau, Chairman, Environmental
4 Management Commission, dated 13 May 1999, as a part of each quarterly report the
5 Environmental Management Commission makes to the Environmental Review
6 Commission pursuant to G.S. 143B-282(b).

7 Section 13.5. The Commission for Health Services shall study issues
8 related to the proper maintenance of septic tank systems. The Commission shall
9 specifically study measures that prevent the failure of septic tank systems and the
10 harm to public health, the environment, and natural resources that results from the
11 failure of septic tank systems. The Commission for Health Services shall report its
12 findings and recommendations, including any legislative proposals, to the
13 Environmental Review Commission no later than 1 March 2000.

14 Section 13.6. The headings to the Parts of this act are a convenience to
15 the reader and are for reference only. The headings do not expand, limit, or define
16 the text of this act.

17 Section 13.7. This act shall not be construed to obligate the General
18 Assembly to appropriate funds to implement the provisions of this act. Every State
19 agency to which this act applies shall implement the provisions of this act from funds
20 otherwise appropriated or available to that agency.

21 Section 13.8. If any section or provision of this act is declared
22 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
23 provision does not affect the validity of this act as a whole or any part of this act
24 other than the part declared to be unconstitutional or invalid.

25 Section 13.9. Part III of this act is effective retroactively to 31 October
26 1998. Part V of this act is effective 1 October 1999 and applies to violations that
27 occur on or after 1 October 1999. Part V of this act shall not be construed to affect
28 the validity of any civil penalty that is assessed prior to 1 October 1999. G.S.
29 143-215.1(i)(1), as enacted by Part VIII of this act, becomes effective 1 January 1999.
30 The first report required by G.S. 143-215.1(i)(1) shall summarize performance and
31 violations during the 1999 calendar year or the fiscal year that begins 1 July 1999.
32 G.S. 143-215.1(i)(2), as enacted by Part VIII of this act, becomes effective 1 October
33 1999. Part IX of this act becomes effective 1 July 1999. Part X of this act becomes
34 effective 1 October 1999 and applies to any application for a permit that is submitted
35 to the Department of Environment and Natural Resources on or after that date. Part
36 XII of this act is effective when this act becomes law and applies to grants and
37 revolving loans made on or after that date, in accordance with Chapter 159G of the
38 General Statutes and S.L. 1998-132, as amended by Part XII of this act. All other
39 Parts and sections of this act are effective when this act becomes law.



HOUSE BILL 1160: Clean Water Act of 1999

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: July 6, 1999

Version: Prop. Committee Substitute #2

Introduced by: Rep. Hackney

Summary by: Hannah Holm,
Research Assistant

SUMMARY: PCS#2 for HB 1160 contains measures regarding swine farms, sewage treatment systems, the enforcement of water quality laws, wetlands, river basins, and Clean Water Bond moneys.

Swine Farms: PCS #2 for HB 1160:

- Extends the current moratoria on construction or expansion of swine farms until July 1, 2001.
- Extends the pilot program under which the Division of Soil and Water Conservation inspects animal waste management systems in Jones and Columbus County until July 1, 2001 and adds Brunswick County.
- Directs the Department of Environment and Natural Resources (DENR) to develop an inventory and risk ranking of inactive animal waste lagoons.
- Directs the Environmental Management Commission (EMC) to report to the Environmental Review Commission (ERC) on its implementation of Governor Hunt's Lagoon Conversion Plan.
- Requires public notice of discharges of animal waste.

Sewage Treatment Systems: PCS #2 for HB 1160:

- Requires public notice of unpermitted discharges from municipal and domestic wastewater systems.
- Directs the EMC to:
 - Implement a program to permit collection systems on a system-wide basis.
 - Issue a permit to construct or expand a treatment works only if the applicant first analyzes alternatives to the proposed facility and complies with the new collection system permit program requirements.
 - Develop engineering standards to facilitate the regional interconnection of wastewater systems.
 - Study issues related to requiring a privately owned wastewater system to connect to a publicly owned system if the connection would protect public health or the environment.
- Directs DENR to:
 - Implement a pilot program for more intensive inspections of wastewater treatment works.
 - Analyze the causes of discharges of untreated and partially treated sewage and make recommendations for reducing these discharges.
- Directs the Commission for Health Services to study septic tank maintenance issues.

Enforcement of Water Quality Laws: PCS #2 for HB 1160 increases the maximum civil penalties for water quality violations and requires minimum increases in penalties for repeated violations.

Wetlands: PCS #2 for HB 1160:

- Authorizes DENR to convey funds and property acquired under the Wetlands Restoration Program to other government agencies and nonprofit organizations for wetland preservation, restoration, and creation.
- Directs DENR to report to the ERC on the progress of the State Wetlands Stream Advisory Committee and recommend measures to improve and simplify the State's wetlands protection program.

River Basins: PCS #2 for HB 1160 authorizes the EMC to adopt temporary rules to protect water quality in the Cape Fear, Catawba, and Tar-Pamlico River Basins.

Clean Water Bonds: PCS #2 for HB 1160 authorizes DENR to allocate less grant money to applicants with credit ratings that are strong enough to give them access to loans.

HOUSE BILL 1160

Page 2

BILL ANALYSIS

Part I: Title

Part II: Extend Moratoria on Construction or Expansion of Swine Farms

Part II extends the Statewide and Moore County moratoria on the construction or expansion of swine farms and swine waste management systems until July 1, 2001. This Part is effective when this act becomes law. *Under existing law, the moratoria will end September 1, 1999.*

Part III: Extend and Expand Pilot Program for Inspection of Animal Waste Management Systems

Part III extends the pilot program under which locally-stationed personnel from the Division of Soil and Water Conservation conduct all inspections of animal waste management systems in Columbus and Jones counties until July 1, 2001. Part III also adds Brunswick County to the pilot program. This Part is effective retroactively to October 31, 1998. *Existing law ended the pilot October 31, 1998.*

Part IV: Inventory Inactive Lagoons

Part IV directs DENR to develop an inventory of inactive animal waste lagoons and rank the lagoons based on the extent to which they threaten public health or the environment. This Part is effective when this act becomes law.

Part V: Increase Civil Penalties for Violations of Water Quality Laws; Minimum Increases of Civil Penalties for Repeated Violations

Part V increases the maximum civil penalty for water quality violations from \$10,000 to \$25,000 and requires increased assessments for repeated violations. The maximum civil penalty will remain at \$10,000 for a first violation within five years and for an unintentional violation of reporting requirements.

Under current law, DENR must determine the amount of a civil penalty by considering the following factors:

- The degree of harm to natural resources, public health, or private property from the violation.
- The duration and gravity of the violation.
- The effect on ground or surface water quantity or quality or on air quality.
- The cost of rectifying the damage.
- The money saved by noncompliance.
- Whether the violation was intentional.
- The violator's prior record of compliance with environmental laws.
- The cost to the State of enforcement proceedings.

PCS #2 for HB 1160 directs DENR to multiply this base civil penalty assessment by the following numbers if the violator has a history of repeated violations:

- At least 1.25 if the violator has been assessed a civil penalty in four of the preceding six months.
- At least 1.35 if the violator has been assessed a civil penalty in five of the preceding six months.
- At least 1.45 if the violator has been assessed a civil penalty in six of the preceding six months.

This Part is effective October 1, 1999 and applies to violations that occur on or after October 1, 1999.

By including these multipliers, PCS #2 for HB 1160 is codifying the Division of Water Quality's recently implemented enforcement policy. Raising the maximum civil penalty for a water quality violation to \$25,000 brings the State's maximum closer to the federal maximum of \$27,500.

HOUSE BILL 1160

Page 3

Part VI: Wetlands Program/ Conservation Easement Amendments

Part VI authorizes DENR to distribute funds and interests in real property acquired under the Wetlands Restoration Program to federal and State agencies, local governments, and private nonprofit conservation organizations. Entities receiving funds and interests in real property from DENR under this Part are bound by the same restrictions on the use of these funds and interests in property as DENR is under the current law. PCS #2 for HB 1160 also stipulates that any grantee of real property or interest in real property must grant an easement to DENR in a form acceptable to DENR. This Part is effective when this act becomes law. *The current law governing the Wetlands Restoration Program authorizes DENR to accept funds and interests in real property for the purposes of wetland preservation, restoration and creation but makes no provision for the transfer of these funds or interests in real property to other entities engaged in wetland preservation, restoration, or creation.*

Part VI also authorizes DENR to acquire conservation easements under the Conservation Reserve Enhancement Program (CREP) and to convey interests in property acquired under the CREP to other agencies and nonprofit organizations for conservation purposes.

Part VII. Authorize Temporary Rules to Protect the Cape Fear, Catawba, and Tar-Pamlico River Basins

Part VII authorizes the EMC to adopt temporary rules to implement basinwide water quality management plans for the Cape Fear, Catawba, and Tar-Pamlico River Basins after consulting with interested parties, publishing notices of proposed temporary rulemaking, and holding public hearings in the affected basins. This Part is effective when this act becomes law and shall remain effective until December 31, 2000.

Part VIII: Require Reports to Wastewater System Customers on System Performance and Publication of Notice of Discharges of Untreated Wastewater or Animal Waste

Part VIII requires municipal and domestic wastewater systems to:

- Provide their customers and DENR with annual reports on their performance and the extent to which they have violated their discharge permits and water quality laws. This provision is effective January 1, 1999, and the first report shall cover performance during either the 1999 calendar year or the fiscal year beginning in 1999.
- Issue a press release to notify the local media of any discharge of 1,000 gallons or more of raw sewage to surface waters.
- Publish a notice of any discharge of 10,000 gallons or more of raw sewage to surface waters in a newspaper of general circulation in the county where the discharge occurs and in the affected counties downstream. The Secretary of Environment and Natural Resources shall determine which downstream counties are affected by a spill.

Part VIII requires animal waste management system owners and operators to:

- Issue a press release to notify the local media of any discharge of 1,000 gallons or more of animal waste to surface waters.
- Publish a notice of any discharge of animal waste of 10,000 gallons or more in a newspaper of general circulation in the county where the discharge occurs and in the affected counties downstream. The Secretary of Environment and Natural Resources shall determine which downstream counties are affected by a spill.

Part VIII is effective October 1, 1999.

Part IX: Pilot Program for Inspections Of Municipal And Domestic Wastewater Treatment Works

Part IX directs DENR to implement a pilot program to inspect and provide technical assistance to municipal and domestic wastewater treatment works in one county, starting January 1, 2000 and ending July 1, 2001. Under the pilot program, personnel from the Division of Water Quality (DWQ) Technical Assistance and Certification Unit will be assigned to an office in the selected county and will inspect each treatment works at least once every six months. DWQ is to report to the ERC and the Fiscal Research Division on the pilot's effectiveness in:

HOUSE BILL 1160

Page 4

- Improving compliance.
- Improving water quality through earlier identification of violations.
- Reducing response time to discharges, complaints, and reported problems.
- Improving communication between DENR and treatment works operators.

This Part is effective July 1, 1999.

Part X: Issuance of Permits for New or Expanded Municipal or Domestic Wastewater Treatment Works that Discharge to the Waters of the State

Part X provides that the EMC shall not issue a discharge permit for a new treatment works or an expansion of an existing treatment works until the applicant has both:

- Analyzed alternatives to the proposed facility.
- Implemented a plan for the maintenance and improvement of its collection system in accordance with the requirements of the collection system permit program the EMC is directed to develop in Part XI of this act.

This Part is effective October 1, 1999 and applies to any permit submitted to DENR on or after that date.

Part XI: Environmental Management Commission to Develop Engineering Standards and Implement a Permit Program for Municipal and Domestic Wastewater Collections

Part XI directs to the EMC to:

- Develop engineering standards for wastewater systems that will allow interconnection of these systems on a regional basis. The EMC is to report quarterly to the ERC on progress in developing these standards.
- Develop and implement a program to permit municipal and domestic wastewater collection systems on a system-wide basis. The program shall include performance and construction standards and planning requirements. The program is to be phased in over 5 years, starting July 1, 2000. Priority is to be given to addressing systems that serve the largest populations, systems under a moratorium imposed by the EMC, and systems that have received notices of violation for discharging untreated wastewater. *The EMC currently permits each extension of a collection system separately.*

This Part is effective when this act becomes law.

Part XII: Clean Water Bonds Amendments

Part XII amends the Clean Water and Natural Gas Critical Needs Bond Act of 1998 by:

- Authorizing DENR to limit the maximum principal amount of a grant awarded to a local government unit with a bond rating high enough to obtain outside loans to 2 million dollars or 2/3 of the eligible project cost, whichever is less.
- Allowing a loan applicant to hold a public hearing at any time prior to the disbursement of loan funds, rather than requiring the applicant to hold the hearing prior to applying for the loan.

This Part is effective when this act becomes law and applies to grants and revolving loans made on or after that date.

HOUSE BILL 1160

Page 5

Part XIII: Studies; Reports; Miscellaneous Provisions; Effective Dates

Studies and Reports

Pat XIII directs DENR to

- Report to the ERC on the progress of the State Wetlands Stream Management Advisory Committee. The report shall include an evaluation of current federal and State wetlands protection programs and recommendations to improve and simplify the State's program.
- Prepare a detailed analysis of discharges of untreated and partially treated municipal and domestic wastewater and recommend measures to reduce these discharges; reduce the total quantity of waste discharged to surface waters; and promote the regional consolidation of wastewater systems.

Part XIII directs the EMC to:

- Study issues related to requiring a privately owned wastewater system to connect to a publicly owned system if the connection would protect public health or the environment. The EMC is to report its findings and recommendations to the ERC.
- Report quarterly to the ERC on progress in implementing the Governor's Lagoon Conversion Plan pursuant to the May 13, 1999 written request from Governor Hunt to the Chair of the EMC.

Part XIII directs the Commission for Health Services (CHS) to study issues relates to the proper maintenance of septic tank systems to prevent failures and the consequent harm to public health and the environment. CHS is to report its findings and recommendations to the ERC.

BILL HISTORY

PCS # 2 for HB 1160 makes the following substantive changes to the PCS adopted by the Senate Agriculture, Environment, and Natural Resources Committee for discussion on July 1, 1999:

- In Part V, PCS #2 states that the maximum civil penalty for a water quality violation will remain at \$10,000 for a first violation within five years, rather than one year as stated in the first PCS.
- In Part VI, PCS #2 adds provisions relating to the acceptance and transfer of easements under the Conservation Reserve Enhancement Program.
- In Part VII, PCS #2 adds the requirements that the EMC must consult with interested parties, publish notices of proposed temporary rulemaking, and hold public hearings before adopting temporary rules to protect water quality in the Cape Fear, Catawba, and Tar-Pamlico River Basins.
- In Part VIII, PCS #2 modifies the public notice requirements for discharges of raw sewage by:
 - Raising from 5,000 to 10,000 gallons the size of a raw sewage spill for which a treatment system must publish a notice in the newspaper.
 - Adding the requirement that a treatment system issue a press release for any spill of 1,000 gallons or more of raw sewage.
 - Adding the requirement that an animal waste system owner or operator must publish a notice in the newspaper for any spill of 10,000 gallons or more of animal waste.
- In Part XII, PCS #2 removes a provision that deleted from the Clean Water Bond law a specific formula for allocating loans between local government units with high and low bond ratings. PCS #2 also changes the effective date of Part XII from August 1, 1999 to when this act becomes law.

HB 1160, as introduced and passed by the House, contains the provisions of Part III of this act (Extend Pilot Program for Inspection of Animal Waste Management Systems) without the addition of Brunswick County.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

7/6/99

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Wilans	N C M B A
ELLIS HANKINS	W C L M
Jim Herbert	NC Pork Council
Kristen Guildory	Lt. Gov. office
WW Cherry	NC Pork
Raymond Bone	Bone & Assoc - NCPC
Don Butler	Carroll's Foods
Deborah Johnson	Prestage Farms
Beth Anne Mumford	NCPC
Leslie B. Burt	M77
Kim Hibbard	NCLM

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Long	Martin Maricella
Sandra Long	Martin Maricella
Tommy Stevens	DWQ
Robert Howard	NCIC
George Everett	Duke Energy
Jim Kuszaj	NCEI
Nat Mord	CCNC
Nina Holman	DEWR
Carol Tingley	DENR-Parks & Recreation
RKL	DEMT
Vic Maricella	N.C. Septic Tank
James Andrews	NC State AFL-CIO
Matt Allen	Democracy South
Peter Walz	NC Voters for Clean Environment

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

Name of Committee

(DATE)

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NAME

FIRM OR AGENCY AND ADDRESS

Kelli Kulma	Dupont
Greg Thorpe	DENR/DWQ
Coleen H. Sullins	DENR/DWQ
Linda Sewall	DEH/DENR
William Funtz	DENR/GC
Dana Knight	NC Sierra Club, NC Wildlife Fed
Barbara Wyse	NC Sierra Club
Molly Diggs	NC Sierra Club
Richard Hamilton	wildlife Com.
Bodie McDowell	Wildlife Commission
Janet Thompson	UNCIE

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Henry M Lancaster	NCLM
John Cyrus	N.C. State Grange
David Meredith	N.C. State Grange
George Reed	NC Council of Churches
Bob Sloman	NC Forestry Association
Lu-Ann Cole	F ³
Natalie English	NCAC
Steve Woodson	NC Farm Bureau Federation, Inc.
PG	"
Arshi Bawaegh	NCCBT
Alan Briggs	Save Our State



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, July 8, 1999

9:00 a.m.

Room 414 – LOB

AGENDA

- | | |
|--------|--|
| HB 541 | BUOY FISHING/SPECIAL FISHING DEVICE
Representative Mitchell |
| HB 638 | TRANSFER CERTAIN SEPTIC SYSTEMS
Representative Owens |
| HB 978 | DAMAGED PIERS IN STATE PARKS
Representative Nye |

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 8, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, July 8, 1999, at 9:00 a.m., in Room 414 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present.

Senator Albertson said today was a very special day—Senator Garwood's birthday. Everyone sang "Happy Birthday" and enjoyed donuts furnished by Senator Garwood's Legislative Assistant Martha Jordan.

The following bills were discussed:

HB 541 – BUOY FISHING/SPECIAL FISHING DEVICE – Representative Mitchell, sponsor, was recognized to explain the bill. Dick Hamilton, Assistant Commissioner of Wildlife Resources Commission, said his agency supported the bill, that, in fact, they had drafted the bill. Senator Odom moved that the bill be given a favorable report. Motion carried.

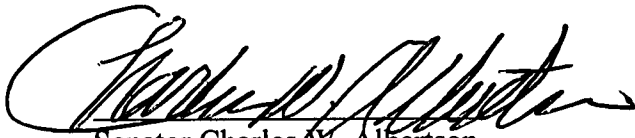
HB 638 – TRANSFER CERTAIN SEPTIC SYSTEMS – Representative Owens, sponsor, was recognized to explain the bill. There was a proposed committee substitute before the committee and Senator Odom moved that it be adopted for discussion purposes. Motion carried. After Representative Owens explained the proposed committee substitute, Senator Odom moved that the Senate proposed committee substitute be given a favorable report, unfavorable as to House Committee Substitute #1. Motion carried.

HB 978 – DAMAGED PIERS IN STATE PARKS – Representative Nye, sponsor, was not present so Senator Harris explained for him. There was a proposed committee substitute before the committee and Senator Harris moved that it be adopted for discussion purposes. Motion carried. Senator Harris said this bill was about some piers that had been damaged by Hurricane Fran in 1996. George Givens of staff further explained the bill and answered questions from committee members. Senator Weinstein moved that the proposed committee substitute be given a favorable report, unfavorable as to original bill. Motion carried.

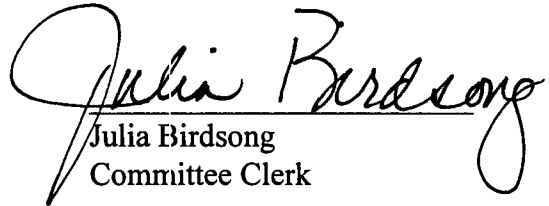
Senate Agriculture/Environment/Natural Resources Committee
Minutes
Page 2
July 8, 1999

Dewey Botts, Assistant Secretary, Natural Resources, N. C. Department of Environment and Natural Resources, introduced David Vogel, Director of Soil and Water Conservation within DENR.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair

Thursday, July 08, 1999

SENATOR ALBERTSON,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1)541 Buoy Fishing/Special Fishing Device
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. 978 Damaged Piers in State Parks
 Draft Number: PCSA165
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. #1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)638 Transfer Certain Septic Systems
 Draft Number: PCS6230
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 541
Committee Substitute Favorable 6/9/99

Short Title: Buoy Fishing/Special Fishing Device.

(Public)

Sponsors:

Referred to:

March 23, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT TROT LINES, BUOY SETS, AND SET HOOKS
3 ARE SPECIAL FISHING DEVICES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G. S. 113-272.3 reads as rewritten:
6 "**§ 113-272.3. Special provisions respecting special devices; fishing licenses; grabbling;**
7 **taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources**
8 **Commission headquarters; personalized lifetime sportsman combination licenses.**
9 (a) The Wildlife Resources Commission by rule may define the meaning of 'hook
10 and line' and 'special device' as applied to fishing techniques. Any technique of
11 fishing that may be lawfully authorized which employs neither the use of any special
12 device nor hook and line must be pursued under the appropriate hook-and-line
13 fishing license.
14 (a1) Notwithstanding subsection (a) of this section, trotlines, buoy sets, and set
15 hooks as defined in this section are special fishing devices. The use of any of these
16 special fishing devices requires the special device fishing license as provided by G.S.
17 113-272.2. A licensed individual fishing any set hook in inland public water shall be
18 within 100 yards of the set hook at all times. Buoy sets, trotlines, gill nets, fish traps,
19 and any other special device that the Wildlife Resources Commission determines
20 should be marked for the convenience and safety of the public shall be marked with
21 yellow buoys made of solid foam or other solid buoyant material no less than five
22 inches in their smallest dimension. Double buoys as described in this subsection shall
23 be used to mark each end of anchored, fixed, or drift gill nets and trotlines. Buoys

1 shall be marked with the owner's name and address, special device fishing license
2 number, or vessel registration number either by engraving the buoys or by attaching
3 engraved metal or plastic tags to the buoys.

4 (b) In accordance with established fishing customs and the orderly conservation of
5 wildlife resources, the Wildlife Resources Commission may by rule provide for use of
6 nets or other special devices which it may authorize as an incident to hook-and-line
7 fishing or for procuring bait fish without requiring a special device license. In this
8 instance, however, the individual fishing must meet applicable hook-and-line license
9 requirements.

10 (c) Lifetime licenses are issued from the Wildlife Resources Commission
11 headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime
12 Sportsman License must be accompanied by a certified copy of the birth certificate of
13 the individual to be named as the license holder.

14 (d) In issuing lifetime sportsman combination licenses, the Wildlife Resources
15 Commission is authorized to adopt rules to establish a personalized series and to
16 charge a five dollar (\$5.00) administrative fee, to be deposited in the Wildlife Fund,
17 to defray the cost of issuance of the personalized license.

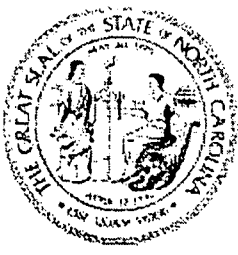
18 (e) The following definitions apply in this section:

19 (1) Buoy set. -- A hook and line affixed to an approved buoy as
20 provided in G.S. 113-272.3(a1).

21 (2) Set hook. -- A hook and line affixed to a stationary object or
22 anchor and not under the immediate control of a licensed
23 individual.

24 (3) Trotline. -- A line having multiple hooks that is attached to a
25 stationary object or anchor at either or both ends."

26 Section 3. This act becomes effective October 1, 1999.



HB 541: Buoy Fishing/Special Fishing Device

BILL ANALYSIS

Committee: Sen. Ag/Env/Nat'l Resources
Date: July 6, 1999
Version: 2nd Edition

Introduced by: Rep. Mitchell
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *House Bill 541 defines trotlines, bouy sets, and set hooks as special devices requiring licenses, requires set hooks to be attended, and requires marking of special devices when the Wildlife Resources Commission determines that it is necessary for public convenience or safety.*

CURRENT LAW: Under G.s. 113-272.2, special devices are defined as any device used in fishing other than hook and line. The law requires that a special device license be obtained annually in order to fish with the device. The resident noncommercial special device license allows the taking of fish with no more than 3 special devices. The resident commercial license authorizes the use of 4 or more devices.

BILL ANALYSIS: House Bill 541 amends G.S. 113-272.3 and defines trotlines, bouy sets, and set hooks to be special devices. The provisions of the act require that persons fishing with set hooks in public waters be within 100 yards of the device at all times. It also requires that special devices, including bouy sets, trotlines, gill nets, and fish traps be marked with a yellow bouy made of solid bouyant material such as solid foam, marked with the owner's name, address, and fishing license number or vessel registration number. Double bouys are required for anchored, fixed, or drift gill nets and trotlines.

The act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 638
Committee Substitute Favorable 4/8/99
Proposed Senate Committee Substitute H638-PCS6230-RT003

Short Title: Transfer of Certain Septic Systems.

(Local)

Sponsors:

Referred to:

March 29, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE OWNERS OF PROVISIONALLY APPROVED
3 SEPTIC TANKS AND INNOVATIVE SEPTIC TANK SYSTEMS IN THE
4 COUNTIES OF CAMDEN, CHOWAN, CURRITUCK, GATES, HERTFORD,
5 PASQUOTANK, PERQUIMANS, TYRRELL, AND WASHINGTON TO
6 TRANSFER OWNERSHIP OF THESE SYSTEMS TO A JOINT AGENCY
7 CREATED BY TWO OR MORE UNITS OF LOCAL GOVERNMENT
8 LOCATED IN THOSE COUNTIES AND TO AUTHORIZE THE COUNTIES
9 OF GATES AND HERTFORD TO COLLECT FEES FOR THE INSPECTION
10 OF PROVISIONALLY APPROVED SEPTIC TANK AND INNOVATIVE
11 SEPTIC TANK SYSTEMS IN THE SAME MANNER AS PROPERTY TAXES.
12 The General Assembly of North Carolina enacts:
13 Section 1. As used in this act, "provisionally approved septic tank or
14 innovative septic tank system" means a septic tank system located in soil that is
15 classified as provisionally suitable or an innovative septic tank system, as those terms
16 are used in Subchapter 18A of Chapter 18 of Title 15A of the North Carolina
17 Administrative Code, G.S. 130A-343, and any applicable local rules or ordinances.
18 Section 2. As used in this section, "unit of local government" has the
19 same meaning as in G.S. 160A-460. One or more units of local government located
20 in the Counties of Camden, Chowan, Currituck, Gates, Hertford, Pasquotank,
21 Perquimans, Tyrrell, and Washington may establish a joint agency for the purpose of
22 owning and operating a provisionally approved septic tank or innovative septic tank

1 system as provided in Article 20 of Chapter 160A of the General Statutes. The
2 owner of any provisionally approved septic tank or innovative septic tank system
3 may, upon acceptance by a joint agency established under this section, transfer
4 ownership of any real or personal property or interest therein that is a part of or used
5 in connection with the provisionally approved septic tank or innovative septic tank
6 system to the joint agency. Notwithstanding G.S. 160A-462(a), a joint agency created
7 pursuant to this section may hold real property necessary to the undertaking. Any
8 county named in this section may accept real or personal property described in this
9 section from the owner of the property for transfer to a joint agency established as
10 provided in this section.

11 Section 3. The Counties of Gates and Hertford may adopt an ordinance
12 providing that any fee for the inspection of a provisionally approved septic tank or
13 other innovative septic tank system may be billed as property taxes, may be payable
14 in the same manner as property taxes, and in the case of nonpayment, may be
15 collected in any manner by which property taxes can be collected. If the ordinance
16 states that delinquent fees can be collected in the same manner as delinquent real
17 property taxes, the delinquent fees are a lien on the real property described on the
18 bill that includes the fee.

19 Section 4. This act is effective when it becomes law. Section 3 of this act
20 applies to fees imposed for inspections performed on or after the date this act
21 becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 638
Committee Substitute Favorable 4/8/99

Short Title: Transfer of Certain Septic Systems.

(Local)

Sponsors:

Referred to:

March 29, 1999

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE OWNERS OF CERTAIN INNOVATIVE SEPTIC
2 SYSTEMS IN THE COUNTIES OF CAMDEN, CHOWAN, CURRITUCK,
3 GATES, HERTFORD, PASQUOTANK, PERQUIMANS, TYRRELL, AND
4 WASHINGTON TO TRANSFER THE OWNERSHIP OF THE SYSTEMS TO
5 ONE OR MORE UNITS OF LOCAL GOVERNMENT.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. The full title of Chapter 577 of the 1995 Session Laws reads as
9 rewritten:

10 "AN ACT TO AUTHORIZE THE COUNTIES OF CAMDEN, CHOWAN,
11 CURRITUCK, PASQUOTANK, PERQUIMANS, TYRRELL, AND WASHINGTON
12 TO TAKE A LIEN ON REAL PROPERTY FOR DELINQUENT FEES FOR
13 CERTAIN ~~INSPECTIONS. INSPECTIONS AND TO AUTHORIZE THE OWNERS~~
14 OF CERTAIN INNOVATIVE SEPTIC SYSTEMS IN THE COUNTIES OF
15 CAMDEN, CHOWAN, CURRITUCK, GATES, HERTFORD, PASQUOTANK,
16 PERQUIMANS, TYRRELL, AND WASHINGTON TO TRANSFER THE
17 OWNERSHIP OF THE SYSTEMS TO ONE OR MORE UNITS OF LOCAL
18 GOVERNMENT."

19 Section 2. Chapter 577 of the 1995 Session Laws is amended by adding a
20 new section to read:

21 "Section 1.1. The owners of any provisional septic tanks or other innovative septic
22 systems may transfer ownership of any lands, easements, rights to maintain drainage
23 facilities associated with the systems, including pumps, tanks, lines, buildings, fences,

1 and other elements of the system, to one or more units of local government. As used
2 in this section, 'unit of local government' has the same meaning as in G.S. 160A-
3 460."

4 Section 3. Section 2 of Chapter 577 of the 1995 Session Laws reads as
5 rewritten:

6 "Sec. 2. This Section 1 of this act applies to the Counties of Camden, Chowan,
7 Currituck, Pasquotank, Perquimans, Tyrrell, and Washington only. Section 1.1 of this
8 act applies to the Counties of Camden, Chowan, Currituck, Gates, Hertford,
9 Pasquotank, Perquimans, Tyrrell, and Washington only."

10 Section 4. Section 3 of Chapter 577 of the 1995 Session Laws reads as
11 rewritten:

12 "Sec. 3. This Section 1.1 of this act is effective when it becomes law. The
13 remainder of this act becomes effective July 1, 1996, and applies to fees imposed for
14 inspections performed on or after that date."

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



HOUSE BILL 638: Transfer Certain Septic Systems

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: July 8, 1999

Version: Proposed Committee Substitute

Introduced by: Representative Owens

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *HB 638 contains measures that 1) authorize the transfer of provisionally approved or innovative septic tank systems to public agencies created to assume ownership of the systems in certain counties, and 2) pertain to the collection of fees for septic system inspections in Gates and Hertford counties.*

Transfer certain septic systems

House Bill 638 authorizes local governments in Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington Counties to establish joint agencies to own and operate provisionally approved or innovative septic tank systems. The bill also authorizes the owner of a provisionally approved or innovative septic tank system to transfer ownership of the system to a joint agency established under this act.

Fees for Inspections

HB 638 authorizes Gates and Hertford counties to adopt ordinances providing that fees for inspections of septic systems may be billed with property taxes and collected in the same manner as property taxes. HB 638 further provides that if the ordinance adopted by the county states that delinquent fees can be collected in the same manner as delinquent property taxes, then the delinquent fees are a lien on the property.

Effective date: This act is effective when it becomes law, and the provisions relating to fees for inspections apply to fees imposed for inspections performed on or after the date this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 978

Proposed Senate Committee Substitute H978-PCSA165-RT002

Short Title: Damaged Piers/Boat Stalls/White Lake.

(Public)

Sponsors:

Referred to:

April 12, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE OWNER OF A PRIVATE OR JOINT PRIVATE
3 PIER AT WHITE LAKE STATE LAKE THAT WAS DAMAGED AS A
4 RESULT OF A NATURAL DISASTER TO REBUILD THE PIER TO ITS
5 CONDITION IMMEDIATELY PRECEDING THE DAMAGE, TO AUTHORIZE
6 THE CONSTRUCTION OF ADDITIONAL BOAT STALLS ON A PIER AT
7 WHITE LAKE STATE LAKE UNDER CERTAIN CIRCUMSTANCES, AND TO
8 DELETE CERTAIN LANDS USED FOR THE FALLS LAKE STATE TRAIL
9 FROM THE STATE PARKS SYSTEM AND REALLOCATE THOSE LANDS
10 TO THE WILDLIFE RESOURCES COMMISSION.
11 The General Assembly of North Carolina enacts:
12 Section 1. Notwithstanding 15A NCAC 12C.0305(b), the Division of
13 Parks and Recreation of the Department of Environment and Natural Resources shall
14 permit the owner of a private pier or joint private pier constructed on the floor of
15 White Lake State Lake that was damaged on or after 1 January 1996 and before 1
16 July 1999 as a result of a hurricane or other natural disaster to rebuild the pier to its
17 condition immediately preceding the damage. A person who applied for a permit to
18 rebuild a pier that was damaged on or after 1 January 1996 may reapply for a permit
19 no later than 1 July 2000.
20 Section 2. Notwithstanding 15A NCAC 12C.0303, the Division of Parks
21 and Recreation of the Department of Environment and Natural Resources shall
22 permit a person to construct a second or subsequent boat stall on a private pier or
23 joint private pier constructed on the floor of White Lake State Lake when all of the

1 conditions set out in this section are satisfied. This section applies only to Pier
2 Number 52 and is subject to the following conditions:

- 3 (1) The person has a recorded deed that conveys an easement to use
4 the pier.
- 5 (2) The property owner has a recorded deed that conveys an easement
6 of egress, ingress, and regress as to the water front property from
7 which the pier extends.
- 8 (3) The water frontage of the property from which the pier extends is
9 at least 75 feet in length.
- 10 (4) The pier is at least 10 feet from the boundary of any adjacent
11 property.
- 12 (5) Construction of the boat stall will not cause the overall length of
13 the pier structure to exceed 225 feet.

14 Section 3. Pursuant to the requirements of G.S. 113-44.14 applicable to
15 the deletion of land from the State Parks System, the General Assembly hereby
16 deletes from the State Parks System all segments and the entire width of the Falls
17 Lake State Trail located within game lands managed by the Wildlife Resources
18 Commission including the segment from the eastern boundary of the Falls Lake State
19 Recreation Area State Management Center at an unnamed Wildlife Resources
20 Commission fire road to the western boundary of the Shinleaf Recreation Area at
21 New Light Road; the segment from the eastern boundary of Shinleaf Recreation Area
22 to State Highway NC 98; the segment from State Highway NC 98 to the second
23 unnamed tributary on the north shore of the Upper Barton Creek arm of Falls Lake;
24 the segment from the Six Forks Road bridge at the south shore of Lower Barton
25 Creek to the western boundary of the Yorkshire Center Management Area at State
26 Road 3326 (Mizelle Lane); and the segment from the footbridge across an unnamed
27 creek on the western boundary of the Yorkshire Center Management Area to the
28 boundary between the eastern end of the State-leased area and the western edge of
29 the land managed by the United States Army Corps of Engineers. This land is shown
30 on a map entitled "Lands to be Deleted from Falls Lake State Recreation Area",
31 dated 5 March 1999 and filed in the State Property Office. The State's leased interest
32 in this land is hereby reallocated to the Wildlife Resources Commission, and the
33 Wildlife Resources Commission shall manage this land.

34 Section 4. If any section of this act is declared unconstitutional or invalid
35 by the courts, the unconstitutional or invalid section does not affect the validity of
36 this act as a whole or any section of this act other than the section declared to be
37 unconstitutional or invalid.

38 Section 5. This act is effective when it becomes law. Section 1 of this act
39 applies to any application for a permit to rebuild a pier that is made on or before 1
40 July 2000. Section 2 of this act applies to any application for a permit to construct a
41 boat stall that is made on or before 1 July 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 978

Short Title: Damaged Piers in State Parks.

(Public)

Sponsors: Representatives Nye; and Davis.

Referred to: Environment and Natural Resources.

April 12, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
3 NATURAL RESOURCES TO PERMIT ANY OWNER OF PRIVATE
4 PROPERTY ON A LAKE LOCATED IN A STATE PARK TO RESTORE THE
5 PROPERTY OWNER'S PIER TO THE CONDITION THAT THE PIER WAS IN
6 IMMEDIATELY PRECEDING THE TIME OF THE DAMAGE WHEN THE
7 DAMAGE IS CAUSED BY A NATURAL DISASTER.

8 The General Assembly of North Carolina enacts:

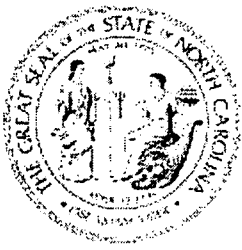
9 Section 1. Article 2 of Chapter 113 of the General Statutes is amended
10 by adding a new section to read:

11 "**§ 113-42.1. Repair of certain private piers on lakes in State parks.**

12 The Division of Parks and Recreation, Department of Environment and Natural
13 Resources, shall permit an owner of private property on a lake located in a State
14 park to restore the property owner's pier to the condition that the pier was in
15 immediately preceding the time of the damage when the damage is caused by a
16 natural disaster."

17 Section 2. Any person who owns property located in a State park on the
18 date this act becomes effective, who has applied for a permit to restore a pier that
19 was damaged and whose application was denied on or after January 1, 1996, may
20 reapply for a permit no later than January 1, 2001.

21 Section 3. This act is effective when it becomes law and applies to
22 permits to rebuild piers issued on or after that date.



HOUSE BILL 978: Damaged Piers in State Parks

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: July 8, 1999

Version: Proposed Committee Substitute

Introduced by: Rep. Nye

Summary by: Hannah Holm,
Research Assistant

SUMMARY

House Bill 978:

- Directs the Department of Environment and Natural Resources to authorize the owner of a private pier at White Lake State Lake that was damaged in a natural disaster between January 1, 1996 and July 1, 1999 to:
 - rebuild the pier to its previous condition, and
 - construct additional boat stalls under certain conditions.
- Reallocates lands used for the Falls Lake State Trail from the State Parks system to the Wildlife Resources Commission.

VISITOR REGISTRATION SHEET

7/8/99

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Wilsons	NCHA
David Vogel	DENR - SWC
Denny Burt	DENR
Berb Rote	NCWRC
Richard Hamilton	NCWRC
Phil McKnolly	DPR / DENR
Steph Treimel	intern for Senator Kinnaird
Steve Woodson	NC Farm Bureau
Natalie English	NCAC
Prof Buzard	SEN. BARNETT'S OFFICE



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, July 13, 1999
11:00 a.m.
Room 544 – LOB

AGENDA

HB 1010

COTTON GINS, WAREHOUSES, MERCHANTS
Representative Hill

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 13, 1999

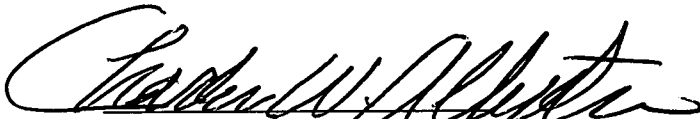
The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, July 13, 1999, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present.

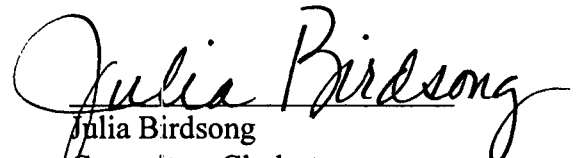
The following bill was discussed:

HB 1010 – COTTON GINS, WAREHOUSES, MERCHANTS –

Representative Hill, sponsor, was recognized to explain the bill. He said the bill had been requested by the Cotton Growers Association and was supported by the North Carolina Department of Agriculture and Consumer Services. Barbara Riley of staff answered questions from committee members as did Weldon Denny of the North Carolina Department of Agriculture and Consumer Services. Senator Weinstein moved that the bill be given a favorable report. Motion carried and the bill was sequentially referred to Finance.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, July 13, 1999

SENATOR WELLONS, VICE CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #2)1010 Cotton Gins, Warehouses, Merchants.
Sequential Referral: Finance
Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 1010*
Committee Substitute Favorable 6/1/99
Committee Substitute #2 Favorable 7/5/99

Short Title: Cotton Gins, Warehouses, Merchants.

(Public)

Sponsors:

Referred to:

April 13, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE COTTON GINS, COTTON WAREHOUSES, AND
3 COTTON MERCHANTS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 106 of the General Statutes is amended by adding a
6 new Article to read:

7 "ARTICLE 38B.

8 "Cotton Gins, Warehouses, Merchants.

9 "§ 106-451.40. Definitions.

- 10 (1) "Cotton gin" means any cotton gin.
11 (2) "Cotton merchant" means any person who buys cotton from the
12 producer for the purpose of resale, or acts as a broker or agent for
13 the producer in arranging the sale of cotton. It does not include a
14 person who buys cotton for his own use.
15 (3) "Cotton warehouse" means any enclosure in which producer-
16 owned cotton is stored or held for longer than 48 hours.

17 "§ 106-451.41. Registration required.

18 No person shall engage in business as a cotton gin, cotton warehouse, or cotton
19 merchant without first having registered with the Commissioner of Agriculture. This
20 shall include a cotton marketing cooperative or association that performs any of these
21 functions.

22 "§ 106-451.42. Application; bond; display of certificate of registration.

1 (a) A cotton gin, cotton warehouse, cotton merchant, or cotton marketing
2 cooperative or association shall, on or before July 1 of each year, file an application
3 for registration on a form provided by the Commissioner of Agriculture. A fee of
4 twenty-five dollars (\$25.00) shall be submitted with each application.

5 (b) An application for registration as a cotton warehouse shall also be
6 accompanied by a bond in the amount of three hundred thousand dollars (\$300,000)
7 issued by a company authorized to issue surety bonds in North Carolina and shall be
8 conditioned upon fulfillment of contractual obligations related to the purchase or
9 storage of cotton. A bond shall not be required for a person who is licensed and
10 bonded under the U.S. Warehouse Act.

11 (c) The registration certificate shall be conspicuously displayed at the place of
12 business.

13 **"§ 106-451.43. Records; receipts; other duties; denial of registration.**

14 (a) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or
15 associations shall keep records of producer-owned cotton transactions for seven years,
16 showing the producer's name, bale number, and bale weight.

17 (b) Cotton gins shall, within 48 hours of ginning, make available to the person
18 from whom cotton was received, a paper document showing the bale number and
19 weight for each bale of cotton ginned.

20 (c) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or
21 associations shall not market, obligate for sale, or otherwise dispose of producer-
22 owned cotton without written consent from the producer.

23 (d) Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or
24 associations shall assist the Commissioner of Agriculture or his agents in inspecting
25 records of producer-owned cotton transactions. Cotton gins, cotton warehouses,
26 cotton merchants, and cotton cooperatives or associations shall assist the
27 Commissioner or his agents in weighing or reweighing a representative sample of
28 cotton bales stored or held at their premises, using sampling procedures approved by
29 the Board of Agriculture.

30 (e) Violation of any of the requirements of this section shall be grounds for denial,
31 suspension, or revocation of registration under G.S. 106-451.41.

32 **"§ 106-451.44. Operation without registration unlawful; injunction.**

33 Engaging in business as a cotton gin, cotton warehouse, or cotton merchant
34 without being registered under G.S. 106-451.41 is punishable as a Class 2
35 misdemeanor. In addition, the Commissioner of Agriculture may apply to any court
36 of competent jurisdiction to obtain injunctive relief to prevent violations of this act."

37 Section 2. This act becomes effective January 1, 2000.



BILL ANALYSIS

HOUSE BILL 1010: Cotton Gins, Warehouses, Merchants

Committee:	Ag/Envir/Nat'l Resources	Introduced by:	Representative Hill
Date:	July 1, 1999	Summary by:	Mary Shuping
Version:	2nd Edition		Research Assistant

SUMMARY: *House Bill 1010 requires all cotton gins, cotton warehouses, and cotton merchants to be registered. The bill also establishes the registration fee and bond requirements and provides that operation without registration is a Class 2 misdemeanor.*

CURRENT LAW & BILL ANALYSIS: Under current law, there is no requirement that cotton gins, warehouses, or merchants be registered.

House Bill 1010 would regulate cotton gins, warehouses, and merchants, as follows:

Cotton Gins, Cotton Warehouses, and Cotton Merchants would be required to register with the Commissioner of Agriculture before engaging in business. A "cotton warehouse" is an enclosure in which producer-owned cotton is stored or held for longer than 48 hours. A "cotton merchant" is a person who buys cotton for the purpose of resale, or acts as a broker or agent for the producer. The term does not include someone who buys cotton for his own use.

Registration Fee; Bond. Cotton gins, cotton merchants, and cotton warehouses would be required to register with the Department of Agriculture by July 1 of each year. The annual fee for registration is \$25.00. In addition, cotton warehouses that are not licensed and bonded under the U.S. Warehouse Act must submit a bond in the amount of \$300,000.

Records; Receipts; Denial of Registration. Cotton gins, cotton warehouses, cotton merchants, and cotton cooperatives or associations are required to keep records of producer-owned cotton transactions for 7 years and cannot dispose of the cotton without consent from the producer. Gins are required to give a document showing the bale number and weight for each bale to the grower within 48 hours. Finally, these entities are required to assist agents of the NC Department of Agriculture in inspection of records and weighing or re-weighing cotton bales samples. Violations of these requirements are grounds for denial, suspension, or revocation of registration.

Operation Without Registration is punishable as a Class 2 misdemeanor.

EFFECTIVE DATE: The act is effective January 1, 2000.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

7/13/99
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tommy Stevens	DWQ
DON Hamby	NCPCA
Chock Hazelwood	NCPCA
David Knight	NC Sierra Club
Molly Diggins	NC Sierra Club
Barbara Wilce	NC Sierra Club
David	MESSA / AUTO PAD
David Farrell	NM ^c CCTC, PA
John Robinson	NC DMU
Eugene [Signature]	DMU
George [Signature]	DMU

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Wilms	NCHBA
"a Gupta	"F"
Natalie English	NCAE
Steve Woodson	Nc Farm Bureau
Doug Lomo	Lt. Gov.
Russell Hageman	NC DENR, DAQ
Brock Nicholson	NC DENR - DAQ
Tom Slade	NC DA&CS
Brian Ewing	NC Libertarian Party
Will Terry	NC DA&CS
Bluffton	Agreement Alliance of N.C.



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, July 15, 1999
9:00 a.m.
Room 1027 – LB

A G E N D A

SB 7 CLEAN N. C. 2000
 Senator Odom

SB 953 AMBIENT AIR QUALITY IMPROVEMENTS
 (For concurrence with the House Committee Substitute)
 Senator Clodfelter

CONFIRMATION OF GOVERNOR'S APPOINTEES TO THE NORTH CAROLINA
STATE BOARD OF AGRICULTURE:

Maurice K. Berry, Jr., Elizabeth City, NC
Daniel R. Finch, Bailey, NC
Jeffrey B. Turner, Pink Hill, NC

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 15, 1999

The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, July 15, 1999, at 9:00 a.m., in Room 1027 of the Legislative Building. Senator Albertson, chairman, presided and there were thirteen committee members present. He also thanked all committee members and staff for the excellent job they had done this year.

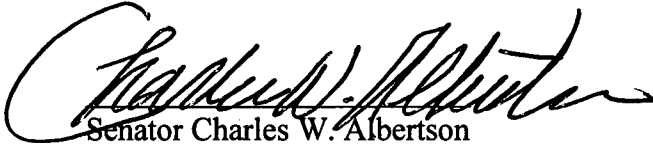
The following bills were discussed:

SB 953 – AMBIENT AIR QUALITY IMPROVEMENTS – Senator Clodfelter, sponsor. This bill was back in our committee for a vote on concurrence with the House Committee Substitute and Representative Joe Hackney was asked to explain it. Representative Hackney answered questions from committee members as did Bill Holman of N. C. Department of Environment and Natural Resources. Senator Albertson said because of time constraints, it would be necessary to limit comments by the audience. The committee heard comments by Brock Nicholson, Division of Air Quality, N. C. Department of Environment and Natural Resources; and Major John Robinson, N. C. Division of Motor Vehicles Enforcement, both of them being in favor of the bill. Senator Clodfelter moved that the bill be given a favorable report as to concurrence with the House Committee Substitute #1. Motion carried.

SB 7 – CLEAN N. C. 2000 – Senator Odom, sponsor. This bill had been changed into a proposed committee substitute and the title had been changed to “Ag Tourism Signs”. Senator Wellons moved that the proposed committee substitute be adopted for discussion purposes. Motion carried. Barbara Riley of staff explained the PCS. Senator Weinstein moved that the proposed committee substitute be given a favorable report, with a recommended referral to Finance, unfavorable as to original bill. Motion carried.

Senator Albertson announced that it would be necessary for the committee to re-confirm three of the Governor’s Appointees to the North Carolina State Board of Agriculture. These appointees were Maurice K. Berry, Jr., Elizabeth City; Daniel R. Finch, Bailey; and Jeffrey B. Turner of Pink Hill. Senator Harris moved that the committee recommend that the reappointment of these three individuals to the North Carolina State Board of Agriculture, beginning immediately and expiring on May 1, 2005, be confirmed. Motion carried and a letter so recommending was written to the President and Members of the Senate.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

REVISED REPORT

Thursday, July 15, 1999

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE AS TO CONCURRENCE

S.B.(HCS#1)953 Ambient Air Quality Improvements
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 7 Clean N.C. 2000
 Draft Number: PCS6705
 Sequential Referral: None
 Recommended Referral: Finance
 Long Title Amended: Yes

TOTAL REPORTED: 2

Committee Clerk Comment: SB 7 will be discussed by the Finance Committee during a recess of session today. I have provided copies of this PCS to them. After discussion and/or vote by Finance, SB 7 will be discussed on the floor.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

D

SENATE BILL 7
Proposed Committee Substitute S7-PCS6705-RF

Short Title: Ag Tourism Signs.

(Public)

Sponsors:

Referred to:

January 28, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE POSTING OF DIRECTIONAL SIGNS TO
3 AGRICULTURAL MARKETING AND PROCESSING FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. Article 1 of Chapter 106 of the General Statutes is amended
6 by adding a new section to read:
7 "§ 106-22.5. Agricultural tourism signs.
8 (a) The Department of Agriculture and Consumer Services shall provide
9 directional signs on major highways at or in reasonable proximity to the nearest
10 interchange or within one mile leading to any of the following types of agricultural
11 facilities:
12 (1) Facilities marketing North Carolina farm commodities.
13 (2) Facilities processing and marketing agricultural products, at least
14 fifty percent (50%) of which must be grown in North Carolina.
15 (3) Facilities that promote tourism by providing tours and on-site sales
16 or samples of North Carolina agricultural products to area tourists.
17 (b) An agricultural facility must be open for business at least four days a week, 10
18 months of the year in order to qualify for the directional signs provided for in this
19 section. The Department may assess the facility the actual reasonable costs of the
20 sign and its installation."
21 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 7

Short Title: Clean N.C. 2000.

(Public)

Sponsors: Senators Odom; Albertson, Ballance, Carter, Dalton, Dannelly, Garrou, Gulley, Hoyle, Jordan, Kerr, Kinnaird, Lucas, Martin of Pitt, Martin of Guilford, Miller, Perdue, Phillips, Plyler, Purcell, Rand, Reeves, Robinson, Soles, Warren, Weinstein, and Wellons.

Referred to: Agriculture/Environment/Natural Resources.

January 28, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS OF NORTH CAROLINA TO IMPROVE THE
3 QUALITY OF THE ENVIRONMENT OF THE STATE AND TO
4 APPROPRIATE FUNDS FOR THAT PURPOSE.
5 The General Assembly of North Carolina enacts:
6 Section 1. This act amends the laws of North Carolina to improve the
7 quality of the environment of the State and to appropriate funds for that purpose.
8 Section 2. This act becomes effective July 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 953
House Committee Substitute Favorable 6/30/99

Short Title: Ambient Air Quality Improvements.

(Public)

Sponsors:

Referred to:

April 14, 1999

A BILL TO BE ENTITLED

1
2 AN ACT TO ENACT THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF
3 1999.

4 Whereas, the Constitution of North Carolina declares that the policy of
5 this State is to conserve and protect State lands and waters for the benefit of all
6 North Carolina citizens and to control and limit air pollution within the State; and

7 Whereas, the State has enacted comprehensive statutory and regulatory
8 protections for reducing air pollution from stationary sources; and

9 Whereas, ozone air pollution adversely affects the health and welfare of
10 the citizens of North Carolina through the impairment of lung function and
11 exacerbation of asthma and other diseases of the lung; and

12 Whereas, visibility at some of the State's places of beauty, such as the
13 Great Smoky Mountains National Park and the Blue Ridge Mountain range, has been
14 impaired by ozone air pollution that is created by the reaction of nitrogen oxides
15 (NOx) and other chemicals in sunlight; and

16 Whereas, the decentralized system of inspection stations effectively uses a
17 public-private partnership to enforce motor vehicle pollution controls; and

18 Whereas, gains in motor vehicle pollution control technology have been
19 offset by increased vehicle use, resulting in greater emissions of nitrogen oxides
20 (NOx) and greater ozone air pollution; and

21 Whereas, the sulfur contained in gasoline impedes the effectiveness of
22 catalytic converters, the devices that reduce the amount of pollution emitted from
23 vehicle tailpipes, thereby degrading the emission control systems of vehicles; and

1 Whereas, new motor vehicle pollution control technology is more
2 sensitive to the sulfur content of fuels and will require new emissions inspection
3 methods; and

4 Whereas, reducing emissions of nitrogen oxides (NOx) from motor
5 vehicles by twenty-five percent (25%) within the next 10 years will complement the
6 State's stationary source control strategy; and

7 Whereas, reducing the growth of vehicle miles traveled in the State by
8 twenty-five percent (25%) within the next 10 years will complement the State's
9 controls of nitrogen oxide (NOx) emissions from stationary sources; and

10 Whereas, leaking underground storage tanks and tanker trucks release
11 quantities of volatile organic compounds into the air, which mix with nitrogen oxides
12 (NOx) to form ground level ozone; and

13 Whereas, clean burning fuels, alternative-fueled vehicles, and low
14 emission vehicle usage should be encouraged statewide; and

15 Whereas, the State must lead the way in combating ground level ozone
16 pollution from motor vehicles through its own purchases and policies; Now,
17 therefore,

18 The General Assembly of North Carolina enacts:

19

20 PART I. STATEWIDE GOALS

21

22 Section 1.1. It shall be the goal of the State to reduce emissions of
23 nitrogen oxides (NOx) from all sources by at least twenty-five percent (25%) by 1
24 July 2009. It shall be the goal of the State to reduce the growth of vehicle miles
25 traveled in the State by at least twenty-five percent (25%) of that growth that would
26 otherwise occur by 1 July 2009. The Department of Environment and Natural
27 Resources and the Department of Transportation shall evaluate progress toward
28 achieving these goals in each fiscal year and shall report their findings and
29 recommendations as to any measures that may be needed to achieve these goals to
30 the Environmental Review Commission on or before 1 October of each year
31 beginning 1 October 2000.

32

33 PART II. SULFUR CONTENT OF MOTOR FUELS

34

35 Section 2.1. Article 3 of Chapter 119 of the General Statutes is amended
36 by adding a new section to read:

37 "**§ 119-26.2. Sulfur content standards.**

38 (a) No person shall manufacture, sell, or offer for sale gasoline that contains a
39 concentration of sulfur greater than 30 parts per million except that a person may
40 manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of
41 not more than 80 parts per million if the average concentration of sulfur in the
42 gasoline manufactured, sold, or offered for sale by that person is 30 parts per million
43 or less. The average concentration of sulfur contained in gasoline shall be
44 determined on the basis of a one-year period established by rule.

1 (b) The Gasoline and Oil Inspection Board shall adopt rules to implement this
2 section."

3 Section 2.2. Section 2.1 of this act becomes effective as provided in this
4 section. No later than 1 July 2000, the Governor shall determine whether the United
5 States Environmental Protection Agency has adopted, pursuant to the Notice of
6 Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64,
7 Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold,
8 and offered for sale in this State that limit the sulfur content of gasoline to a
9 concentration equal to or less than the concentration set out in Section 2.1 of this act.
10 If the Governor so determines, the Governor shall issue an Executive Order setting
11 out the date on which Section 2.1 of this act becomes effective, which shall be the
12 date on which the federal regulation becomes effective in this State. Otherwise,
13 Section 2.1 of this act becomes effective 1 January 2004. If the United States
14 Environmental Protection Agency promulgates a regulation that imposes a limit on
15 the concentration of sulfur in gasoline other than that set out in G.S. 119-26.2, as
16 enacted by Section 2.1 of this act, it is the intention of the General Assembly to
17 review the limit established in G.S. 119-26.2. In that event, the Environmental
18 Review Commission shall review the limit on the concentration of sulfur in gasoline
19 and report its findings and recommendations, if any, to the General Assembly.

20 Section 2.3. G.S. 119-26.1 reads as rewritten:

21 "§ 119-26.1. ~~Oxygen content standards~~ Content of motor fuels and reformulated
22 gasoline.

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

- 29 (1) Will improve the ambient air quality within the specified county or
30 counties;
- 31 (2) Is necessary to achieve attainment or preclude violations of the
32 National Ambient Air Quality Standards; or
- 33 (3) Is otherwise necessary to meet federal requirements.

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

38 (c) The Commissioner of Agriculture may assess and collect civil penalties for
39 violations of rules adopted under G.S. 143-215.107(a)(9) or this section in accordance
40 with G.S. 143-215.114A. The Commissioner of Agriculture may institute a civil action
41 for injunctive relief to restrain, abate, or prevent a violation or threatened violation of
42 rules adopted under G.S. 143-215.107(a)(9) or this section in accordance with G.S.
43 143-215.114C. The assessment of a civil penalty under this section and G.S.
44 143-215.114A or institution of a civil action under G.S. 143-215.114C and this section

1 shall not relieve any person from any other penalty or remedy authorized under this
2 Article.

3 (c1) The clear proceeds of civil penalties assessed pursuant to this subsection shall
4 be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
5 115C-457.2.

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

9
10 **PART III. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE**

11
12 Section 3.1. Article 21B of Chapter 143 of the General Statutes is
13 amended by adding a new section to read:

14 "**§ 143-215.107A. Motor vehicle emissions testing and maintenance program.**

15 (a) **General Provisions. --**

16 (1) **G.S. 143-215.107(a)(6) shall be implemented as provided in this**
17 **section.**

18 (2) **Motor vehicle emissions inspections shall be performed by a person**
19 **who holds an emissions inspection mechanic license issued as**
20 **provided in G.S. 20-183.4A(c) at a station that holds an emissions**
21 **inspection station license issued under G.S. 20-183.4A(a) or at a**
22 **place of business that holds an emissions self-inspector license**
23 **issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions**
24 **inspections may be performed by a decentralized network of**
25 **test-and-repair stations as described in 40 Code of Federal**
26 **Regulations § 51.353 (1 July 1998 Edition). The Commission may**
27 **not require that motor vehicle emissions inspections be performed**
28 **by a network of centralized or decentralized test-only stations.**

29 (b) **Type of Test Required. -- Motor vehicle emissions inspections shall be**
30 **performed using the two-mode Acceleration Simulation Mode (ASM) test described**
31 **in Federal Register, Volume 57, Number 215, (5 November 1992), Pages 52955 to**
32 **52996.**

33 (c) **Counties Covered. -- Motor vehicle emissions inspections shall be performed**
34 **only in the following counties: Cabarrus, Durham, Forsyth, Gaston, Guilford,**
35 **Mecklenburg, Orange, Union, and Wake.**

36 (d) **Additional Counties. -- The Commission may require that motor vehicle**
37 **emissions inspections be performed in counties in addition to those set out in**
38 **subsection (c) of this section. In determining whether to require that motor vehicle**
39 **emissions inspections be performed in a county, the Commission may consider the**
40 **population of, and distribution of population in, the county; the projected change in**
41 **population of, and distribution of population in, the county; the number of vehicles**
42 **registered in the county; the projected change in the number of vehicles registered in**
43 **the county; vehicle miles traveled in the county; the projected change in vehicle miles**
44 **traveled in the county; current and projected commuting patterns in the county; and**

1 the current and projected impact of these factors on attainment of air quality
2 standards in the county and in areas outside the county. The Commission may not
3 require that motor vehicle emissions testing be performed in any county with a
4 population of less than 40,000 based on the most recent population estimates
5 prepared by the State Planning Officer. The Commission may not require that motor
6 vehicle emissions testing be performed in any county in which the number of vehicle
7 miles traveled per day is less than 900,000, based on the most recent estimates
8 prepared by the Department of Transportation. In order to disapprove a rule that
9 requires that motor vehicle emissions inspections be performed in one or more
10 additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend
11 subsection (c) of this section to add one or more other counties in which the total
12 population and vehicle miles traveled per day equal or exceed the total population
13 and vehicle miles traveled in the county or counties listed in the rule that the bill
14 would disapprove."

15 Section 3.2. The Environmental Management Commission shall adopt
16 rules to implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These
17 rules shall become effective on 1 July 2002. The Environmental Management
18 Commission shall not require that motor vehicle emissions inspections be performed
19 in any county pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act,
20 prior to 1 July 2006. The Environmental Management Commission shall not require
21 motor vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001.

22 Section 3.3. Effective 1 July 2003, G.S. 143-215.7A(c), as enacted by
23 Section 3.1 of this act, reads as rewritten:

24 "(c) Motor vehicle emissions inspections shall be performed ~~only~~ in the following
25 counties: Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston,
26 Guilford, Iredell, Johnston, Mecklenburg, Orange, Rowan, Union, and Wake."

27 Section 3.4. Effective 1 January 2004, G.S. 143-215.7A(c), as enacted by
28 Section 3.1 of this act and amended by Section 3.3 of this act, reads as rewritten:

29 "(c) Motor vehicle emissions inspections shall be performed in the following
30 counties: Alamance, Cabarrus, Catawba, Chatham, Cumberland, Davidson, Durham,
31 Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg,
32 Moore, Orange, Randolph, Rowan, Stanly, Union, and Wake."

33 Section 3.5. Effective 1 July 2004, G.S. 143-215.7A(c), as enacted by
34 Section 3.1 of this act and amended by Sections 3.3 and 3.4 of this act, reads as
35 rewritten:

36 "(c) Motor vehicle emissions inspections shall be performed in the following
37 counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland,
38 Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Granville, Guilford,
39 Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Moore, Orange, Randolph,
40 Rockingham, Rowan, Stanly, Union, and Wake."

41 Section 3.6. Effective 1 January 2005, G.S. 143-215.7A(c), as enacted by
42 Section 3.1 of this act and amended by Sections 3.3 through 3.5 of this act, reads as
43 rewritten:

1 "(c) Motor vehicle emissions inspections shall be performed in the following
2 counties: Alamance, Buncombe, Cabarrus, Catawba, Chatham, Cleveland,
3 Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville,
4 Guilford, Harnett, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore,
5 Nash, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, Stanly, Union, ~~and~~
6 ~~Wake.~~ Wake, Wayne, and Wilson."

7 Section 3.7. Effective 1 July 2005, G.S. 143-215.7A(c), as enacted by
8 Section 3.1 of this act and amended by Sections 3.3 through 3.6 of this act, reads as
9 rewritten:

10 "(c) Motor vehicle emissions inspections shall be performed in the following
11 counties: Alamance, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham,
12 Cleveland, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston,
13 Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir,
14 Lincoln, Mecklenburg, Moore, Nash, Orange, Pitt, Randolph, Robeson, Rockingham,
15 Rowan, Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and
16 Wilson."

17 Section 3.8. Effective 1 January 2006, G.S. 143-215.7A(c), as enacted by
18 Section 3.1 of this act and amended by Sections 3.3 through 3.7 of this act, reads as
19 rewritten:

20 "(c) Motor vehicle emissions inspections shall be performed in the following
21 counties: Alamance, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret,
22 Catawba, Chatham, Cleveland, Craven, Cumberland, Davidson, Durham,
23 Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood,
24 Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New
25 Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan,
26 Rutherford, Stanly, Stokes, Surry, Union, Wake, Wayne, Wilkes, and Wilson."

27 Section 3.9. Sections 3.3 through 3.8 of this act become effective only if
28 G.S. 20-183.7 is amended to increase the fee for motor vehicle emissions inspections
29 no later than 31 December 2000. G.S. 143-215.107A(b), as enacted by Section 3.1 of
30 this act, and Section 3.2 of this act are repealed effective 1 January 2001 unless, prior
31 to 1 January 2001, G.S. 20-183.7 has been amended to increase the fee for motor
32 vehicle emissions inspection.

33 Section 3.10. The Department of Environment and Natural Resources,
34 with the assistance of the Division of Motor Vehicles of the Department of
35 Transportation and the affected parties, shall study issues related to costs associated
36 with the motor vehicle emissions inspection and maintenance program. The
37 Department shall determine what constitutes a reasonable fee for motor vehicle
38 emissions inspections under the current program and under the enhanced program to
39 be implemented pursuant to G.S. 143-215.107A(b), as enacted by Section 3.1 of this
40 act. In determining what constitutes a reasonable fee, the Department shall consider
41 the cost of emissions inspection equipment, the useful life of the equipment, the
42 average period of time during which a purchaser of this equipment is able to
43 amortize this cost, telephone charges incurred in connection with the registration
44 denial program, whether a fee should be charged to reinspect a vehicle that fails an

1 emissions test after repairs to the vehicle have been made, and whether the State
2 should purchase emissions inspection equipment purchased prior to 10 June 1999 for
3 use in the current program but that will be rendered obsolete by the enhanced
4 program. The Department shall report its findings and recommendations to the
5 Environmental Review Commission on or before 1 February 2000. The
6 Environmental Review Commission, with the assistance of the Fiscal Research
7 Division of the Legislative Services Office, shall evaluate these recommendations.
8 The Environmental Review Commission shall recommend legislation to amend G.S.
9 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2000
10 Regular Session of the 1999 General Assembly.

11 Section 3.11. G.S. 20-183.2 reads as rewritten:

12 **"§ 20-183.2. Description of vehicles subject to safety or emissions inspection;**
13 **definitions.**

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

- 16 (1) It is subject to registration with the Division under Article 3 of this
17 Chapter.
- 18 (2) It is not subject to inspection under 49 C.F.R. Part 396, the federal
19 Motor Carrier Safety Regulations.
- 20 (3) It is not a trailer whose gross weight is less than 4,000 pounds or a
21 house trailer.

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

- 24 (1) It is subject to registration with the Division under Article 3 of this
25 Chapter.
- 26 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
27 house trailer, or a motorcycle.
- 28 (3) It is a 1975 or later model.
- 29 ~~(4) It is powered or designed so that it could be powered by gasoline.~~
- 30 (5) It meets any of the following descriptions:
 - 31 a. It is required to be registered in an emissions county.
 - 32 b. It is part of a fleet that is operated primarily in an emissions
33 county.
 - 34 c. It is offered for rent in an emissions county.
 - 35 d. It is a used vehicle offered for sale by a dealer in an
36 emissions county.
 - 37 e. It is operated on a federal installation located in an
38 emissions county and it is not a tactical military vehicle.
39 Vehicles operated on a federal installation include those that
40 are owned or leased by employees of the installation and are
41 used to commute to the installation and those owned or
42 operated by the federal agency that conducts business at the
43 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

- 1 nature and time periods or duration of emissions, and such other
2 information as is relevant to air pollution and available or
3 reasonably capable of being assembled.
- 4 (5) To develop and adopt emission control standards as in the
5 judgment of the Commission may be necessary to prohibit, abate,
6 or control air pollution commensurate with established air quality
7 standards. ~~The standards may be applied uniformly to the State as~~
8 ~~a whole or to any area of the State designated by the Commission.~~
9 This subdivision does not apply to that portion of the National
10 Emission Standards for Hazardous Air Pollutants for asbestos that
11 governs demolition and renovation as set out in 40 C.F.R. §
12 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- 13 (6) ~~To adopt, when necessary and practicable, a program for testing~~
14 ~~emissions from motor vehicles and to adopt motor vehicle emission~~
15 ~~standards in compliance with applicable federal regulations; adopt~~
16 ~~motor vehicle emissions standards; to adopt, when necessary and~~
17 ~~practicable, a motor vehicle emissions inspection and maintenance~~
18 ~~program to improve ambient air quality; to require that motor~~
19 ~~vehicle emissions be monitored while the vehicle is in operation by~~
20 ~~means of onboard diagnostic equipment (OBD) installed by the~~
21 ~~vehicle manufacturer; to require manufacturers of motor vehicles~~
22 ~~to furnish to the Equipment and Tool Institute and, upon request~~
23 ~~and at a reasonable charge, to any person who maintains or repairs~~
24 ~~a motor vehicle, all information necessary to fully make use of the~~
25 ~~onboard diagnostic equipment and the data compiled by that~~
26 ~~equipment; to certify to the Commissioner of Motor Vehicles that~~
27 ~~ambient air quality will be improved by the implementation of a~~
28 ~~motor vehicle emissions inspection and maintenance program in a~~
29 ~~county. The Commission shall implement this subdivision as~~
30 ~~provided in G.S. 143-215.107A.~~
- 31 (7) To develop and adopt standards and plans necessary to implement
32 programs for the prevention of significant deterioration and for the
33 attainment of air quality standards in nonattainment areas.
- 34 (8) To develop and adopt standards and plans necessary to implement
35 programs to control acid deposition and to regulate the use of
36 sulfur dioxide allowances and nitrogen oxides (NOx) emissions in
37 accordance with Title IV and implementing regulations adopted by
38 the United States Environmental Protection Agency.
- 39 (9) To regulate the ~~oxygen~~ content of ~~gasoline~~, motor fuels, as defined
40 in G.S. 119-16, to require use of reformulated gasoline as the
41 Commission determines necessary, to implement the requirements
42 of Title II and implementing regulations adopted by the United
43 States Environmental Protection Agency, and to develop standards
44 and plans to implement this subdivision. ~~Rules adopted under this~~

1 ~~subdivision may specify standards for a particular area of the State~~
2 ~~that differ from standards specified for other areas as may be~~
3 ~~necessary to improve ambient air quality within a particular area;~~
4 ~~achieve attainment or preclude violations of the National Ambient~~
5 ~~Air Quality Standards, or to meet other federal requirements.~~
6 Rules may authorize the use of marketable oxygen credits for
7 gasoline as provided in federal requirements.

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

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

15 (12) To develop and adopt a program of incentives to promote
16 voluntary reductions of emissions of air contaminants, including,
17 but not limited to, emissions banking and trading and credit for
18 voluntary early reduction of emissions.

19 (13) To develop and adopt rules governing the certification of persons
20 who inspect vehicle-mounted tanks used to transport motor fuel
21 and to require that inspection of these tanks be performed only by
22 certified personnel.

23 (14) To develop and adopt rules governing the sale and service of
24 mobile source exhaust emissions analyzers and to require that
25 vendors of these analyzers provide adequate surety to purchasers
26 for the performance of the vendor's contractual or other
27 obligations related to the sale and service of analyzers.

28 (b) Criteria for Standards. -- In developing air quality and emission control
29 standards, motor vehicle emissions standards, motor vehicle emissions inspection and
30 maintenance requirements, rules governing the content of motor fuels or requiring
31 the use of reformulated gasoline, and other standards and plans to improve ambient
32 air quality, the Commission shall ~~recognize~~ consider varying local conditions and
33 requirements and may prescribe uniform standards and plans throughout the State or
34 different standards and plans for different counties or areas as may be necessary and
35 appropriate to facilitate accomplishment of the stated improve ambient air quality in
36 the State or within a particular county or area, achieve attainment or preclude
37 violations of state or national ambient air quality standards, meet other federal
38 requirements, or achieve the purposes of this Article and Article 21.

39 (c) Chapter 150B of the General Statutes governs the adoption and publication of
40 rules under this Article."

41 Section 3.13. G.S. 20-183.8F reads as rewritten:

42 "§ 20-183.8F. Requirements for giving ~~certain emissions~~ license holders notice of
43 violations and for taking summary action.

1 (a) Finding of Violation. -- When an auditor of the Division finds that ~~an~~
2 ~~emissions~~ a violation has occurred that could result in the suspension or revocation of
3 an ~~emissions~~ inspection station license, ~~an emissions~~ a self-inspector license, or ~~an~~
4 ~~emissions~~ a mechanic license, the auditor must give the affected license holder
5 written notice of the finding. The notice must be given within five business days after
6 the violation occurred. The notice must state the period of suspension or revocation
7 that could apply to the violation and any monetary penalty that could apply to the
8 violation. The notice must also inform the license holder of the right to a hearing if
9 the Division charges the license holder with the violation.

10 (b) Notice of Charges. -- When the Division decides to charge an ~~emissions~~
11 inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic with a
12 violation that could result in the suspension or revocation of the person's ~~emissions~~
13 license, an auditor of the Division must deliver a written statement of the charges to
14 the affected license holder. The statement of charges must inform the license holder
15 of this right, instruct the person on how to obtain a hearing, and inform the license
16 holder of the effect of not requesting a hearing. The license holder has the right to a
17 hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the
18 procedure for obtaining a hearing.

19 (c) Exception for Summary Action. -- The right granted by subsection (b) of this
20 section to have a hearing before ~~an emissions~~ a license is suspended or revoked does
21 not apply if the Division summarily suspends or revokes the license after a judge has
22 reviewed and authorized the proposed action. A license issued to an ~~emissions~~
23 inspection station, ~~an emissions~~ a self-inspector, or ~~an emissions~~ a mechanic is a
24 substantial property interest that cannot be summarily suspended or revoked without
25 judicial review."

26 Section 13.14. G.S. 20-183.8G reads as rewritten:

27 "**§ 20-183.8G. Administrative and judicial review.**

28 (a) Right to Hearing. -- A person who applies for a license or registration under
29 this Part or who has a license or registration issued under this Part has the right to a
30 hearing when any of the following occurs:

- 31 (1) The Division denies the person's application for a license or
32 registration.
- 33 (2) The Division delivers to the person a written statement of charges
34 of ~~an emissions~~ a violation that could result in the suspension or
35 revocation of the person's ~~emissions~~ license.
- 36 (3) The Division summarily suspends or revokes the person's license
37 following review and authorization of the proposed adverse action
38 by a judge.
- 39 (4) The Division assesses a civil penalty against the person.
- 40 (5) The Division issues a warning letter to the person.
- 41 (6) The Division cancels the person's registration.

42 (b) Hearing After Statement of Charges. -- When ~~an emissions~~ a license holder
43 receives a statement of charges of ~~an emissions~~ a violation that could result in the
44 suspension or revocation of the person's license, the person can obtain a hearing by

1 making a request for a hearing. The person must make the request to the Division
2 within 10 days after receiving the statement of the charges. A person who does not
3 request a hearing within this time limit waives the right to a hearing.

4 The Division must hold a hearing requested under this subsection within three
5 business days after receiving the request unless the person requesting the hearing asks
6 for additional time to prepare for the hearing. A person may ask for no more than
7 seven additional business days to prepare. If the additional time requested is within
8 this limit, the Division must grant a person the additional time requested. The
9 hearing must be held at the location designated by the Division. Suspension or
10 revocation of the license is stayed until a decision is made following the hearing.

11 If a person does not request a hearing within the time allowed for making the
12 request, the proposed suspension or revocation becomes effective the day after the
13 time for making the request ends. If a person requests a hearing but does not attend
14 the hearing, the proposed suspension or revocation becomes effective the day after
15 the date set for the hearing.

16 (c) Hearing After Summary Action. -- When the Division summarily suspends a
17 license issued under this Part after judicial review and authorization of the proposed
18 action, the person whose license was suspended or revoked may obtain a hearing by
19 filing with the Division a written request for a hearing. The request must be filed
20 within 10 days after the person was notified of the summary action. The Division
21 must hold a hearing requested under this subsection within 14 days after receiving the
22 request.

23 (d) All Other Hearings. -- When this section gives a person the right to a hearing
24 and subsection (b) or (c) of this section does not apply to the hearing, the person may
25 obtain a hearing by filing with the Division a written request for a hearing. The
26 request must be filed within 10 days after the person receives written notice of the
27 action for which a hearing is requested. The Division must hold a hearing within 90
28 days after the Division receives the request.

29 (e) Review by Commissioner. -- The Commissioner may conduct a hearing
30 required under this section or may designate a person to conduct the hearing. When
31 a person designated by the Commissioner holds a hearing and makes a decision, the
32 person who requested the hearing has the right to request the Commissioner to
33 review the decision. The procedure set by the Division governs the review by the
34 Commissioner of a decision made by a person designated by the Commissioner.

35 (f) Decision. -- A decision made after a hearing on the imposition of a monetary
36 penalty against a motorist for an emissions violation or on a Type I, II, or III
37 emissions violation by an emissions license holder must uphold any monetary penalty,
38 license suspension, license revocation, or warning required by G.S. 20-183.8A or G.S.
39 20-183.8B, respectively, if the decision contains a finding that the motorist or license
40 holder committed the act for which the monetary penalty, license suspension, license
41 revocation, or warning was imposed. A decision made after a hearing on any other
42 action may uphold or modify the action.

43 (g) Judicial Review. -- Article 4 of Chapter 150B of the General Statutes governs
44 judicial review of an administrative decision made under this section."

1

2 PART IV. STATE AGENCY GOALS, PLANS, DUTIES, AND REPORTS; OTHER
3 PROVISIONS

4

5 Section 4.1. As used in this Part, alternative-fueled vehicle means a
6 motor vehicle capable of operating on electricity; natural gas; propane; hydrogen;
7 reformulated gasoline; ethanol; other alcohol fuels, separately or in mixtures of
8 eighty-five percent (85%) or more of alcohol by volume; or fuels, other than alcohol,
9 derived from biological materials. For purposes of this Part, a vehicle that has been
10 converted to operate on a fuel other than the fuel for which it was originally designed
11 is not a new or replacement vehicle.

12 Section 4.2. It shall be the goal of the State that on and after 1 January
13 2004 at least seventy-five percent (75%) of the new or replacement light duty cars
14 and trucks purchased by the State will be alternative-fueled vehicles or low emission
15 vehicles. The Department of Administration, the Department of Transportation, and
16 the Department of Environment and Natural Resources shall jointly develop a plan to
17 achieve this goal and to fuel and maintain these vehicles. The Department of
18 Administration shall report on progress in developing and implementing this plan
19 and achieving this goal to the Environmental Review Commission on 1 September of
20 each year beginning 1 September 2000. For purposes of this section, a light duty car
21 or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating
22 (GVWR).

23 Section 4.3. The Department of Public Instruction, the Department of
24 Transportation, and the Department of Environment and Natural Resources shall
25 jointly develop a draft plan for the purchase of school buses under which, beginning
26 1 January 2004, at least fifty percent (50%) of the new and replacement public school
27 buses purchased for use in counties with a population of at least 100,000, based on
28 the most recent population estimates prepared by the Office of State Planning, will be
29 alternative-fueled or low emission vehicles. These departments shall invite interested
30 parties to participate in the development of the draft plan. The draft plan will
31 consider the infrastructure requirements that would be needed to fuel and maintain
32 these buses and the costs and benefits of implementation of the plan, including the
33 impact on ambient air quality. The Department of Public Instruction shall submit the
34 draft plan to the Environmental Review Commission on or before 1 September 2000.

35 Section 4.4. The Department of Transportation and the Department of
36 Environment and Natural Resources shall jointly develop a draft plan for the
37 purchase of buses under which, beginning 1 January 2004, at least fifty percent (50%)
38 of the new and replacement buses purchased to provide public transportation in
39 counties in which motor vehicle emissions inspections are required to be performed
40 under subsection (c) or (d) of G.S. 143-215.107A will be alternative-fueled or low
41 emission vehicles. These departments shall invite interested parties to participate in
42 the development of the draft plan. The draft plan will consider the infrastructure
43 requirements that would be needed to fuel and maintain these buses and the costs
44 and benefits of implementation of the plan, including the impact on ambient air

1 quality. The Department of Transportation shall submit the draft plan to the
2 Environmental Review Commission on or before 1 September 2000.

3 Section 4.5. The Department of Transportation, the Department of
4 Commerce, and the Department of Environment and Natural Resources shall jointly
5 develop recommendations for incentives to increase the use of alternative-fueled and
6 low emission light duty cars and trucks in privately owned fleets. The Department of
7 Environment and Natural Resources shall submit these recommendations to the
8 Environmental Review Commission on or before 1 February 2000. The Department
9 of Environment and Natural Resources shall report on progress in increasing the use
10 of alternative-fueled and low emission light duty cars and trucks in privately owned
11 fleets to the Environmental Review Commission on or before 1 October of each year
12 beginning 1 October 2001.

13 Section 4.6. The Department of Administration, the Office of State
14 Personnel, the Department of Transportation, and the Department of Environment
15 and Natural Resources shall jointly develop and periodically update a plan to reduce
16 vehicle miles traveled by State employees and vehicle emissions resulting from
17 job-related travel, including commuting to and from work. The plan shall consider
18 the use of carpooling, vanpooling, public transportation, incentives, and other
19 appropriate strategies. The Office of State Personnel shall report on the development
20 and implementation of the plan to the Joint Legislative Transportation Oversight
21 Committee and the Environmental Review Commission on or before 1 October of
22 each year beginning 1 October 2000.

23 Section 4.7. The Department of Transportation, the Department of
24 Commerce, and the Department of Environment and Natural Resources shall jointly
25 develop and periodically update a plan to reduce vehicle miles traveled by private
26 sector employees and vehicle emissions resulting from job-related travel, including
27 commuting to and from work. The plan shall consider the use of incentives for both
28 private sector employees and employers, carpooling, vanpooling, public
29 transportation, and other appropriate strategies. The Department of Transportation
30 shall report on the development and implementation of the plan to the Joint
31 Legislative Transportation Oversight Committee and the Environmental Review
32 Commission on or before 1 October of each year beginning 1 October 2000.

33 Section 4.8. The Office of State Personnel shall implement a policy that
34 promotes telework/telecommuting for State employees as recommended by the report
35 of the State Auditor entitled "Establishing a Formal Telework/Telecommuting
36 Program for State Employees" and dated October 1997. It shall be the goal of the
37 State to reduce State employee vehicle miles traveled in commuting by twenty
38 percent (20%) without reducing total work hours or productivity. The Office of
39 State Personnel shall report on progress in implementing this section to the
40 Environmental Review Commission on or before 1 October of each year beginning 1
41 October 2000.

42 Section 4.9. The Environmental Management Commission shall initiate
43 rule making to regulate the emissions of nitrogen oxides (NOx) from complex sources
44 pursuant to G.S. 143-215.109 no later than 1 October 1999. The Environmental

1 Management Commission shall report on the progress of this rule making as a part of
2 each quarterly report the Commission makes to the Environmental Review
3 Commission pursuant to G.S. 143B-282(b).

4 Section 4.10. Chapter 136 of the General Statutes is amended by adding a
5 new Article to read:

6 "ARTICLE 16.

7 "Planning.

8 "§ 136-200. Definitions.

9 As used in this Article:

- 10 (1) 'Conformity' means the extent to which transportation plans,
11 programs, and projects conform to federal air quality requirements
12 as specified in 40 Code of Federal Regulations, Part 93, Subpart A
13 (1 July 1998 Edition).
- 14 (2) 'Department' means the Department of Transportation.
- 15 (3) 'Interface' means a relationship between streams of traffic that
16 efficiently and safely maximizes the mobility of people and goods
17 within and through urbanized areas and minimizes
18 transportation-related fuel consumption and air pollution.
- 19 (4) 'Metropolitan Planning Organization' or 'MPO' means an agency
20 that is designated as a Metropolitan Planning Organization in
21 accordance with 23 U.S.C. § 134.
- 22 (5) 'Regionally significant project' has the same meaning as under 40
23 Code of Federal Regulations 93.101 (1 July 1998 Edition).
- 24 (6) 'Regional travel demand model' means a model of a region,
25 defined in the model, that is approved by the Department and
26 each Metropolitan Planning Organization whose boundaries
27 include any part of the region and that uses socioeconomic data
28 and projections to predict demands on a transportation network.

29 "§ 136-201. Plan for intermodal interface.

30 When planning a regionally significant transportation project, the Department shall
31 consider design alternatives that will facilitate the cost-effective interface of the
32 project with other existing or planned transportation projects, including highway,
33 airport, rail, bus, bicycle, and pedestrian facilities. The Department of Transportation
34 shall record its consideration of these design alternatives in the planning documents
35 for the project.

36 "§ 136-202. Metropolitan planning organizations.

37 (a) Each Metropolitan Planning Organization shall base all transportation plans,
38 metropolitan transportation improvement programs, and conformity determinations
39 on the most recently completed regional travel demand model.

40 (b) Each Metropolitan Planning Organization shall update its transportation plans
41 in accordance with the scheduling requirements stated in 23 Code of Federal
42 Regulations 450.322 (1 April 1999 Edition).

43 (c) The Department, the metropolitan planning organizations, and the
44 Department of Environment and Natural Resources shall jointly evaluate and adjust

1 the regions defined in each regional travel demand model at least once every five
2 years and no later than 1 October of the year following each decennial federal
3 census. The evaluation and adjustment shall be based on decennial census data and
4 the most recent populations estimates certified by the State Planning Officer. The
5 adjustment of these boundaries shall reflect current and projected patterns of
6 population, employment, travel, congestion, commuting, and public transportation use
7 and the effects of these patterns on air quality.

8 (d) The Department shall report on the evaluation and adjustment of the
9 boundaries of the area served by each Metropolitan Planning Organization to the
10 Joint Legislative Transportation Oversight Committee and the Environmental Review
11 Commission no later than 1 November of each year in which the regions are
12 evaluated and adjusted.

13 **"§ 136-203. Joint study groups.**

14 The Department and the Department of Environment and Natural Resources shall
15 convene a joint study group to examine options to maximize the positive impacts and
16 minimize the adverse impacts on air quality of transportation investments. A joint
17 study group shall be convened for each major travel corridor in which there has been
18 air quality violations within the previous fiscal year or that affects an area in which
19 there has been air quality violations within the previous fiscal year. Each joint study
20 group shall include at least 10 members, half of whom shall be appointed by the
21 Secretary of Transportation and half of whom shall be appointed by the Secretary of
22 Environment and Natural Resources. Each group shall include representatives from
23 the Department and the Department of Environment and Natural Resources, affected
24 units of local government, private businesses, and nonprofit public interest
25 organizations. The Department and the Department of Environment and Natural
26 Resources shall jointly report on the work, findings, and recommendations of each
27 joint study group to the Joint Legislative Transportation Oversight Committee and
28 the Environmental Review Commission on or before 1 October of each year."

29 Section 4.11. The Department of Transportation and the Department of
30 Environment and Natural Resources shall make the first joint report required by G.S.
31 136-203, as enacted by Section 4.10 of this act, on or before 1 October 2000.

32 Section 4.12. G.S. 143-215.94T(a) is amended by adding a new
33 subdivision to read:

34 "(12) Tank tightness testing procedures and certification of persons who
35 conduct tank tightness tests."

36 Section 4.13. G.S. 143B-282(a)(2)h. reads as rewritten:

37 "h. Governing underground tanks used for the storage of oil or
38 hazardous substances ~~or oil~~ pursuant to ~~Article 21 or Article~~
39 ~~21A~~ Articles 21, 21A, or 21B of Chapter 143 of the General
40 Statutes. Statutes, including inspection and testing of these
41 tanks and certification of persons who inspect and test
42 tanks."

43
44 **PART V. MISCELLANEOUS PROVISIONS**

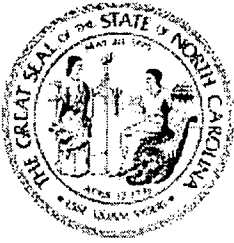
1

2 Section 5.1. This act shall not be construed to obligate the General
3 Assembly to appropriate any funds to implement the provisions of this act. Every
4 State agency to which this act applies shall implement the provisions of this act from
5 funds otherwise appropriated or available to that agency.

6 Section 5.2. The headings to the Parts of this act are intended as a
7 convenience to the reader and are for reference only. The headings do not expand,
8 limit, or define the text of this act.

9 Section 5.3. If any section or provision of this act is declared
10 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
11 provision does not affect the validity of this act as a whole or any part of this act
12 other than the part declared to be unconstitutional or invalid.

13 Section 5.4. Except as otherwise provided in this act, this act is effective
14 when it becomes law.



SENATE BILL 953: Ambient Air Quality Improvements

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: July 15, 1999

Version: Second Edition

Introduced by: Sen. Clodfelter

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *SB 953 contains provisions to set Statewide air quality goals, regulate the sulfur content of motor fuel, expand the vehicle emissions inspection and maintenance (I/M) program, create incentives for voluntary reductions in air pollution, and address the air quality implications of transportation planning decisions.*

Part I - Statewide Goals: Part I sets the following goals for the State to achieve by July 1, 2009:

- Reduce emissions of nitrogen oxides (NOx) from all sources by 25%.
- Reduce the growth of vehicle miles traveled (VMT) by 25%.

Part II - Sulfur Content of Motor Fuels: Part II prohibits the manufacture or sale of gasoline with a concentration of sulfur greater than 30 parts/ million except that a person may manufacture or sell gasoline with a concentration of sulfur up to 80 parts/ million if the average concentration of sulfur in the gasoline manufactured or sold by the person in a one-year period is less than 30 parts/ million. This provision will become effective January 1, 2004 unless the Governor determines by July 1, 2000 that the US Environmental Protection Agency (EPA) has adopted rules that limit the sulfur content of gasoline to a concentration equal to or less than the limit set out in this provision, in which case the Governor shall issue an Executive Order stating that this provision becomes effective on the same date the federal rules become applicable in this State. SB 953 further states that if the EPA sets a sulfur limit different than the limit set by this act, the ERC will review the limit and report its findings to the General Assembly.

Part III - Motor Vehicle Inspection and Maintenance:

General Provisions

Part III:

- Clarifies that motor vehicle emissions inspections must be performed by licensed mechanics at licensed stations or businesses, and that the Environmental Management Commission (EMC) may not specify that all emissions inspections be performed by either centralized or decentralized test-only stations.
- Provides that motor vehicle emissions inspections shall be performed using a two-mode Acceleration Simulation Mode test. The EMC shall adopt rules to make this provision effective on July 1, 2002 only if the General Assembly increases the fee for a motor vehicle emissions inspection prior to January 1, 2001. *The emissions test currently used in North Carolina tests a vehicle's emissions while it idles. A vehicle emits more pollutants while accelerating than while idling.*
- States that the EMC shall not require emissions inspections for diesel-powered vehicles prior to July 1, 2001.

SENATE BILL 953

Page 2

Expansion of I/M Program to Additional Counties

Part III provides that the vehicle emissions inspection program, as modified by this act, shall be expanded to include additional counties only if the General Assembly increases the fee for a motor vehicle emissions inspection prior to January 1, 2001. The expansion schedule is set out in the following table.

INSPECTION & MAINTENANCE PROGRAM EXPANSION SCHEDULE	
July 1, 2002	Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, Wake <i>(These are the counties where vehicle emissions inspections are already required.)</i>
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

Study Appropriate Fee for Motor Vehicle Inspections

Part III directs the Department of Environment and Natural Resources (DENR) to consult with the Division of Motor Vehicles in the Department of Transportation (DOT) and the affected parties to determine what constitutes a reasonable fee for motor vehicle emissions inspections under the current I/M program and under the enhanced I/M program set out in this act. DENR shall report its findings and recommendations to the ERC by February 1, 2000. The ERC shall recommend legislation to increase the fee for a motor vehicle emissions inspection to the 2000 Regular Session of the 1999 General Assembly.

Miscellaneous I/M Provisions

Part III additionally:

- Broadens the class of vehicles subject to emissions inspections by removing an exemption for vehicles not powered by gasoline or designed to be powered by gasoline.
- Authorizes the EMC to require that motor vehicle emissions be monitored while a vehicle is in operation by means of on board diagnostic equipment (OBD) installed by the vehicle manufacturer. SB 953 also authorizes the EMC to require vehicle manufacturers to make widely available all information necessary to analyze the data compiled by OBD.
- Empowers and directs the EMC to:
 - Develop and adopt incentives to promote voluntary reductions of emissions of air contaminants. The incentives shall include emissions banking and trading and credit for voluntary early reductions.
 - Develop and adopt rules governing the certification of people who inspect vehicle mounted tanks used to transport motor fuel and to require that inspections of these tanks be performed only by certified personnel.

SENATE BILL 953

Page 3

- Develop and adopt rules governing the sale and service of motor vehicle exhaust emissions analyzers and require that sellers of the analyzers provide adequate surety to purchasers for the performance of contractual obligations related to the sale and service of analyzers.

Part IV – State Agency Goals, Plans, Duties and Reports; Other Provisions

Goals and plans for purchase of alternative-fueled and low-emission vehicles

Part IV:

- Sets the goal that at least 75% of State purchases of new and replacement light duty vehicles will be either alternative-fueled vehicles or low emission vehicles by January 1, 2004.
- Requires the Department of Public Instruction (DPI), DOT, and DENR to jointly consult with interested parties and draft a plan under which 50% of new and replacement school buses for counties with populations of 100,000 or more will be alternative-fueled or low emission vehicles by January 1, 2004.
- Requires DOT and DENR to jointly consult with interested parties and draft a plan under which 50% of new and replacement buses used for public transportation in counties where emissions inspections are required will be alternative-fueled or low emission vehicles by January 1, 2004.

Incentives to reduce mobile source emissions

Part IV:

- Directs DENR, DOT, and the Department of Commerce to jointly develop recommendations for incentives to increase the use of alternative-fueled and low emission light duty vehicles in privately owned fleets.
- Directs DENR, DOT, the Department of Administration, and the Office of State Personnel to develop and periodically update a plan to reduce emissions generated by job-related travel by State employees.
- Directs DENR, DOT, and the Department of Commerce to develop and periodically update a plan to reduce emissions generated by job-related travel by private sector employees. The plan shall include incentives for both employees and employers.
- The Office of State Personnel shall implement a policy to promote telecommuting by State employees with the goal of reducing State employee vehicle miles traveled in commuting by 20% without reducing hours worked or productivity.

Rulemaking

Part IV directs the EMC to initiate rulemaking to regulate the emissions of NOx from complex sources (such as shopping malls and parking decks) by October 1, 1999.

Transportation Planning

Part IV creates a new article in the statutes governing DOT that addresses planning issues. This article:

- Directs DOT to consider design alternatives for major projects that will facilitate the cost-effective interface of the project with other projects, including highway, airport, rail, bus, bicycle, and pedestrian facilities, to maximize travel options and minimize air pollution.

SENATE BILL 953

Page 4

- Directs Metropolitan Planning Organizations (MPOs) to:
 - Base their transportation plans and determinations of conformity with federal air quality requirements on the most recent travel demand models approved by the MPOs and DOT.
 - Update their transportation plans in accordance with federal requirements.
- Directs DOT, the MPOs, and DENR to jointly evaluate and adjust the regional boundaries defined in regional travel demand models at least every five years to ensure that the boundaries adequately reflect current demographic and travel patterns and the effects of these patterns on air quality.
- Directs DOT and DENR to convene a study group to examine options to maximize positive impacts and minimize adverse impacts of transportation investments on air quality in each major travel corridor that has had air quality violations in the previous year or that affects an area that has had air quality violations in the previous year. Each study group shall include representatives from DOT, DENR, affected units of local government, private businesses, and nonprofit public interest organizations.

Tank Tightness Testing

Part IV directs the EMC to adopt and DENR to enforce rules governing tank tightness testing procedures and the certification of people who conduct tank tightness tests for petroleum underground storage tanks.

BACKGROUND

SB 953, as introduced and passed by the Senate, amended the Wetlands Program. The wetlands provisions were incorporated into HB 1160 (Clean Water Act of 1999), and SB 953 now contains elements of Governor Hunt's air quality agenda and the recommendations of a stakeholder working group on air quality. Similar provisions were contained in companion bills HB 323 and SB 593 (Ambient Air Quality Improvements), introduced by Representative Hackney and Senator Miller, and HB 1099 (Sulfur Content Limits for Gasoline), introduced by Representative Hackney.



REPRESENTATIVE JOE HACKNEY
SPEAKER PRO TEMPORE
NORTH CAROLINA HOUSE OF REPRESENTATIVES
CHATHAM AND ORANGE COUNTIES

2207 LEGISLATIVE OFFICE BUILDING
RALEIGH, NC 27601-1096
(919) 733-5752
(919) 828-6257 FAX
E-MAIL: joeh@ms.ncga.state.nc.us



POST OFFICE BOX 1329
CHAPEL HILL, NC 27514
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Supporters of the Clean Air Legislation: SB 953

Governor Jim Hunt

The Department of Environment and Natural Resources

The Department of Transportation

The Department of Commerce

North Carolina Division of Travel and Tourism

The Department of Health and Human Services

MCIC

NCCBI

E.I. duPont de Nemours and Company

North Carolina Service Station Association

The Carolina AUTO PRO Association

American Lung Association

Triangle Electric Auto Association

North Carolina Chapter of American Planning Association

Sierra Club

Conservation Council of North Carolina

The Southern Environmental Law Center

North Carolina Public Transportation Association

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES



JAMES B. HUNT JR.
GOVERNOR

WAYNE McDEVITT
SECRETARY

July 14, 1999

MEMORANDUM

TO: Members of North Carolina Senate

FROM: Bill Holman

RE: Ozone during week of July 4th

Last week, we experienced increased ozone levels. In the Asheville area, there were two forecasted code orange days. In the Charlotte area, there were five forecasted code orange days and one code red day on July 6th. In the Triangle, there were three code orange days.

On code orange days, it is generally unhealthy for the elderly, children and asthmatics to go outside. On code red days, even healthy individuals are advised to limit outdoor activity.

We are only a three weeks into the summer and have already experienced 27 code orange and 4 code red ozone warnings since May. It is anticipated that we will experience ozone warnings through September.

High ozone and smog threatens public health, our economy and the environment and beauty of this state. SB 953, Ambient Air Quality Improvements will help reduce ozone and clean up our air.

CLEAN AIR FOR NORTH CAROLINA
for healthy citizens, a healthy economy and a healthy environment.

The Of Business Government

LEAD STORY

Turmoil over Tailpipe Testing

If Minnesota officials get their way, tailpipe emissions testing, one of government's least popular activities, will soon be a thing of the past. The legislature voted in May to end the annual vehicle tests, pending approval by the U.S. Environmental Protection Agency.

Minnesota's move, however, comes at a time when many states are heading in the opposite direction: Emissions-testing programs are just now starting up in a number of states, nearly a decade after Congress amended the Clean Air Act to require testing in the most polluted urban areas.

Minnesota began tailpipe testing in 1991 for cars in the seven-county Twin Cities area, which had a history of violating federal air standards for carbon monoxide. But the state hasn't violated federal standards in eight years, so Minnesota lawmakers decided that the need for emissions testing has blown away. Proponents of ending the tests argue that reformulated gasoline and cleaner-running cars deserve the bulk of the credit for cleaner air, and that it amounts to overkill to continue inconveniencing all drivers for the sake of nabbing the 5 percent of those whose cars fail.

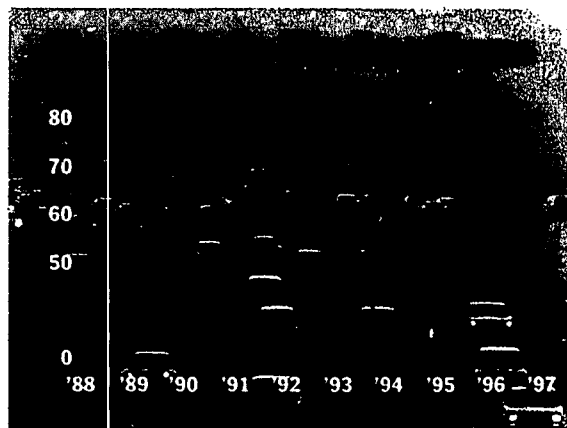
Tailpipe-test advocates, however, note that the program identified 600,000 high-polluting vehicles, and kept at least 365,000 tons of carbon monoxide from the skies. If the program has a shortcoming, they say, it is that it is hampered by exemptions for older cars. "They structured this program so as to not catch very many people," says the Minnesota Sierra Club's Ginny Yingling. "Then they said it's not efficient because we're not catching very many people."

Emissions tests have been ended before. Michigan ditched testing in the Detroit area in 1995 after it received "attainment" status for ozone. The same year, a ballot drive put an end to testing in Maine. Motorists there were especially angry that testing had to be performed at centralized stations—where lines grew very

long—rather than at local garages. EPA had essentially required such centralization, but after the Maine revolt, Congress gave EPA flexibility to let states design their own programs.

That change set back implementation in a number of states. Massachusetts had already started seeking out vendors to run a centralized program when the local-garage option landed on the table. So the state went back and re-wrote its plan from scratch, and is expected to begin emissions testing in October.

In Louisiana, the new flexibility is helping to break a years-long impasse on emissions. Lawmakers have refused to pass a tailpipe-testing program because of its cost: Estimates were that motorists would pay \$25 for the test and as much as \$450 in repairs if they failed. But EPA worked out a deal with state and local officials to try a less expensive approach. Instead of the costly test on tailpipe emissions, it requires only a visual test for "evaporative emissions," those that come from fuel leaks. "Evaporative losses from vehicles are significant," says Chris Roberie, Louisiana's assistant administrator for air quality, "but those tests are cheaper to do, and the consequences of failing the test are not as severe on motorists." —Christopher Swope



- 60 Finance
- 62 Environment
- 63 Technology
- 72 Management
- 73 Economic Development
- 74 Infrastructure



North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh 27601-2808

July 15, 1999

The President and Members of the Senate
North Carolina General Assembly
State Legislative Building
Raleigh, North Carolina 27601

Dear Mr. President and Members of the Senate:

In compliance with the provisions of G.S. 106-2 requiring appointees to the North Carolina State Board of Agriculture to be confirmed by the General Assembly, Governor Hunt has submitted his appointees, Maurice K. Berry, Jr.; Daniel R. Finch; and Jeffrey B. Turner for confirmation. Their terms will begin immediately and expire May 1, 2005.

The Senate Committee on Agriculture/Environment/Natural Resources has considered the re-appointments and makes the following recommendations to the General Assembly:

That the re-appointments of Maurice K. Berry, Jr.; Daniel R. Finch; and Jeffrey B. Turner to the North Carolina State Board of Agriculture beginning immediately and expiring on May 1, 2005, be confirmed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Charles W. Albertson".

Senator Charles W. Albertson, Chairman
Senate Committee on Agriculture/
Environment/Natural Resources

CWA/jsb



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES B. HUNT JR.
GOVERNOR

July 6, 1999

The Honorable Dennis Wicker
President of the Senate
2104 Legislative Building
Raleigh, NC 27601

Dear Mr. President:

Pursuant to General Statute 106-2, I hereby re-appoint the following members of the North Carolina State Board of Agriculture and submit their names for the advice and consent of the North Carolina Senate. Their terms are effective immediately upon confirmation and will expire May 1, 2005.

Mr. Maurice K. Berry, Jr., 1157 Double Bridge Road, Elizabeth City, NC 27909.
Mr. Daniel R. Finch, Finch Blueberry Nursery, P.O. Box 699, Bailey, NC 27807.
The Honorable Jeffrey B. Turner, P. O. Box 38, Pink Hill, Raleigh, NC 28572.

Please contact my office of Boards and Commissions if you need further information on any of these individuals. Thank you for your attention to this important matter.

My warmest personal regards.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Hunt Jr.", written over a large, stylized initial "J".

James B. Hunt Jr.

Cc: The Honorable Marc Basnight
The Honorable Charles Albertson
Ms. Janet Pruitt



VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

7/15/99

Name of Committee

Date

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Jerry Hardesty	NC Pork Council
Molly Diggins	NC Sierra Club
Alan Briggs	S.O.S.
Deborah Bryan	ALA of NC
Jim Brown	State Ports -
Maurice Weaver	NCDA & CS
Walter Denny	NCDA + CS
Doug Lassiter	McClees Consulting
Dia Holman	DENR
R. Roberts	DENR
Ken Howell	Gov's office
Paula Tucker	Gov. Office

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Senate Agriculture/Environment/Natural Resources

Name of Committee

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7/15/99

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Jack Stump	Rep. Ballantyne
Mark Mason	Capital Group
Paul Wilms	NCMA
Markham	EGHS
Ruth Sappie	NC DOT
Alan Klinek	NC DENR - DAQ
Tom Mather	NC DENR - DAQ
Doug Honey	NCPMA
Jay Harris	"
Charles Case	Hunton & Williams

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Eddie Caldwell	NCSSA/IBONC
Col. [unclear]	NCSSA
Kim Hibbard	NCLM
[unclear]	MRP Hillsborough St. Raleigh, NC
David [unclear]	NC Sierra Club
Gene Upchurch	CP&L
JW Reel	OSBM
Stephen Tranel	intern - Senator Kinnaird
Anita Swatkins	DENR
Brock Nicholson	DENR-DAQ
Russell Hageman	DENR-DAQ

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FIRM OR AGENCY AND ADDRESS

S. Gibbs	Charlotte Observer
Art Mord	Conservation C.A.P.N.C.
John Roberson	NC DMU E.N.F.
Rep. Cary Allen	N.C. House 25 th District
Lucius Patten	ATTORNEY
Stacy	AP
Mark Jones	NCSEPS
Diane Nunn	NCSPA
Russell Langhorne	NS
Angie McMillan	TNC
John McAlister	Duke Energy

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NAME

FIRM OR AGENCY AND ADDRESS

<i>R W Kyles</i>	<i>Kyles Car Farm</i>
<i>[Signature]</i>	<i>NC [Signature]</i>
<i>Melissa Lovell</i>	<i>DOJ</i>
<i>Barbara Wyse</i>	<i>NC Sierra Club</i>
<i>[Signature]</i>	<i>Smith Hall</i>
<i>John Phelps</i>	<i>NCLM</i>
<i>Barry Smith</i>	<i>Freedom Newspaper</i>
<i>Johnni Blackwell</i>	<i>USDA - FSA</i>

2000

**SENATE
AGRICULTURE/
ENVIRONMENT/
NATURAL RESOURCES**

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE

<u>MEMBER</u>	<u>LOCATION</u>	<u>PHONE</u>	<u>LEGISLATIVE ASST.</u>
Albertson, Charles W., Chairman	525 LOB	3-5705	Julia Birdsong Committee Assistant
Gulley, Wib, Vice Chairman	408 LOB	5-3036	Carol Resar
Horton, Hamilton C., Jr., Vice Chairman	1117 LB	3-7850	Genie Clark
Robinson, Dan, Vice Chairman	2113 LB	3-5880	Jean Robinson
Wellons, Allen H., Vice Chairman	1026 LB	3-5850	Peggy Anne Hogan
Cochrane, Betsy, Ranking Minority Member	1119 LB	3-5745	Phyllis Porter
Clodfelter, Dan	622 LOB	3-6275	Wanda Joyner
East, Don	521 LOB	3-5655	Nancy Pulley
Garrou, Linda	522 LOB	3-5620	Carole Lawler
Garwood, John A.	1118 LB	3-5742	Martha Jordan
Hagan, Kay	519 LOB	3-5856	Beth Wiley
Harris, Oscar	1414 LB	3-7659	Dale Howard
Hartsell, Fletcher	518 LOB	3-7223	Gerry Johnson
Kinnaird, Ellie	2115 LB	3-5804	Kathie Young
Martin, Bill	411 LOB	5-3042	Joyce Hodge
Odom, Fountain	300B LOB	3-5707	Anne Wilson
Perdue, Beverly M.	629 LOB	3-2055	Anne Canady
Phillips, Jim W., Sr.	628 LOB	3-5870	Gerry Bowles
Webster, Hugh	1101 LB	3-5665	Anne Soles
Weinstein, David F.	2108 LB	3-5651	Dee Bagley
<u>Committee Counsel</u>			
Givens, George	LOB 545	3-2578	
Hudson, Jeffrey	LOB 545	3-2578	
Riley, Barbara	LOB 545	3-2578	
Zechini, Rick	LOB 545	3-2578	
Holm, Hannah	LOB 545	3-2578	

July 1, 1999

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through 22-AUG-2000	
BILL	SHORT TITLE	LATEST ACTION ON BILL	IN DATE OUT DATE	
H 168	EASTERLING	APPROPRIATIONS ACT OF 1999	*R -CH. SL 99-0237	06-03-99 06-07-99
H 236	GULLEY J	LICENSE SUSPENSION/BAITING	*R -CH. SL 99-0120	04-21-99 05-11-99
H 237	GULLEY J	BOAT AGENT FEES	R -CH. SL 99-0248	05-11-99 05-25-99
H 316=	MCCOMAS	PRESCRIBED BURNING IN FORESTS	*R -CH. SL 99-0121	04-28-99 05-18-99
H 334=	HILL	OBSOLETE AGRICULTURE STATUTES	R -CH. SL 99-0044	03-30-99 05-03-99
H 541	MITCHELL	PWC AMENDMENTS	*R -CH. SL 00-0052	00-06-05 00-06-13
H 541	MITCHELL	PWC AMENDMENTS	*R -CH. SL 00-0052	06-21-99 07-08-99
H 638	OWENS	TRANSFER CERTAIN SEPTIC SYSTEMS	*R -CH. SL 99-0288	04-13-99 07-08-99
H 746=	BAKER	NEW RIVER STATE PARK/ACREAGE LIMIT	*S -REF TO COM ON AGRICUL&	04-26-99 07-08-99
H 978	NYE	DAMAGED PIERS/BOAT STALLS/WHITE LAKE	*R -CH. SL 99-0459	04-28-99 07-08-99
H1008=	COX	SEDIMENTATION ACT/EXCAVATION	*R -CH. SL 99-0082	04-26-99 05-11-99
H1010=	HILL	COTTON GINS, WAREHOUSES, MERCHANTS	*R -CH. SL 99-0412	07-12-99 07-13-99
H1027	FITCH	ALLOW STOCKING OF ANIMALS	S -REF TO COM ON AGRICUL&	04-28-99
H1039	REDWINE	BEACH MANAGEMENT STRATEGY	*S -REF TO COM ON AGRICUL&	04-27-99
H1098=	HACKNEY	STRENGTHEN SEDIMENTATION ACT	*R -CH. SL 99-0379	07-06-99 07-07-99
H1125	HACKNEY	CONFORM DEFINITION OF HAZ. SITE	R -CH. SL 99-0083	04-28-99 05-11-99
H1127=	SMITH	REVISE CERTAIN LODGING RULES	R -CH. SL 99-0077	04-28-99 05-11-99
H1160=	HACKNEY	CLEAN WATER ACT OF 1999	*R -CH. SL 99-0329	04-28-99 07-07-99
H1218=	GIBSON	AMEND ENVIRONMENTAL LAWS	*R -CH. SL 00-0172	04-26-99 00-07-05
H1233=	HILL	STRUCTURAL PEST CONTROL AMENDMENTS	*R -CH. SL 99-0381	07-08-99 07-12-99
H1434	REDWINE	COASTAL RECREATIONAL FISHING LICENSE	*S -REF TO COM ON AGRICUL&	07-07-99
H1506	WEISS	FOOD ESTAB/SANIT REQUIREMENTS	*R -CH. SL 00-0082	00-06-12 00-06-22
H1506	WEISS	FOOD ESTAB/SANIT REQUIREMENTS	*R -CH. SL 00-0082	00-06-27 00-06-29
H1562=	EDWARDS	INCREASE RCGL GILL NET	R -CH. SL 00-0139	00-06-01 00-06-13
H1577=	BAKER	BULLHEAD MOUNTAIN STATE NAT. AREA	*R -CH. SL 00-0017	00-06-05 00-06-07
H1617=	WARWICK	LEA ISLAND NAT. AREA/STATE PROPERTY	R -CH. SL 00-0102	00-06-19 00-06-27
H1617=	WARWICK	LEA ISLAND NAT. AREA/STATE PROPERTY	R -CH. SL 00-0102	00-06-27 00-06-29
H1618=	WARWICK	PETROLEUM DISCHARGES/DE MINIMIS REPT	R -CH. SL 00-0054	00-06-21 00-06-22
H1625=	THOMAS	REMOVAL OF ABANDONED VESSELS	*R -CH. SL 00-0074	00-06-28 00-06-29
H1638=	HACKNEY	I/M TECHNOLOGY AMENDS/CMAQ FUNDS	*R -CH. SL 00-0134	00-06-12 00-06-27

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 GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium	INTRODUCER	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through 22-AUG-2000
BILL	SHORT TITLE	LATEST ACTION ON BILL	IN DATE OUT DATE
S 7	ODOM	*R -CH. SL 99-0356	01-28-99 07-15-99
S 247	LEE	R -CH. SL 99-0357	03-04-99 04-21-99
S 249=	ALBERTSON	*R -CH. SL 99-0209	03-08-99 03-23-99
S 287=	REEVES	S -REF TO COM ON AGRICUL&	03-10-99
S 323	KERR	*R -CH. SL 99-0339	03-11-99 04-21-99
S 365=	ALBERTSON	*R -CH. SL 99-0358	03-15-99 04-19-99
S 560	HORTON	R -CH. SL 99-0013	03-29-99 03-30-99
S 567	KINNAIRD	S -REF TO COM ON AGRICUL&	03-29-99
S 593=	MILLER B	S -REF TO COM ON AGRICUL&	03-29-99
S 777=	ALBERTSON	S -RE-REF COM ON AGRICUL&	04-07-99 04-19-99
S 777=	ALBERTSON	S -RE-REF COM ON AGRICUL&	07-19-99
S 782	PERDUE	S -REF TO COM ON AGRICUL&	04-07-99
S 872=	FOXX	*R -CH. SL 99-0147	04-13-99 04-21-99
S 900	WELLONS	S -REF TO COM ON AGRICUL&	04-14-99
S 922=	MILLER B	S -RE-REF COM ON AGRICUL&	07-19-99
S 930=	KINNAIRD	S -REF TO COM ON AGRICUL&	04-14-99
S 932	KINNAIRD	S -REF TO COM ON AGRICUL&	04-14-99
S 953	CLODFELTER	*R -CH. SL 99-0328	04-14-99 04-22-99
S 953	CLODFELTER	*R -CH. SL 99-0328	07-08-99
S 979	CARTER	*H -REF TO COM ON WAYS&MNS	04-15-99 04-22-99
S 983	MILLER B	S -REF TO COM ON AGRICUL&	04-15-99
S 987	MILLER B	S -REF TO COM ON AGRICUL&	04-15-99
S1014=	METCALF	S -RE-REF COM ON AGRICUL&	04-15-99 04-26-99
S1014=	METCALF	S -RE-REF COM ON AGRICUL&	04-28-99
S1028=	CLODFELTER	S -REF TO COM ON AGRICUL&	04-15-99
S1047	ALBERTSON	*R -CH. SL 99-0143	04-22-99 04-26-99
S1048	ALBERTSON	*R -CH. SL 99-0162	04-22-99 04-26-99
S1049	ALBERTSON	*R -CH. SL 99-0448	04-22-99 04-27-99
S1050	ALBERTSON	*S -RE-REF COM ON APPROPR	04-22-99 04-27-99
S1080=	ALBERTSON	S -REF TO COM ON AGRICUL&	04-15-99

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NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium	SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES	Valid Through 22-AUG-2000
BILL	SHORT TITLE	LATEST ACTION ON BILL
INTRODUCER		IN DATE
S1082=	ALBERTSON	00-07-11
S1083	PEST CONTROL COMMITTEE MEMBERS	04-15-99
S1084=	LP GAS REGISTRATION/TRAINING	04-22-99
S1088	EXTEND ANIMAL WASTE PILOT	04-15-99
S1092	AG. VOLUNTARILY REG. WATER TRANSFERS	04-15-99
S1127	NO RESTRICTION OF MANAGED FORESTRY	04-15-99
S1128=	STATE NATURE AND HISTORIC PRESERVE	04-15-99
S1132=	AMEND SEDIMENTATION ACT	04-15-99
S1139	REGULATORY FLEXIBILITY AGREEMENTS	04-15-99
S1159	NATURE & HISTORIC PRESERVE	04-22-99
S1161	LAND-USE/CONTAMINATED SITES	04-26-99
S1245=	EXTEND BILLBOARD MORATORIUM	04-21-99
S1252=	DELEGATION OF ENV. PROGRAM AUTHORITY	04-15-99
S1272=	BROWNFIELDS TAX INCENTIVE	00-05-16
S1279=	SCFL HOLDERS TAKE CRABS/CRC TEMP RUL	00-05-17
S1285	PETROLEUM DISCHARGE AMENDS-1	00-05-25
S1311=	LITTER PREVENTION SPECIAL PLATE	00-05-17
S1317=	MOUNTAINS TO SEA STATE PARK TRAIL	00-05-18
S1328=	I/M TECHNOLOGY AND FEE AMENDS	00-05-18
S1329=	MILLION ACRE OPEN SPACE GOAL	00-05-18
S1330=	ADD NOTICE/MINING PERMIT APPLICATION	00-05-25
S1332=	NONHAZARDOUS DRY-CLEANING TECH.INCEN	00-05-18
S1336=	BULLHEAD MOUNTAIN STATE NAT. AREA	00-06-07
S1337=	BULLHEAD MOUNTAIN STATE NAT. AREA	00-05-18
S1341=	STORMWATER UTILITY FEES	00-05-18
S1341=	FLOOD HAZARD PREVENTION ACT OF 2000	00-05-18
S1341=	FLOOD HAZARD PREVENTION ACT OF 2000	00-05-18
S1381=	FLOOD HAZARD PREVENTION ACT OF 2000	00-07-06
S1479	REALLOCATE WATER BOND FUNDS	00-05-23
S1501=	DEEPRIVER HERITAGE CORRIDOR	00-05-25
	AMEND CLEAN WATER TRUST FUND	00-05-30

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NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1999-2000 Biennium
BILL S1525 BALLANTINE

SENATE: AGRICULTURE / ENVIRON / NATURAL RESOURCES Valid Through 22-AUG-2000
SHORT TITLE LATEST ACTION ON BILL IN DATE OUT DATE
BEACH NOURISHMENTS/CLEAN WATER FUNDS S -REF TO COM ON AGRICUL& 00-05-30

NOTES - = AFTER BILL NUMBER SHOWS THAT BILL IS IDENTICAL, AS INTRODUCED, TO ANOTHER BILL.
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MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

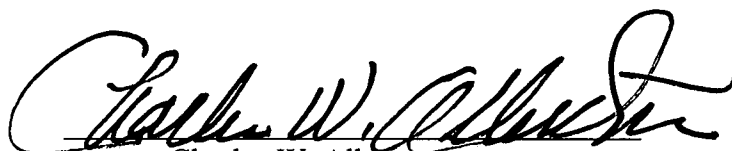
May 23, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, May 23, 2000, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present

Senator Albertson said the speakers today would be talking about pollution and the environment in the state but particularly as it affected Chowan County. Speakers were Cliff Copeland, Chowan County Manager; Jerry Parks, Executive Director, Albemarle Regional Solid Waste Authority; Ernest Knighton, concerned citizen and retired Chief Executive Officer in the textile industry; David Blomquist, concerned citizen and an industrial communications consultant; and Joseph Slivac, data processor with Chowan County who showed pictures on his laptop of all the roadside litter he had seen on the way to Raleigh from Chowan County.

A great deal of discussion was generated by the presentations and everyone seemed to agree that there was a great need to clean up our roadsides. Senator Garrou suggested that Chairman Albertson might write and record a public announcement song asking citizens to be more careful with their trash. It was pointed out that most of the roadside litter is blown out of pickup trucks--plastic grocery bags, fast food wrappers, etc. There was also the matter of junk cars and improper disposal of white goods. Senator Odom suggested that the Environment Resources Commission look at this matter after session is over. He also said that possibly a few arrests need to be made for littering. Senator Garwood said there was a lack of respect among citizens and we needed stronger enforcement of our litter laws. Senator Robinson said his county had passed a law whereby they would charge ad valorem taxes on junk cars.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, May 23, 2000
11:00 a.m.
Room 544 - LOB

AGENDA

GUEST:

Ernest Knighton

(Speaking on pollution and the environment)

We think there's a little crisis in our beautiful state.

TRASH!!

As you drive along the highways of North Carolina what stands out? The wildflowers?

No. It's the roadsides littered with everything from styrofoam cups to disposable diapers. It's junk cars in front yards. It's miles of ugly, environmentally hazardous trash.

WE'RE TRAVELING ON FOUR-LANE GARBAGE DUMPS!

It sure doesn't help bring in the tourists.

Many have called attention to this problem. And there are good efforts underway.

- Last year the DOT spent about \$5 million cleaning up 7.6 million pounds of trash (about one pound for every NC resident).
- In April, 1999, the Governor launched Clean NC 2000.
- Other programs in place include Adopt-A-Highway, Keep NC Clean and Beautiful, NC Big Sweep etc.

BUT IT'S NOT ENOUGH. AND IT'S TOO FRAGMENTED.

We have a couple of suggestions.

First a specific **statewide program targeted to eliminate junk cars.**

Second, a Texas study indicates 50% of trash is **BLOWN NOT THROWN.** It's not malicious. It's thoughtless. **We think education works . . . if there is a CONSISTENT message over a PROTRACTED PERIOD OF TIME from many media .** (For instance, we are asking pick-up truck manufacturers to include anti-litter materials with every new vehicle.)

Also, because we think education works we urge North Carolina to adopt and fund a **statewide umbrella campaign** similar to the highly successful "Don't Mess With Texas" campaign.

"Don't Mess With Texas" reduced litter in that state by 72% from 1986 to 1992. It helped save \$4.13 million in litter pickup costs in fiscal year 1997. Existing anti-litter programs should be subsumed under this kind of **SINGLE-MESSAGE, SUSTAINED effort.**

Finally, we urge more aggressive enforcement of existing litter laws by both state and local law enforcement agencies.

Remarks to the NC Senate's Committee on Agriculture and the Environment

Thank you Cliff.

Mr. Chairman, distinguished members of the Committee:

It is an honor to be here with you today and I truly appreciate your taking time out of your very busy schedule to hear our concerns.

I have lived in Chowan County for over twenty five years. I love Northeastern North Carolina. I recently retired from the textile industry. As I travel around this state, I have become alarmed, and I don't use that word lightly, I really am alarmed, at the amount of trash, litter and debris that is being thrown and discarded on our roads and highways. My friend David Bloomquist will speak to about this problem and offer some suggestions to stop this nuisance.

I have also noticed an increase in the number of junk or abandoned vehicles. Now my wife is the Town Manager of Edenton, and I know that the Town works hard, enforcing its junk vehicle ordinance. Cliff, too, keeps on the County Inspectors to do what they can to enforce the County's ordinance.

These ordinances are all well and good, but they only address the problem after the fact, after the vehicle has been junked. What can we do to prevent the vehicle from being junked. I propose a system whereby all vehicles are permanently licensed and titled, from day one.

Do you know that there were over 540,000 new vehicle titles issued in 1999. There were _____ used vehicle titles issued in 1999.

I suggest the State consider a modest fee, say \$10.00 per title to help fund the clean-up and disposal of junked and abandoned vehicles.

The money would be used as follows: \$50 to the owner of the vehicle to serve as incentive to get rid of vehicle; \$50 to tow, they get title of vehicle and can sell for scrap; and a few dollars to the counties to administer the program.

This effort will rid us of the hundreds of thousands of junk vehicles that are all over this beautiful state's landscape.

I further recommend that you consider implementing a system that tracks all vehicles. Because tags will be permanently issued to vehicles, the State should be able to determine when a vehicle is no longer properly licensed and taxes not current.

Now, here is how I propose it works: A 1985 Ford Cougar breakdown, it is slam worn out. The owner puts it in the back yard, takes the tags off of the Cougar and puts the tags on the 1988 Ford Explorer he just purchased. With my proposal, the tags from the Cougar could not be transferred. The owner will have to maintain license and pay the taxes. Tags could only be turned back to the state when proof of proper disposal is made to the State.

I know this is a lot to comprehend. But I have been studying this problem for sometime now, and would urge you to consider legislation that would prevent vehicles from being abandoned, junked or just plain old put up on cement blocks, left as an environmental hazard, rotting away for years and years

I urge you to look at the country sides as you travel home, count the number of junk vehicles you see and I think you will be motivated to consider legislation to address this problem.

Thank you for your time. I hope you will consider these ideas, and work to improve the State of North Carolina. I would be glad to work with you on fine-tuning this proposal.

Litter: Environmental, social and tourism impact at stake

Continued from Page Y1

dangerous to children and animals and so unsightly that it could affect the tourism industry, Knighton said.

Slate officials and other anti-litter groups welcome more activists to the cause.

"I think it's a terrific idea," said Anne Blundt, regional coordinator of the Albemarle Regional Solid Waste Management Authority. "There are gaps out there. We can barely get enough volunteers now in some of these counties."

The Keep America Beautiful organization and the North Carolina Department of Transportation sponsor spring and fall cleanups. NCDOT also runs the Adopt-A-Highway program, in which groups are recruited to clean sections of roads every quarter.

Cities and counties sign up civic groups and businesses to regularly clean streets and public areas. Gov. Jim Hunt recently announced a Clean N.C. 2000 Initiative to remove litter from roadsides, shorelines and parks by the end of the year.

On weekends, Spruill and his deputies supervise prisoners in a countryside cleanup.

The state passed a bill last year that more than doubled fines for littering to a minimum of \$250 and a maximum of \$1,000.

"If word gets around that somebody has been fined \$1,000 for throwing a Coke bottle out of the window, that will make a difference," Copeland said.

More litter comes from the backs of trucks than from any other



DREW C. WILSON/SAF file photo

Gov. Jim Hunt recently announced a Clean N.C. 2000 Initiative to remove litter from roadsides, shorelines and parks by year's end.

er source, said Lois Nixon, executive director of Wake County Keep America Beautiful. "Getting trucks properly covered will do more than anything we could do," Nixon said.

Knighton and Blomquist hope letters will persuade truck manufacturers to include anti-litter literature with new trucks.

"Education of the public really goes a long way," Knighton said. In the 1950s, automakers scoffed at adding lots of safety features to their cars, Blomquist said. "They used to say 'safety doesn't sell cars'" he said. The mind-set changed, and now automakers use safety as a major selling point, he said.

"Trash and litter," he said, "can be the same kind of thing."

■ The Keep America Beautiful program offers a Litter Bug Exterminator Kit. To get one, call (919) 856-6597.

Anti-litter initiative seeks vigorous pursuit of culprits prosecution of scofflaws

BY JEFFREY S. HAMPTON
STAFF WRITER

EDENTON — Fed up with used disposable diapers, fast-food wrappers and beer cans scattered over the roadsides here, two men have started a movement to stop littering that they hope will one day rival the statewide crusade for buckling seatbelts.

Through the efforts of Edenton businessmen Ernest Knighton and Dave Blomquist, Chowan County Manager Cliff Copeland has drafted an anti-litter resolution that he expects commissioners will approve this week. Chowan commissioners will ask other counties in the region to do the same.

The resolution calls for a more "vigorous pursuit" of litterers by law officers.

District Attorney Frank Parrish has agreed to more "vigorously prosecute" litter scofflaws. And Chowan County Sheriff Fred Spruill and highway patrol officials have agreed that officers will be more on the lookout for litterers, Spruill said.

Because littering tickets fall under a miscellaneous category, law agencies don't have accurate counts of the violations. Spruill said his deputies write about four or five tickets a year. An offender



must be seen littering, Parrish said.

"We don't have enough inmates to clean it all up," Knighton said. "There are plenty of people around here who pick it up, but there's more going down than is being picked up."

Litter is bad for the environment,

Please see Litter, Page Y3

VISITOR REGISTRATION SHEET

Senate Agriculture/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

Mike Carpenter	NCHSA
David Simmons	Alley Assoc., Inc
Ed Regan	N.C. Assoc. of Co. Comm.
ROGER SHEATS	NC RURAL CENTER
David Meredith	NC State Grange
Wira Frack	Intern, Sierra Club
David Knight	NC Sierra Club
Emily Meeker	CCNC
Pat Mural	CCNC
George Haven	Brooks, Yeeve, McLeod
Ann Manson	City Attorney
Linda Miles	City of Greensboro
Ju-Ann Cole	NCA#30
Crissey Parker	Bone & Associates

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
Name of Committee

5/23/00
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Army Fullbright

Hanton & Williams

Brian Buzby

NC CanNet

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

May 30, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, May 30, 2000, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were sixteen committee members present. Senator Albertson introduced our special guest, Clark Ogilvie, Legislative Assistant to Congressman Bob Etheridge of the 2nd District.

The following bills were discussed:

SENATE BILL 1252 - BROWNFIELDS TAX INCENTIVE - Senator Odom, sponsor, was recognized to explain the bill. Rick Zechini of staff answered questions from committee members. Bill Holman, Secretary of the Department of Environment and Natural Resources responded to questions from members. Senator Gulley moved that the bill, which had a sequential referral to Finance, be given a favorable report. Motion carried.

SENATE BILL 1272 - LEA ISLAND STATE NATURAL AREA - Senator Jordan, sponsor, was recognized to explain the bill. Rick Zechini of staff said that a technical correction needed to be made and the bill would be changed to a proposed committee substitute. Senator Kinnaird moved that the PCS be given a favorable report unfavorable as to bill. Motion carried.

SENATE BILL 1328 - MILLION ACRE OPEN SPACE GOAL - Senator Odom, sponsor, was recognized to explain the bill. Senator Kinnaird made comments on the bill. Senator Gulley moved that the bill be given a favorable report. Motion carried.

SENATE BILL 1332 - BULL HEAD MOUNTAIN STATE NATURAL AREA - Senator Foxx, sponsor, was recognized to explain the bill. Rick Zechini of staff said that a technical correction needed to be made and that it would become a proposed committee substitute. Senator Clodfelter moved that the proposed committee substitute be given a favorable report unfavorable as to bill. Motion carried.

Minutes
Senate Agriculture/Environment/Natural Resources
May 30, 2000
Page 2

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, May 30, 2000
11:00 a.m.
Room 544 – LOB

AGENDA

- | | |
|---------|---|
| SB 1252 | BROWNFIELDS TAX INCENTIVE
Senator Odom |
| SB 1272 | LEA ISLAND STATE NATURAL AREA
Senator Jordan |
| SB 1328 | MILLION ACRE OPEN SPACE GOAL
Senator Odom |
| SB 1332 | BULL HEAD MOUNTAIN STATE NATURAL AREA
Senator Foxx |

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, May 30, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1252 BROWNFIELDS TAX INCENTIVE
 Sequential Referral: Finance
 Recommended Referral: None

S.B. 1328 MILLION ACRE OPEN SPACE GOAL
 Sequential Referral: None
 Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comment:

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Wednesday, May 31, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B 1272 LEA ISLAND STATE NATURAL AREA
Draft Number: PCS2844
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

S.B 1332 BULLHEAD MOUNTAIN STATE NATURAL AREA
Draft Number: PCS7773
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1252*

Short Title: Brownfields Tax Incentive.

(Public)

Sponsors: Senator Odom.

Referred to: Agriculture/Environment/Natural Resources.

May 16, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A TAX INCENTIVE FOR THE REDEVELOPMENT OF
3 BROWNFIELDS PROPERTIES, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 12 of Chapter 105 of the General Statutes is amended
7 by adding a new section to read:

8 "**§ 105-277.13. Taxation of improvements on brownfields.**

9 (a) Qualifying improvements on brownfields properties are designated a special
10 class of property under Article V, Sec. 2(2) of the North Carolina Constitution and
11 shall be appraised, assessed, and taxed in accordance with this section. An owner of
12 land is entitled to the partial exclusion provided by this section for the first five
13 taxable years beginning after the first completion of any qualifying improvements
14 made after the later of July 1, 2000, or the date of the brownfields agreement. After
15 property has qualified for the exclusion provided by this section, the assessor for the
16 county in which the property is located shall annually appraise the improvements
17 made to the property during the period of time that the owner is entitled to the
18 exclusion.

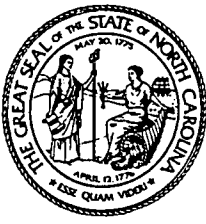
19 (b) For the purposes of this section, the terms "qualifying improvements on
20 brownfields properties" and "qualifying improvements" mean improvements made to
21 real property that is subject to a brownfields agreement entered into by the
22 Department of Environment and Natural Resources and the owner pursuant to G.S.
23 130A-310.32.

1 (c) The following table establishes the percentage of the appraised value of the
2 qualified improvements that is excluded based on the taxable year:

3

<u>Year</u>	<u>Percent of Appraised Value Excluded</u>
<u>Year 1</u>	<u>90%</u>
<u>Year 2</u>	<u>75%</u>
<u>Year 3</u>	<u>50%</u>
<u>Year 4</u>	<u>30%</u>
<u>Year 5</u>	<u>10%."</u>

10 Section 2. This act is effective for taxes imposed for taxable years
11 beginning on or after July 1, 2001.



SENATE BILL 1252: Brownfields Tax Incentive

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Introduced by: Senator Odom

Summary by: Rick Zechini

Date: May 30, 2000

Committee Counsel

Version: First Edition

SUMMARY: *Senate Bill 1252 temporarily reduces the local property tax on brownfields properties.*

BACKGROUND: The Brownfields Property Reuse 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 first completion of 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1272*
Proposed Committee Substitute S1272-PCS2844

Short Title: Lea Island State Natural Area.

(Public)

Sponsors:

Referred to:

May 17, 2000

1

2

A BILL TO BE ENTITLED

3

AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE
4 NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED
5 BY THE ENVIRONMENTAL REVIEW COMMISSION.

6

Whereas, Section 5 of Article XIV of the North Carolina Constitution
7 states that it shall be a proper function of the State of North Carolina to acquire and
8 preserve park, recreational, and scenic areas, and in every other appropriate way, to
9 preserve as a part of the common heritage of this State its open lands and places of
10 beauty; and

11

Whereas, the General Assembly enacted the State Parks Act in 1987,
12 declaring that the State of North Carolina offers unique archaeological, geological,
13 biological, scenic, and recreational resources, and that such resources are part of the
14 heritage of the people of the State to be preserved and managed by those people for
15 their use and for the use of their visitors and descendants; and

16

Whereas, Lea Island in Pender County is one of the few remaining
17 undeveloped barrier islands on the North Carolina coast; contains examples of high
18 quality coastal natural communities; provides excellent breeding and migration
19 habitat for wildlife, including several rare species; and has been found to possess
20 biological and scenic resources of statewide significance; and

21

Whereas, the North Carolina State Office of the National Audubon
22 Society has expressed particular interest in the protection of Lea Island and is willing
23 to partner with the State to provide long-term management for the site; Now,
24 therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. The General Assembly authorizes the Department of
3 Environment and Natural Resources to add Lea Island State Natural Area to the
4 State Parks System as provided in G.S. 113-44.14(b).

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1272*

Short Title: Lea Island State Natural Area.

(Public)

Sponsors: Senators Jordan; Gulley, Kinnaid, and Lee.

Referred to: Agriculture/Environment/Natural Resources.

May 17, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE
3 NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED
4 BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 states that it shall be a proper function of the State of North Carolina to acquire and
7 preserve park, recreational, and scenic areas and in every other appropriate way, to
8 preserve as a part of the common heritage of this State its open lands and places of
9 beauty; and

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and

15 Whereas, Lea Island in Pender County is one of the few remaining
16 undeveloped barrier islands on the North Carolina coast; contains examples of high
17 quality coastal natural communities; provides excellent breeding and migration
18 habitat for wildlife, including several rare species; and has been found to possess
19 biological and scenic resources of statewide significance; and

20 Whereas, the North Carolina State Office of the National Audubon
21 Society has expressed particular interest in the protection of Lea Island and is willing
22 to partner with the State to provide long-term management for the site; Now,
23 therefore,

24 The General Assembly of North Carolina enacts:

1 Section 1. The General Assembly authorizes the Department of
2 Environment and Natural Resources to add Lea Island State Natural Area to the
3 State Parks System as provided in G.S. 113-44.14(b).

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



SENATE BILL 1272: Lea Island State Natural Area

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: May 30, 2000

Version: First Edition

Introduced by: Senator Jordan

Summary by: Rick Zechini
Committee Counsel

SUMMARY: *Senate Bill 1272 authorizes the addition of Lea Island State Natural Area to the State Parks System.*

CURRENT LAW: The State Parks Act (G.S. 113-44.7, *et. seq.*) governs the procedure by which lands are added to or removed from the State Parks System. The State Parks Act mandates that additions to the State Parks System, including additions of State natural areas, must be authorized by an act of the General Assembly.

BILL ANALYSIS: 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. There are approximately 40 individuals who own property on the island. The Department of Environment and Natural Resources (DENR) has been discussing the purchase of the individual tracts of land with the applicable landowners. DENR also intends to apply for grants from the United States Fish and Wildlife Service and the Natural Heritage Trust Fund to fund acquisition of the island. The estimated acquisition cost is one million dollars. The natural area will be managed by the North Carolina Office of the National Audubon Society pursuant to a lease agreement with DENR. The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: Senate Bill 1272 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: Agriculture/Environment/Natural Resources.

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO ENCOURAGE, SUPPORT, AND ACCELERATE THE
3 PERMANENT PROTECTION OF FARMLAND, FORESTLAND, PARKLAND,
4 GAMESLAND, WETLANDS, OPEN SPACE, AND CONSERVATION LANDS
5 IN NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL
6 REVIEW COMMISSION.

7 Whereas, the citizens of North Carolina have committed themselves to
8 conserve and protect their lands and waters in numerous ways. This commitment is
9 stated in Article XIV, Section 5 of the North Carolina Constitution and finds
10 expression in the many State, local, and private programs that provide for the
11 acquisition and protection of lands to protect the water quality, wetlands, drinking
12 water sources, natural beauty, and ecological diversity of North Carolina as well as
13 provide opportunities for public recreation; and

14 Whereas, despite these many disparate programs, the General Assembly
15 finds that the quality of life that North Carolinians have come to expect is threatened
16 by the continued alteration and development of the State's natural areas, the loss of
17 its farmlands and forests, the shrinking amount of open space in its urban areas, and
18 the loss of cultural and historic sites. As the State's population continues to expand,
19 loss of open spaces to development will continue to increase, damaging North
20 Carolina's economy and environment; and

1 Whereas, the General Assembly further finds that additional permanent
2 protection of lands for environmental protection and public use is needed to
3 complement our State's economic growth and to meet our citizens' needs for
4 generations to come; Now, therefore,

5 The General Assembly of North Carolina enacts:

6 Section 1. The General Assembly reaffirms the strong desire of the State
7 and its citizens to conserve and protect the lands needed to provide a high-quality
8 environment for present and future generations, while also preserving, to the
9 maximum extent possible, the liberty of each individual to pursue their interests.

10 Section 2. Chapter 113A of the General Statutes is amended by adding a
11 new Article to read:

12 "ARTICLE 17.

13 "Conservation, Farmland, and Open Space Protection and Coordination.

14 "§ 113A-240. Intent.

15 (a) It is the intent of the General Assembly to continue to support and accelerate
16 the State's programs of land conservation and protection, to find means to assure and
17 increase funding for these programs, to support the long-term management of
18 conservation lands acquired by the State, and to improve the coordination, efficiency,
19 and implementation of the various State and local land protection programs operating
20 in North Carolina.

21 (b) It is the further intent of the General Assembly that the State's lands should be
22 protected in a manner that minimizes any adverse impacts on the ability of local
23 governments to carry out their broad mandates.

24 "§ 113A-241. State to Preserve One Million Acres.

25 (a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and
26 support appropriate federal, State, local, and private land protection efforts so that an
27 additional one million acres of farmland, open space, and conservation lands in the
28 State are permanently protected by December 31, 2009. These lands shall be
29 protected by acquisition in fee simple or by acquisition of perpetual conservation
30 easements by public conservation organizations or by private entities that are
31 organized to receive and administer lands for conservation purposes.

32 (b) The Secretary of Environment and Natural Resources shall lead the effort to
33 add one million acres to the State's protected lands and shall plan and coordinate
34 with other public and private organizations and entities that are receiving and
35 administering lands for conservation purposes."

36 Section 3. The Secretary of Environment and Natural Resources shall
37 report to the Governor and the Environmental Review Commission annually
38 beginning on September 1, 2000, on the State's progress towards attaining the goal
39 established in Section 2 of this act.

40 Section 4. This act is effective when it becomes law.



SENATE BILL 1328: Million Acre Open Space Goal

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: May 30, 2000

Version: First Edition

Introduced by: Senator Odom

Summary by: Rick Zechini

Committee Counsel

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

D

SENATE BILL 1332*
Proposed Committee Substitute S1332-PCS7773-SG

Short Title: Bullhead Mountain State Natural Area.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN
3 STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS
4 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 states that it shall be a proper function of the State of North Carolina to acquire and
7 preserve park, recreational, and scenic areas and, in every other appropriate way, to
8 preserve as a part of the common heritage of this State its open lands and places of
9 beauty; and

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and

15 Whereas, Bullhead Mountain in Alleghany County contains examples of
16 outstanding scenic beauty; is a key component of a major hawk migration corridor
17 through North Carolina; would provide outstanding opportunities for the public to
18 observe the natural phenomenon of bird migration; and has been found to possess
19 biological, scenic, and recreational resources of statewide significance; and

20 Whereas, the North Carolina State Office of the National Audubon
21 Society has expressed particular interest in the protection of Bullhead Mountain and
22 is willing to partner with the State to provide long-term management for the site;
23 Now, therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. The General Assembly authorizes the Department of
3 Environment and Natural Resources to add Bullhead Mountain State Natural Area to
4 the State Parks System as provided in G.S. 113-44.14(b).

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1332*

Short Title: Bullhead Mountain State Natural Area.

(Public)

Sponsors: Senators Foxx; Cochrane, East, Forrester, Lucas, and Odom.

Referred to: Agriculture/Environment/Natural Resources.

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF BULLHEAD MOUNTAIN
3 STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS
4 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the State Constitution states that it
6 shall be a proper function of the State of North Carolina to acquire and preserve
7 park, recreational, and scenic areas and, in every other appropriate way, to preserve
8 as a part of the common heritage of this State its open lands and places of beauty;
9 and,

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and,

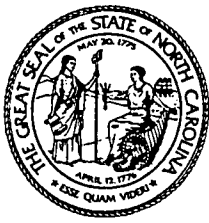
15 Whereas, Bullhead Mountain in Alleghany County contains examples of
16 outstanding scenic beauty; is a key component of a major hawk migration corridor
17 through North Carolina; would provide outstanding opportunities for the public to
18 observe the natural phenomenon of bird migration; and has been found to possess
19 biological, scenic, and recreational resources of statewide significance; and,

20 Whereas, the North Carolina State Office of the National Audubon
21 Society has expressed particular interest in the protection of Bullhead Mountain and
22 is willing to partner with the State to provide long-term management for the site;
23 Now, therefore,

24 The General Assembly of North Carolina enacts:

1 Section 1. The General Assembly authorizes the Department of
2 Environment and Natural Resources to add Bullhead Mountain State Natural Area to
3 the State Parks System as provided in G.S. 113-44.14(b).

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



SENATE BILL 1332: Bullhead Mountain State Natural Area

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and, Natural Resources

Date: May 30, 2000

Version: First Edition

Introduced by: Senator Foxx

Summary by: Rick Zechini

Committee Counsel

SUMMARY: *Senate Bill 1332 authorizes the addition of Bullhead Mountain State Natural Area to the State Parks System.*

CURRENT LAW: The State Parks Act (G.S. 113-44.7, *et. seq.*) governs the procedure by which lands are added to or removed from the State Parks System. The State Parks Act mandates that additions to the State Parks System, including additions of State natural areas, must be authorized by an act of the General Assembly.

BILL ANALYSIS: Bullhead Mountain is located in Allegheny County adjacent to the Blue Ridge Parkway between mileposts 232 and 235. Conservation and protection of the area is deemed important because of the visibility of the mountain from the Blue Ridge Parkway and the high concentration of migratory hawks on and around the mountain. The Bullhead Mountain State Natural Area is projected to include 320 acres of Bullhead Mountain. The Conservation Trust for North Carolina, a statewide non-profit land trust, has obtained two options on a total of 219 acres. The North Carolina Department of Transportation has awarded a Transportation Enhancement Grant in the amount of \$336,000 for the acquisition of lands for the natural area, and the trustees of the Natural Heritage Trust Fund approved a \$192,000 grant for the project as well. The sum of these two grants will fully cover the purchase price of the 219 acres under the two options. At the appropriate time the options will be assigned to the Department of Environment and Natural Resources (DENR). DENR is currently discussing the purchase of the remaining 101 acres of the project with the applicable landowners. The natural area will be supervised by staff from nearby Stone Mountain State Park and managed by the North Carolina Office of the National Audubon Society pursuant to a lease agreement with DENR. 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.

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

5/30/00

Name of Committee

(DATE)

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
James P. Coates	intern Sen. Foxx
Kimberly Dalton	intern - Sen. Pasnight
Elizabeth Bondurant	intern - Sen. Foxx
Kim Hibbard	NCLM
Lisa Martin	Upper Neuse River Basin arm.
Steve Woodson	NC Farm Bureau Fed.
JB	"
Natalie English	Charlotte Chamber
Kelli Kucuna	Du Pont
Amy Fullbright	Huntton: Williams
Patrice Reeler	NCAACE
Blackburn	"

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES

5/30/2000
(DATE)

Name of Committee

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sandra Long	Martin Marotta
Stephanie Mansun	NC Assoc. of REALTORS
Gary Harris	NC Petroleum Mktvs.
Doug Howey	NC Petroleum Mktvs.
J. Carlyle Teague	Co-op Council
TERRY HANDS	NC Park Council
David Meredith	NC State Grange
Andy Lomenst	NCLM.
SANDY SANDS	WCSPR
Rutnerford Mooreman	EUCDC 1225 East 5th St. W-S N. C. 27101
Phil McKnelly	DENR DPR

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Glenn McNairy	intern Gov Office
Carol Tingley	DENR - Parks + Recreation
Matthew Gerken	intern - DENR, Parks & Rec.
Bruce Thompson	CONSULTING ENGINEERS COUNCIL
Ann Holman	DENR
Beau Mills	Governor's Office
Clark Ogilvie	Congressman Bob Etheridge
Peter Danich	NC FARM BUREAU
Tim Kent	American Institute of Architects
Karl Knapp	City of Winston-Salem
Suzanne McKenna	Sierra Club

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 6, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, June 6, 2000, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present.

The following bill was discussed:

SENATE BILL 1279 - PETROLEUM DISCHARGE AMENDS-I - Senator Plyler, sponsor. George Givens of staff explained the bill in Senator Plyler's absence. Doug Howey of the N. C. Petroleum Marketers answered questions from members. It was decided that this bill would be studied in the interim and a report would be given on the results of the study during the long session. Senator Wellons moved that the bill be given a favorable report. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, June 6, 2000
11:00 a.m.
Room 544 – LOB

AGENDA

SB 1279

PETROLEUM DISCHARGE AMENDS-1
Senator Plyler

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, June 06, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1279

PETROLEUM DISCHARGE AMENDS-1.

Sequential Referral: None

Recommended Referral: None

TOTAL REPORTED: 1

Committee Clerk Comment:

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

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT CERTAIN REQUIREMENTS RELATED TO
3 LAND-USE RESTRICTIONS THAT APPLY GENERALLY TO RISK-BASED
4 ENVIRONMENTAL CLEANUPS DO NOT APPLY TO CLEANUPS OF
5 PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS AND
6 TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO
7 CONTINUE TO STUDY THE APPLICATION OF LAND-USE RESTRICTIONS
8 TO THE CLEANUP OF ENVIRONMENTAL DAMAGE FROM THESE
9 TANKS THROUGH A STAKEHOLDER NEGOTIATION PROCESS, AS
10 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.
11 The General Assembly of North Carolina enacts:
12 Section 1. G.S. 143B-279.9 reads as rewritten:
13 "§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public
14 health at contaminated sites.
15 (a) In order to reduce or eliminate the danger to public health or the environment
16 posed by the presence of contamination at a site, an owner, operator, or other
17 responsible party may impose restrictions on the current or future use of the real
18 property comprising any part of the site where the contamination is located if the
19 restrictions meet the requirements of this section. The restrictions must be agreed to
20 by the owner of the real property, included in a remedial action plan for the site that
21 has been approved by the Secretary, and implemented as a part of the remedial
22 action program for the site. The Secretary may approve restrictions included in a
23 remedial action plan in accordance with standards that the Secretary determines to
24 be applicable to the site. Except as provided in subsection (b) of this section, if the

1 remedial action is risk-based or will not require that the site meet current standards,
2 as defined in G.S. 130A-310.31, the remedial action plan must include an agreement
3 by the owner, operator, or other responsible party to record approved land-use
4 restrictions that meet the requirements of this section as provided in G.S.
5 143B-279.10. Restrictions may apply to activities on, over, or under the land,
6 including, but not limited to, use of groundwater, building, filling, grading,
7 excavating, and mining. Any approved restriction shall be enforced by any owner,
8 operator, or other party responsible for the contaminated site. Any land-use
9 restriction may also be enforced by the Department through the remedies provided
10 by any provision of law that is implemented or enforced by the Department or by
11 means of a civil action. The Department may enforce any land-use restriction
12 without first having exhausted any available administrative remedies. A land-use
13 restriction may also be enforced by any unit of local government having jurisdiction
14 over any part of the site. A land-use restriction shall not be declared unenforceable
15 due to lack of privity of estate or contract, due to lack of benefit to particular land, or
16 due to lack of any property interest in particular land. Any person who owns or
17 leases a property subject to a land-use restriction under this Part shall abide by the
18 land-use restriction.

19 (b) Subsection (a) of this section shall not apply to a risk-based remedial action
20 plan for the cleanup of environmental damage resulting from a discharge or release
21 of petroleum from an underground storage tank pursuant to Part 2A of Article 21A
22 of Chapter 143 of the General Statutes.

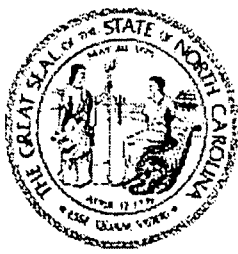
23 Section 2. G.S. 143B-279.10(f) reads as rewritten:

24 "(f) A Notice of Contaminated Site filed pursuant to this section ~~may,~~ shall, at the
25 request of the owner of the land, be cancelled by the Secretary after the
26 contamination has been ~~eliminated.~~ eliminated or remediated to current standards, as
27 defined in G.S. 130A-310.31. If requested in writing by the owner of the land and if
28 the Secretary concurs with the request, the Secretary shall send to the register of
29 deeds of each county where the Notice is recorded a statement that the
30 contamination has been ~~eliminated~~ eliminated, or that the contamination has been
31 remediated to current standards, and request that the Notice be cancelled of record.
32 The Secretary's statement shall contain the names of the owners of the land as shown
33 in the Notice and reference the plat book and page where the Notice is recorded.
34 The register of deeds shall record the Secretary's statement in the deed books and
35 index it on the grantor index in the names of the owners of the land as shown in the
36 Notice and on the grantee index in the name "Secretary of Environment and Natural
37 Resources". The register of deeds shall make a marginal entry on the Notice showing
38 the date of cancellation and the book and page where the Secretary's statement is
39 recorded, and the register of deeds shall sign the entry. If a marginal entry is
40 impracticable because of the method used to record maps and plats, the register of
41 deeds shall not be required to make a marginal entry."

42 Section 3. The Environmental Review Commission shall continue to
43 study the application of land-use restrictions to the cleanup of environmental damage
44 resulting from discharges and releases of petroleum from underground storage tanks

1 through a stakeholder negotiation process. As a part of this study, the Commission
2 shall consider issues related to notice to current and future users of real property of
3 any restrictions on the current and future use of the property, mechanisms to ensure
4 compliance with those restrictions, notice to current and future users of real property
5 of the existence of contamination in excess of current standards, and issues related to
6 recordation in the register of deeds office of this information. The Commission shall
7 report its findings and recommendations, including any legislative proposals, to the
8 2001 General Assembly.

9 Section 4. Sections 1 and 2 of this act are effective retroactively to 1
10 October 1999. Sections 3 and 4 of this act are effective when this act becomes law.
11 Section 1 of this act expires 1 September 2001.



SENATE BILL 1279: PETROLEUM DISCHARGE AMENDS - 1

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: June 6, 2000

Version: First Edition

Introduced by: Senators Plyler and Purcell

Summary by: Hannah Holm,
Research Assistant

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.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

6/6/00
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Hwey	NC Petro Markets
Gary Harris	" " "
David Simmons	Atley Associates, Inc.
Paul Wilms	NCHRA
Christi B. Barber	CHPH
JIM KUSZAJ	MCIC
Wra Franck	Sierre club
Emily Meeker	CCNC
Patricia Rankin	NACC
Kim Hibbard	NCLM
John H. Cyrus	N.C. State Congress

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Amy Fullbright	Hampton? Williams
Steve Woodson	NC Farm Bureau
Doug Lassiter	NC Septic Tank Assoc
Kelli Kuluwa	DuPont
Net Mud	CCNE
Harold Berry	NC PMA
David Knight	NC Sierra Club, NCWF
John McAliste	Duke Energy
George Everett	Duke Energy
LAURA DENRO	DENR
Robert	NCSSA/AUTO PRO

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 13, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, June 13, 2000, at 11:00 a.m., in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were thirteen committee members present.

The following bills were discussed:

SENATE BILL 1381 - REALLOCATE WATER BOND FUNDS - Senator Kerr, sponsor. Staff announced that a proposed committee substitute had been prepared, and Senator Odom moved that the PCS be adopted for discussion purposes. Motion carried. Senator Kerr explained the PCS. Bill Holman, Secretary of Department of Environment and Natural Resources said that the grants for these funds went to folks with the greatest needs. Senator Martin moved that the proposed committee substitute be given a favorable report and sequentially referred to Appropriations/Base Budget, unfavorable as to original bill. Motion carried.

HOUSE BILL 541 - BUOY FISHING/SPECIAL FISHING DEVICE - Representative Mitchell, sponsor. There was a proposed committee substitute for this bill and Senator Gulley moved that it be adopted for discussion purposes. Motion carried. Representative Jean Preston attended the meeting to answer questions from committee members. Barbara Riley of staff explained the PCS. Senator Weinstein moved that the proposed committee substitute be given a favorable report, unfavorable as to original bill. Motion carried.

HOUSE BILL 1562 - DATE BY WHICH SCFL HOLDERS TAKE CRAB - Representative Edwards, sponsor, attended the meeting. There was a proposed committee substitute for the bill and Senator Weinstein moved for adoption of the PCS for discussion purposes. Motion carried. Jeff Hudson of staff explained the PCS. Senator Weinstein sent forth an amendment and moved for its adoption. Motion carried. Jeff Hudson of staff explained the amendment. After discussion it was decided that the amendment would be incorporated into the PCS. Preston Pate, Director of Marine Fisheries, spoke on the bill. Senator Martin moved that the proposed committee substitute, with amendment incorporated, be given a favorable report, unfavorable as to original bill. Motion carried.

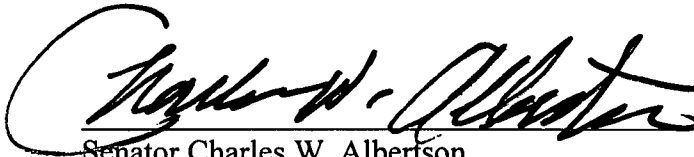
June 13, 2000

Page 2

SENATE 1341 - PETROLEUM DISCHARGES/DE MINIMIS REPORTS -

Senator Albertson, sponsor, asked Senator Horton, vice chairman, to chair the meeting so that Senator Albertson's bill could be discussed. George Givens of staff was requested to explain the bill. Dan McLawhorn, General Counsel for Department of Environment and Natural Resources, answered questions from committee members. Senator Kinnaird asked if Senator Gulley intended to submit an amendment to include drinking water. Senator Albertson said he wanted to look at any amendment before it was submitted. Preston Howard, representing Manufacturers and Chemical Industry Council, said he hoped the committee would support the bill without the amendment. Senator Albertson said he would oppose the amendment. Senator Gulley sent forth an amendment and moved for its adoption. Division was called for. The amendment failed with two voting for and six opposing. Senator Garrou moved that the bill be given a favorable report. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, June 13, 2000
11:00 a.m.
Room 544 – LOB

AGENDA

- SB 1381 REALLOCATE WATER BOND FUNDS
Senator Kerr
- HB 541 BUOY FISHING/SPECIAL FISHING DEVICE
Representative Mitchell
- HB 1562 DATE BY WHICH SCFL HOLDERS TAKE CRAB
Representative Edwards
- SB 1341 PETROLEUM DISCHARGES/DE MINIMIS REPORTS
Senator Albertson

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, June 13, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1341 PETROLEUM DISCHARGES/DE MINIMIS REPORTS
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1381 REALLOCATE WATER BOND FUNDS
 Draft Number: PCS4786
 Sequential Referral: Appropriations/Base Budget
 Recommended Referral: None
 Long Title Amended: No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. 1562 DATE BY WHICH SCFL HOLDERS TAKE CRAB
 Draft Number: PCSX5096
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)541 BUOY FISHING/SPECIAL FISHING DEVICE
 Draft Number: PCS2432
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1381
Proposed Committee Substitute S1381-PCS4786-LCSJX

Short Title: Reallocate Water Bond Funds.

(Public)

Sponsors:

Referred to:

May 23, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER
3 BONDS.

4 The General Assembly of North Carolina enacts:

5 Section 1. Withdrawal of Loan Funds. -- Pursuant to Section 5.1(i) of S.L.
6 1998-132, the following amounts of the Clean Water Bond proceeds allocated for
7 loans in Section 5.1(h) of S.L. 1998-132 are withdrawn from allocation under Section
8 5.1(h) of S.L. 1998-132 and reallocated as provided in Section 2 of this act:

- 9 (1) Wastewater collection systems and wastewater treatment works:
 - 10 a. Reserved for loans to local
 - 11 government units whose bond
 - 12 rating is less than 75 or
 - 13 who have no bond rating\$ 3,500,000
 - 14 b. Reserved for loans to local
 - 15 government units whose bond
 - 16 rating is 75 or more.....\$ 90,600,000.
- 17 (2) Water supply and distribution systems and water conservation
- 18 projects:
 - 19 a. Reserved for loans to local
 - 20 government units whose bond
 - 21 rating is less than 75 or
 - 22 who have no bond rating\$ 7,100,000
 - 23 b. Reserved for loans to local

1 government units whose bond
 2 rating is 75 or more.....\$ 98,800,000
 3 Total Withdrawn for Reallocation.....\$200,000,000.

4 Section 2.(a) Reallocation for High-Unit Cost Grants. -- Of the funds
 5 withdrawn pursuant to Section 1 of this act from allocation under Section 5.1(h) of
 6 S.L. 1998-132, the sum of one hundred forty-six million dollars (\$146,000,000) shall
 7 be used by the Department of Environment and Natural Resources to provide grants
 8 to local government units for the same purpose and in accordance with Section 5.1(c)
 9 of S.L. 1998-132 and shall be allocated for this purpose as follows:

10 (1) High-Unit Cost Wastewater Account:
 11 a. Reserved for grants to local
 12 government units whose bond
 13 rating is less than 75 or who
 14 have no bond rating.....\$ 37,960,000
 15 b. Reserved for grants to local
 16 government units whose bond
 17 rating is 75 or greater.....\$ 35,040,000.

18 (2) High-Unit Cost Water Supply Account:
 19 a. Reserved for grants to local
 20 government units whose bond
 21 rating is less than 75 or who
 22 have no bond rating.....\$ 37,960,000
 23 b. Reserved for grants to local
 24 government units whose bond
 25 rating is 75 or greater.....\$ 35,040,000

26 Total Reallocated for Grants
 27 Under Section 5.1(c)\$146,000,000.

28 Section 2.(b) Reallocation for Unsewered Community Grants. -- Of the
 29 funds withdrawn pursuant to Section 1 of this act from allocation under Section
 30 5.1(h) of S.L. 1998-132, the sum of twenty-five million nine hundred twenty thousand
 31 dollars (\$25,920,000) is reallocated to be used to provide unsewered community
 32 grants to eligible local government units to assist with wastewater treatment works
 33 and wastewater collection systems for the same purpose and in accordance with
 34 Section 5.1(g) of S.L. 1998-132. Grants from amounts reallocated shall be awarded
 35 and administered by the Rural Economic Development Center in accordance with
 36 Section 5.1(g) of S.L. 1998-132. The funds reallocated under this section shall be
 37 awarded on the criteria set out in Section 5.1(g) of S.L. 1998-132.

38 Section 2.(c) Reallocation for Supplemental and Capacity Grants. -- Of
 39 the funds withdrawn pursuant to Section 1 of this act from allocation under Section
 40 5.1(h) of S.L. 1998-132, the sum of twenty-eight million eighty thousand dollars
 41 (\$28,080,000) is reallocated to be used to provide supplemental and capacity grants to
 42 eligible local government units to match federal, State, and other grant or loan
 43 program funds to plan or improve needed water and sewer projects. Grants from
 44 amounts reallocated shall be awarded and administered by the Rural Economic

1 Development Center in accordance with Section 5.1(f) of S.L. 1998-132 and this
2 section. The proceeds reallocated under this section shall be allocated between
3 supplemental grants and capacity grants as follows:

- 4 (1) Supplemental Grants.....\$22,460,000
5 (2) Capacity Grants.....\$ 5,620,000

6 The funds reallocated under this section shall be awarded on the criteria set out in
7 Section 5.1(f) of S.L. 1998-132.

8 Notwithstanding the provisions of Section 5.1(f) of S.L. 1998-132, a
9 maximum of twelve million dollars (\$12,000,000) of supplemental grant funds and a
10 maximum of three million dollars (\$3,000,000) of capacity grant funds may be
11 certified by the Rural Economic Development Center to the State Treasurer each
12 fiscal year through June 30, 2005, and the State Treasurer may issue the amount
13 certified up to fifteen million dollars (\$15,000,000) each fiscal year through June 30,
14 2005. Upon certification for the fiscal year ending June 30, 2005, the State Treasurer
15 may issue the remaining balance of the funds allocated under Section 5.1(f) of S.L.
16 1998-132 and under this section for any purpose authorized under Section 5.1(f) of
17 S.L. 1998-132.

18 Section 3. G.S. 159G-6(a) reads as rewritten:

19 "(a) Revolving loans and grants.

20 (1) All funds appropriated or accruing to the Clean Water Revolving
21 Loan and Grant Fund, other than funds set aside for administrative
22 expenses, shall be used for revolving loans and grants to applicants
23 for construction costs of wastewater treatment works, wastewater
24 collection systems and water supply systems and other assistance as
25 provided in this Chapter.

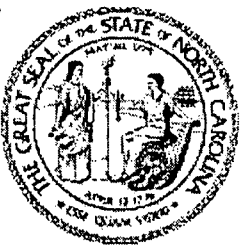
26 (2) The maximum principal amount of a revolving loan or a grant may
27 be one hundred percent (100%) of the nonfederal share of the
28 construction costs of any eligible project. The maximum principal
29 amount of revolving loans made to any one applicant during any
30 fiscal year shall be eight million dollars (\$8,000,000).

31 (2a) The maximum principal amount of grants made to any applicant
32 ~~during any fiscal year~~ over a period of three fiscal years shall be
33 three million dollars (\$3,000,000). The Department of Environment
34 and Natural Resources may limit the maximum principal amount
35 of the grant to two million dollars (\$2,000,000) or two-thirds of the
36 eligible project cost, whichever is less, when the bond rating of the
37 local government unit equals or is greater than 75 during any fiscal
38 year and when one million dollars (\$1,000,000) or one-third of the
39 eligible project cost, whichever is less, is available to the local
40 government unit as a loan from any source.

41 (3) The State Treasurer shall be responsible for investing and
42 distributing all funds appropriated or accruing to the Clean Water
43 Revolving Loan and Grant Fund for revolving loans and grants
44 under this Chapter. In fulfilling his responsibilities under this

1 section, the State Treasurer shall make a written request to the
2 Department of Environment and Natural Resources to arrange for
3 the appropriated funds to be (i) transferred from the appropriate
4 accounts to an applicant to provide funds for one or more
5 revolving loans or grants or (ii) invested as authorized by this
6 Chapter with the interest on and the principal of such investments
7 to be transferred to the applicant to provide funds for one or more
8 revolving loans or grants."

9 Section 4. Sections 1, 2, and 4 of this act become effective July 1, 2000.
10 Section 3 of this act is effective retroactively to July 1, 1999, and applies to grants
11 made on or after the date this act becomes law.



SENATE BILL 1381 (PCS): Reallocate Water Bond Funds

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Introduced by: Senator Kerr

Summary by: Hannah Holm,

Research Assistant

Date: June 13, 2000

Version: PCS (S1381-CSLCSJX-6/12)

SUMMARY: *The Proposed Committee Substitute for the first edition of Senate Bill 1381 would reallocate \$200 million in Clean Water Bonds proceeds from a program that makes loans to local governments for water and wastewater system upgrades to related grant programs. The Proposed Committee Substitute would also raise annual caps on awards of Supplemental and Capacity Grants administered by the Rural Economic Development Center and further limit the amount of grant funding an applicant could receive from the Clean Water Revolving Loan and Grant Fund.*

BILL ANALYSIS

Reallocate proceeds from Clean Water Bonds: Section 1 of the Proposed Committee Substitute for SB 1381 (PCS) would withdraw \$200 million in Clean Water Bonds proceeds from allocation for loans to local governments for water and wastewater system upgrades, and Section 2 of the PCS would reallocate these funds to related grant programs, as shown in the attached table. The grant and loan programs listed in the table are described in the "Background" section below.

Increase yearly caps on Supplemental and Capacity Grant awards: Section 2 of the PCS would also raise the annual caps for awards for Supplemental Grants from \$8 million to \$12 million and for Capacity Grants from \$2 million to \$3 million. The new limits would apply to grant awards for fiscal years through June 30, 2005.

Limit grant receipts from Clean Water Revolving Loan and Grant Fund: Section 3 of the PCS would limit the maximum principal amount of grants an applicant could receive from the Clean Water Revolving Loan and Grant Fund to \$3 million over any three year period. The limit in current law is \$3 million during any fiscal year.

Effective dates: The reallocation of Clean Water Bond proceeds and the increase in the yearly caps on Supplemental and Capacity Grant awards would become effective July 1, 2000. The new limit on grant receipts from the Clean Water Revolving Loan and Grant Fund would become effective retroactively to July 1, 1999 and would apply to new grants made after the PCS becomes law.

BACKGROUND

SL 1998-132 authorized the issuance of \$800 million in Clean Water Bonds, subject to the approval of the State's voters. The voters then approved the measure. The act provided that the proceeds from the Clean Water Bonds would be allocated to the following categories of expenditure:

- **Loans to Local Governments** to fund water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment systems. Repayments of the loans are credited to the General Fund and may be used to pay debt service on the bonds. The loans are administered by the Department of Environment and Natural Resources (DENR).

SENATE BILL 1381 (PCS)

Page 2

- **High Unit-Cost Grants** to fund high-unit cost wastewater and water system projects, in accordance with the Clean Water Revolving Loan and Grant Program. A project that would require estimated average household water and sewer user fees greater than 1.5% of the median household income is a high-unit cost project. These grants are administered by DENR.
- **Unsewered Community Grants** to units of local government serving small, rural communities not served by centralized sewer systems for wastewater collection systems and treatment projects. These grants are administered by the Rural Economic Development Center (Rural Center).
- **Supplemental Grants** to units of local government to match other grant or loan program funds for needed water and wastewater projects. These grants are administered by the Rural Center.
- **Capacity Grants** to units of local government to fund costs associated with preparing grant and loan applications, capital improvement plans, and other efforts to support growth and development in rural areas. These grants are administered by the Rural Center.
- **State Matching Funds** to match federal wastewater or water supply assistance funds. These funds are administered by DENR. This category of expenditure is not affected by the PCS.
- **Economic Development** grants to pay the cost of water and wastewater projects associated with industrial recruitment. These grants are administered by the Department of Commerce. This category of expenditure is not affected by the PCS.

SL 1998-132 provided that the General Assembly could increase or decrease the allocations of the proceeds of the Clean Water Bonds between the loan and grant programs listed above, so long as the aggregate amount of the allocations does not exceed \$800 million.

SB 1381, as introduced, did not specify the quantity of funds to be reallocated from the loan programs to the grant programs. SB 1381 also did not include a provision to raise the cap on the Supplemental and Capacity Grant awards.

**Allocation of Clean Water Bond Proceeds:
Comparison of Current Law and the PCS for the First Edition of SB 1381**

<i>Category of Allocation</i>	<i>Current Law</i>	<i>PCS for SB 1381</i>	<i>Change*</i>
LOANS (DENR)**	\$300,000,000	\$100,000,000	(\$200,000,000)
To local governments with bond ratings of less than 75 or no bond ratings:	\$20,000,000	\$9,400,000	(\$10,600,000)
for wastewater treatment & collection systems	\$10,000,000	\$6,500,000	(\$3,500,000)
for water supply & distribution systems	\$10,000,000	\$2,900,000	(\$7,100,000)
To local governments with bond ratings of 75 or greater:	\$280,000,000	\$90,600,000	(\$189,400,000)
for wastewater treatment & collection systems	\$140,000,000	\$49,400,000	(\$90,600,000)
for water supply & distribution systems	\$140,000,000	\$41,200,000	(\$98,800,000)
HIGH-UNIT COST GRANTS (DENR)	\$330,000,000	\$476,000,000	\$146,000,000
To local governments with bond ratings of less than 75 or no bond ratings:	\$170,000,000	\$245,920,000	\$75,920,000
for wastewater treatment & collection systems	\$85,000,000	\$122,960,000	\$37,960,000
for water supply & distribution systems	\$85,000,000	\$122,960,000	\$37,960,000
To local governments with bond ratings of 75 or greater:	\$160,000,000	\$230,080,000	\$70,080,000
for wastewater treatment & collection systems	\$80,000,000	\$115,040,000	\$35,040,000
for water supply & distribution systems	\$80,000,000	\$115,040,000	\$35,040,000
OTHER GRANT PROGRAMS (Rural Center)	\$115,000,000	\$169,000,000	\$54,000,000
Unsewered Community Grants	\$55,000,000	\$80,920,000	\$25,920,000
Supplemental Grants	\$48,000,000	\$70,460,000	\$22,460,000
Capacity Grants	\$12,000,000	\$17,620,000	\$5,620,000

TOTAL AMOUNT REALLOCATED FROM LOANS TO GRANTS: \$200,000,000

* Parenthesis indicates withdrawal of funds; number without parenthesis indicates addition of funds.

** Administering agency appears in parenthesis.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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1

SENATE BILL 1381

Short Title: Reallocate Water Bond Funds.

(Public)

Sponsors: Senators Kerr; Ballance, Dannelly, Hoyle, Metcalf, Perdue, Purcell, and Soles.

Referred to: Agriculture/Environment/Natural Resources.

May 23, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER
3 BONDS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Pursuant to Section 5.1(i) of S.L. 1998-132, the sum of **
6 dollars (\$**) of the Clean Water Bond proceeds allocated for loans for wastewater
7 collection systems and wastewater treatment works under Section 5.1(h)(1) of S.L.
8 1998-132 is reallocated to be used by the Department of Environment and Natural
9 Resources to provide grants to local government units for the same purposes and in
10 accordance with the provisions of the Clean Water Revolving Loan and Grant Act
11 for funds in the High-Unit Cost Wastewater Account. Amounts reallocated shall be
12 administered by the Department of Environment and Natural Resources in
13 accordance with Section 5.1(c)(1) of S.L. 1998-132. The funds reallocated under this
14 section shall be divided equally between the amounts reserved in the High-Unit Cost
15 Wastewater Account for units of local government whose bond rating is less than 75
16 or who have no bond rating and those whose bond rating is 75 or greater.
17 Section 2. Pursuant to Section 5.1(i) of S.L. 1998-132, the sum of **
18 dollars (\$**) of the Clean Water Bond proceeds allocated for loans for water supply
19 and distribution systems and water conservation projects under Section 5.1(h)(2) of
20 S.L. 1998-132 is reallocated to be used by the Department of Environment and
21 Natural Resources to provide grants to local government units for the same purposes
22 and in accordance with the provisions of the Clean Water Revolving Loan and Grant
23 Act for funds in the High-Unit Cost Water Supply Account. Amounts reallocated

1 shall be administered by the Department of Environment and Natural Resources in
2 accordance with Section 5.1(c)(2) of S.L. 1998-132. The funds reallocated under this
3 section shall be divided equally between the amounts reserved in the High-Unit Cost
4 Water Supply Account for units of local government whose bond rating is less than
5 75 or who have no bond rating and those whose bond rating is 75 or greater.

6 Section 3. Pursuant to Section 5.1(i) of S.L. 1998-132, the sum of **
7 dollars (***) of the Clean Water Bond proceeds allocated for loans for water supply
8 and distribution systems and water conservation projects under Section 5.1(h)(2) of
9 S.L. 1998-132 is reallocated to be used to provide unsewered community grants to
10 eligible local government units to assist with wastewater treatment works and
11 wastewater collection systems. Grants from amounts reallocated shall be awarded
12 and administered by the Rural Economic Development Center in accordance with
13 Section 5.1(g) of S.L. 1998-132. The funds reallocated under this section shall be
14 awarded on the criteria set out in Section 5.1(g) of S.L. 1998-132.

15 Section 4. G.S. 159G-6(a) reads as rewritten:

16 "(a) Revolving loans and grants.

- 17 (1) All funds appropriated or accruing to the Clean Water Revolving
18 Loan and Grant Fund, other than funds set aside for administrative
19 expenses, shall be used for revolving loans and grants to applicants
20 for construction costs of wastewater treatment works, wastewater
21 collection systems and water supply systems and other assistance as
22 provided in this Chapter.
- 23 (2) The maximum principal amount of a revolving loan or a grant may
24 be one hundred percent (100%) of the nonfederal share of the
25 construction costs of any eligible project. The maximum principal
26 amount of revolving loans made to any one applicant during any
27 fiscal year shall be eight million dollars (\$8,000,000).
- 28 (2a) The maximum principal amount of grants made to any applicant
29 ~~during any fiscal year~~ over a period of three fiscal years shall be
30 three million dollars (\$3,000,000). The Department of Environment
31 and Natural Resources may limit the maximum principal amount
32 of the grant to two million dollars (\$2,000,000) or two-thirds of the
33 eligible project cost, whichever is less, when the bond rating of the
34 local government unit equals or is greater than 75 during any fiscal
35 year and when one million dollars (\$1,000,000) or one-third of the
36 eligible project cost, whichever is less, is available to the local
37 government unit as a loan from any source.
- 38 (3) The State Treasurer shall be responsible for investing and
39 distributing all funds appropriated or accruing to the Clean Water
40 Revolving Loan and Grant Fund for revolving loans and grants
41 under this Chapter. In fulfilling his responsibilities under this
42 section, the State Treasurer shall make a written request to the
43 Department of Environment and Natural Resources to arrange for
44 the appropriated funds to be (i) transferred from the appropriate

1 accounts to an applicant to provide funds for one or more
2 revolving loans or grants or (ii) invested as authorized by this
3 Chapter with the interest on and the principal of such investments
4 to be transferred to the applicant to provide funds for one or more
5 revolving loans or grants."

6 Section 5. This act becomes effective July 1, 2000. Section 4 of this act
7 applies only to grants funded on or after that date.

8

First Round of Clean Water Bond Awards

Awarded December 1999

Rural Economic Development Center
 Awarded December 1999

1999 Clean Water Bond Unsewered Applications

Applicant	County	Grant Award	Project Title
Beaufort County Water District V	Beaufort	\$1,719,365.00	Beaufort County Water District V Unsewered Communities Application
Powellsville	Bertie		U-11 Town of Powellsville Unsewered Communities Application
Askewville	Bertie		U-4 Town of Askewville Unsewered Communities Application
North Brunswick Sanitary District	Brunswick		U-17 North Brunswick Sanitary District Unsewered Communities Application
South Camden Water & Sewer District	Camden	\$949,600.00	South Camden Water and Sewer District Unsewered Communities
Milton	Caswell		U-5 Town of Milton Unsewered Communities Application
Chatham County Sewer District I	Chatham		U-21 Chatham County Sewer District I Unsewered Communities Application
Lattimore	Cleveland		Lattimore Unsewered
Fallston	Cleveland	\$2,392,368.00	Town of Fallston Unsewered Communities Application
Lawndale	Cleveland		U-7 Town of Lawndale Unsewered Communities Application
Dover	Craven		U-14 Town of Dover Unsewered Communities Application
Cove City	Craven		U-3 Town of Cove City Unsewered Communities Application
Walkertown	Forsyth	\$2,000,000.00	Town of Walkertown Unsewered Communities Application
Swan Quarter Sanitary District	Hyde	\$1,555,075.00	Swan Quarter Sanitary District Unsewered Communities Application
Harmony	Iredell		U-16 Town of Harmony Unsewered Communities Application
Topsail Beach	Pender		U-8 Town of Topsail Beach Unsewered Communities Application
Grimesland	Pitt	\$936,065.00	Town of Grimesland Unsewered Communities Applications
Seagrove-Ulah Metropolitan Water Dist	Randolph		U-10 Seagrove-Ulah MWD Unsewered Communities Application
Proctorville	Robeson		U-1 Proctorville Unsewered Communities Application

1999 Clean Water Bond Unsewered Applications

Applicant	County	Grant Award	Project Title
Faith	Rowan	\$2,061,000.00	Town of Faith Unsewered Communities Application
New London	Stanly	\$2,244,750.00	Town of New London Unsewered Communities Application
Seven Springs	Wayne		U-9 Town of Seven Springs Unsewered Communities Application

**Rural Economic Development Center
Awarded December 1999**

1999 Clean Water Bond Supplemental Applications

Applicant	County:	Grant Award	Project Title
Alexander County	Alexander	\$200,000.00	Highway 16 South Industrial/Prison Sewer Project
Ansonville	Anson		S-84 Sanitary Sewer Improvements for the Town of Ansonville
Morven	Anson		S-55 Sanitary Sewer Improvements
Lilesville	Anson		S-56 Sanitary Sewer Improvements
West Jefferson	Ashe		S-16 Water & Sewer Extension to Serve Dr. Pepper Bottling Company
Crossnore	Avery		S-59 Town of Crossnore Sewer Line Extension
Beaufort County Water District VI	Beaufort	\$200,000.00	BCWD VI 1999 Water System Improvements
Beaufort County	Beaufort		S-20 Whichard's Beach Water Extension
Bertie County Water District I	Bertie	\$125,000.00	BERCWD I 1999 Water System Improvements
Bertie County Water District III	Bertie	\$200,000.00	BERCWD III 1999 Water System Improvements
Aulander	Bertie	\$75,000.00	Addition to South Aulander Wastewater System Extensions
Bertie County Water District II	Bertie		S-92 BERCWD II 1999 Water System Improvements
Windsor	Bertie	\$200,000.00	Sanitary Sewer Rehabilitation
Elizabethtown	Bladen	\$200,000.00	Water and Sewer for New School
Pittsboro	Chatham		S-14 Townsend Foods/Town of Pittsboro Water Main Extension
Andrews	Cherokee	\$200,000.00	Sanitary Sewer Improvements: Happy Top Service Area
Cherokee County	Cherokee		S-72 US 64 West/Nottely River Sewer Improvements
Murphy	Cherokee	\$200,000.00	Cloe Moore Drive Sewer System Improvements
Edenton	Chowan	\$200,000.00	Rehabilitation of Gravity Sewer Mains in the Business District Area

**Rural Economic Development Center
Awarded December 1999**

1999 Clean Water Bond Supplemental Applications

Applicant	County:	Grant Award	Project Title
Cleveland County	Cleveland		S-71 Cleveland County Industrial Park-Sewer Infrastructure
Chadbourne	Columbus		S-76 Annexation Utilities
Columbus County	Columbus	\$200,000.00	Columbus County WWTP-Wright Corporation/Acme Area
Tabor City	Columbus		S-86 US 701 Commercial Center
Chadbourne	Columbus	\$200,000.00	Sewage Collection System Improvements
Beulaville	Duplin	\$200,000.00	National Spinning/Allied Duralux Water Project
Duplin County (Water District F)	Duplin	\$200,000.00	DCWD F 1999 Water System Improvements
Magnolia	Duplin		S-31 New Magnolia Wastewater Treatment Plant
Duplin County Water District G	Duplin	\$200,000.00	DCWD G 1999 Water System Improvements
Wallace	Duplin		S-3 1999 CDBG Project/Sanitary Sewer and Water Improvements
Duplin County Water District B	Duplin		S-23 DCWD B 1999 Water System Improvements
Albertson Water and Sewer District	Duplin		S-21 DCWD A 1999 Water System Improvements
Duplin County	Duplin		S-30 Duplin County 1999 Water System Improvements
Davie County	Dvie		S-52 Cooleemee Wastewater Treatment Plant Improvements
Edgecombe County	Edgecombe		S-45 Water Main Extensions - Deer Run Subdivision
Edgecombe Water & Sewer District No. 1	Edgecombe	\$200,000.00	Water and Wastewater System Improvements to Serve QVC-Kingsboro Industrial Site
Edgecombe Water and Sewer District No. 3	Edgecombe		S-47 Water Distribution System (Phase I)
Edgecombe Water & Sewer District No. 2	Edgecombe	\$200,000.00	Water and Wastewater System Improvements to Serve QVC-Kingsboro Industrial Site
Robbinsville	Graham	\$200,000.00	Sanitary Sewer Extension: Tallulah/State Shed Road

**Rural Economic Development Center
Awarded December 1999**

1999 Clean Water Bond Supplemental Applications

Applicant	County:	Grant Award	Project Title
Maury Sanitary Land District	Greene		S-49 Maury Sanitary Land District Wastewater Treatment Plant Improvements
Greene County	Greene	\$200,000.00	GCRWS 1999 Water System Improvements
Walstonburg	Greene		S-91 1999 Water System Improvements
Roanoke Rapids	Halifax		S-70 West Point Stevens Expansion Project
Halifax	Halifax	\$51,330.00	Granville Street & North Bradley Drive Waterline Replacement
Harnett County	Harnett	\$200,000.00	Harnett County/Town of Erwin Sewer Improvements for Titian and US 421 Area
Canton	Haywood		S-74 Newfound Road Water and Sewer Improvements
Fletcher	Henderson		S-77 US Highway 25 Sewer Improvements
Ahoskie	Hertford	\$200,000.00	Sewer System Improvements Hwy 13 South
Winton	Hertford	\$127,500.00	Water and Wastewater System Extensions to Serve Oak Villa Area
Winton	Hertford		S-88 Main Wastewater Pump Station Replacement
Kenly	Johnston		S-15 Town of Kenly Wastewater Improvements
Benson	Johnston	\$200,000.00	Rehabilitation of Wastewater Collection Sewers
Jones County	Jones	\$200,000.00	Wastewater Surge Tank and Emergency Line Replacement-Trenton Wastewater System
Jones County	Jones		S-22 Clean Water Improvements Project
Sanford	Lee	\$200,000.00	Industrial Water and Sewer Improvements
Pink Hill	Lenoir	\$200,000.00	Wastewater System Improvements
LaGrange	Lenoir	\$200,000.00	Sanitary Sewer Collection System Rehabilitation
Kinston	Lenoir		S-50 Adkin Branch Sewer Rehabilitation

Rural Economic Development Center
Awarded December 1999

1999 Clean Water Bond Supplemental Applications

Applicant	County:	Grant Award	Project Title
Robersonville	Martin	\$200,000.00	Wastewater System Expansion and Upgrade
Martin County	Martin		S-42 Water, Sewer and Railroad Extensions to Martin County Business Park
Everetts	Martin	\$200,000.00	Wastewater Collection System
Marion	McDowell		S-5 Water and Sewer Extension to McDowell Family Medicine, PA
Bakersville	Mitchell		S-58 Wastewater Treatment Plant Improvements
Mount Gilead	Mongomery	\$200,000.00	Town of Mount Gilead Homanit Sewer Improvements
Montgomery County	Montgomery	\$200,000.00	Town of Mount Gilead Homanit Water Improvements
Spring Hope	Nash	\$95,211.00	Water Supply Improvements
Pamlico County	Pamlico		S-95 Expansion of Sewer Main for Orchard Creek
Pasquotank County	Pasquotank,		S-1 Pasquotank County Commerce Park Infrastructure Project
Topsail Beach	Pender		S-17 Topsail Beach Wastewater Management System
Pender County	Pender	\$120,000.00	Pender County Water/Sewer Improvements
Ayden	Pitt	\$200,000.00	Elevated Storage Tank No. 3
Grifton	Pitt		S-89 Wastewater Pump Station/Extension - Old NC 11 North
Hamlet	Richmond	\$185,500.00	High Street Sewer Outfall
Hamlet	Richmond		S-78 Sewer Service to Richmond Primary School
Lumberton	Robeson	\$200,000.00	Combined Sewer Separation and Repair Project
Lumberton	Robeson		S-85 Sewer Line Extension to Serve East Robeson Primary School
Reidsville	Rockingham		S-65 Reidsville Industrial Park

**Rural Economic Development Center
Awarded December 1999**

1999 Clean Water Bond Supplemental Applications

Applicant	County:	Grant Award	Project Title
Mayodan	Rockingham		S-64 Mayodan Regional WWTP-Stoneville Sewer Transmission Main
Rutherford County	Rutherford		S-4 Chimney Rock Esmerelda Inn" Project"
Roseboro	Sampson	\$147,000.00	Wastewater System Improvements
Sampson County	Sampson		S-33 Nitrate Contaminated Well Abatement Program - Water System Extensions
Wagram	Scotland		S-87 Sewer Improvements to Serve the Town of Wagram
Stokes County	Stokes		S-51 Highway 311 Corridor Water Line
Mount Airy	Surry		S-27 Sandy Level Supplemental Grant
Bryson City	Swain	\$200,000.00	Carringer Street Lift Station and Force Main
Tyrrell County	Tyrrell	\$200,000.00	Additional Water Supply System
Marshville	Union		S-53 Marshville Constructed Wetlands Wastewater Treatment Facility
Vance County	Vance	\$200,000.00	NC Highway 39 Water System
Warren County	Warren	\$179,800.00	Warren County Water and Sewer District No. I, Phase II
Warren County	Warren		S-11 Elevated Tank for Oine/I-85 Commercial Area
Fremont	Wayne	\$200,000.00	Wastewater Conveyance Facilities - Fremont to Goldsboro
Eureka	Wayne		S-7 Wastewater Conveyance Facilities - Eureka to Fremont
Pikeville	Wayne		S-48 Church Street/Washington Street Water Improvements
North Wilkesboro	Wilkes		S-6 Wastewater Facilities to Serve Wilkes Industrial Park
Elm City	Wilson	\$84,000.00	Water System Improvements
Black Creek	Wilson		S-93 Construction of Sanitary Sewers

1999 Clean Water Bond Capacity Applications

Applicant	County	Grant Award	Project Title
Banner Elk	Avery	\$15,750.00	Water Distribution and Wastewater Collection Systems Master Plan
Newland	Avery		C-10 Town of Newland Infiltration and Inflow Assessment
Washington	Beaufort	\$40,000.00	City of Washington Water and Sewer Study
Washington Park	Beaufort		C-50 Washington Park Sewer Project
Beaufort County	Beaufort	\$27,999.00	Pantego Twp Wastewater Feasibility Study & Capital Improvement Plan
Aulander	Bertie	\$40,000.00	Comprehensive Wastewater Treatment Needs Feasibility Study and Water and Wastewater CIP
Askewville	Bertie	\$36,400.00	1999 Sanitary Sewer Improvements
Powellsville	Bertie	\$36,400.00	1999 Sanitary Sewer Improvements
Clarkton	Bladen	\$40,000.00	Capital Improvements Plan for Water and Sewer
Elizabethtown--Bladen County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
East Arcadia	Bladen	\$40,000.00	East Arcadia Capital Improvements Plan
Elizabethtown--Sampson County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
Elizabethtown--Hoke County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
Elizabethtown--Scotland County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
Elizabethtown--Columbus County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
Elizabethtown--Robeson County	Bladen	\$30,000.00	Southern Coastal Plain Regional Ground Water Program
Southeast Brunswick Sanitary District	Brunswick	\$40,000.00	Wastewater Expansion Planning
Caswell Beach	Brunswick	\$33,000.00	Wastewater Facilities Planning (201 Facility Plan, Grant/Loan Assistance & CIP)
Brunswick County	Brunswick	\$40,000.00	Brunswick County-Phase I Regional Wastewater Facilities

1999 Clean Water Bond Capacity Applications

Applicant	County	Grant Award	Project Title
Cajah's Mountain	Caldwell		C-25 Environmental Assessment/201 Amendment
Pittsboro	Chatham		C-15 Town of Pittsboro Master Plan for Waste Water
Chowan County	Chowan	\$35,900.00	Central Chowan County Wastewater Feasibility Study
Fallston	Cleveland	\$13,500.00	Town of Fallston Capital Improvement Plan (water/sewer)
Kingstown	Cleveland	\$40,000.00	Comprehensive Sanitary Sewer Plan
Bolton	Columbus	\$40,000.00	Capital Improvements Plan
Columbus County	Columbus		C-66 Wastewater Interceptor and Disposal Analysis
Whiteville	Columbus	\$33,500.00	Water Supply & Distribution System Analysis
Columbus County	Columbus		C-52 Cerro Gordo/Broadman Regional Sewer System
Sandyfield	Columbus/Brun	\$26,500.00	Sandyfield/Northwest Sewer Project
Dover	Craven	\$20,300.00	Dover 1999 Sanitary Sewer Improvements
Neuse River Council of Governments	Craven		C-23 Water Resources Comprehensive Plan for Region P
Cove City	Craven	\$36,500.00	Cove City 1999 Sanitary Sewer Improvements
Davidson County	Davidson	\$40,000.00	Davidson County Capital Improvement Plan/201 Facilities Plan and Design
Beulaville	Duplin		Infiltration/Inflow Study
Teachy	Duplin		C-76 Capital Improvements Plan
Greenevers	Duplin	\$4,500.00	Greenevers Capital Improvements Plan
Gatesville	Gates	\$40,000.00	Gatesville Public Sewer Project
Granville County	Granville		C-2 Comprehensive Water and Sewer Study

1999 Clean Water Bond Capacity Applications

Applicant	County	Grant Award	Project Title
Creedmoor	Granville		C-61 Water System Preliminary Engineering Report and Water and Sewer Improvements Plan
Stem	Granville	\$20,000.00	Capacity Grant to Fund Unsewered Communities Grant Application
Greene County	Greene	\$40,000.00	Capital Improvement & Economic Development Plan
Littleton	Halifax		C-31 Preliminary Engineering Report of Water and Sewer Improvements
Harnett County	Harnett	\$40,000.00	Capital Improvement Plan Expansion-County Industrial Park(s)/Water Conservation Development
Haywood County	Haywood	\$40,000.00	Bethel Area Water and Sewer
Maggie Valley	Haywood	\$36,000.00	Financial Management Strategy
Hertford County	Hertford	\$40,000.00	Plans for Wastewater Collection and Disposal System
Raeford	Hoke		C-72 Capital Improvements Plan Water and Wastewater Facilities
Hyde County	Hyde	\$10,780.00	Capital Improvement Plan
Benson	Johnston	\$17,500.00	Long Range Wastewater Facilities Planning
Jones County	Jones	\$40,000.00	Capital Improvement & USDA Enterprise Community Strategic Plans
Maysville	Jones		C-81 1999 Sanitary Sewer Improvements
Kinston	Lenoir		C-4 201 Facilities Plan for the City of Kinston
Lenoir County	Lenoir	\$40,000.00	Environmental Impact Statement or Environmental Assessment
Pink Hill	Lenoir	\$30,000.00	Pink Hill Capital Improvements Plan
LaGrange	Lenoir	\$40,000.00	Phase II Sanitary Sewer Rehabilitation study
Franklin	Macon	\$20,000.00	Water Resources Capacity Assessment
Madison County	Madison	\$20,000.00	NC 213 Corridor Assessment

1999 Clean Water Bond Capacity Applications

Applicant	County	Grant Award	Project Title
Martin County	Martin		C-11 Martin County Water & Sewer District No. 2
Marion	McDowell	\$13,500.00	Wastewater Collection System Master Plan
Spruce Pine	Mitchell	\$35,900.00	Town of Spruce Pine Water and Sewer Management Strategy
Mount Gilead	Montgomery		C-42 Water/Sewer Design
Jackson	Northampton		C-30 Jackson Wastewater System Improvement Project
Gaston	Northampton	\$26,500.00	Town of Gaston Storm Water Project
Onslow County	Onslow		C-26 Onslow County Hydraulic Analysis
Pamlico County	Pamlico	\$40,000.00	Pamlico Wastewater Capacity Study
Winfall	Perquimans	\$20,000.00	Winfall Community Facilities Plan/Capital Improvements Program
Perquimans County	Perquimans	\$40,000.00	Perquimans County Regional Sewage Treatment Plant
Ayden	Pitt	\$20,250.00	1999 Water System Improvements
Farmville	Pitt	\$20,250.00	Farmville 1999 Water System Improvements
Ayden	Pitt		1999 Sanitary Sewer Improvements
Pitt County	Pitt		C-24 Water Resource Management Plan
Farmville	Pitt		C-49 Farmville 1999 Sanitary Sewer Improvements
Hamlet	Richmond	\$40,000.00	Infiltration/Inflow Study and Capital Improvements Plan
Red Springs	Robeson	\$40,000.00	Town of Red Springs Treatment Plant Project
Proctorville	Robeson	\$40,000.00	Town of Proctorville Capacity Grant
Rockingham County	Rockingham		C-36 Ruffin Community Water System Feasibility Study

1999 Clean Water Bond Capacity Applications

Applicant	County	Grant Award	Project Title
Mayodan	Rockingham	\$20,000.00	Capital Improvement Plan Expansion - Regional Water/Water Conservation
Faith	Rowan	\$19,000.00	Capital Improvement Plan - Water & Wastewater
Ellenboro	Rutherford		C-27 Sewer Feasibility Study
Ellenboro	Rutherford	\$15,000.00	Water System Master Plan
Rutherford County	Rutherford		C-14 Rutherford County
Sampson County	Sampson	\$22,500.00	Northern Sampson County Sewer Plan/Land Use Plan
Wagram	Scotland	\$40,000.00	Sewer Improvements to Serve the Town of Wagram
New London	Stanly	\$20,000.00	New London Sewer Project
Warren County	Warren	\$22,924.50	Warren County Water and Sewer District No. IV
Warren County	Warren	\$22,924.50	Warren County Water & Sewer District No. III
Roper	Washington	\$35,900.00	Water and Wastewater Systems Evaluation
Mount Olive	Wayne	\$40,000.00	Feasibility Study/Preliminary Engineering Report--Regional Sewer System to Serve N. Duplin and S. Wayne Counties
Wayne County	Wayne		C-75 Wayne County Wastewater Master Plan
North Wilkesboro	Wilkes	\$40,000.00	North Wilkesboro/Wilkesboro Raw Water Intake Feasibility Study and Capital Improvements Plan
Lucama	Wilson		C-74 Lucama Capital Improvements Project
East Bend	Yadkin		C-63 Wastewater Collection and Disposal System

Agenda Item: 990027

Approval of State High Unit Cost Grants, State Bond Loans and State Revolving Loans

Explanation:

*Approved by EMC
7-3-99
B*

Local units of government are authorized to submit applications under the "North Carolina Clean Water Revolving Loan and Grant Act of 1987" and the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" for wastewater treatment and wastewater collection facilities.

Based on the passage of the 1998 Bond Act, \$165 million in grant funds were made available for High-unit Cost Grants and \$150 million were made available for Bond Loans.

There were 223 applications received requesting \$434,916,386 in grant funds from the High-Unit Cost Grant Account. The available Revolving Loan Funds will be offered to the remaining non-funded grant applications in priority order. Approval of these applications will be contingent upon approval by the Local Government Commission.

The Construction Grants and Loans Section has reviewed and established priority for the applications received by the March 31, 1999 deadline. Attached is a copy of the list by category and priority rating of the applicants for High-Unit Cost Grants. Also included are the bond ratings and descriptions of the applicant's projects.

In addition, there were two applicants that met the requirements for bond loan funds in the amount of \$5,498,205. The bond loans will also be contingent upon approval by the Local Government Commission.

Based on the availability of funds from the 1998 Bond Act and Revolving Funds for this period, the amount of funds available for each account is as follows:

High-Unit Cost Grant Account	\$105,766,968
Bond Loan Account	\$150,000,000
General Revolving Loan Account	\$ 1,418,265

Recommendation:

It is the recommendation of the Division that the Commission review and certify priority for the High-Unit Cost Grants, Bond Loans, and Revolving Loans.

Agenda Item No. 990027

Environmental Management Commission

Resolution No. _____

WHEREAS, the Environmental Management Commission is authorized to approve loans and grants under the "North Carolina Clean Water Revolving Loan and Grant Act of 1987" and the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" for wastewater treatment and wastewater collection facilities; and

WHEREAS, the following applicants have met the requirements for eligibility and priority for funding:

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Management Commission approve the following projects for funding from the accounts listed below:

<u>Applicant</u>	<u>Amount</u>	<u>County</u>
<u>High-Unit Cost Grant Account</u>		
Johnston County	3,000,000	Johnston
Person County	1,913,397	Person
Calabash/SBWSA	3,000,000	Brunswick
Brunswick County	3,000,000	Brunswick
Oakboro	3,000,000	Stanly
Goldsboro	3,000,000	Wayne
Clay County WSD	1,333,124	Clay
Yaupon Beach	563,000	Brunswick
Harnett County	3,000,000	Harnett
Kill Devil Hills	1,145,000	Dare
Murphy	2,612,200	Cherokee
Holly Springs	3,000,000	Wake
Whitley Heights S.D.	1,323,537	Johnston
Sims	2,337,700	Wilson
New Bern	3,000,000	Craven
Winton	2,600,000	Hertford
Bethel	3,000,000	Pitt
Robbinsville	323,360	Graham
Walstonburg	1,785,700	Greene
Andrews	1,782,000	Cherokee
N.Brunswick SD	3,000,000	Brunswick

Agenda Item No. 990027

Page 2

<u>Applicant</u>	<u>Amount</u>	<u>County</u>
Elizabethtown	1,943,500	Bladen
Leland	3,000,000	Brunswick
Troutman	3,000,000	Iredell
Wayne County	3,000,000	Wayne
Hyde County/Swan Qtr	3,000,000	Hyde
Fremont	3,000,000	Wayne
Navassa	3,000,000	Brunswick
Eureka	3,000,000	Wayne
Buncombe Co. MSD	3,000,000	Buncombe
Kinston	3,000,000	Lenoir
Lumberton	3,000,000	Robeson
Burke County	1,533,600	Burke
Winfall	2,061,000	Perquimans
Franklinton	1,280,000	Franklin
La Grange	3,000,000	Lenoir
Stanfield	2,490,575	Stanly
Maggie Valley	1,772,900	Haywood
Nash County	2,870,000	Nash
Stedman	2,547,700	Cumberland
Snow Hill	3,000,000	Greene
Fountain	2,548,675	Pitt
Wadesboro	3,000,000	Anson

State Bond Loan Account

Spindale	1,498,205	Rutherford
Morehead City	4,000,000	Carteret

Adopted this the 8th day of July 1999.

David H. Moreau, Chairman
Environmental Management Commission

Agenda Item: 2018

Approval of State High-Unit Cost Grants

Explanation:

Local units of government are authorized to submit applications under the "North Carolina Clean Water Revolving Loan and Grant Act of 1987" and the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" for wastewater treatment and wastewater collection facilities.

Based on the passage of the 1998 Bond Act, \$165 million in grant funds was made available for High-Unit Cost Grants and \$150 million was made available for Bond Loans. These funds were broken down according to a unit of government's bond rating by the North Carolina Municipal Council, Inc. Eighty-five million dollars was made available for municipalities with bond ratings < 75 and \$80 million was made available for those with ratings ≥ 75. Those units having a bond rating of 75 and above are generally considered to have a much greater access to loan funds from a variety of sources. During the first review cycle, 219 eligible applications were received requesting \$434,916,386 in grant funds. Forty-three (43) projects were approved, and a total of \$105,766,968 was committed.

The Construction Grants and Loans Section has reviewed and established priority for the 13 new applications that were received by the extended deadline of November 30, 1999, along with the remaining 176 applications from the first round. Attached is a copy of the list of the applicants for High-Unit Cost Grants by category and priority rating. Also included are the bond ratings and descriptions of the applicants' projects.

During the last legislative session House Bill 1160, or the "Clean Water Act of 1999", was passed granting DENR the unsolicited authority to limit the maximum amount of grant funds awarded to municipalities with bond ratings ≥ 75 to \$2 million or two-thirds of the eligible project cost, whichever is less, if loan funds are available to the local government for the remainder of the project cost from any source. Based on the information available in the application, the Construction Grants and Loans Section conducted an analysis of the rate impact for a typical residential user which would likely be experienced by replacing 1/3 of the eligible grant amount with a market rate loan. The analysis indicated that the resulting user charge rates would range from about 4% to over 142% above the rate threshold considered excessive for that municipality. Only three of the recommended applicants, Wilson, Erwin and Morehead City, are anticipated to experience increases

Approved
by EMC
3-9-00

resulting in a final rate of less than 15% above the high-unit cost threshold. These are the only three applicants that are recommended to receive a 1/3 reduction in their grant.

Based on the availability of funds from the 1998 Bond Act and Revolving Funds for this period, the amount of funds available for each account is as follows:

High-Unit Cost Grant Account	\$ 59,233,032
Bond Loan Account	\$144,501,795
General Revolving Loan Account	\$ 3,104,731

Recommendation:

It is the recommendation of the Division that the Commission review and certify priority for the High-Unit Cost Grants, and authorize the use of the remaining General Revolving Loan and Bond Loan funds to offset the grant reduction for Wilson, Erwin and Morehead City and for additional project costs, in priority order, and as requested.

Agenda Item No. 2018

Environmental Management Commission

Resolution No. _____

WHEREAS, the Environmental Management Commission is authorized to approve loans and grants under the "North Carolina Clean Water Revolving Loan and Grant Act of 1987" and the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" for wastewater treatment and wastewater collection facilities; and

WHEREAS, the following applicants have met the requirements for eligibility and priority for funding:

NOW, THEREFORE, BE IT RESOLVED THAT the Environmental Management Commission approve the following projects for funding from the accounts listed below:

<u>Applicant</u>	<u>Amount</u>	<u>County</u>
<u>High-Unit Cost Grant Account</u> (Bond Rating <75)		
Warsaw	\$3,000,000	Duplin
Burgaw	3,000,000	Pender
Polkton	1,319,976	Anson
Halifax	748,745	Halifax
Gibson	646,100	Scotland
Rose Hill	1,458,550	Duplin
Locust	2,969,700	Stanly
Pinetops	2,983,500	Edgecombe
Creedmoor	150,000	Granville
Pink Hill	1,400,000	Lenoir
Parmele	<u>2,201,625</u>	Martin
	\$19,878,196	
<u>High-Unit Cost Grant Account</u> (Bond Rating ≥75)		
Washington	\$3,000,000	Beaufort
West Jefferson	3,000,000	Ashe
Erwin	*2,000,000	Harnett
Louisburg	2,295,500	Franklin

*25 points
for minimum resolution*

Agenda Item No. 2018

Page 2

High-Unit Cost Grant Account (Bond Rating ≥ 75) - cont'd

Wilson	*1,586,003	Wilson
Zebulon	1,928,340	Wake
Farmville	3,000,000	Pitt
Bladenboro	1,729,000	Bladen
Hendersonville	3,000,000	Henderson
Morehead City	*2,000,000	Carteret
Carolina Beach	3,000,000	New Hanover
Sanford	3,000,000	Lee
Granville County	223,000	Granville
Macclesfield	2,907,940	Edgecombe
Swansboro	2,967,290	Onslow
North Wilkesboro	3,000,000	Wilkes
Oak Island	** 635,855	Brunswick
	<u>\$39,272,928</u>	

* Reduced by $\frac{1}{3}$

** Partial Funding

Adopted this the 9th day of March 2000.

 David H. Moreau, Chairman
 Environmental Management Commission

Note: Sanford will receive
 DW grant of \$1,001,300
 Therefore - max WW grant
 will be \$1,998,700.
 1,001,700 will be added to
 Oak Island bring them up to
 \$1,637,155

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999 -

H

D

HOUSE BILL 541
Proposed Committee Substitute H541-PCS2432-RF01
Committee Substitute Favorable 6/9/99

Short Title: PWC Amendments.

(Public)

Sponsors:

Referred to:

March 23, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STATUTES REGULATING THE OPERATION OF
3 PERSONAL WATERCRAFT.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 75A-13.3 is amended by adding a new subsection to
6 read:

7 "(a1) No person shall operate a personal watercraft on the waters of this State at
8 greater than no-wake speed within 100 feet of an anchored or moored vessel, a dock,
9 pier, swim float, marked swimming area, swimmers, surfers, persons engaged in
10 angling, or any manually operated propelled vessel, unless the personal watercraft is
11 operating in a narrow channel. No person shall operate a personal watercraft in a
12 narrow channel at greater than no-wake speed within 50 feet of an anchored or
13 moored vessel, a dock, pier, swim float, marked swimming area, swimmers, surfers,
14 persons engaged in angling, or any manually operated propelled vessel."

15 Section 2. G.S. 75A-13.3(e) reads as rewritten:

16 "(e) A personal watercraft must at all times be operated in a reasonable and
17 prudent manner. Maneuvers that endanger life, limb, or property shall constitute
18 reckless operation of a vessel as provided in G.S. 75A-10, and include:

19 (1) Unreasonably or unnecessarily weaving through congested vessel
20 traffic;

21 (2) Jumping the wake of another vessel within 100 feet of such other
22 vessel or when visibility around such other vessel is obstructed;

- 1 (3) Intentionally approaching another vessel in order to swerve at the
2 last possible moment to avoid collision; and
3 ~~(4) Operating at greater than no wake speed within 100 feet of an~~
4 ~~anchored or moored vessel, the shoreline, a dock, pier, swim float,~~
5 ~~marked swimming area, swimmers, surfers, persons engaged in~~
6 ~~angling, or any manually operated propelled vessel; and~~
7 (5) Operating contrary to the "rules of the road" or following too
8 closely to another vessel, including another personal watercraft.
9 For purposes of this subdivision, "following too closely" means
10 proceeding in the same direction and operating at a speed in
11 excess of 10 miles per hour when approaching within 100 feet to
12 the rear or 50 feet to the side of another vessel that is underway
13 unless that vessel is operating in a narrow channel, in which case a
14 personal watercraft may operate at the speed and flow of other
15 vessel traffic.

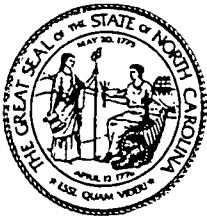
16 Section 3. G.S. 75A-13.3 is amended by adding a new subsection to read:

17 "(f1) For purposes of this section, "narrow channel" means a segment of the
18 waters of the State 300 feet or less in width."

19 Section 4. G.S. 75A-13.3(h) reads as rewritten:

20 "(h) Nothing in this section prohibits units of local government, marine
21 commissions, or local ~~wake~~ lake authorities from regulating personal watercraft
22 pursuant to the provisions of G.S. 160A-176.2 or any other law authorizing such
23 regulation, provided that the regulations are more restrictive than the provisions of
24 this section or regulate aspects of personal watercraft operation that are not covered
25 by this section. Whenever a unit of local government, marine commission, or local
26 ~~wake~~ lake authority regulates personal watercraft pursuant to this subsection, it shall
27 conspicuously post signs that are reasonably calculated to provide notice to personal
28 watercraft users of the stricter regulations."

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



HB 541: Personal Watercraft Amendments

BILL ANALYSIS

Committee: Senate Ag, Env, and Nat'l Res.
Date: June 1, 2000
Version: Proposed Committee Substitute

Introduced by: Rep. Mitchell
Summary by: Barbara Riley
Committee Counsel

SUMMARY: *House Bill 541 as originally filed would have required persons setting trotlines, buoy sets and set hooks to obtain a special device license from the Wildlife Resources Commission. The proposed committee substitute amends the provisions of the Boating Safety Act regulating the operation of personal watercraft(pwc's).*

CURRENT LAW: G.S. 75A-13.3 governs the operation of pwc's on the waters of the State. Under the current provisions of subsection (e)(4), the operation of a pwc within 100' of the shoreline, a dock, swimmer, angler or anchored vessel at greater than no-wake speed is deemed careless and reckless operation and punished as a Class 2 misdemeanor. Since initiating enforcement activities, two concerns have been raised by both law enforcement personnel at the Wildlife Resources Commission and the regulated community. The first issue concerns the application of the subsection (e)(4) to all waters of the State with no recognition of the navigational difficulties attendant in narrow water bodies. Apparently in a number of rivers, and in the fingers of some lakes, it is impossible to operate with a 100' buffer between a pwc and the shoreline, much less between a pwc and other boats, piers, and swimmers. In these areas, pwc's may only be operated at no-wake speed, severely restricting their use. Other watercraft, however, are not subject to the same restrictions.

The second concern regarding the implementation of subsection (e)(4) is the severity of the penalty for operation in a no-wake zone. Violation of subdivision (e)(4) is an automatic Class 2 misdemeanor. For other types of watercraft, however, in order to be guilty of a Class 2 misdemeanor the operation of the watercraft must be considered so reckless or negligent as to endanger life, limb or property. Violations of no-wake zones that do not endanger life, limb or property are treated as Class 3 misdemeanors and subject only to a fine not to exceed \$250. G.S. 75A-18. Enforcement personnel at the WRC suggested that the penalty for violation of a no-wake zone in the operation of a pwc should be brought in line with that for other types of watercraft.

BILL SUMMARY: The proposed committee substitute for House Bill 541 makes several changes to G.S. 75A-13.3 to address the concerns outlined above.

- G.S. 75A-13.3(e)(4) is repealed.
- The bill creates a new subdivision (a)(1) in G/S. 75A-13.3 that makes it unlawful to operate a personal watercraft at greater than no-wake speed within 100' of an anchored vessel, dock, swimming area, swimmer, fisherman, or manually propelled vessel unless the pwc is operating in a narrow channel.
- When in a narrow channel, the no-wake zone is reduced to 50'. Narrow channel is defined to be a segment of the waters of the State 300' or less in width.
- The provision eliminates the requirement that pwc's remain 100' from the shoreline.
- Violation of subdivision (a)(1) is a Class 3 misdemeanor.
- G.S. 75A-13.3(h) is corrected to read "local lake authorities" instead of "local wake authorities."

The act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 541
Committee Substitute Favorable 6/9/99

Short Title: Buoy Fishing/Special Fishing Device.

(Public)

Sponsors:

Referred to:

March 23, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT TROT LINES, BUOY SETS, AND SET HOOKS
3 ARE SPECIAL FISHING DEVICES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G. S. 113-272.3 reads as rewritten:
6 "**§ 113-272.3. Special provisions respecting special devices; fishing licenses; grabbling;**
7 **taking bait fish; use of landing nets; lifetime licenses issued from Wildlife Resources**
8 **Commission headquarters; personalized lifetime sportsman combination licenses.**
9 (a) The Wildlife Resources Commission by rule may define the meaning of 'hook
10 and line' and 'special device' as applied to fishing techniques. Any technique of
11 fishing that may be lawfully authorized which employs neither the use of any special
12 device nor hook and line must be pursued under the appropriate hook-and-line
13 fishing license.
14 (a1) Notwithstanding subsection (a) of this section, trotlines, buoy sets, and set
15 hooks as defined in this section are special fishing devices. The use of any of these
16 special fishing devices requires the special device fishing license as provided by G.S.
17 113-272.2. A licensed individual fishing any set hook in inland public water shall be
18 within 100 yards of the set hook at all times. Buoy sets, trotlines, gill nets, fish traps,
19 and any other special device that the Wildlife Resources Commission determines
20 should be marked for the convenience and safety of the public shall be marked with
21 yellow buoys made of solid foam or other solid buoyant material no less than five
22 inches in their smallest dimension. Double buoys as described in this subsection shall
23 be used to mark each end of anchored, fixed, or drift gill nets and trotlines. Buoys

1 shall be marked with the owner's name and address, special device fishing license
2 number, or vessel registration number either by engraving the buoys or by attaching
3 engraved metal or plastic tags to the buoys.

4 (b) In accordance with established fishing customs and the orderly conservation of
5 wildlife resources, the Wildlife Resources Commission may by rule provide for use of
6 nets or other special devices which it may authorize as an incident to hook-and-line
7 fishing or for procuring bait fish without requiring a special device license. In this
8 instance, however, the individual fishing must meet applicable hook-and-line license
9 requirements.

10 (c) Lifetime licenses are issued from the Wildlife Resources Commission
11 headquarters. Each application for an Infant Lifetime Sportsman or Youth Lifetime
12 Sportsman License must be accompanied by a certified copy of the birth certificate of
13 the individual to be named as the license holder.

14 (d) In issuing lifetime sportsman combination licenses, the Wildlife Resources
15 Commission is authorized to adopt rules to establish a personalized series and to
16 charge a five dollar (\$5.00) administrative fee, to be deposited in the Wildlife Fund,
17 to defray the cost of issuance of the personalized license.

18 (e) The following definitions apply in this section:

19 (1) Buoy set. -- A hook and line affixed to an approved buoy as
20 provided in G.S. 113-272.3(a1).

21 (2) Set hook. -- A hook and line affixed to a stationary object or
22 anchor and not under the immediate control of a licensed
23 individual.

24 (3) Trotline. -- A line having multiple hooks that is attached to a
25 stationary object or anchor at either or both ends."

26 Section 3. This act becomes effective October 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1562*
Proposed Senate Committee Substitute H1562-PCSX5096-SB008

Short Title: Amend Fisheries Laws.

(Public)

Sponsors:

Referred to:

May 17, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A
3 STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO
4 TAKE CRABS, TO ALLOW THE HOLDER OF AN INTERIM CRAB LICENSE
5 TO OBTAIN A STANDARD COMMERCIAL FISHING LICENSE, TO
6 PROHIBIT THE MARINE FISHERIES COMMISSION FROM ESTABLISHING
7 FEES FOR CERTAIN PERMITS, TO ABOLISH CERTAIN EXISTING PERMIT
8 FEES, AND TO INCREASE THE AMOUNT OF GILL NET AUTHORIZED
9 FOR USE UNDER A RECREATIONAL COMMERCIAL GEAR LICENSE.
10 The General Assembly of North Carolina enacts:
11 Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:
12 "Section 4.(b) SCFL Not Valid to Take Crabs. -- ~~Notwithstanding G.S. 113-168.2,~~
13 ~~it is unlawful for any person to take crabs as part of a commercial fishing operation~~
14 ~~from the coastal fishing waters of North Carolina under a SCFL or any other license~~
15 ~~issued by the Division other than an interim crab license issued pursuant to this~~
16 ~~section.~~ A person who holds a SCFL or a RSCFL may take crabs as part of a
17 commercial fishing operation from the coastal fishing waters of North Carolina."
18 Section 2. Beginning July 1, 2000, and ending October 1, 2000, a person
19 who holds an interim crab license established under Section 4 of S.L. 1999-209 may
20 apply for a Standard Commercial Fishing License (SCFL) from the pool of available
21 licenses established under Section 5.2 of S.L. 1997-400, as amended by Section 4.24
22 of S.L. 1998-225, as provided in this section. Notwithstanding subsections (c), (e),
23 and (f) of Section 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225,

1 the Marine Fisheries Commission shall increase the number of SCFLs in the pool of
2 available licenses to the extent necessary to allow the Division of Marine Fisheries to
3 issue a SCFL to each person who holds an interim crab license; who applies for a
4 SCFL during the period July 1, 2000, through October 1, 2000; and who qualifies for
5 a SCFL under the eligibility criteria established pursuant to subsection (h) of Section
6 5.2 of S.L. 1997-400, as amended by Section 4.24 of S.L. 1998-225. The Division of
7 Marine Fisheries may issue only one SCFL to a person under this section regardless
8 of the number of interim crab licenses the person holds. The duration of and fee for
9 a SCFL issued pursuant to this section shall be as provided in G.S. 113-168.1 and
10 G.S. 113-168.2, regardless of when the SCFL is issued.

11 Section 3. G.S. 113-169.1 reads as rewritten:

12 "**§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

13 The Commission may adopt rules to establish permits for gear, equipment, and
14 specialized activities, including commercial fishing operations that do not involve the
15 use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a~~
16 ~~fee for each permit in an amount that compensates the Division for the actual~~
17 ~~administrative costs associated with the permit but that does not exceed fifty dollars~~
18 ~~(\$50.00) per permit."~~

19 Section 4. Any fee established by the Marine Fisheries Commission
20 pursuant to G.S. 113-169.1, as amended by Section 3 of this act, shall expire July 1,
21 2000.

22 Section 5. G.S. 113-173(c) reads as rewritten:

23 "(c) Authorized Commercial Gear. --

24 (1) The Commission shall adopt rules authorizing the use of a limited
25 amount of commercial fishing equipment or gear for recreational
26 fishing under a RCGL. The Commission may authorize the limited
27 use of commercial gear on a uniform basis in all coastal fishing
28 waters or may vary the limited use of commercial gear within
29 specified areas of the coastal fishing waters. The Commission shall
30 periodically evaluate and revise the authorized use of commercial
31 gear for recreational fishing. Authorized commercial gear shall be
32 identified by visible colored tags or other means specified by the
33 Commission in order to distinguish between commercial gear used
34 in a commercial operation and commercial gear used for
35 recreational purposes.

36 (2) A person who holds a RCGL may use up to 200 yards of gill net to
37 take fish for recreational purposes. Two persons who each hold a
38 RCGL and who are fishing from a single vessel may use up to a
39 combined 400 yards of gill net to take fish for recreational
40 purposes. No more than 400 yards of gill net may be used to take
41 fish for recreational purposes from a single vessel regardless of the
42 number of persons holding RCGLs aboard the vessel."

43 Section 6. This act becomes effective July 1, 2000.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1562

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

H1562-ASB-001.01

Date _____, 2000

Comm. Sub. [YES]
Amends Title [NO]
PCS H1562-CSSBX-006 for the First Edition

Senator *Frank Weaver*

1 moves to amend the bill on page 3, line 11,
2 by deleting the number "250" and substituting the number "200" and
3
4 on page 3, lines 15 and 16,
5 by deleting the number "500" where it appears on those lines and
6 substituting the number "400".
7

SIGNED *Frank Weaver*
Amendment Sponsor

SIGNED *Charles W. Smith*
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



HOUSE BILL 1562: Amend Fisheries Laws

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources
Date: June 13, 2000
Version: Proposed Senate Committee
Substitute (H1562-CSSBX-006)
for House Bill 1562, First Edition

Introduced by: Representative Edwards
Summary by: Jeff Hudson,
Committee Counsel

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.

HOUSE BILL 1562

Page 2

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 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 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

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

1
2 AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A
3 STANDARD COMMERCIAL FISHING LICENSE OR A RETIRED
4 STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO
5 TAKE CRABS, AS RECOMMENDED BY THE JOINT LEGISLATIVE
6 COMMISSION ON SEAFOOD AND AQUACULTURE.

7 The General Assembly of North Carolina enacts:

8 Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

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

15 Section 2. This act is effective July 1, 2000. Section 4.(b) of S.L.
16 1999-209, as amended by Section 1 of this act, expires October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1341

Short Title: Petroleum Discharges/De Minimis Reports.

(Public)

Sponsors: Senators Albertson; and Horton.

Referred to: Agriculture/Environment/Natural Resources.

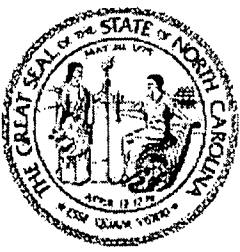
May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL
3 DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143-215.85 reads as rewritten:
7 "§ 143-215.85. Required notice.
8 (a) Every Except as provided in G.S. 143-215.94E(a1) and subsection (b) of this
9 section, every person owning or having control over oil or other substances
10 discharged in any circumstances other than pursuant to a rule adopted by the
11 Commission, a regulation of the U. S. Environmental Protection Agency, or a permit
12 required by G.S. 143-215.1 or the Federal Water Pollution Control Act, upon notice
13 that such discharge has occurred, shall immediately notify the Department, or any of
14 its agents or employees, of the nature, location and time of the discharge and of the
15 measures which are being taken or are proposed to be taken to contain and remove
16 the discharge. The agent or employee of the Department receiving the notification
17 shall immediately notify the Secretary or such member or members of the permanent
18 staff of the Department as the Secretary may designate. If the discharged substance
19 of which the Department is notified is a pesticide regulated by the North Carolina
20 Pesticide Board, the Department shall immediately inform the Chairman of the
21 Pesticide Board. Removal operations under this Article of substances identified as
22 pesticides defined in G.S. 143-460 shall be coordinated in accordance with the
23 Pesticide Emergency Plan adopted by the North Carolina Pesticide Board; provided
24 that, in instances where entry of such hazardous substances into waters of the State is

1 imminent, the Department may take such actions as are necessary to physically
2 contain or divert such substance so as to prevent entry into the surface waters.

3 (b) As used in this subsection, 'petroleum' has the same meaning as in G.S.
4 143-215.94A. A person who owns or has control over petroleum that is discharged
5 into the environment shall immediately take measures to collect and remove the
6 discharge, report the discharge to the Department within 24 hours of the discharge,
7 and begin to restore the area affected by the discharge in accordance with the
8 requirements of this Article if the volume of the petroleum that is discharged is 25
9 gallons or more or if the petroleum causes a sheen on nearby surface water or if the
10 petroleum is discharged at a distance of 100 feet or less from any surface water body.
11 If the volume of petroleum that is discharged is less than 25 gallons, the petroleum
12 does not cause a sheen on nearby surface water, and the petroleum is discharged at a
13 distance of more than 100 feet from all surface water bodies, the person who owns or
14 has control over the petroleum shall immediately take measures to collect and
15 remove the discharge. If a discharge of less than 25 gallons of petroleum cannot be
16 cleaned up within 24 hours of the discharge or if the discharge causes a sheen on
17 nearby surface water, the person who owns or has control over the petroleum shall
18 immediately notify the Department."

19 Section 2. This act is effective when it becomes law and applies to any
20 discharge of petroleum into the environment that occurs on or after that date.



SENATE BILL 1341: Petroleum Discharges/ De Minimis Reports

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: June 13, 2000

Version: First Edition

Introduced by: Senator Albertson

Summary by: Hannah Holm,
Research Assistant

SUMMARY: *Senate Bill 1341 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: Senate Bill 1341 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: Senate Bill 1341 was recommended by the Environmental Review Commission.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. FIRST

H. B. No. _____

DATE 6/13/00

S. B. No. 1341

Amendment No. 1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Gulley
Sen.)

1 moves to amend the bill on page 2, line 10

2 () WHICH CHANGES THE TITLE

3 by ADDING AFTER the word "body"

4 the following

5 " or drinking water supply well"

7 and at page 2, line 13

8 by ADDING ^{after} the word "bodies"

9 the following

10 "or drinking water supply wells"

SIGNED W.B.D.

ADOPTED _____ FAILED 13 June 2000 TABLED _____

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

6/13/00

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Twila Nelson	Joint Legislative Commission on Seaports & Aquaculture
Doug Lassiter	NC Septic Tank Assoc.
R. Paul Wilms	NCMBA
J. Preston	NCCA
Patricia Smith	Freedom News
Nat Mund	CCNC
Cyert	PPAB
Glen Troy	WRC
Richard Hamilton	Wildlife Com
Gary Harris	NC PMA

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 20, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, June 20, 2000, at 2:00 p.m., in Room 1027 of the Legislative Building. Senator Albertson, chairman, presided and there were fourteen committee members present.

The following bills were discussed:

SENATE BILL 1285 - DATE BY WHICH SCFL HOLDERS TAKE CRAB (LITTER PREVENTION SPECIAL REGISTRATION PLATE) - Senator Albertson, sponsor. Senator Albertson asked Senator Wellons, vice chairman, to chair the meeting while this bill was being presented. There was a proposed committee substitute for the bill and Senator Wellons moved that it be adopted for discussion purposes. Motion carried. The bill would establish a special registration plate (license plate) for the prevention of litter in North Carolina. The fee would be \$35.00, \$10.00 of which would be deposited in the Litter Prevention Account to be used to reduce litter. After discussion, Senator Wellons moved that the PCS be given a favorable report, unfavorable as to original bill. Motion carried. It was recommended that the bill be referred to Finance. Senator Albertson resumed chairing the committee.

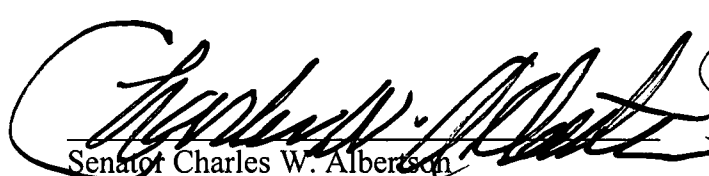
SENATE BILL 1336 - STORMWATER UTILITY FEES - Senator Odom, sponsor. There was a proposed committee substitute and Senator Hagan moved that the PCS be adopted for discussion purposes. Motion carried. Jim Black from the Association of County Commissioners said that his group supported this legislation. Bill Holman, Secretary, Department of Environment and Natural Resources, spoke in favor also. Senator Wellons moved that the PCS be given a favorable report, unfavorable as to original bill. Motion carried. It was recommended that the bill be referred to Finance.

SENATE BILL 1311 - MOUNTAINS TO SEA STATE PARK TRAIL - Senator Lee, sponsor, was recognized to explain the bill. There was a proposed committee substitute for the bill, and Senator Weinstein made the motion that the PCS be adopted for discussion purposes. Motion carried. Senator Weinstein asked how long the trail would be and was told that it would 700 miles long. Dr. Phil McKnelly of the Department of Environment and Natural Resources answered questions from committee members. Senator Gulley moved that the PCS be given a favorable report, unfavorable as to original bill. Motion carried.

HOUSE BILL 1638 - I/M TECHNOLOGY AMENDS/CMAQ FUNDS -

George Givens of staff said there was a proposed committee substitute before the committee and Senator Gulley moved that it be adopted for discussion purposes. Motion carried. Mr. Givens explained the PCS for Representative Hackney, sponsor of the bill. Bill Holman, Secretary of Department of Environment and Natural Resources, said he supported this bill as did Ruth Sappie who represents the Department of Transportation. Senator Webster moved that HB 1638, Third Edition, not the proposed committee substitute, be given a favorable report. His motion was followed by much discussion. Senator Webster's motion was not voted on, and Senator Wellons moved that the meeting be adjourned. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, June 20, 2000
2:00 p.m.
Room 1027 - LB

AGENDA

- SB 1285 DATE BY WHICH SCFL HOLDERS TAKE CRAB
 (LITTER PREVENTION SPECIAL REGISTRATION
 PLATE)
 Senator Albertson
- HB 1638 I/M TECHNOLOGY AMENDS/CMAQ FUNDS
 Representative Hackney
- SB 1311 MOUNTAINS TO SEA STATE PARK TRAIL
 Senator Lee
- SB 1336 STORMWATER UTILITY FEES
 Senator Odom

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, June 20, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1285 DATE BY WHICH SCFL HOLDERS TAKE CRAB
 Draft Number: PCS3978
 Sequential Referral: None
 Recommended Referral: Finance
 Long Title Amended: Yes

S.B. 1311 MOUNTAINS TO SEA STATE PARK TRAIL
 Draft Number: PCS6792
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

S.B. 1336 STORMWATER UTILITY FEES
 Draft Number: PCS7787
 Sequential Referral: None
 Recommended Referral: Finance
 Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1285*
Proposed Committee Substitute S1285-PCS3978-RT002

Short Title: Litter Prevention Special Plate.

(Public)

Sponsors:

Referred to:

May 17, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE
3 LITTER PREVENTION SPECIAL REGISTRATION PLATES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-79.4(b) is amended by adding a new subdivision to
6 read:

7 "(b) Types. -- The Division shall issue the following types of special registration
8 plates:

9
10 (22a) Litter Prevention. -- Issuable to the registered owner of a motor
11 vehicle in accordance with G.S. 20-81.12. The plate may bear a
12 phrase and picture appropriate to the subject of litter prevention in
13 North Carolina."

14 Section 2. G.S. 20-79.7(a) reads as rewritten:

15 "(a) Fees. -- Upon request, the Division shall provide and issue free of charge one
16 registration plate to a recipient of the Congressional Medal of Honor, a 100%
17 disabled veteran, and an ex-prisoner of war. All other special registration plates are
18 subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus
19 an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
21 Historical Attraction	\$30.00
22 State Attraction	\$30.00
23 Collegiate Insignia	\$25.00

1	Kids First	\$25.00
2	Olympic Games	\$25.00
3	Special Olympics	\$25.00
4	University Health Systems of	
5	Eastern Carolina	\$25.00
6	Animal Lovers	\$20.00
7	<u>Litter Prevention</u>	<u>\$15.00</u>
8	March of Dimes	\$20.00
9	Scenic Rivers	\$20.00
10	School Technology	\$20.00
11	Soil and Water Conservation	\$20.00
12	Wildlife Resources	\$20.00
13	Personalized	\$20.00
14	Active Member of the National Guard	None
15	Purple Heart Recipient	None
16	All Other Special Plates	\$10.00.

17 (b) Distribution of Fees. -- The Special Registration Plate Account and the
 18 Collegiate and Cultural Attraction Plate Account are established within the Highway
 19 Fund. The Division must credit the additional fee imposed for the special
 20 registration plates listed in subsection (a) among the Special Registration Plate
 21 Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA),
 22 and the Natural Heritage Trust Fund (NHTF), which is established under G.S.
 23 113-77.7, as follows:

24	<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
25	Animal Lovers	\$10	\$10	0
26	<u>Litter Prevention</u>	<u>\$ 5</u>	<u>\$10</u>	<u>0</u>
27	Historical Attraction	\$10	\$20	0
28	In-State Collegiate Insignia	\$10	\$15	0
29	Kids First	\$10	\$15	0
30	Out-of-state Collegiate Insignia	\$10	0	\$15
31	Personalized	\$10	0	\$10
32	Special Olympics	\$10	\$15	0
33	Olympic Games	\$10	\$15	0
34	State Attraction	\$10	\$20	0
35	March of Dimes	\$10	\$10	0
36	Scenic Rivers	\$10	\$10	0
37	School Technology	\$10	\$10	0
38	Soil and Water Conservation	\$10	\$10	0
39	University Health Systems of			
40	Eastern Carolina	\$10	\$15	0
41	Wildlife Resources	\$10	\$10	0
42	All other Special Plates	\$10	0	0"

43 Section 3. G.S. 20-81.12 is amended by adding a new subsection to read:

1 "(b12) Litter Prevention Plates. -- The Division shall develop a litter prevention
2 plate regardless of the number of applications for the plate that the Division receives.
3 The Division shall transfer quarterly the money in the Collegiate and Cultural
4 Attraction Plate Account derived from the sale of litter prevention plates to the Litter
5 Prevention Account created pursuant to G.S. 136-125.1."

6 Section 4. Chapter 136 of the General Statutes is amended by adding a
7 new Article to read:

8 "ARTICLE 10A.

9 "Litter Prevention Account.

10 "§ 136-125.1. Litter Prevention Account.

11 There is established under the control and direction of the Department of
12 Transportation the Litter Prevention Account. The Account shall be a nonreverting
13 special revenue account within the Highway Fund and shall consist of moneys
14 credited to the Account under G.S. 20-81.12(b12) from the sale of litter prevention
15 special registration plates. The Department of Transportation shall allocate the funds
16 in the Account to reduce litter in the State.

17 "§ 136-125.2. Report.

18 The Department of Transportation shall report no later than 1 October of each
19 year to the Joint Legislative Transportation Oversight Committee and the
20 Environmental Review Commission regarding the allocation of funds from the Litter
21 Prevention Account. The report shall include all receipts to and allocations from the
22 Account made during the previous fiscal year and shall explain how each allocation
23 serves to reduce litter in the State."

24 Section 5. The first report required by G.S. 136-125.2, as enacted by
25 Section 4 of this act, is due no later than 1 October 2002.

26 Section 6. The Department of Transportation, the Department of
27 Environment and Natural Resources, and the Department of Public Instruction shall
28 cooperatively develop the phrase and picture to be used on the litter prevention
29 special registration plate authorized by G.S. 20-79.6(b)(22a), as enacted by Section 1
30 of this act.

31 Section 7. The Legislative Research Commission shall study issues
32 related to the prevention and removal of litter. The Commission shall make a final
33 report of its recommendations regarding the prevention and removal of litter,
34 including any proposed legislation, to the 2001 General Assembly.

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



SENATE BILL 1285: Litter Prevention Special Plate

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: June 20, 2000

Version: Proposed Committee Substitute
for Senate Bill 1285

Introduced by: Senator Albertson

Summary by: Jeff Hudson,
Committee Counsel

SUMMARY: *The Proposed Committee Substitute for Senate Bill 1285 establishes a special registration plate (license plate) for the prevention of litter in North Carolina. The fee for the plate is \$35.00. \$10.00 of this fee will be deposited in the Litter Prevention Account to be used to reduce litter in North Carolina.*

CURRENT LAW: Under current law, there are approximately 50 special registration plates. These include the Scenic Rivers plate, the Soil and Water Conservation plate, and the Wildlife Resources plate. Except for certain military special registration plates, all special registration plates are subject to the \$20.00 fee for regular registration plates. Special registration plates also have additional fees ranging from \$10.00 to \$30.00.

BILL ANALYSIS:

The Proposed Committee Substitute for Senate Bill 1285 establishes a special registration plate (license plate) for the prevention of litter in North Carolina. The fee for the plate is \$35.00 (\$20.00 fee for all registration plates and additional fee of \$15.00). \$5.00 of the additional fee will be deposited in the Special Registration Plate Account. \$10.00 of the additional fee will be deposited in the Litter Prevention Account to be used to reduce litter in North Carolina.

The Proposed Committee Substitute also:

- Directs the Department of Transportation to report annually to the Joint Legislative Transportation Oversight Committee and the Environmental Review Commission on the receipts to and expenditures from the Litter Prevention Account.
- Directs the Department of Transportation, the Department of Environment and Natural Resources, and the Department of Public Instruction to develop a phrase and picture to be used on the litter prevention special registration plate.
- Directs the Legislative Research Commission to study issues related to the prevention and removal of litter and to report its recommendations, including any proposed legislation, to the 2001 General Assembly.

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

SENATE BILL 1285 (FIRST EDITION): Senate Bill 1285, as introduced, changed the date by which the holders of the Standard Commercial Fishing License could participate in the crab fishery from October 1, 2000 to July 1, 2000. The companion bill to Senate Bill 1285, House Bill 1562, received a favorable report from this Committee, has passed Second and Third reading in the Senate, and has been returned to the House of Representatives for concurrence.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1285*

Short Title: Date by Which SCFL Holders Take Crab.

(Public)

Sponsors: Senators Albertson; Jordan, Perdue, and Shaw of Guilford.

Referred to: Agriculture/Environment/Natural Resources.

May 17, 2000

A BILL TO BE ENTITLED

1
2 AN ACT TO CHANGE THE DATE BY WHICH THE HOLDER OF A
3 STANDARD COMMERCIAL FISHING LICENSE OR A RETIRED
4 STANDARD COMMERCIAL FISHING LICENSE WILL BE ALLOWED TO
5 TAKE CRABS, AS RECOMMENDED BY THE JOINT LEGISLATIVE
6 COMMISSION ON SEAFOOD AND AQUACULTURE.

7 The General Assembly of North Carolina enacts:

8 Section 1. Section 4.(b) of S.L. 1999-209 reads as rewritten:

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

15 Section 2. This act is effective July 1, 2000. Section 4.(b) of S.L.
16 1999-209, as amended by Section 1 of this act, expires October 1, 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1336*
Proposed Committee Substitute S1336-PCS7787-RT003

Short Title: Stormwater Utility Fees.

(Public)

Sponsors:

Referred to:

May 18, 2000

- 1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED
3 TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS,
4 AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 153A-274 reads as rewritten:
7 "§ 153A-274. Public enterprise defined.
8 As used in this Article, 'public enterprise' includes:
9 (1) Water supply and distribution ~~systems~~; systems.
10 (2) Wastewater collection, treatment, and disposal systems of all types,
11 including septic tank systems or other on-site collection or disposal
12 facilities or ~~systems~~; systems.
13 (3) Solid waste collection and disposal systems and ~~facilities~~; facilities.
14 (4) ~~Airports~~; Airports.
15 (5) Off-street parking ~~facilities~~; facilities.
16 (6) Public transportation ~~systems~~; systems.
17 (7) ~~Structural~~ Stormwater management programs designed to protect
18 water quality by controlling the level of pollutants in, and the
19 quantity and flow of, stormwater and structural and natural
20 stormwater and drainage systems of all types."
21 Section 2. G.S. 153A-277 reads as rewritten:
22 "§ 153A-277. Authority to fix and enforce rates.

1 (a) A county may establish and revise from time to time schedules of rents, rates,
2 fees, charges, and penalties for the use of or the services furnished by a public
3 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the
4 same class of service in different areas of the county and may vary according to
5 classes of service, and different schedules may be adopted for services provided
6 outside of the county. A county may include a fee relating to subsurface discharge
7 wastewater management systems and services on the property tax bill for the real
8 property where the system for which the fee is imposed is located.

9 (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or
10 penalties for stormwater management programs and structural and
11 natural stormwater and drainage systems under this section, the
12 board of commissioners shall hold a public hearing on the matter.
13 A notice of the hearing shall be given at least once in a newspaper
14 having general circulation in the area, not less than seven days
15 before the public hearing. The hearing may be held concurrently
16 with the public hearing on the proposed budget ordinance.

17 (2) The fees established under this subsection must be made applicable
18 throughout the area of the county outside municipalities. Schedules
19 of rates, fees, charges, and penalties for providing stormwater
20 management programs and structural and natural stormwater and
21 drainage system service may vary according to whether the
22 property served is residential, commercial, or industrial property,
23 the property's use, the size of the property, the area of impervious
24 surfaces on the property, the quantity and quality of the runoff
25 from the property, the characteristics of the watershed into which
26 stormwater from the property drains, and other factors that affect
27 the stormwater drainage system. Rates, fees, and charges imposed
28 under this subsection may not exceed the county's cost of
29 providing a stormwater management program and a structural and
30 natural stormwater and drainage system. The county's cost of
31 providing a stormwater management program and a structural and
32 natural stormwater and drainage system includes any costs
33 necessary to assure that all aspects of stormwater quality and
34 quantity are managed in accordance with federal and State laws,
35 regulations, and rules.

36 (3) No stormwater utility fee may be levied under this subsection
37 whenever two or more units of local government operate separate
38 stormwater management programs or separate structural and
39 natural stormwater and drainage system services in the same area
40 within a county. However, two or more units of local government
41 may allocate among themselves the functions, duties, powers, and
42 responsibilities for jointly operating a single stormwater
43 management program and structural and natural stormwater and
44 drainage system service in the same area within a county, provided

1 that only one unit may levy a fee for the service within the joint
2 service area. For purposes of this subsection, a unit of local
3 government shall include a regional authority providing stormwater
4 management programs and structural and natural stormwater and
5 drainage system services.

6 (b) A county may collect delinquent accounts by any remedy provided by law for
7 collecting and enforcing private debts, and may specify by ordinance the order in
8 which partial payments are to be applied among the various enterprise services
9 covered by a bill for the services. A county may also discontinue service to a
10 customer whose account remains delinquent for more than 10 days. If a delinquent
11 customer is not the owner of the premises to which the services are delivered, the
12 payment of the delinquent account may not be required before providing services at
13 the request of a new and different tenant or occupant of the premises. If water or
14 sewer services are discontinued for delinquency, it is unlawful for a person other than
15 a duly authorized agent or employee of the county to reconnect the premises to the
16 water or sewer system.

17 (c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case
18 a lien upon the property or premises served and, except as provided in subsection (d)
19 of this section, are legal obligations of the person contracting for them, provided that
20 no contract shall be necessary in the case of structural and natural stormwater and
21 drainage systems.

22 (d) Rents, rates, fees, charges, and penalties for enterprisory services are legal
23 obligations of the owner of the property or premises served when:

- 24 (1) The property or premises is leased or rented to more than one
25 tenant and services rendered to more than one tenant are
26 measured by the same meter; or
27 (2) Charges made for use of a sewerage system are billed separately
28 from charges made for the use of a water distribution system."

29 Section 3. G.S. 160A-311 reads as rewritten:

30 "**§ 160A-311. Public enterprise defined.**

31 As used in this Article, the term 'public enterprise' includes:

- 32 (1) Electric power generation, transmission, and distribution ~~systems;~~
33 systems.
34 (2) Water supply and distribution ~~systems;~~ systems.
35 (3) Wastewater collection, treatment, and disposal systems of all types,
36 including septic tank systems or other on-site collection or disposal
37 facilities or ~~systems;~~ systems.
38 (4) Gas production, storage, transmission, and distribution systems,
39 where systems shall also include the purchase ~~and/or~~ or lease of
40 natural gas fields and natural gas reserves, the purchase of natural
41 gas supplies, and the surveying, drilling and any other activities
42 related to the exploration for natural gas, whether within the State
43 or ~~without;~~ without.
44 (5) Public transportation ~~systems;~~ systems.

- 1 (6) Solid waste collection and disposal systems and ~~facilities~~; facilities.
2 (7) Cable television ~~systems~~; systems.
3 (8) Off-street parking facilities and ~~systems~~; systems.
4 (9) ~~Airports~~; Airports.
5 (10) ~~Structural~~ Stormwater management programs designed to protect
6 water quality by controlling the level of pollutants in, and the
7 quantity and flow of, stormwater and structural and natural
8 stormwater and drainage systems of all types."

9 Section 4. G.S. 160A-314 reads as rewritten:

10 "§ 160A-314. Authority to fix and enforce rates.

11 (a) A city may establish and revise from time to time schedules of rents, rates,
12 fees, charges, and penalties for the use of or the services furnished by any public
13 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according
14 to classes of service, and different schedules may be adopted for services provided
15 outside the corporate limits of the city.

16 (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or
17 penalties for stormwater management programs and structural and
18 natural stormwater and drainage systems under this section, the
19 city council shall hold a public hearing on the matter. A notice of
20 the hearing shall be given at least once in a newspaper having
21 general circulation in the area, not less than seven days before the
22 public hearing. The hearing may be held concurrently with the
23 public hearing on the proposed budget ordinance.

24 (2) The fees established under this subsection must be made applicable
25 throughout the area of the city. Schedules of rates, fees, charges,
26 and penalties for providing stormwater management programs and
27 structural and natural stormwater and drainage system service may
28 vary according to whether the property served is residential,
29 commercial, or industrial property, the property's use, the size of
30 the property, the area of impervious surfaces on the property, the
31 quantity and quality of the runoff from the property, the
32 characteristics of the watershed into which stormwater from the
33 property drains, and other factors that affect the stormwater
34 drainage system. Rates, fees, and charges imposed under this
35 subsection may not exceed the city's cost of providing a stormwater
36 management program and a structural and natural stormwater and
37 drainage system. The city's cost of providing a stormwater
38 management program and a structural and natural stormwater and
39 drainage system includes any costs necessary to assure that all
40 aspects of stormwater quality and quantity are managed in
41 accordance with federal and State laws, regulations, and rules.

42 (3) No stormwater utility fee may be levied under this subsection
43 whenever two or more units of local government operate separate
44 stormwater management programs or separate structural and

1 natural stormwater and drainage system services in the same area
2 within a county. However, two or more units of local government
3 may allocate among themselves the functions, duties, powers, and
4 responsibilities for jointly operating a single stormwater
5 management program and structural and natural stormwater and
6 drainage system service in the same area within a county, provided
7 that only one unit may levy a fee for the service within the joint
8 service area. For purposes of this subsection, a unit of local
9 government shall include a regional authority providing stormwater
10 management programs and structural and natural stormwater and
11 drainage system services.

12 (a2) A fee for the use of a disposal facility provided by the city may vary based on
13 the amount, characteristics, and form of recyclable materials present in solid waste
14 brought to the facility for disposal. This section does not prohibit a city from
15 providing aid to low-income persons to pay all or part of the cost of solid waste
16 management services for those persons.

17 (b) A city shall have power to collect delinquent accounts by any remedy
18 provided by law for collecting and enforcing private debts, and may specify by
19 ordinance the order in which partial payments are to be applied among the various
20 enterprise services covered by a bill for the services. A city may also discontinue
21 service to any customer whose account remains delinquent for more than 10 days.
22 When service is discontinued for delinquency, it shall be unlawful for any person
23 other than a duly authorized agent or employee of the city to do any act that results
24 in a resumption of services. If a delinquent customer is not the owner of the premises
25 to which the services are delivered, the payment of the delinquent account may not
26 be required before providing services at the request of a new and different tenant or
27 occupant of the premises, but this restriction shall not apply when the premises are
28 occupied by two or more tenants whose services are measured by the same meter.

29 (c) Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents,
30 rates, fees, charges, and penalties for enterprisory services shall be legal obligations of
31 the person contracting for them, and shall in no case be a lien upon the property or
32 premises served, provided that no contract shall be necessary in the case of structural
33 and natural stormwater and drainage systems.

34 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal
35 obligations of the owner of the premises served when:

36 (1) The property or premises is leased or rented to more than one
37 tenant and services rendered to more than one tenant are
38 measured by the same meter.

39 (2) Charges made for use of a sewage system are billed separately from
40 charges made for the use of a water distribution system.

41 (e) Nothing in this section shall repeal any portion of any city charter inconsistent
42 herewith."

43 Section 5. G.S. 162A-2(12) reads as rewritten:

1 "(12) The term 'water system' shall mean and include all plants, systems,
2 facilities or properties used or useful or having the present capacity
3 for future use in connection with the supply or distribution of
4 water or the control and drainage of stormwater runoff and any
5 integral part thereof, including but not limited to water supply
6 systems, water distribution systems, stormwater management
7 programs designed to protect water quality by controlling the level
8 of pollutants in, and the quantity and flow of, stormwater and
9 structural and natural stormwater and drainage systems of all types,
10 sources of water supply including lakes, reservoirs and wells,
11 intakes, mains, laterals, aqueducts, pumping stations, standpipes,
12 filtration plants, purification plants, hydrants, meters, valves, and
13 all necessary appurtenances and equipment and all properties,
14 rights, easements and franchises relating thereto and deemed
15 necessary or convenient by the authority for the operation thereof."

16 Section 6. G.S. 162A-6(14c) reads as rewritten:

17 "(14c) To adopt ordinances to regulate and control the discharge of
18 sewage or stormwater into any sewerage system owned or operated
19 by the ~~authority and~~ authority, to adopt ordinances concerning
20 stormwater management programs designed to protect water
21 quality by controlling the level of pollutants in and the quantity
22 and flow of stormwater, and to adopt ordinances to regulate and
23 control structural and natural stormwater and drainage systems of
24 all types. Prior to the adoption of any such ordinance or any
25 amendment to any such ordinance, the authority shall first pass a
26 declaration of intent to adopt such ordinance or amendment. The
27 declaration of intent shall describe the ordinance which it is
28 proposed that the authority adopt. The declaration of intent shall
29 be submitted to each governing body for review and comment. The
30 authority shall consider any comment or suggestions offered by any
31 governing body with respect to the proposed ordinance or
32 amendment. Thereafter, the authority shall be authorized to adopt
33 such ordinance or amendment to it at any time after 60 days
34 following the submission of the declaration of intent to each
35 governing body."

36 Section 7. G.S. 162A-9 reads as rewritten:

37 "**§ 162A-9. Rates and charges; contracts for water or services; deposits; delinquent**
38 **charges.**

39 (a) An authority may establish and revise a schedule of rates, fees, and other
40 charges for the use of and for the services furnished or to be furnished by any water
41 system or sewer system or parts thereof owned or operated by the authority. The
42 rates, fees, and charges established under this subsection are not subject to
43 supervision or regulation by any bureau, board, commission, or other agency of the
44 State or of any political subdivision.

1 Before an authority sets or revises rates, fees, or other charges for stormwater
2 management programs and structural or natural stormwater and drainage system
3 service, the authority shall hold a public hearing on the matter. At least seven days
4 before the hearing, the authority shall publish notice of the public hearing in a
5 newspaper having general circulation in the area. An authority may impose rates,
6 fees, or other charges for stormwater management programs and stormwater and
7 drainage system service on a person even though the person has not entered into a
8 contract to receive the service.

9 Rates, fees, and charges shall be fixed and revised so that the revenues of the
10 authority, together with any other available funds, will be sufficient at all times:

11 (1) To pay the cost of maintaining, repairing, and operating the
12 systems or parts thereof owned or operated by the authority,
13 including reserves for such purposes, and including provision for
14 the payment of principal of and interest on indebtedness of a
15 political subdivision or of political subdivisions which payment
16 shall have been assumed by the authority, and

17 (2) To pay the principal of and the interest on all bonds issued by the
18 authority under the provisions of this Article as the same shall
19 become due and payable and to provide reserves therefor.

20 The fees established under this subsection must be made applicable throughout the
21 service area. Schedules of rates, fees, charges, and penalties for providing stormwater
22 management programs and structural and natural stormwater and drainage system
23 service may vary according to whether the property served is residential, commercial,
24 or industrial property, the property's use, the size of the property, the area of
25 impervious surfaces on the property, the quantity and quality of the runoff from the
26 property, the characteristics of the watershed into which stormwater from the
27 property drains, and other factors that affect the stormwater drainage system. Rates,
28 fees, and charges imposed under this subsection for stormwater management
29 programs and stormwater and drainage system service may not exceed the authority's
30 cost of providing a stormwater management program and a structural and natural
31 stormwater and drainage system. The authority's cost of providing a stormwater
32 management program and a structural and natural stormwater and drainage system
33 includes any costs necessary to assure that all aspects of stormwater quality and
34 quantity are managed in accordance with federal and State laws, regulations, and
35 rules.

36 No stormwater utility fee may be levied under this subsection whenever two or
37 more units of local government operate separate stormwater management programs
38 or separate structural and natural stormwater and drainage system services in the
39 same area within a county. However, two or more units of local government may
40 allocate among themselves the functions, duties, powers, and responsibilities for
41 jointly operating a single stormwater management program and structural and natural
42 stormwater and drainage system service in the same area within a county, provided
43 that only one unit may levy a fee for the service within the joint service area. For
44 purposes of this subsection, a unit of local government shall include a regional

1 authority providing stormwater management programs and structural and natural
2 stormwater and drainage system services.

3 (b) Notwithstanding any of the foregoing provisions of this section, the authority
4 may enter into contracts relating to the collection, treatment or disposal of sewage or
5 the purchase or sale of water which shall not be subject to revision except in
6 accordance with their terms.

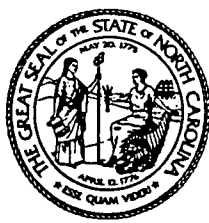
7 (c) In order to insure the payment of such rates, fees and charges as the same shall
8 become due and payable, the authority may do the following in addition to exercising
9 any other remedies which it may have:

10 (1) Require reasonable advance deposits to be made with it to be
11 subject to application to the payment of delinquent rates, fees and
12 charges.

13 (2) At the expiration of 30 days after any rates, fees and charges
14 become delinquent, discontinue supplying water or the services
15 and facilities of any water system or sewer system of the authority.

16 (3) Specify the order in which partial payments are to be applied
17 when a bill covers more than one service."

18 Section 8. Sections 1 through 4 of this act are effective retroactively to 15
19 July 1989. Sections 5 through 7 of this act are effective retroactively to 8 July 1991.
20 Section 8 of this act is effective when this act becomes law.



SENATE BILL 1336: Stormwater Utility Fees

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: June 20, 2000

Version: Proposed Committee Substitute
for the First Edition

Introduced by: Senator Fountain Odom

Summary by: Rick Zechini,
Staff Attorney

SUMMARY: *The First Edition of Senate Bill 1336 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. The proposed committee substitute for Senate Bill 1336 amends the bill as introduced to also authorize water and sewer authorities to establish and operate stormwater management programs and to 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 could not charge fees to administer the stormwater management program.

BILL ANALYSIS: The First Edition of Senate Bill 1336 amends the definition of "public enterprise" in the county and municipal statutes to explicitly include stormwater management programs. The First Edition 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.

The **proposed committee substitute** for Senate Bill 1336 amends the bill as introduced to also authorize water and sewer authorities to establish and operate stormwater management programs and to charge fees for the use of or services provided by these programs. The **proposed committee substitute** also allows these authorities to adopt ordinances concerning stormwater management programs.

EFFECTIVE DATE: The sections of the bill that apply to counties and municipalities are effective retroactively to July 15, 1989. The changes made to the water and sewer authority statutes by the **proposed committee substitute** are effective retroactively to July 8, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1336*

Short Title: Stormwater Utility Fees.

(Public)

Sponsors: Senators Odom and Rand.

Referred to: Agriculture/Environment/Natural Resources.

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT STORMWATER UTILITY FEES MAY BE USED
3 TO FUND ALL COSTS OF STORMWATER MANAGEMENT PROGRAMS,
4 AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 153A-274 reads as rewritten:
7 "**§ 153A-274. Public enterprise defined.**
8 As used in this Article, 'public enterprise' includes:
9 (1) Water supply and distribution ~~systems~~, systems.
10 (2) Wastewater collection, treatment, and disposal systems of all types,
11 including septic tank systems or other on-site collection or disposal
12 facilities or ~~systems~~, systems.
13 (3) Solid waste collection and disposal systems and ~~facilities~~, facilities.
14 (4) ~~Airports~~, Airports.
15 (5) Off-street parking ~~facilities~~, facilities.
16 (6) Public transportation ~~systems~~, systems.
17 (7) ~~Structural~~ Stormwater management programs designed to protect
18 water quality by controlling the level of pollutants in, and the
19 quantity and flow of, stormwater and structural and natural
20 stormwater and drainage systems of all types."
21 Section 2. G.S. 153A-277 reads as rewritten:
22 "**§ 153A-277. Authority to fix and enforce rates.**
23 (a) A county may establish and revise from time to time schedules of rents, rates,
24 fees, charges, and penalties for the use of or the services furnished by a public

1 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the
2 same class of service in different areas of the county and may vary according to
3 classes of service, and different schedules may be adopted for services provided
4 outside of the county. A county may include a fee relating to subsurface discharge
5 wastewater management systems and services on the property tax bill for the real
6 property where the system for which the fee is imposed is located.

7 (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or
8 penalties for stormwater management programs and structural and
9 natural stormwater and drainage systems under this section, the
10 board of commissioners shall hold a public hearing on the matter.
11 A notice of the hearing shall be given at least once in a newspaper
12 having general circulation in the area, not less than seven days
13 before the public hearing. The hearing may be held concurrently
14 with the public hearing on the proposed budget ordinance.

15 (2) The fees established under this subsection must be made applicable
16 throughout the area of the county outside municipalities. Schedules
17 of rates, fees, charges, and penalties for providing stormwater
18 management programs and structural and natural stormwater and
19 drainage system service may vary according to whether the
20 property served is residential, commercial, or industrial property,
21 the property's use, the size of the property, the area of impervious
22 surfaces on the property, the quantity and quality of the runoff
23 from the property, the characteristics of the watershed into which
24 stormwater from the property drains, and other factors that affect
25 the stormwater drainage system. Rates, fees, and charges imposed
26 under this subsection may not exceed the county's cost of
27 providing a stormwater management program and a structural and
28 natural stormwater and drainage system. The county's cost of
29 providing a stormwater management program and a structural and
30 natural stormwater and drainage system includes any costs
31 necessary to assure that all aspects of stormwater quality and
32 quantity are managed in accordance with federal and State laws,
33 regulations, and rules.

34 (3) No stormwater utility fee may be levied under this subsection
35 whenever two or more units of local government operate separate
36 stormwater management programs or separate structural and
37 natural stormwater and drainage system services in the same area
38 within a county. However, two or more units of local government
39 may allocate among themselves the functions, duties, powers, and
40 responsibilities for jointly operating a single stormwater
41 management programs and structural and natural stormwater and
42 drainage system service in the same area within a county, provided
43 that only one unit may levy a fee for the service within the joint
44 service area. For purposes of this subsection, a unit of local

1 government shall include a regional authority providing stormwater
2 management programs and structural and natural stormwater and
3 drainage system services.

4 (b) A county may collect delinquent accounts by any remedy provided by law for
5 collecting and enforcing private debts, and may specify by ordinance the order in
6 which partial payments are to be applied among the various enterprise services
7 covered by a bill for the services. A county may also discontinue service to a
8 customer whose account remains delinquent for more than 10 days. If a delinquent
9 customer is not the owner of the premises to which the services are delivered, the
10 payment of the delinquent account may not be required before providing services at
11 the request of a new and different tenant or occupant of the premises. If water or
12 sewer services are discontinued for delinquency, it is unlawful for a person other than
13 a duly authorized agent or employee of the county to reconnect the premises to the
14 water or sewer system.

15 (c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case
16 a lien upon the property or premises served and, except as provided in subsection (d)
17 of this section, are legal obligations of the person contracting for them, provided that
18 no contract shall be necessary in the case of structural and natural stormwater and
19 drainage systems.

20 (d) Rents, rates, fees, charges, and penalties for enterprisory services are legal
21 obligations of the owner of the property or premises served when:

- 22 (1) The property or premises is leased or rented to more than one
23 tenant and services rendered to more than one tenant are
24 measured by the same meter; or
25 (2) Charges made for use of a sewerage system are billed separately
26 from charges made for the use of a water distribution system."

27 Section 3. G.S. 160A-311 reads as rewritten:

28 "**§ 160A-311. Public enterprise defined.**

29 As used in this Article, the term 'public enterprise' includes:

- 30 (1) Electric power generation, transmission, and distribution ~~systems;~~
31 systems.
32 (2) Water supply and distribution ~~systems; systems.~~
33 (3) Wastewater collection, treatment, and disposal systems of all types,
34 including septic tank systems or other on-site collection or disposal
35 facilities or ~~systems; systems.~~
36 (4) Gas production, storage, transmission, and distribution systems,
37 where systems shall also include the purchase ~~and/or~~ or lease of
38 natural gas fields and natural gas reserves, the purchase of natural
39 gas supplies, and the surveying, drilling and any other activities
40 related to the exploration for natural gas, whether within the State
41 or ~~without;~~ without.
42 (5) Public transportation ~~systems; systems.~~
43 (6) Solid waste collection and disposal systems and ~~facilities;~~ facilities.
44 (7) Cable television ~~systems; systems.~~

- 1 (8) Off-street parking facilities and ~~systems~~; systems.
2 (9) ~~Airports~~; Airports.
3 (10) ~~Structural~~ Stormwater management programs designed to protect
4 water quality by controlling the level of pollutants in, and the
5 quantity and flow of, stormwater and structural and natural
6 stormwater and drainage systems of all types."

7 Section 4. G.S. 160A-314 reads as rewritten:

8 "**§ 160A-314. Authority to fix and enforce rates.**

9 (a) A city may establish and revise from time to time schedules of rents, rates,
10 fees, charges, and penalties for the use of or the services furnished by any public
11 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according
12 to classes of service, and different schedules may be adopted for services provided
13 outside the corporate limits of the city.

14 (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or
15 penalties for stormwater management programs and structural and
16 natural stormwater and drainage systems under this section, the
17 city council shall hold a public hearing on the matter. A notice of
18 the hearing shall be given at least once in a newspaper having
19 general circulation in the area, not less than seven days before the
20 public hearing. The hearing may be held concurrently with the
21 public hearing on the proposed budget ordinance.

22 (2) The fees established under this subsection must be made applicable
23 throughout the area of the city. Schedules of rates, fees, charges,
24 and penalties for providing stormwater management programs and
25 structural and natural stormwater and drainage system service may
26 vary according to whether the property served is residential,
27 commercial, or industrial property, the property's use, the size of
28 the property, the area of impervious surfaces on the property, the
29 quantity and quality of the runoff from the property, the
30 characteristics of the watershed into which stormwater from the
31 property drains, and other factors that affect the stormwater
32 drainage system. Rates, fees, and charges imposed under this
33 subsection may not exceed the city's cost of providing a stormwater
34 management program and a structural and natural stormwater and
35 drainage system. The city's cost of providing a stormwater
36 management program and a structural and natural stormwater and
37 drainage system includes any costs necessary to assure that all
38 aspects of stormwater quality and quantity are managed in
39 accordance with federal and State laws, regulations, and rules.

40 (3) No stormwater utility fee may be levied under this subsection
41 whenever two or more units of local government operate separate
42 stormwater management programs or separate structural and
43 natural stormwater and drainage system services in the same area
44 within a county. However, two or more units of local government

1 may allocate among themselves the functions, duties, powers, and
2 responsibilities for jointly operating a single stormwater
3 management program and structural and natural stormwater and
4 drainage system service in the same area within a county, provided
5 that only one unit may levy a fee for the service within the joint
6 service area. For purposes of this subsection, a unit of local
7 government shall include a regional authority providing stormwater
8 management programs and structural and natural stormwater and
9 drainage system services.

10 (a2) A fee for the use of a disposal facility provided by the city may vary based on
11 the amount, characteristics, and form of recyclable materials present in solid waste
12 brought to the facility for disposal. This section does not prohibit a city from
13 providing aid to low-income persons to pay all or part of the cost of solid waste
14 management services for those persons.

15 (b) A city shall have power to collect delinquent accounts by any remedy
16 provided by law for collecting and enforcing private debts, and may specify by
17 ordinance the order in which partial payments are to be applied among the various
18 enterprise services covered by a bill for the services. A city may also discontinue
19 service to any customer whose account remains delinquent for more than 10 days.
20 When service is discontinued for delinquency, it shall be unlawful for any person
21 other than a duly authorized agent or employee of the city to do any act that results
22 in a resumption of services. If a delinquent customer is not the owner of the premises
23 to which the services are delivered, the payment of the delinquent account may not
24 be required before providing services at the request of a new and different tenant or
25 occupant of the premises, but this restriction shall not apply when the premises are
26 occupied by two or more tenants whose services are measured by the same meter.

27 (c) Except as provided in subsection (d) of this section and G.S. 160A-314.1, rents,
28 rates, fees, charges, and penalties for enterprisory services shall be legal obligations of
29 the person contracting for them, and shall in no case be a lien upon the property or
30 premises served, provided that no contract shall be necessary in the case of structural
31 and natural stormwater and drainage systems.

32 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be legal
33 obligations of the owner of the premises served when:

34 (1) The property or premises is leased or rented to more than one
35 tenant and services rendered to more than one tenant are
36 measured by the same meter.

37 (2) Charges made for use of a sewage system are billed separately from
38 charges made for the use of a water distribution system.

39 (e) Nothing in this section shall repeal any portion of any city charter inconsistent
40 herewith."

41 Section 5. This act is effective when it becomes law and applies
42 retroactively to 15 July 1989.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1336

SHORT TITLE: Stormwater Utility Fees

SPONSOR(S): Senator Odom

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05

REVENUES

EXPENDITURES

No Fiscal Impact

POSITIONS:

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** County Governments

EFFECTIVE DATE: Effective when the act becomes law and applies retroactively to July 15, 1989.

BILL SUMMARY: This bill amends the definition of “public enterprise” in the county and municipal statutes to include, among other things, “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.” 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 (also known as utilities).¹

ASSUMPTIONS AND METHODOLOGY:

Background: The federal Clean Water Act of 1987 requires operators of municipal storm sewer systems serving 100,000 people or more to develop stormwater management programs. In response to this federal requirement, the 1989 General Assembly enacted legislation designed to allow counties and municipalities to establish and operate stormwater systems as public

¹ House Environment and Natural Resources, Committee Counsel Bill Summary, June 6, 2000.

enterprises (or utilities) and to charge fees for the services provided by these stormwater systems. In 1999, the North Carolina Supreme Court ruled that counties' and municipalities' authority to establish and operate stormwater systems as public enterprises was limited to the construction, maintenance and operation of the physical infrastructure of the stormwater system, and did not extend to the operation of stormwater management programs, which include supplemental activities such as public education, pollution prevention efforts and land use planning and management techniques.²

This bill amends the definition of public enterprise to explicitly include stormwater management programs and applies retroactively to July 15, 1989, the effective date of original state legislation. This expanded definition is intended to clarify that stormwater utility fees may be used to fund all costs of stormwater management programs, not just the physical infrastructure of the stormwater system.

Expenditures: This bill imposes no new expenditure requirements on counties or municipalities. It only expands counties' and municipalities' options for ways to pay for the expenses associated with the federal law that requires operators of municipal storm sewer systems serving 100,000 people or more to develop stormwater management programs. In March 2003, the federal government is expanding the number of municipal stormwater systems required to develop stormwater management programs to include urbanized areas with populations of 50,000 or greater. According to the Department of Environment and Natural Resources, there are 85 urbanized areas that will automatically fall under this new requirement and approximately 30 more that may have to comply with the federal law. This bill provides these additional urbanized areas with an option to pay for this federal requirement, but again it does not impose any new expenditures.

Revenues: Counties and municipalities that either voluntarily develop stormwater management programs or are required to develop stormwater management programs under the federal Clean Water Act have two options for paying for the costs associated with these programs: establish a stormwater management utility fee or use general fund money raised through property taxes. This bill provides those counties and municipalities with *the option* of charging a stormwater management utility fee. The authority to act on this option is discretionary. Because this bill does not require any county or municipality to charge a stormwater utility fee, there is no fiscal impact on the local governments' revenues as a result of this bill.

Of the six municipalities (Charlotte, Durham, Greensboro, Raleigh, Winston-Salem, and Fayetteville/Cumberland County) currently required to develop stormwater management programs, five have established stormwater utility fees to cover the costs of operation. Only one (Raleigh) has chosen to fund the program through its general fund. Of the five municipalities charging a stormwater utility fee, all five thought the initial state legislation gave them the authority to fund costs associated with a stormwater management program. This bill provides the clarifying language that explicitly states that the stormwater utility fees can be used for stormwater management programs and applies this expanded definition retroactively to July 15, 1989. Because this bill only adds clarifying language to allow the existing municipalities to

² House Environment and Natural Resources, Committee Counsel Bill Summary, June 6, 2000.

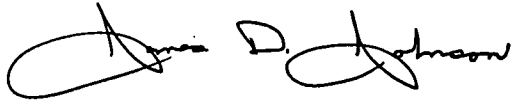
continue funding their stormwater management programs out of their stormwater utility fees, there is no new fiscal impact on the local governments' budgets.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Jennifer Hoffmann

APPROVED BY: James D. Johnson

A handwritten signature in black ink, appearing to read "James D. Johnson". The signature is fluid and cursive, with the first name "James" and last name "Johnson" clearly legible, and "D." in the middle.

DATE: June 13, 2000



NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF AIR QUALITY



JAMES B. HUNT JR.
GOVERNOR

BILL HOLMAN
SECRETARY

ALAN W. KLIMEK, P.E.
DIRECTOR

June 20, 2000

MEMORANDUM

TO: Mr. William Holman, Secretary
Brock M. Nicholson
FROM: Brock M. Nicholson, Chief of Planning
SUBJECT: Loss of Inspection/Maintenance (I/M-OBD) credits due to
exempting one year old vehicles

The loss of I/M-OBD emission reduction benefits if one year old vehicles are exempted is estimated to be 1%. This is based EPA's latest mobile emissions model. While this loss is small in percentage it would have to be replaced by other control measures for mobile sources in an overall ozone attainment strategy and there are few opportunities other than voluntary or vehicle use restrictions to obtain these reductions. Voluntary emissions reductions beyond our existing Air Awareness Program would be of limited value and are uncertain. Vehicle use restrictions are least desirable and are considered a last resort.

While this level of program benefits reduction might be made up by other measures, any further exemption would significantly impair the state's ozone strategy. For example, an exemption for two, three or four year old vehicles would result in benefit losses of 3.5, 7 and 11% respectfully. These are very significant levels of program loss to overcome.

cc: Alan Klimek



PLANNING SECTION
1641 MAIL SERVICE CENTER, RALEIGH, NORTH CAROLINA 27699-1641
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ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT STORMWATER UTILITY FEES

1. **Question:** Are stormwater utilities used in states other than North Carolina?

Answer: Yes.

Stormwater utilities were developed in **Colorado** and **Washington** in the early 1970's. By 1980, more than 20 local governments in **Washington**, **Oregon**, **Colorado**, and **Utah** had established stormwater utilities.

Neighboring states with stormwater utilities include **Tennessee**, **Virginia**, **South Carolina**, **Georgia** and **Maryland**.

Although we have not made an extensive search, we are aware that stormwater utilities are now also used in **Florida**, **Indiana**, **Iowa**, **Kansas**, **Kentucky**, **Minnesota**, **Montana**, **Ohio**, **Oklahoma**, **Texas**, **Wisconsin**. There are about 90 stormwater utilities in **Florida** alone.

2. **Question:** Are stormwater fees or charges (rather than taxes) a common feature of stormwater utilities?

Answer: Yes.

In fact, the use of fees or charges (rather than taxes) for stormwater services is among the basic attributes of stormwater utilities.

3. **Question:** Are stormwater utility fees fair?

Answer: Yes.

A fundamental concept of any utility is payment for services. One pays proportionate to the cost or burden one puts on the underlying system. Stormwater utility fees are based on the impervious surface on a parcel of land which is directly related to the amount of stormwater runoff from the parcel.

4. **Question:** What is the most common base billing unit?

Answer: The base billing units typically used throughout the U.S. are the Equivalent Runoff Unit or Equivalent Residential Unit ("ERU") and an Equivalent Stormwater Unit ("ESU"). These are the stormwater billing equivalent of a kilowatt-hour. Among the most common methods for determining an ERU or ESU is the application of an average impervious

SUMMARY OF FEDERAL PERMIT REQUIREMENTS FOR MUNICIPAL STORMWATER SYSTEMS

Phase I municipalities (with populations of 100,000 or more) must have permits and smaller municipalities will be required to obtain federal NPDES permits beginning in 2002 and 2003. See 40 CFR §122.26 and 64 Fed. Reg. 68722 (Dec. 8, 1999).

PART 1. Part 1 permit application requirements include the following:

LEGAL AUTHORITY. Description of existing legal authority and a commitment to obtain any needed additional authority to *at least* do the following through ordinance, permit, etc.:

- (A) Control the contribution of pollutants to the municipal storm sewer by industrial storm water discharges and the quality of storm water discharged from industrial sites;
- (B) Prohibit illicit discharges to the municipal separate storm sewer;
- (C) Control the discharge to the municipal storm sewer of spills, dumping or disposal of materials other than storm water;
- (D) Control the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;
- (E) Require compliance with conditions in ordinances, permits, etc.; and
- (F) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

SOURCE IDENTIFICATION.

- (A) Description of the historic use of controls to limit non-storm water discharges to POTW.
- (B) USGS topo that shows the following:

- (1) Location of known municipal storm sewer outfalls;
- (2) Description of land use activities (undeveloped, residential, commercial, agricultural and industrial uses), population densities, projected 10-year growth within the drainage area, average runoff coefficient for each land use type;
- (3) Location and description of all (operating or closed) municipal waste facilities;
- (4) Location of all NPDES permitted discharges to the storm sewer system;
- (5) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and
- (6) The identification of publicly owned parks, recreational areas, and other open lands.

DISCHARGE AND REPRESENTATIVE OUTFALL CHARACTERIZATION. Must exhaustively assess the volume and quality of the storm water discharges, including the following:

- (A) Monthly mean rain and snow fall and monthly average number of storm events.
- (B) Data on the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.
- (C) List of water bodies that receive discharges from the sewer system (including downstream waters) and a description of known water quality impacts.
- (D) Extensive water quality sampling ("field screening") at 250 to 500 locations and

identification of hydrological conditions (total drainage area of the site; population density of the site; traffic density; age of the structures or buildings in the area; history of the area; and land use types) to identify illicit connections and illegal dumping.

(E) Characterization plan. Information and a proposed program to establish the extensive monitoring requirements of Part 2 and to be incorporated in the NPDES permit.

DESCRIPTION OF EXISTING STORM WATER MANAGEMENT PROGRAMS (ESTABLISHED UNDER STATE AND FEDERAL LAW), including:

(A) Structural and source controls (including operation and maintenance), such as procedures to control pollution from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs.

(B) Program to identify illicit connections (including inspection procedures and methods for detection and prevention) and areas where program has been implemented.

DESCRIPTION OF FISCAL RESOURCES available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

PART 2. Part 2 permit application requirements include the following:

DEMONSTRATION OF ADEQUATE LEGAL AUTHORITY. Proof that any shortcomings identified in Part 1 have been remedied.

SOURCE IDENTIFICATION. Inventory and characterization of potential industrial dischargers to the storm sewer system.

CHARACTERIZATION DATA. Reporting of Part 1 sampling data, additional sampling, analysis evaluation of data, proposed sampling plan to become a permit requirement.

MANAGEMENT PROGRAM.

Must include: *A comprehensive planning process* (with public participation and intergovernmental coordination) to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system design and engineering methods, and such other provisions which are appropriate; description of staff and equipment available to implement the program; description of priorities for implementing controls.

AND must be based on all of the following:

Structural and source control measures, an estimate of the expected reduction of pollutant loads, and a proposed schedule for implementing the controls, including at a minimum:

- (1) Maintenance activities and a maintenance schedule for structural controls;
- (2) Planning procedures (including a comprehensive master plan) to develop, implement and enforce controls (including post-construction controls) for areas with new development and

significant redevelopment;

(3) Operation and maintenance of public streets, roads and highways;

(4) Assessment and feasible retrofits of structural flood control devices to increase pollutant removal;

(5) Monitoring and control program for operating or closed municipal solid waste facilities; and

(6) Program to reduce to the maximum extent practicable, pollutants from the application of pesticides, herbicides and fertilizer - educational activities, permits, certifications, etc..

Program and schedule to detect and remove illicit discharges and improper disposal into the storm sewer, including:

(1) Prevention program, including inspections, to implement and enforce prohibition on illicit discharges;

(2) On-going field screening (sampling) activities;

(3) Investigations based on results of field screening.

(4) Spill response procedures;

(5) Program to promote, publicize, and facilitate public reporting of illicit discharges or water quality impacts;

(6) Educational and public information activities to facilitate proper management and disposal of used oil and toxic materials; and

(7) Controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

Program to monitor and control pollutants from certain types of facilities that the municipal permit applicant determines are contributing a substantial pollutant loading.

Best Management Practices (BMPs). Implement and maintain structural and non-structural BMPs to reduce pollutants from construction sites. Provide education and training for construction site operators.

ASSESSMENT OF CONTROLS. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

FISCAL ANALYSIS. For each fiscal year, a fiscal analysis of the necessary capital and operation and maintenance expenditures, including a description of the source of funds and legal restrictions on the use of such funds.

Central Points In *Smith Chapel Baptist Church v. Durham*, 350 N.C. 822 (1999).

1. In 1987 the United States Congress passed the Water Quality Act which placed an unfunded mandate upon municipalities to adopt and operate a comprehensive Stormwater Quality Management Program (“SWQMP”).
2. In the 1989 the General Assembly amended the public enterprise statute to allow municipalities to set up “structural and natural stormwater and drainage systems of all types.”
3. Stormwater utility fees (stormwater utility service charges) for “structural and natural stormwater and drainage systems” based on impervious area are valid. The Court explained that

[t]he test is not whether any particular customer has directly benefitted from the use of a discrete or particular component of the utility plant, but whether the municipal authority has acted arbitrarily in establishing its rates. . . . We hold that the rate scheme enacted by the City [of Durham] pursuant to the SWU ordinance is rationally related to the amount of runoff from each lot and was not an arbitrary exercise of the City’s statutory authority.

4. However, the language in 2 (above) limits stormwater utility fees to the amount which is necessary for a City to construct and maintain the structural components of the stormwater and drainage system rather than the amount required to maintain a comprehensive SWQMP to meet the federal NPDES permit requirements.
5. Durham’s ordinance stated on its face that it included “monitoring, outreach, and other activities related to the control of stormwater quantity and quality” and this exceeds the statutory authorization of 2 (above).

STAM, FORDHAM & DANCHI, P.A.

ATTORNEYS AT LAW

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June 15, 2000

Hon. Gordon Allen
Hon. Paul Luebke
Hon. George Miller
Co-Chairs and members of the
House Finance Committee

Re: Stormwater Utility Fees – HB1602

Dear Reps. Allen, Luebke and Miller and the Members of the House Finance Committee:

I appreciate the opportunity to address you at your next consideration of this bill. Let me comment on one item that arose in your discussion last Wednesday – the effective date.

Retroactive. I am glad that staff responded to Rep. Creech's question as to the impact on pending litigation of the retroactive effective date of the bill. Staff replied, as best I recall, "If this bill passes it would make that lawsuit moot." The attorney for the City of Greensboro was asked the same question and replied that he "hopes this bill will resolve the case". The June 10, 2000 issue of the Greensboro News and Record earlier reported on this controversy in a story by Erik Dyer of its Raleigh bureau. The relevant portion of that article reads as follows:

"Stam argues the measure has been advanced primarily to invalidate his lawsuit against Greensboro. He notes the bill would be retroactive to July 1989 when the original stormwater measure was passed. "That is what they hope to do", said Stam, who promised to press head with his case, which remains in Guilford County Superior Court.

"Gibson, the bill sponsor, denied the allegation. "It is not proper to seek legislation to impact an ongoing court case", he said."

"The lawsuit filed by Children's Home Society of North Carolina seeks a refund for thousands of taxpayers who have paid the Greensboro fee. If the lawsuit succeeds, such a refund might run as much as \$150.00 for the owner of a single-family house assessed a surcharge for the last 6 years."

"Linda Miles, Greensboro's attorney, says the City supports the legislation. She declined to say whether she hoped the amendment would render the lawsuit moot."

"This bill says what the legislature meant to do back on 1989, Miles said"

So it is clear to us that what staff thinks the bill would do and what the City of Greensboro hopes the bill would do is, even according to the bill sponsor, improper. Our opinion is that it is so improper that the Superior Court will not give it effect.

But we simply should not have to be responding in the House Finance Committee to Greensboro's litigation strategy.

I do hope you will take these matters into consideration.

STAM, FORDHAM & DANCHI, P.A.*
Paul Stam and Henry S. Fordham, Jr.
P.O. Box 1600
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*We are not "lobbyists" as defined in G.S. 120-47.1(6). We do represent litigants with cases in the Superior Court of Guilford County and Durham County.

Letters/Finance Stormwater3

the House Finance Committee. If endorsed, it then would go to the full House.

Stam argues the measure has been advanced primarily to invalidate his lawsuit against Greensboro. He notes the bill would be retroactive to July 1989, when the original storm-water measure was passed.

"That's what they hope to do," said Stam, who promised to press ahead with his case, which remains in Guilford County Superior Court.

Gibson, the bill sponsor, denied the allegation. "It's not proper to seek legislation to impact an ongoing court case," he said.

The lawsuit filed by Children's Home Society of North Carolina seeks a refund for thousands of taxpayers who have paid the Greensboro fee. If the lawsuit succeeds, such a refund might run as much as \$150 for the owner of a single-family house assessed the surcharge for the last six years.

Linda Miles, Greensboro's attorney, said the city supports the legislation. She declined to say whether she hoped the amendment would render the lawsuit moot.

"This bill says what the legislature meant to do back in 1989," Miles said.

The state Department of Environmental and Natural Resources also backs the measure. Its spokesman, Don Reuter, said the original intent of the storm-water fee was to include initiatives tangential to improved water quality, such as public-awareness campaigns and pollution prevention education.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

D

SENATE BILL 1311
Proposed Committee Substitute S1311-PCS6792-SG001

Short Title: Mountains to Sea State Park Trail.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF THE MOUNTAINS TO SEA
3 STATE PARK TRAIL TO THE STATE PARKS SYSTEM, AS
4 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 states that it shall be a proper function of the State of North Carolina to acquire and
7 preserve park, recreational, and scenic areas and, in every other appropriate way, to
8 preserve as a part of the common heritage of this State its open lands and places of
9 beauty; and

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that these resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and

15 Whereas, a Mountains to Sea Trail across North Carolina would offer
16 outstanding recreational opportunities to the State's citizens; would protect riparian
17 buffers and corridors of wildlife habitat along its route; and would possess biological,
18 scenic, and recreational resources of statewide significance; Now, therefore,
19 The General Assembly of North Carolina enacts:

20 Section 1. The General Assembly authorizes the Department of
21 Environment and Natural Resources to add the Mountains to Sea State Park Trail to
22 the State Parks System as provided in G.S. 113-44.14(b). The Mountains to Sea State
23 Park Trail shall be comprised only of those lands or easements which are or will be

1 allocated for management to the Division of Parks and Recreation for this purpose.
2 The Division shall promote, encourage, and facilitate the establishment of dedicated
3 connecting trails through lands managed by other governmental agencies and
4 nonprofit organizations in order to form a continuous trail across the State.

5 Section 2. Article 2 of Chapter 113 of the General Statutes is amended
6 by adding a new section to read:

7 "§ 113-34.1. Power to acquire conservation lands not included in the State Parks
8 System.

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

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



SENATE BILL 1311: Mountains to Sea State Park Trail

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources
Date: June 20, 2000
Version: Proposed Committee Substitute
for First Edition

Introduced by: Senator Howard Lee
Summary by: Rick Zechini
Committee Counsel

SUMMARY: *The proposed committee substitute for Senate Bill 1311 authorizes the addition of the Mountains to Sea State Park Trail to the State Parks System. The proposed committee substitute 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 therefore 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 proposed committee substitute for 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.

SENATE BILL 1311

Page 2

The proposed committee substitute amends the bill as introduced by adding a sentence to Section 2 of the bill that 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1311

Short Title: Mountains to Sea State Park Trail.

(Public)

Sponsors: Senators Lee, Odom; and Carpenter.

Referred to: Agriculture/Environment/Natural Resources.

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF THE MOUNTAINS TO SEA
3 STATE PARK TRAIL TO THE STATE PARKS SYSTEM, AS
4 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the State Constitution states that it
6 shall be a proper function of the State of North Carolina to acquire and preserve
7 park, recreational, and scenic areas and, in every other appropriate way, to preserve
8 as a part of the common heritage of this State its open lands and places of beauty;
9 and

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and

15 Whereas, a Mountains to Sea Trail across North Carolina would offer
16 outstanding recreational opportunities to the State's citizens; would protect riparian
17 buffers and corridors of wildlife habitat along its route; and would possess biological,
18 scenic, and recreational resources of statewide significance; Now, therefore,
19 The General Assembly of North Carolina enacts:

20 Section 1. The General Assembly authorizes the Department of
21 Environment and Natural Resources to add the Mountains to Sea State Park Trail to
22 the State Parks System as provided in G.S. 113-44.14(b). The State Park Trail shall
23 be comprised only of those lands or easements which are or will be allocated for
24 management to the Division of Parks and Recreation for this purpose. The Division

1 shall promote, encourage, and facilitate the establishment of dedicated connecting
2 trails through lands managed by other governmental agencies and nonprofit
3 organizations in order to form a continuous trail across the State.

4 Section 2. Article 2 of Chapter 113 of the General Statutes is amended
5 by adding a new section to read:

6 "§ 113-34.1. Power to acquire conservation lands not included in the State Parks
7 System.

8 The Department of Administration may acquire and allocate to the Department of
9 Environment and Natural Resources for management by the Division of Parks and
10 Recreation, lands that the Department of Environment and Natural Resources finds
11 are important for conservation purposes but which are not included in the State
12 Parks System. Lands acquired pursuant to this section are not subject to the
13 provisions of Article 2C of Chapter 113 of the General Statutes and may be traded or
14 transferred as necessary to protect, develop, and manage the Mountains to Sea State
15 Park Trail, other State Parks, or other conservation lands."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00
Proposed Senate Committee Substitute H1638-PCS5099-RT/SB002

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:

11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to

1 the Commissioner of Motor Vehicles that ambient air quality will
2 be improved by the implementation of a motor vehicle emissions
3 inspection and maintenance program in a county. The Commission
4 shall implement this subdivision as provided in G.S.
5 143-215.107A."

6 Section 2. G.S. 143-215.107A(b) is repealed.

7 Section 3. G.S. 143-215.107A(d) reads as rewritten:

8 "(d) Additional Counties. -- The Commission may require that motor vehicle
9 emissions inspections be performed in counties in addition to those set out in
10 subsection (c) of this section. In determining whether to require that motor vehicle
11 emissions inspections be performed in a county, the Commission may consider the
12 population of, and distribution of population in, the county; the projected change in
13 population of, and distribution of population in, the county; the number of vehicles
14 registered in the county; the projected change in the number of vehicles registered in
15 the county; vehicle miles traveled in the county; the projected change in vehicle miles
16 traveled in the county; current and projected commuting patterns in the county; and
17 the current and projected impact of these factors on attainment of air quality
18 standards in the county and in areas outside the county. The Commission may not
19 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
20 with a population of less than 40,000 based on the most recent population estimates
21 prepared by the State Planning Officer. The Commission may not require that motor
22 vehicle emissions ~~testing~~ inspections be performed in any county in which the
23 number of vehicle miles traveled per day is less than 900,000, based on the most
24 recent estimates prepared by the Department of Transportation. In order to
25 disapprove a rule that requires that motor vehicle emissions inspections be performed
26 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
27 must amend subsection (c) of this section to add one or more other counties in which
28 the total population and vehicle miles traveled per day equal or exceed the total
29 population and vehicle miles traveled in the county or counties listed in the rule that
30 the bill would disapprove."

31 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

32 "~~Section 3.2. The Environmental Management Commission shall adopt rules to~~
33 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
34 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
35 shall not require that motor vehicle emissions inspections be performed in any county
36 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
37 July 2006. The Environmental Management Commission shall not require motor
38 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

39 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

40 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

41 "~~§ 20-128. Prevention of noise, smoke, etc., muffler cut-outs regulated. Exhaust~~
42 ~~system and emissions control devices.~~

43 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
44 is equipped with a muffler, or other exhaust system of the type installed at the time of

1 manufacture, in good working order and in constant operation to prevent excessive
2 or unusual noise, annoying smoke and smoke screens.

3 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
4 highway.

5 (c) No motor vehicle registered in this State ~~which~~ that was manufactured after
6 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
7 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
8 installed on the vehicle at the time ~~of manufacture, provided the foregoing~~
9 requirement the vehicle was manufactured and these devices are properly connected.

10 (d) The requirements of subsection (c) of this section shall not apply where such if
11 the emissions control devices have been removed for the purpose of converting the
12 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
13 have been made in order to reduce air ~~pollution, further provided that such~~
14 ~~modifications shall have first been~~ pollution and these modifications are approved by
15 the Department of Environment and Natural Resources."

16 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

- 19 (1) It is subject to registration with the Division under Article 3 of this
20 Chapter.
- 21 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
22 house trailer, or a motorcycle.
- 23 (3) It is a 1975 or later model.
- 24 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 25 (5) It meets any of the following descriptions:
- 26 a. It is required to be registered in an emissions county.
- 27 b. It is part of a fleet that is operated primarily in an emissions
28 county.
- 29 c. It is offered for rent in an emissions county.
- 30 d. It is a used vehicle offered for sale by a dealer in an
31 emissions county.
- 32 e. It is operated on a federal installation located in an
33 emissions county and it is not a tactical military vehicle.
34 Vehicles operated on a federal installation include those that
35 are owned or leased by employees of the installation and are
36 used to commute to the installation and those owned or
37 operated by the federal agency that conducts business at the
38 installation.
- 39 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
40 an emissions inspection.

41 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

42 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

43 "§ 20-183.3. Scope of safety inspection and emissions inspection.

1 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
2 following equipment to determine if the vehicle has the equipment required by Part 9
3 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 4 (1) Brakes, as required by G.S. 20-124.
- 5 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 6 (3) Horn, as required by G.S. 20-125(a).
- 7 (4) Steering mechanism, as required by G.S. 20-123.1.
- 8 (5) Windows and windshield wipers, as required by G.S. 20-127. To
9 determine if a vehicle window meets the window tinting
10 restrictions, a safety inspection mechanic must first determine,
11 based on use of an automotive film check card or knowledge of
12 window tinting techniques, if after-factory tint has been applied to
13 the window. If after-factory tint has been applied, the mechanic
14 must use a light meter approved by the Commissioner to
15 determine if the window meets the window tinting restrictions.
- 16 (6) Directional signals, as required by G.S. 20-125.1.
- 17 (7) Tires, as required by G.S. 20-122.1.
- 18 (8) Mirrors, as required by G.S. 20-126.
- 19 (9) Exhaust ~~system~~, system and emissions control devices, as required
20 by G.S. 20-128. For a vehicle that is subject to an emissions
21 inspection in addition to a safety inspection, a visual inspection of
22 the vehicle's ~~emission-control~~ emissions control devices is included
23 in the emissions inspection rather than the safety inspection.

24 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
25 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
26 devices are present, are properly connected, and are the correct type for the vehicle
27 ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust
28 emissions of the vehicle to determine if the exhaust emissions meet the standards for
29 the model year of the vehicle set by the Environmental Management Commission or,
30 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
31 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
32 deterioration or malfunction in the operation of the vehicle that violates standards for
33 the model year of the vehicle set by the Environmental Management Commission.
34 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
35 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis-
36 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
37 emissions inspection is performed on a vehicle, a safety inspection must be performed
38 on the vehicle as well.

39 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
40 been repaired after failing an inspection is the same as the original inspection unless
41 the vehicle is presented for reinspection within 30 days of failing the original
42 inspection. If the vehicle is presented for reinspection within this time limit and the
43 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
44 inspection of the equipment that failed the original inspection. If the vehicle is

1 presented for reinspection within this time limit and the inspection the vehicle failed
2 was an emissions inspection, the reinspection is limited to the portion of the
3 inspection the vehicle failed and any other portion of the inspection that would be
4 affected by repairs made to correct the failure."

5 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section
6 7 of this act, reads as rewritten:

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

- 9 (1) It is subject to registration with the Division under Article 3 of this
10 Chapter.
- 11 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
12 house trailer, or a motorcycle.
- 13 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a 1975 1996 or later
14 model.
- 15 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 16 (5) It meets any of the following descriptions:
 - 17 a. It is required to be registered in an emissions county.
 - 18 b. It is part of a fleet that is operated primarily in an emissions
19 county.
 - 20 c. It is offered for rent in an emissions county.
 - 21 d. It is a used vehicle offered for sale by a dealer in an
22 emissions county.
 - 23 e. It is operated on a federal installation located in an
24 emissions county and it is not a tactical military vehicle.
25 Vehicles operated on a federal installation include those that
26 are owned or leased by employees of the installation and are
27 used to commute to the installation and those owned or
28 operated by the federal agency that conducts business at the
29 installation.
 - 30 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
31 an emissions inspection.
- 32 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

33 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
34 of this act, reads as rewritten:

35 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

36 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
37 following equipment to determine if the vehicle has the equipment required by Part 9
38 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 39 (1) Brakes, as required by G.S. 20-124.
- 40 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 41 (3) Horn, as required by G.S. 20-125(a).
- 42 (4) Steering mechanism, as required by G.S. 20-123.1.
- 43 (5) Windows and windshield wipers, as required by G.S. 20-127. To
44 determine if a vehicle window meets the window tinting

1 restrictions, a safety inspection mechanic must first determine,
2 based on use of an automotive film check card or knowledge of
3 window tinting techniques, if after-factory tint has been applied to
4 the window. If after-factory tint has been applied, the mechanic
5 must use a light meter approved by the Commissioner to
6 determine if the window meets the window tinting restrictions.

7 (6) Directional signals, as required by G.S. 20-125.1.

8 (7) Tires, as required by G.S. 20-122.1.

9 (8) Mirrors, as required by G.S. 20-126.

10 (9) Exhaust system and emissions control devices, as required by G.S.
11 20-128. For a vehicle that is subject to an emissions inspection in
12 addition to a safety inspection, a visual inspection of the vehicle's
13 emissions control devices is included in the emissions inspection
14 rather than the safety inspection.

15 (b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An
16 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
17 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
18 visual inspection of the vehicle's emissions control devices to determine if the devices
19 are present, are properly connected, and are the correct type for the vehicle and, if
20 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
21 vehicle to determine if the exhaust emissions meet the standards for the model year
22 of the vehicle set by the Environmental Management Commission or, if the vehicle is
23 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
24 equipment installed by the vehicle manufacturer to identify any deterioration or
25 malfunction in the operation of the vehicle that would cause an increase in the
26 emission of pollutants by the vehicle that violates standards for the model year of the
27 vehicle set by the Environmental Management Commission. To pass an emissions
28 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
29 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
30 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
31 safety inspection must be performed on the vehicle as well.

32 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
33 inspection of the vehicle's emission control devices to determine if the devices are
34 present, are properly connected, and are the correct type for the vehicle and an
35 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
36 the vehicle manufacturer to identify any deterioration or malfunction in the operation
37 of the vehicle that violates standards for the model year of the vehicle set by the
38 Environmental Management Commission. To pass an emissions inspection a vehicle
39 must pass both the visual inspection and the OBD analysis. When an emissions
40 inspection is performed on a vehicle, a safety inspection must be performed on the
41 vehicle as well.

42 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
43 been repaired after failing an inspection is the same as the original inspection unless
44 the vehicle is presented for reinspection within 30 days of failing the original

1 inspection. If the vehicle is presented for reinspection within this time limit and the
2 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
3 inspection of the equipment that failed the original inspection. If the vehicle is
4 presented for reinspection within this time limit and the inspection the vehicle failed
5 was an emissions inspection, the reinspection is limited to the portion of the
6 inspection the vehicle failed and any other portion of the inspection that would be
7 affected by repairs made to correct the failure."

8 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
9 Section 9 of this act, reads as rewritten:

10 "(3) ~~Except as provided in G.S. 20-183.3(b),~~ It is a 1996 or later
11 model."

12 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
13 Sections 8 and 10 of this act, is repealed.

14 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

15 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
16 **license.**

17 (a) License Required. -- An emissions inspection must be performed by one of the
18 following methods:

19 (1) At a station that has an emissions inspection station license issued
20 by the Division and by a mechanic who is employed by the station
21 and has an emissions inspection mechanic license issued by the
22 Division.

23 (2) At a place of business of a person who has an emissions
24 self-inspector license issued by the Division and by an individual
25 who has an emissions inspection mechanic license.

26 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
27 station must meet all of the following requirements:

28 (1) Have a license as a safety inspection station.

29 (2) Have an emissions analyzer approved by the Environmental
30 Management ~~Commission.~~ Commission, equipment to analyze data
31 provided by the on-board diagnostic (OBD) equipment approved
32 by the Environmental Management Commission, or both.

33 (3) Have equipment to transfer information on emissions inspections
34 to the Division by electronic means.

35 (4) Regularly employ at least one mechanic who has an emissions
36 inspection mechanic license.

37 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
38 inspection mechanic must meet all of the following requirements:

39 (1) Have a license as a safety inspection mechanic.

40 (2) Have successfully completed an eight-hour course approved by the
41 Division that teaches students about the causes and effects of the
42 air pollution ~~problem,~~ problem; the purpose of the emissions
43 inspection ~~program,~~ program; the vehicle emission standards
44 established by the ~~federal~~ United States Environmental Protection

1 ~~Agency, Agency;~~ the emission control devices on ~~vehicles, vehicles;~~
2 how to conduct an emissions inspection using an emissions
3 analyzer approved by the Environmental Management
4 Commission, equipment to analyze data provided by the on-board
5 diagnostic (OBD) equipment approved by the Environmental
6 Management Commission, or both; and any other topic required by
7 40 C.F.R. § 51.367 to be included in the course. Successful
8 completion requires a passing score on a written test and on a
9 hands-on test in which the student is required to conduct an
10 emissions inspection of a motor vehicle.

11 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
12 self-inspector must meet all of the following requirements:

- 13 (1) Have a license as a safety self-inspector.
- 14 (2) Operate a fleet of at least 10 vehicles that are subject to an
15 emissions inspection.
- 16 (3) Have, or have a contract with a person who has, an emissions
17 analyzer approved by the Environmental Management
18 ~~Commission. Commission, equipment to analyze data provided by~~
19 the on-board diagnostic (OBD) equipment approved by the
20 Environmental Management Commission, or both.
- 21 (4) Regularly employ or contract with an individual who has an
22 emissions inspection mechanic license and who will perform an
23 emissions inspection on the vehicles that are part of the
24 self-inspector's fleet."

25 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
26 13 of this act, reads as rewritten:

27 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
28 **license.**

29 (a) License Required. -- An emissions inspection must be performed by one of the
30 following methods:

- 31 (1) At a station that has an emissions inspection station license issued
32 by the Division and by a mechanic who is employed by the station
33 and has an emissions inspection mechanic license issued by the
34 Division.
- 35 (2) At a place of business of a person who has an emissions
36 self-inspector license issued by the Division and by an individual
37 who has an emissions inspection mechanic license.

38 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
39 station must meet all of the following requirements:

- 40 (1) Have a license as a safety inspection station.
- 41 (2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
42 Guilford, Mecklenburg, Orange, Union, and Wake, have an
43 emissions analyzer approved by the Environmental Management
44 Commission, equipment to analyze data provided by the on-board

- 1 diagnostic (OBD) equipment approved by the Environmental
2 Management Commission, or both.
- 3 (2a) Have equipment to analyze data provided by the on-board
4 diagnostic (OBD) equipment approved by the Environmental
5 Management Commission.
- 6 (3) Have equipment to transfer information on emissions inspections
7 to the Division by electronic means.
- 8 (4) Regularly employ at least one mechanic who has an emissions
9 inspection mechanic license.
- 10 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
11 inspection mechanic must meet all of the following requirements:
- 12 (1) Have a license as a safety inspection mechanic.
- 13 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
14 Guilford, Mecklenburg, Orange, Union, and Wake, have
15 successfully completed an eight-hour course approved by the
16 Division that teaches students about the causes and effects of the
17 air pollution problem; the purpose of the emissions inspection
18 program; the vehicle emission standards established by the United
19 States Environmental Protection Agency; the emission control
20 devices on vehicles; how to conduct an emissions inspection using
21 an emissions analyzer approved by the Environmental Management
22 Commission, equipment to analyze data provided by the on-board
23 diagnostic (OBD) equipment approved by the Environmental
24 Management Commission, or both; and any other topic required by
25 40 C.F.R. § 51.367 to be included in the course. Successful
26 completion requires a passing score on a written test and on a
27 hands-on test in which the student is required to conduct an
28 emissions inspection of a motor vehicle.
- 29 (2a) Have successfully completed an eight-hour course approved by the
30 Division that teaches students about the causes and effects of the
31 air pollution problem, the purpose of the emissions inspection
32 program, the vehicle emission standards established by the United
33 States Environmental Protection Agency, the emission control
34 devices on vehicles, how to conduct an emissions inspection using
35 equipment to analyze data provided by the on-board diagnostic
36 (OBD) equipment approved by the Environmental Management
37 Commission, and any other topic required by 40 C.F.R. § 51.367 to
38 be included in the course. Successful completion requires a
39 passing score on a written test and on a hands-on test in which the
40 student is required to conduct an emissions inspection of a motor
41 vehicle.
- 42 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
43 self-inspector must meet all of the following requirements:
- 44 (1) Have a license as a safety self-inspector.

- 1 (2) Operate a fleet of at least 10 vehicles that are subject to an
2 emissions inspection.
- 3 (3) ~~Have, In the Counties of Cabarrus, Durham, Forsyth, Gaston,~~
4 ~~Guilford, Mecklenburg, Orange, Union, and Wake, have,~~ or have a
5 contract with a person who has, an emissions analyzer approved by
6 the Environmental Management Commission, equipment to
7 analyze data provided by the on-board diagnostic (OBD)
8 equipment approved by the Environmental Management
9 Commission, or both.
- 10 (3a) Have, or have a contract with a person who has, equipment to
11 analyze data provided by the on-board diagnostic (OBD)
12 equipment approved by the Environmental Management
13 Commission.
- 14 (4) Regularly employ or contract with an individual who has an
15 emissions inspection mechanic license and who will perform an
16 emissions inspection on the vehicles that are part of the
17 self-inspector's fleet."

18 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
19 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
20 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

21 Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

22 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
23 of the following requirements:

- 24 (1) Fails an emissions inspection because it passes the visual inspection
25 ~~part of the inspection~~ but fails the analysis of exhaust emissions
26 ~~analysis part of the inspection.~~ or the analysis of data provided by
27 the on-board diagnostic (OBD) equipment.
- 28 (2) Has documented repairs costing at least the waiver amount made
29 to the vehicle to correct the cause of the failure. The waiver
30 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
31 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
32 or newer model.
- 33 (3) Is reinspected and again fails the inspection because it passes the
34 visual inspection ~~part of the inspection~~ but fails the analysis of
35 ~~exhaust emissions analysis part of the inspection.~~ or the analysis of
36 data provided by the on-board diagnostic (OBD) equipment.
- 37 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

38 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
39 Section 16 of this act, reads as rewritten:

40 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
41 of the following requirements:

- 42 (1) Fails an emissions inspection because it passes the visual inspection
43 but fails ~~the analysis of exhaust emissions~~ or the analysis of data
44 provided by the on-board diagnostic (OBD) equipment.

- 1 (2) Has documented repairs costing at least the waiver amount made
2 to the vehicle to correct the cause of the failure. The waiver
3 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
4 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
5 or newer model.
- 6 (3) Is reinspected and again fails the inspection because it passes the
7 visual inspection but fails ~~the analysis of exhaust emissions or the~~
8 analysis of data provided by the on-board diagnostic (OBD)
9 equipment.
- 10 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

11 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

12 **"§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

13 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
14 inspection station, or an emissions inspection mechanic to do any of the following:

- 15 (1) Put an emissions inspection sticker on a vehicle without
16 performing an emissions inspection of the vehicle.
- 17 (1a) Put an emissions inspection sticker on a vehicle after performing
18 an emissions inspection of the vehicle and determining that the
19 vehicle did not pass the inspection.
- 20 (2) Use a test-defeating strategy when conducting an emissions
21 inspection, such as holding the accelerator pedal down slightly
22 during an idle test, disconnecting or crimping a vacuum hose to
23 effect a passing result, or changing the emission standards for a
24 vehicle by incorrectly entering the vehicle type or model year to
25 achieve a passing result.
- 26 (3) Allow a person who is not licensed as an emissions inspection
27 mechanic to perform an emissions inspection for a self-inspector or
28 at an emissions station.
- 29 (4) Sell or otherwise give an inspection sticker to another other than
30 as the result of a vehicle inspection in which the vehicle passed the
31 inspection or for which the vehicle received a waiver.
- 32 (5) Be unable to account for five or more inspection stickers at any
33 one time upon the request of an auditor of the Division.
- 34 (6) Perform a safety-only inspection on a vehicle that is subject to both
35 a safety and an emissions inspection.
- 36 (7) Transfer an inspection sticker from one vehicle to another.

37 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
38 inspection station, or an emissions inspection mechanic to do any of the following:

- 39 (1) Use the identification code of another to gain access to an
40 emissions ~~analyzer~~ analyzer or to equipment to analyze data
41 provided by on-board diagnostic (OBD) equipment.
- 42 (2) Keep inspection stickers and other compliance documents in a
43 manner that makes them easily accessible to individuals who are
44 not inspection mechanics.

- 1 (3) Put an emissions inspection sticker on a vehicle that is required to
2 have one of the following emissions control devices but does not
3 have it:
4 a. Catalytic converter.
5 b. PCV valve.
6 c. Thermostatic air control.
7 d. Oxygen sensor.
8 e. Unleaded gas restrictor.
9 f. Gasoline tank cap.
10 g. Air injection system.
11 h. Evaporative emissions system.
12 i. Exhaust gas recirculation (EGR) valve.
13 (4) Put an emissions inspection sticker on a vehicle without
14 performing a visual inspection of the vehicle's exhaust system and
15 checking the exhaust system for leaks.
16 (5) Impose no fee for an emissions inspection of a vehicle or the
17 issuance of an emissions inspection sticker or impose a fee for one
18 of these actions in an amount that differs from the amount set in
19 G.S. 20-183.7.

20 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
21 emissions inspection station, or an emissions inspection mechanic to do any of the
22 following:

- 23 (1) Fail to post an emissions license issued by the Division.
24 (2) Fail to send information on emissions inspections to the Division at
25 the time or in the form required by the Division.
26 (3) Fail to post emissions information required by federal law to be
27 posted.
28 (4) Fail to put the required information on an inspection sticker in a
29 legible manner using ink.
30 (5) Fail to put the required information on an inspection receipt in a
31 legible manner.
32 (6) Fail to maintain ~~an emissions analyzer~~ a maintenance ~~log~~ log for
33 an emissions analyzer or for equipment to analyze data provided
34 by on-board diagnostic (OBD) equipment.

35 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
36 Type III violations are not the only acts that are one of these types of violations. The
37 Division may designate other acts that are a Type I, Type II, or Type III violation."

38 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
39 Section 18 of this act, reads as rewritten:

40 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

41 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
42 inspection station, or an emissions inspection mechanic to do any of the following:

- 43 (1) Put an emissions inspection sticker on a vehicle without
44 performing an emissions inspection of the vehicle.

- 1 (1a) Put an emissions inspection sticker on a vehicle after performing
- 2 an emissions inspection of the vehicle and determining that the
- 3 vehicle did not pass the inspection.
- 4 (2) Use a test-defeating strategy when conducting an emissions
- 5 inspection, such as holding the accelerator pedal down slightly
- 6 during an idle test, disconnecting or crimping a vacuum hose to
- 7 effect a passing result, or changing the emission standards for a
- 8 vehicle by incorrectly entering the vehicle type or model year to
- 9 achieve a passing result.
- 10 (3) Allow a person who is not licensed as an emissions inspection
- 11 mechanic to perform an emissions inspection for a self-inspector or
- 12 at an emissions station.
- 13 (4) Sell or otherwise give an inspection sticker to another other than
- 14 as the result of a vehicle inspection in which the vehicle passed the
- 15 inspection or for which the vehicle received a waiver.
- 16 (5) Be unable to account for five or more inspection stickers at any
- 17 one time upon the request of an auditor of the Division.
- 18 (6) Perform a safety-only inspection on a vehicle that is subject to both
- 19 a safety and an emissions inspection.
- 20 (7) Transfer an inspection sticker from one vehicle to another.
- 21 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
- 22 inspection station, or an emissions inspection mechanic to do any of the following:
- 23 (1) Use the identification code of another to gain access to ~~an~~
- 24 ~~emissions analyzer or~~ to equipment to analyze data provided by
- 25 on-board diagnostic (OBD) equipment.
- 26 (2) Keep inspection stickers and other compliance documents in a
- 27 manner that makes them easily accessible to individuals who are
- 28 not inspection mechanics.
- 29 (3) Put an emissions inspection sticker on a vehicle that is required to
- 30 have one of the following emissions control devices but does not
- 31 have it:
 - 32 a. Catalytic converter.
 - 33 b. PCV valve.
 - 34 c. Thermostatic air control.
 - 35 d. Oxygen sensor.
 - 36 e. Unleaded gas restrictor.
 - 37 f. Gasoline tank cap.
 - 38 g. Air injection system.
 - 39 h. Evaporative emissions system.
 - 40 i. Exhaust gas recirculation (EGR) valve.
- 41 (4) Put an emissions inspection sticker on a vehicle without
- 42 performing a visual inspection of the vehicle's exhaust system and
- 43 checking the exhaust system for leaks.

- 1 (5) Impose no fee for an emissions inspection of a vehicle or the
2 issuance of an emissions inspection sticker or impose a fee for one
3 of these actions in an amount that differs from the amount set in
4 G.S. 20-183.7.

5 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
6 emissions inspection station, or an emissions inspection mechanic to do any of the
7 following:

- 8 (1) Fail to post an emissions license issued by the Division.
9 (2) Fail to send information on emissions inspections to the Division at
10 the time or in the form required by the Division.
11 (3) Fail to post emissions information required by federal law to be
12 posted.
13 (4) Fail to put the required information on an inspection sticker in a
14 legible manner using ink.
15 (5) Fail to put the required information on an inspection receipt in a
16 legible manner.
17 (6) Fail to maintain a maintenance log ~~for an emissions analyzer or for~~
18 equipment to analyze data provided by on-board diagnostic (OBD)
19 equipment.

20 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
21 Type III violations are not the only acts that are one of these types of violations. The
22 Division may designate other acts that are a Type I, Type II, or Type III violation."

23 Section 20. During the period 1 July 2002 through 31 December 2005, in
24 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
25 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
26 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
27 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
28 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
29 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
30 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
31 model vehicles using equipment to analyze data provided by the on-board diagnostic
32 (OBD) equipment. This section shall not be construed to authorize an emissions
33 inspection station or an emissions self-inspector to perform an emissions inspection
34 on a vehicle of a model year for which the emissions inspection station or emissions
35 self-inspector does not have the equipment necessary to perform an emissions
36 inspection of vehicles of that model year. This section shall not be construed to
37 authorize an emissions inspection mechanic to perform an emissions inspection on a
38 vehicle unless the emissions inspection mechanic has successfully completed a course,
39 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
40 use of the equipment necessary to perform an emissions inspection on vehicles of that
41 model year.

42 Section 21. This act constitutes a recent act of the General Assembly
43 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
44 NCAC 2C.0102(11), the Environmental Management Commission and the Division of

1 Motor Vehicles of the Department of Transportation may adopt temporary rules to
2 implement the provisions of this act. This section shall continue in effect until all
3 rules necessary to implement the provisions of this act have become effective as either
4 temporary rules or permanent rules.

5 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

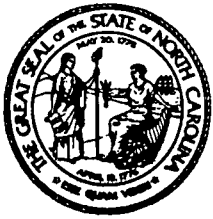
6 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
7 both State and federal-aid funds expended under the Transportation Improvement
8 Program, other than federal congestion mitigation and air quality improvement
9 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
10 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in
11 G.S. 136-180 and funds received through competitive awards or discretionary grants
12 through federal appropriations either for local governments, transportation
13 authorities, transit authorities, or the Department, shall be distributed throughout the
14 State in accordance with this section.

- 15 (1) Distribution Region A consists of the following counties: Bertie,
16 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
17 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
18 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 19 (2) Distribution Region B consists of the following counties: Beaufort,
20 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
21 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 22 (3) Distribution Region C consists of the following counties: Bladen,
23 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
24 Person, Robeson, Vance, Wake, and Warren.
- 25 (4) Distribution Region D consists of the following counties:
26 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
27 Rockingham, Rowan, and Stokes.
- 28 (5) Distribution Region E consists of the following counties: Anson,
29 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
30 Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- 31 (6) Distribution Region F consists of the following counties:
32 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
33 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 34 (7) Distribution Region G consists of the following counties:
35 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
36 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
37 Rutherford, Swain, Transylvania, and Yancey."

38 Section 23. The Environmental Review Commission, with the assistance
39 of the Department of Environment and Natural Resources, the Division of Motor
40 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
41 Research Division of the Legislative Services Office shall study issues related to the
42 costs associated with the motor vehicle safety and emissions inspection and
43 maintenance program. The Commission shall determine what constitutes a
44 reasonable fee for motor vehicle inspections under the current program and under

1 the enhanced inspection and maintenance program to be implemented pursuant to
2 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
3 constitutes a reasonable fee, the Commission shall consider the cost of emissions
4 inspection equipment, the useful life of the equipment, the average period of time
5 during which a purchaser of this equipment is able to amortize this cost, telephone
6 charges incurred in connection with the registration denial program, whether a fee
7 should be charged to reinspect a vehicle that fails an emissions inspection after
8 repairs to the vehicle have been made, the cost of the safety inspection program in
9 relation to the emissions inspection program, and any other factors that the
10 Commission determines to be relevant. The Commission may also evaluate strategies
11 to ensure an efficient and orderly implementation of the enhanced inspection and
12 maintenance program required by Part III of S.L. 1999-328 and this act. The
13 Environmental Review Commission shall recommend legislation to amend G.S.
14 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
15 General Assembly.

16 Section 24. Except as otherwise provided in this act, this act is effective
17 when it becomes law.



HOUSE BILL 1638: I/M Technology Amendments/CMAQ Funds

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Introduced by: Representative Hackney

Date: June 20, 2000

Summary by: Jeff Hudson,
Committee Counsel;
Hannah Holm,
Research Assistant for
Environmental Issues

Version: Proposed Committee Substitute
for the Third Edition

SUMMARY: *House Bill 1638, Third Edition, provides for the use of on-board diagnostic equipment in the motor vehicle emissions inspection and maintenance program. The bill 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.

HOUSE BILL 1638

Page 2

EMISSIONS INSPECTION PROGRAM EXPANSION SCHEDULE (New Test)	
July 1, 2002	Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, Wake (<i>counties where emissions tests are already required</i>)
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).

HOUSE BILL 1638

Page 3

ANALYSIS OF HOUSE BILL 1638 (THIRD EDITION): House Bill 1638 (Third Edition) provides for the following:

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.

House Bill 1638 (Third Edition) 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.
- Exempts new motor vehicles (those that have been used for 12 months or less) from emissions inspections.

CHANGE MADE BY PROPOSED COMMITTEE SUBSTITUTE: The only change made by the Proposed Committee Substitute for House Bill 1638 (Third Edition) is the removal of the exemption from emissions inspections for new motor vehicles (those that have been used for 12 months or less).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.
9 The General Assembly of North Carolina enacts:
10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:
11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to
22 the Commissioner of Motor Vehicles that ambient air quality will

1 be improved by the implementation of a motor vehicle emissions
2 inspection and maintenance program in a county. The Commission
3 shall implement this subdivision as provided in G.S.
4 143-215.107A."

5 Section 2. G.S. 143-215.107A(b) is repealed.

6 Section 3. G.S. 143-215.107A(d) reads as rewritten:

7 "(d) Additional Counties. -- The Commission may require that motor vehicle
8 emissions inspections be performed in counties in addition to those set out in
9 subsection (c) of this section. In determining whether to require that motor vehicle
10 emissions inspections be performed in a county, the Commission may consider the
11 population of, and distribution of population in, the county; the projected change in
12 population of, and distribution of population in, the county; the number of vehicles
13 registered in the county; the projected change in the number of vehicles registered in
14 the county; vehicle miles traveled in the county; the projected change in vehicle miles
15 traveled in the county; current and projected commuting patterns in the county; and
16 the current and projected impact of these factors on attainment of air quality
17 standards in the county and in areas outside the county. The Commission may not
18 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
19 with a population of less than 40,000 based on the most recent population estimates
20 prepared by the State Planning Officer. The Commission may not require that motor
21 vehicle emissions ~~testing~~ inspections be performed in any county in which the
22 number of vehicle miles traveled per day is less than 900,000, based on the most
23 recent estimates prepared by the Department of Transportation. In order to
24 disapprove a rule that requires that motor vehicle emissions inspections be performed
25 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
26 must amend subsection (c) of this section to add one or more other counties in which
27 the total population and vehicle miles traveled per day equal or exceed the total
28 population and vehicle miles traveled in the county or counties listed in the rule that
29 the bill would disapprove."

30 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

31 "~~Section 3.2. The Environmental Management Commission shall adopt rules to~~
32 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
33 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
34 shall not require that motor vehicle emissions inspections be performed in any county
35 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
36 July 2006. The Environmental Management Commission shall not require motor
37 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

38 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

39 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

40 "~~§ 20-128. Prevention of noise, smoke, etc.; muffler cut-outs regulated. Exhaust~~
41 ~~system and emissions control devices.~~

42 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
43 is equipped with a muffler, or other exhaust system of the type installed at the time of

1 manufacture, in good working order and in constant operation to prevent excessive
2 or unusual noise, annoying smoke and smoke screens.

3 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
4 highway.

5 (c) No motor vehicle registered in this State ~~which that~~ was manufactured after
6 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
7 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
8 installed on the vehicle at the time of ~~manufacture~~, ~~provided the foregoing~~
9 ~~requirement~~ the vehicle was manufactured and these devices are properly connected.

10 (d) The requirements of subsection (c) of this section shall not apply where such if
11 the emissions control devices have been removed for the purpose of converting the
12 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
13 have been made in order to reduce air ~~pollution~~, ~~further provided that such~~
14 ~~modifications shall have first been~~ pollution and these modifications are approved by
15 the Department of Environment and Natural Resources."

16 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

- 19 (1) It is subject to registration with the Division under Article 3 of this
20 Chapter.
- 21 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
22 house trailer, or a motorcycle.
- 23 (3) It is a 1975 or later model.
- 24 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 25 (5) It meets any of the following descriptions:
- 26 a. It is required to be registered in an emissions county.
- 27 b. It is part of a fleet that is operated primarily in an emissions
28 county.
- 29 c. It is offered for rent in an emissions county.
- 30 d. It is a used vehicle offered for sale by a dealer in an
31 emissions county.
- 32 e. It is operated on a federal installation located in an
33 emissions county and it is not a tactical military vehicle.
34 Vehicles operated on a federal installation include those that
35 are owned or leased by employees of the installation and are
36 used to commute to the installation and those owned or
37 operated by the federal agency that conducts business at the
38 installation.
- 39 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
40 an emissions inspection.

41 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

42 Section 7.1. Effective 1 July 2002, G.S. 20-183.2(b) reads as rewritten:

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

- 1 (1) It is subject to registration with the Division under Article 3 of this
2 Chapter.
- 3 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
4 house trailer, or a motorcycle.
- 5 (3) It is a 1975 or later model.
- 6 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 7 (5) It meets any of the following descriptions:
- 8 a. It is required to be registered in an emissions county.
- 9 b. It is part of a fleet that is operated primarily in an emissions
10 county.
- 11 c. It is offered for rent in an emissions county.
- 12 d. It is a used vehicle offered for sale by a dealer in an
13 emissions county.
- 14 e. It is operated on a federal installation located in an
15 emissions county and it is not a tactical military vehicle.
16 Vehicles operated on a federal installation include those that
17 are owned or leased by employees of the installation and are
18 used to commute to the installation and those owned or
19 operated by the federal agency that conducts business at the
20 installation.
- 21 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
22 an emissions inspection.
- 23 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
- 24 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
25 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
26 more than 12 months."

27 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

28 "§ 20-183.3. Scope of safety inspection and emissions inspection.

29 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
30 following equipment to determine if the vehicle has the equipment required by Part 9
31 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 32 (1) Brakes, as required by G.S. 20-124.
- 33 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 34 (3) Horn, as required by G.S. 20-125(a).
- 35 (4) Steering mechanism, as required by G.S. 20-123.1.
- 36 (5) Windows and windshield wipers, as required by G.S. 20-127. To
37 determine if a vehicle window meets the window tinting
38 restrictions, a safety inspection mechanic must first determine,
39 based on use of an automotive film check card or knowledge of
40 window tinting techniques, if after-factory tint has been applied to
41 the window. If after-factory tint has been applied, the mechanic
42 must use a light meter approved by the Commissioner to
43 determine if the window meets the window tinting restrictions.
- 44 (6) Directional signals, as required by G.S. 20-125.1.

- 1 (7) Tires, as required by G.S. 20-122.1.
2 (8) Mirrors, as required by G.S. 20-126.
3 (9) Exhaust system, system and emissions control devices, as required
4 by G.S. 20-128. For a vehicle that is subject to an emissions
5 inspection in addition to a safety inspection, a visual inspection of
6 the vehicle's ~~emission-control~~ emissions control devices is included
7 in the emissions inspection rather than the safety inspection.

8 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
9 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
10 devices are present, are properly connected, and are the correct type for the vehicle
11 ~~and and, if the vehicle is a 1975 through 1995 model,~~ an analysis of the exhaust
12 emissions of the vehicle to determine if the exhaust emissions meet the standards for
13 the model year of the vehicle set by the Environmental Management Commission or,
14 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
15 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
16 deterioration or malfunction in the operation of the vehicle that violates standards for
17 the model year of the vehicle set by the Environmental Management Commission.
18 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
19 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions ~~analysis.~~
20 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
21 emissions inspection is performed on a vehicle, a safety inspection must be performed
22 on the vehicle as well.

23 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
24 been repaired after failing an inspection is the same as the original inspection unless
25 the vehicle is presented for reinspection within 30 days of failing the original
26 inspection. If the vehicle is presented for reinspection within this time limit and the
27 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
28 inspection of the equipment that failed the original inspection. If the vehicle is
29 presented for reinspection within this time limit and the inspection the vehicle failed
30 was an emissions inspection, the reinspection is limited to the portion of the
31 inspection the vehicle failed and any other portion of the inspection that would be
32 affected by repairs made to correct the failure."

33 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section
34 7 of this act, reads as rewritten:

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

- 37 (1) It is subject to registration with the Division under Article 3 of this
38 Chapter.
39 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
40 house trailer, or a motorcycle.
41 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a 1975 1996 or later
42 model.
43 (4) Repealed by Session Laws 1999-328, s. 3.11.
44 (5) It meets any of the following descriptions:

- 1 a. It is required to be registered in an emissions county.
2 b. It is part of a fleet that is operated primarily in an emissions
3 county.
4 c. It is offered for rent in an emissions county.
5 d. It is a used vehicle offered for sale by a dealer in an
6 emissions county.
7 e. It is operated on a federal installation located in an
8 emissions county and it is not a tactical military vehicle.
9 Vehicles operated on a federal installation include those that
10 are owned or leased by employees of the installation and are
11 used to commute to the installation and those owned or
12 operated by the federal agency that conducts business at the
13 installation.
14 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
15 an emissions inspection.
16 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
17 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
18 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
19 more than 12 months."

20 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
21 of this act, reads as rewritten:

22 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

23 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
24 following equipment to determine if the vehicle has the equipment required by Part 9
25 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 26 (1) Brakes, as required by G.S. 20-124.
27 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
28 (3) Horn, as required by G.S. 20-125(a).
29 (4) Steering mechanism, as required by G.S. 20-123.1.
30 (5) Windows and windshield wipers, as required by G.S. 20-127. To
31 determine if a vehicle window meets the window tinting
32 restrictions, a safety inspection mechanic must first determine,
33 based on use of an automotive film check card or knowledge of
34 window tinting techniques, if after-factory tint has been applied to
35 the window. If after-factory tint has been applied, the mechanic
36 must use a light meter approved by the Commissioner to
37 determine if the window meets the window tinting restrictions.
38 (6) Directional signals, as required by G.S. 20-125.1.
39 (7) Tires, as required by G.S. 20-122.1.
40 (8) Mirrors, as required by G.S. 20-126.
41 (9) Exhaust system and emissions control devices, as required by G.S.
42 20-128. For a vehicle that is subject to an emissions inspection in
43 addition to a safety inspection, a visual inspection of the vehicle's

1 emissions control devices is included in the emissions inspection
2 rather than the safety inspection.

3 (b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An
4 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
5 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
6 visual inspection of the vehicle's emissions control devices to determine if the devices
7 are present, are properly connected, and are the correct type for the vehicle and, if
8 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
9 vehicle to determine if the exhaust emissions meet the standards for the model year
10 of the vehicle set by the Environmental Management Commission or, if the vehicle is
11 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
12 equipment installed by the vehicle manufacturer to identify any deterioration or
13 malfunction in the operation of the vehicle that would cause an increase in the
14 emission of pollutants by the vehicle that violates standards for the model year of the
15 vehicle set by the Environmental Management Commission. To pass an emissions
16 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
17 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
18 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
19 safety inspection must be performed on the vehicle as well.

20 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
21 inspection of the vehicle's emission control devices to determine if the devices are
22 present, are properly connected, and are the correct type for the vehicle and an
23 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
24 the vehicle manufacturer to identify any deterioration or malfunction in the operation
25 of the vehicle that violates standards for the model year of the vehicle set by the
26 Environmental Management Commission. To pass an emissions inspection a vehicle
27 must pass both the visual inspection and the OBD analysis. When an emissions
28 inspection is performed on a vehicle, a safety inspection must be performed on the
29 vehicle as well.

30 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
31 been repaired after failing an inspection is the same as the original inspection unless
32 the vehicle is presented for reinspection within 30 days of failing the original
33 inspection. If the vehicle is presented for reinspection within this time limit and the
34 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
35 inspection of the equipment that failed the original inspection. If the vehicle is
36 presented for reinspection within this time limit and the inspection the vehicle failed
37 was an emissions inspection, the reinspection is limited to the portion of the
38 inspection the vehicle failed and any other portion of the inspection that would be
39 affected by repairs made to correct the failure."

40 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
41 Section 9 of this act, reads as rewritten:

42 "(3) ~~Except as provided in G.S. 20-183.3(b),~~ It is a 1996 or later
43 model."

1 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
2 Sections 8 and 10 of this act, is repealed.

3 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

4 **"§ 20-183.4A. License required to perform emissions inspection; qualifications for**
5 **license.**

6 (a) License Required. -- An emissions inspection must be performed by one of the
7 following methods:

8 (1) At a station that has an emissions inspection station license issued
9 by the Division and by a mechanic who is employed by the station
10 and has an emissions inspection mechanic license issued by the
11 Division.

12 (2) At a place of business of a person who has an emissions
13 self-inspector license issued by the Division and by an individual
14 who has an emissions inspection mechanic license.

15 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
16 station must meet all of the following requirements:

17 (1) Have a license as a safety inspection station.

18 (2) Have an emissions analyzer approved by the Environmental
19 Management ~~Commission.~~ Commission, equipment to analyze data
20 provided by the on-board diagnostic (OBD) equipment approved
21 by the Environmental Management Commission, or both.

22 (3) Have equipment to transfer information on emissions inspections
23 to the Division by electronic means.

24 (4) Regularly employ at least one mechanic who has an emissions
25 inspection mechanic license.

26 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
27 inspection mechanic must meet all of the following requirements:

28 (1) Have a license as a safety inspection mechanic.

29 (2) Have successfully completed an eight-hour course approved by the
30 Division that teaches students about the causes and effects of the
31 air pollution ~~problem,~~ problem; the purpose of the emissions
32 inspection ~~program,~~ program; the vehicle emission standards
33 established by the ~~federal~~ United States Environmental Protection
34 ~~Agency,~~ Agency; the emission control devices on ~~vehicles,~~ vehicles;
35 how to conduct an emissions inspection using an emissions
36 analyzer approved by the Environmental Management
37 Commission, equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission, or both; and any other topic required by
40 C.F.R. § 51.367 to be included in the course. Successful
41 completion requires a passing score on a written test and on a
42 hands-on test in which the student is required to conduct an
43 emissions inspection of a motor vehicle.

1 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
2 self-inspector must meet all of the following requirements:

- 3 (1) Have a license as a safety self-inspector.
4 (2) Operate a fleet of at least 10 vehicles that are subject to an
5 emissions inspection.
6 (3) Have, or have a contract with a person who has, an emissions
7 analyzer approved by the Environmental Management
8 ~~Commission.~~ Commission, equipment to analyze data provided by
9 the on-board diagnostic (OBD) equipment approved by the
10 Environmental Management Commission, or both.
11 (4) Regularly employ or contract with an individual who has an
12 emissions inspection mechanic license and who will perform an
13 emissions inspection on the vehicles that are part of the
14 self-inspector's fleet."

15 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
16 13 of this act, reads as rewritten:

17 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
18 **license.**

19 (a) License Required. -- An emissions inspection must be performed by one of the
20 following methods:

- 21 (1) At a station that has an emissions inspection station license issued
22 by the Division and by a mechanic who is employed by the station
23 and has an emissions inspection mechanic license issued by the
24 Division.
25 (2) At a place of business of a person who has an emissions
26 self-inspector license issued by the Division and by an individual
27 who has an emissions inspection mechanic license.

28 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
29 station must meet all of the following requirements:

- 30 (1) Have a license as a safety inspection station.
31 (2) ~~Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,~~
32 Guilford, Mecklenburg, Orange, Union, and Wake, have an
33 emissions analyzer approved by the Environmental Management
34 Commission, equipment to analyze data provided by the on-board
35 diagnostic (OBD) equipment approved by the Environmental
36 Management Commission, or both.
37 (2a) Have equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission.
40 (3) Have equipment to transfer information on emissions inspections
41 to the Division by electronic means.
42 (4) Regularly employ at least one mechanic who has an emissions
43 inspection mechanic license.

1 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
2 inspection mechanic must meet all of the following requirements:

3 (1) Have a license as a safety inspection mechanic.

4 (2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
5 Guilford, Mecklenburg, Orange, Union, and Wake, have
6 successfully completed an eight-hour course approved by the
7 Division that teaches students about the causes and effects of the
8 air pollution problem; the purpose of the emissions inspection
9 program; the vehicle emission standards established by the United
10 States Environmental Protection Agency; the emission control
11 devices on vehicles; how to conduct an emissions inspection using
12 an emissions analyzer approved by the Environmental Management
13 Commission, equipment to analyze data provided by the on-board
14 diagnostic (OBD) equipment approved by the Environmental
15 Management Commission, or both; and any other topic required by
16 40 C.F.R. § 51.367 to be included in the course. Successful
17 completion requires a passing score on a written test and on a
18 hands-on test in which the student is required to conduct an
19 emissions inspection of a motor vehicle.

20 (2a) Have successfully completed an eight-hour course approved by the
21 Division that teaches students about the causes and effects of the
22 air pollution problem, the purpose of the emissions inspection
23 program, the vehicle emission standards established by the United
24 States Environmental Protection Agency, the emission control
25 devices on vehicles, how to conduct an emissions inspection using
26 equipment to analyze data provided by the on-board diagnostic
27 (OBD) equipment approved by the Environmental Management
28 Commission, and any other topic required by 40 C.F.R. § 51.367 to
29 be included in the course. Successful completion requires a
30 passing score on a written test and on a hands-on test in which the
31 student is required to conduct an emissions inspection of a motor
32 vehicle.

33 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
34 self-inspector must meet all of the following requirements:

35 (1) Have a license as a safety self-inspector.

36 (2) Operate a fleet of at least 10 vehicles that are subject to an
37 emissions inspection.

38 (3) ~~Have,~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
39 Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a
40 contract with a person who has, an emissions analyzer approved by
41 the Environmental Management Commission, equipment to
42 analyze data provided by the on-board diagnostic (OBD)
43 equipment approved by the Environmental Management
44 Commission, or both.

1 (3a) Have, or have a contract with a person who has, equipment to
2 analyze data provided by the on-board diagnostic (OBD)
3 equipment approved by the Environmental Management
4 Commission.

5 (4) Regularly employ or contract with an individual who has an
6 emissions inspection mechanic license and who will perform an
7 emissions inspection on the vehicles that are part of the
8 self-inspector's fleet."

9 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
10 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
11 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

12 Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

13 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
14 of the following requirements:

15 (1) Fails an emissions inspection because it passes the visual inspection
16 ~~part of the inspection~~ but fails the analysis of exhaust emissions
17 ~~analysis part of the inspection.~~ or the analysis of data provided by
18 the on-board diagnostic (OBD) equipment.

19 (2) Has documented repairs costing at least the waiver amount made
20 to the vehicle to correct the cause of the failure. The waiver
21 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
22 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
23 or newer model.

24 (3) Is reinspected and again fails the inspection because it passes the
25 visual inspection ~~part of the inspection~~ but fails the analysis of
26 exhaust emissions ~~analysis part of the inspection.~~ or the analysis of
27 data provided by the on-board diagnostic (OBD) equipment.

28 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

29 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
30 Section 16 of this act, reads as rewritten:

31 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
32 of the following requirements:

33 (1) Fails an emissions inspection because it passes the visual inspection
34 but fails ~~the analysis of exhaust emissions~~ or the analysis of data
35 provided by the on-board diagnostic (OBD) equipment.

36 (2) Has documented repairs costing at least the waiver amount made
37 to the vehicle to correct the cause of the failure. The waiver
38 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
39 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
40 or newer model.

41 (3) Is reinspected and again fails the inspection because it passes the
42 visual inspection but fails ~~the analysis of exhaust emissions~~ or the
43 analysis of data provided by the on-board diagnostic (OBD)
44 equipment.

1 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

2 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

3 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

4 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
5 inspection station, or an emissions inspection mechanic to do any of the following:

6 (1) Put an emissions inspection sticker on a vehicle without
7 performing an emissions inspection of the vehicle.

8 (1a) Put an emissions inspection sticker on a vehicle after performing
9 an emissions inspection of the vehicle and determining that the
10 vehicle did not pass the inspection.

11 (2) Use a test-defeating strategy when conducting an emissions
12 inspection, such as holding the accelerator pedal down slightly
13 during an idle test, disconnecting or crimping a vacuum hose to
14 effect a passing result, or changing the emission standards for a
15 vehicle by incorrectly entering the vehicle type or model year to
16 achieve a passing result.

17 (3) Allow a person who is not licensed as an emissions inspection
18 mechanic to perform an emissions inspection for a self-inspector or
19 at an emissions station.

20 (4) Sell or otherwise give an inspection sticker to another other than
21 as the result of a vehicle inspection in which the vehicle passed the
22 inspection or for which the vehicle received a waiver.

23 (5) Be unable to account for five or more inspection stickers at any
24 one time upon the request of an auditor of the Division.

25 (6) Perform a safety-only inspection on a vehicle that is subject to both
26 a safety and an emissions inspection.

27 (7) Transfer an inspection sticker from one vehicle to another.

28 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
29 inspection station, or an emissions inspection mechanic to do any of the following:

30 (1) Use the identification code of another to gain access to an
31 emissions ~~analyzer~~ analyzer or to equipment to analyze data
32 provided by on-board diagnostic (OBD) equipment.

33 (2) Keep inspection stickers and other compliance documents in a
34 manner that makes them easily accessible to individuals who are
35 not inspection mechanics.

36 (3) Put an emissions inspection sticker on a vehicle that is required to
37 have one of the following emissions control devices but does not
38 have it:

- 39 a. Catalytic converter.
- 40 b. PCV valve.
- 41 c. Thermostatic air control.
- 42 d. Oxygen sensor.
- 43 e. Unleaded gas restrictor.
- 44 f. Gasoline tank cap.

- 1 g. Air injection system.
2 h. Evaporative emissions system.
3 i. Exhaust gas recirculation (EGR) valve.
4 (4) Put an emissions inspection sticker on a vehicle without
5 performing a visual inspection of the vehicle's exhaust system and
6 checking the exhaust system for leaks.
7 (5) Impose no fee for an emissions inspection of a vehicle or the
8 issuance of an emissions inspection sticker or impose a fee for one
9 of these actions in an amount that differs from the amount set in
10 G.S. 20-183.7.

11 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
12 emissions inspection station, or an emissions inspection mechanic to do any of the
13 following:

- 14 (1) Fail to post an emissions license issued by the Division.
15 (2) Fail to send information on emissions inspections to the Division at
16 the time or in the form required by the Division.
17 (3) Fail to post emissions information required by federal law to be
18 posted.
19 (4) Fail to put the required information on an inspection sticker in a
20 legible manner using ink.
21 (5) Fail to put the required information on an inspection receipt in a
22 legible manner.
23 (6) Fail to maintain ~~an emissions analyzer~~ a maintenance log. log for
24 an emissions analyzer or for equipment to analyze data provided
25 by on-board diagnostic (OBD) equipment.

26 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
27 Type III violations are not the only acts that are one of these types of violations. The
28 Division may designate other acts that are a Type I, Type II, or Type III violation."

29 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
30 Section 18 of this act, reads as rewritten:

31 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

32 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
33 inspection station, or an emissions inspection mechanic to do any of the following:

- 34 (1) Put an emissions inspection sticker on a vehicle without
35 performing an emissions inspection of the vehicle.
36 (1a) Put an emissions inspection sticker on a vehicle after performing
37 an emissions inspection of the vehicle and determining that the
38 vehicle did not pass the inspection.
39 (2) Use a test-defeating strategy when conducting an emissions
40 inspection, such as holding the accelerator pedal down slightly
41 during an idle test, disconnecting or crimping a vacuum hose to
42 effect a passing result, or changing the emission standards for a
43 vehicle by incorrectly entering the vehicle type or model year to
44 achieve a passing result.

- 1 (3) Allow a person who is not licensed as an emissions inspection
2 mechanic to perform an emissions inspection for a self-inspector or
3 at an emissions station.
- 4 (4) Sell or otherwise give an inspection sticker to another other than
5 as the result of a vehicle inspection in which the vehicle passed the
6 inspection or for which the vehicle received a waiver.
- 7 (5) Be unable to account for five or more inspection stickers at any
8 one time upon the request of an auditor of the Division.
- 9 (6) Perform a safety-only inspection on a vehicle that is subject to both
10 a safety and an emissions inspection.
- 11 (7) Transfer an inspection sticker from one vehicle to another.
- 12 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
13 inspection station, or an emissions inspection mechanic to do any of the following:
- 14 (1) Use the identification code of another to gain access to ~~an~~
15 ~~emissions analyzer or~~ to equipment to analyze data provided by
16 on-board diagnostic (OBD) equipment.
- 17 (2) Keep inspection stickers and other compliance documents in a
18 manner that makes them easily accessible to individuals who are
19 not inspection mechanics.
- 20 (3) Put an emissions inspection sticker on a vehicle that is required to
21 have one of the following emissions control devices but does not
22 have it:
- 23 a. Catalytic converter.
- 24 b. PCV valve.
- 25 c. Thermostatic air control.
- 26 d. Oxygen sensor.
- 27 e. Unleaded gas restrictor.
- 28 f. Gasoline tank cap.
- 29 g. Air injection system.
- 30 h. Evaporative emissions system.
- 31 i. Exhaust gas recirculation (EGR) valve.
- 32 (4) Put an emissions inspection sticker on a vehicle without
33 performing a visual inspection of the vehicle's exhaust system and
34 checking the exhaust system for leaks.
- 35 (5) Impose no fee for an emissions inspection of a vehicle or the
36 issuance of an emissions inspection sticker or impose a fee for one
37 of these actions in an amount that differs from the amount set in
38 G.S. 20-183.7.
- 39 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
40 emissions inspection station, or an emissions inspection mechanic to do any of the
41 following:
- 42 (1) Fail to post an emissions license issued by the Division.
- 43 (2) Fail to send information on emissions inspections to the Division at
44 the time or in the form required by the Division.

- 1 (3) Fail to post emissions information required by federal law to be
2 posted.
3 (4) Fail to put the required information on an inspection sticker in a
4 legible manner using ink.
5 (5) Fail to put the required information on an inspection receipt in a
6 legible manner.
7 (6) Fail to maintain a maintenance log ~~for an emissions analyzer or for~~
8 equipment to analyze data provided by on-board diagnostic (OBD)
9 equipment.

10 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
11 Type III violations are not the only acts that are one of these types of violations. The
12 Division may designate other acts that are a Type I, Type II, or Type III violation."

13 Section 20. During the period 1 July 2002 through 31 December 2005, in
14 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
15 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
16 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
17 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
18 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
19 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
20 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
21 model vehicles using equipment to analyze data provided by the on-board diagnostic
22 (OBD) equipment. This section shall not be construed to authorize an emissions
23 inspection station or an emissions self-inspector to perform an emissions inspection
24 on a vehicle of a model year for which the emissions inspection station or emissions
25 self-inspector does not have the equipment necessary to perform an emissions
26 inspection of vehicles of that model year. This section shall not be construed to
27 authorize an emissions inspection mechanic to perform an emissions inspection on a
28 vehicle unless the emissions inspection mechanic has successfully completed a course,
29 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
30 use of the equipment necessary to perform an emissions inspection on vehicles of that
31 model year.

32 Section 21. This act constitutes a recent act of the General Assembly
33 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
34 NCAC 2C.0102(11), the Environmental Management Commission and the Division of
35 Motor Vehicles of the Department of Transportation may adopt temporary rules to
36 implement the provisions of this act. This section shall continue in effect until all
37 rules necessary to implement the provisions of this act have become effective as either
38 temporary rules or permanent rules.

39 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

40 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
41 both State and federal-aid funds expended under the Transportation Improvement
42 Program, other than federal congestion mitigation and air quality improvement
43 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
44 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in

1 G.S. 136-180 and funds received through competitive awards or discretionary grants
2 through federal appropriations either for local governments, transportation
3 authorities, transit authorities, or the Department, shall be distributed throughout the
4 State in accordance with this section.

- 5 (1) Distribution Region A consists of the following counties: Bertie,
6 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
7 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
8 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 9 (2) Distribution Region B consists of the following counties: Beaufort,
10 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
11 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 12 (3) Distribution Region C consists of the following counties: Bladen,
13 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
14 Person, Robeson, Vance, Wake, and Warren.
- 15 (4) Distribution Region D consists of the following counties:
16 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
17 Rockingham, Rowan, and Stokes.
- 18 (5) Distribution Region E consists of the following counties: Anson,
19 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
20 Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- 21 (6) Distribution Region F consists of the following counties:
22 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
23 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 24 (7) Distribution Region G consists of the following counties:
25 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
26 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
27 Rutherford, Swain, Transylvania, and Yancey."

28 Section 23. The Environmental Review Commission, with the assistance
29 of the Department of Environment and Natural Resources, the Division of Motor
30 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
31 Research Division of the Legislative Services Office shall study issues related to the
32 costs associated with the motor vehicle safety and emissions inspection and
33 maintenance program. The Commission shall determine what constitutes a
34 reasonable fee for motor vehicle inspections under the current program and under
35 the enhanced inspection and maintenance program to be implemented pursuant to
36 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
37 constitutes a reasonable fee, the Commission shall consider the cost of emissions
38 inspection equipment, the useful life of the equipment, the average period of time
39 during which a purchaser of this equipment is able to amortize this cost, telephone
40 charges incurred in connection with the registration denial program, whether a fee
41 should be charged to reinspect a vehicle that fails an emissions inspection after
42 repairs to the vehicle have been made, the cost of the safety inspection program in
43 relation to the emissions inspection program, and any other factors that the
44 Commission determines to be relevant. The Commission may also evaluate strategies

1 to ensure an efficient and orderly implementation of the enhanced inspection and
2 maintenance program required by Part III of S.L. 1999-328 and this act. The
3 Environmental Review Commission shall recommend legislation to amend G.S.
4 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
5 General Assembly.

6 Section 24. Except as otherwise provided in this act, this act is effective
7 when it becomes law.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

6/20/00

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Stam	Stan Fadden + Donchi for Smith Chapel et al / Children's Home Society.
Russell Hageman	DENR, Div. of Air Quality
Kim Hibbard	NCLM
Cam Cover	BPMHL
R. Paul Williams	NCA/BA
Brock Nicholson	MC DAQ / DENR
Jim Blackburn	Assoc. County Commrs
Ann Holman	DENR
Kim Hibbard	NCLM
Eddie Caldwell	HCCC, P.A.
Gene Upchurch	CPCL
Leanne or mine	KCSBA

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Stacie English	Charlotte Chambers
Butch Ginnells	NC Soft Drink Assoc.
Bradly Bennett	NC Div. of Water Quality
L'Tryce Slade	DENR
Laura DeVivo	DENR
Dan McLawhorn	DENR
El Regan	N.C. Assoc. of County Commissioners
REST. Howard	MCIC
Tom Mattison	New River Foundation Riverkeeper
Cam Civer	BPMHC
Roli Smith	DENR

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

R. Paul Wilans	NCHISA
Alex Kennanagh	NCCenNet
Carol Tingley	DENR - Parks + Recreation
Tim McKelley	DENR/DPZ
Nat Mord	CCVC
Dave Knight	NC Sierra Club, NCWF
John Robinson	DMU - ENF
BARRY CROSS	DMU ENF
PAUL GORDEY	DAQ
Bob Stocum	NC FORESTRY ASSOC.
Lisa Martin	Upper Neuse River Basin Assn.

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 22, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, June 22, 2000, at 9:00 a.m. in Room 414 of the Legislative Office Building. Senator Albertson, chairman, presided and there were sixteen committee members present.

The following bills were discussed:

SENATE BILL 1330 - NONHAZARDOUS DRY-CLEANING TECH. INCENTIVE - Senator Odom, sponsor. There was a proposed committee substitute for this bill, and Senator Martin moved that it be adopted for discussion purposes. Motion carried. Senator Odom said that dry cleaners would be encouraged to switch to using nonhazardous materials in the cleaning of clothes. Marvin Musselwhite spoke on the bill as one of the developers of one of the processes. George Givens of staff said that the bill should have a recommended referral to Finance. Senator Horton moved that the PCS be given a favorable report, unfavorable as to bill, with a recommended referral to Finance. Motion carried.

HOUSE BILL 1618 - PETROLEUM DISCHARGES/DE MINIMIS REPORTS - Representative Warwick and Representative Morris, sponsors. Senator Gulley moved that the bill be given a favorable report. Motion carried.

HOUSE BILL 1506 - FOOD ESTAB./SAINT. REQMENTS - Representative Weiss, sponsor, said there was a proposed committee substitute on this bill and Senator Hagan moved that the PCS be adopted for discussion purposes. Motion carried. Senator Weinstein moved that the PCS be given a favorable report, unfavorable as to bill. Motion carried.

HOUSE BILL 1638 - I/M TECHNOLOGY AMENDS/CMAQ FUNDS - Representative Hackney, sponsor, explained the bill. A proposed committee substitute had been adopted for discussion purposes at the June 20, 2000 meeting but no action had been taken on it, and it was now again before the committee. Representative Hackney

Senate Agriculture/Environment/Natural Resources Committee

Minutes

June 22, 2000

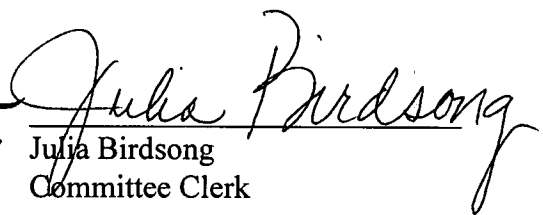
Page 2

said many people suffer from asthma and respiratory illnesses which might result in death. Senator Odom said the elderly and young children especially suffer. Something needs to be done about automobile emissions. After lengthy discussion, Chairman Albertson said we would not be taking a vote on this bill today.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, June 22, 2000
9:00 a.m.
Room 414 - LOB

A G E N D A

- HB 1506 FOOD ESTAB./SANIT. REQMENTS.
Representative Weiss
- HB 1638 I/M TECHNOLOGY AMENDS/CMAQ FUNDS
Representative Hackney
- SB 1330 NONHAZARDOUS DRY-CLEANING TECH. INCENTIVE
Senator Odom
- SB 1479 DEEP RIVER HERITAGE CORRIDOR
Senator Kinnaird

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Thursday, June 22, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

H.B. 1618 PETROLEUM DISCHARGES/DE MINIMIS REPORTS
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1330 NONHAZARDOUS DRY-CLEANING TECH. INCENTIVE
 Draft Number: PCS A691
 Sequential Referral: None
 Recommended Referral: Finance
 Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)1506 FOOD ESTAB./SANIT. REQMENTS
 Draft Number: PCS5103
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1330*
Proposed Committee Substitute S1330-PCSA691-SG004

Short Title: Nonhaz. Dry-Cleaning Tech. Incentive.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A TAX CREDIT AS AN INCENTIVE FOR INVESTING
3 IN DRY-CLEANING EQUIPMENT THAT DOES NOT USE HAZARDOUS
4 SUBSTANCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW
5 COMMISSION.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 3B of Chapter 105 of the General Statutes is amended
8 by adding a new section to read:

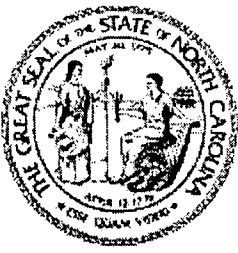
9 "§ 105-129.16C. Credit for investing in dry-cleaning equipment that does not use a
10 hazardous substance.

11 (a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning
12 equipment places it in service in this State for commercial purposes during the
13 taxable year, the taxpayer is allowed a credit equal to thirty-five percent (35%) of the
14 cost of the equipment. To support the credit allowed by this section, the taxpayer
15 must file with the tax return for the taxable year in which the credit is claimed a
16 certification by the Department of Environment and Natural Resources that the
17 equipment purchased or leased by the taxpayer is qualified dry-cleaning equipment.

18 (b) Restrictions. -- No credit is allowed under this section to the extent the cost of
19 the equipment was paid with public funds. A taxpayer that claims any other credit
20 allowed under this Chapter with respect to qualified dry-cleaning equipment may not
21 take the credit allowed in this section with respect to the same equipment.

22 (c) Definitions. -- The following definitions apply only in this section:

- 1 (1) Hazardous solvent. -- A solvent any portion of which consists of a
- 2 chlorine-based solvent, a hydrocarbon-based solvent, a hazardous
- 3 substance as defined in G.S. 130A-310(2), or any substance
- 4 determined by the Administrator of the Environmental Protection
- 5 Agency or the Director of the National Institute of Occupational
- 6 Safety and Health to possess carcinogenic potential to humans.
- 7 (2) Qualified dry-cleaning equipment. -- Equipment that is designed
- 8 and used primarily to dry-clean clothing and other fabric and does
- 9 not use any hazardous solvent or any other substance that the
- 10 Department of Environment and Natural Resources determines to
- 11 pose a threat to human health or the environment."
- 12 Section 2. This act is effective for taxable years beginning on or after 1
- 13 July 2001.



SENATE BILL 1330: Nonhazardous Dry Cleaning Tech. Incentive

BILL ANALYSIS

Committee: Senate Agriculture, Environment and Natural Resources	Sponsor: Senator Fountain Odom
Date: June 22, 2000	Analysis by: Rick Zechini, Committee Counsel
Version: Proposed Committee Substitute for First Edition	

SUMMARY: *The proposed committee substitute for Senate Bill 1330 provides a tax credit for commercial dry-cleaners who invest in environmentally friendly dry-cleaning equipment, effective July 1, 2001.*

BILL ANALYSIS: The proposed committee substitute for Senate Bill 1330 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 solvent that contains a hazardous substance as defined in the federal Comprehensive Environmental Response, Compensation, and Liability Act.
- A solvent that contains 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 Senate Bill 1330, 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 a 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.
- It changes the effective date of the bill to make the bill effective for taxable years beginning on or after July 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1330*

Short Title: Nonhazardous Dry-Cleaning Tech. Incentive.

(Public)

Sponsors: Senators Odom, Kinnaird; Albertson, Clodfelter, Dalton, Dannelly, Horton, Martin of Guilford, Martin of Pitt, and Weinstein.

Referred to: Finance.

May 18, 2000

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE A NEW TAX CREDIT AS AN INCENTIVE FOR
3 INVESTING IN DRY-CLEANING AND WET-CLEANING EQUIPMENT THAT
4 DOES NOT USE HAZARDOUS SUBSTANCES AS SOLVENTS, AS
5 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 3B of Chapter 105 of the General Statutes is amended
8 by adding a new section to read:

9 "§ 105-129.16C. Credit for investing in dry-cleaning or wet-cleaning equipment that
10 does not use hazardous substances as solvents.

11 (a) Credit. -- If a taxpayer that has purchased or leased qualified dry-cleaning or
12 wet-cleaning equipment places it in service in this State for commercial purposes
13 during the taxable year, the taxpayer is allowed a credit equal to thirty-five percent
14 (35%) of the cost of the equipment. No credit is allowed under this section to the
15 extent the cost of the equipment was paid with public funds. A taxpayer that claims
16 any other credit allowed under this Chapter with respect to qualified dry-cleaning or
17 wet-cleaning equipment may not take the credit allowed in this section with respect
18 to the same equipment.

19 (b) Definitions. -- The following definitions apply in this section:

20 (1) Hazardous solvent. -- A solvent any portion of which consists of a
21 chlorine-based solvent, a hydrocarbon-based solvent, a hazardous
22 substance as defined in the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980, Pub. L. 96-

1 510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the
2 Superfund Amendments and Reauthorization Act of 1986, Pub. L.
3 99-499, 100 Stat. 1613, as amended, or any substance determined
4 by the Administrator of the Environmental Protection Agency or
5 the Director of the National Institute of Occupational Safety and
6 Health to possess either carcinogenic potential to humans or
7 bioaccumulative properties.

8 (2) Qualified dry-cleaning or wet-cleaning equipment. -- Equipment
9 that is designed primarily to dry-clean or wet-clean clothing and
10 other fabric and that does not use any hazardous solvent as the
11 process solvent."

12 Section 2. This act is effective for taxable years beginning on or after
13 January 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1330 (First Edition)

SHORT TITLE: Nonhazardous Dry-Cleaning Tech. Incentive

SPONSOR(S): Senator Odom, et al.

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>
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 DRY-CLEANING 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	\$346,500
Estimated payments	\$320,513	\$314,738	\$320,513	\$314,738	\$320,513	\$314,738	\$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	\$525,000
Estimated payments	\$515,550	\$513,450	\$515,550	\$513,450	\$515,550	\$513,450	\$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:

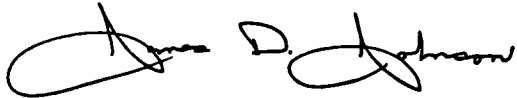
The Department of Revenue does not have the technical expertise to determine whether dry cleaning equipment is eligible for this credit. The Department of Environment and Natural Resources (DENR) could determine eligibility by (1) publishing a list of eligible equipment each tax year, or (2) directly 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 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

A handwritten signature in black ink, appearing to read "James D. Johnson". The signature is fluid and cursive, with a large loop at the beginning and end.

DATE: May 30, 2000

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.

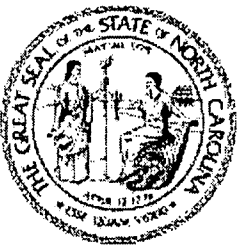
May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE DE MINIMIS REPORTING EXCEPTION TO ALL
3 DISCHARGES OF PETROLEUM, AS RECOMMENDED BY THE
4 ENVIRONMENTAL REVIEW COMMISSION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143-215.85 reads as rewritten:
7 "§ 143-215.85. Required notice.
8 (a) Every Except as provided in G.S. 143-215.94E(a1) and subsection (b) of this
9 section, every person owning or having control over oil or other substances
10 discharged in any circumstances other than pursuant to a rule adopted by the
11 Commission, a regulation of the U. S. Environmental Protection Agency, or a permit
12 required by G.S. 143-215.1 or the Federal Water Pollution Control Act, upon notice
13 that such discharge has occurred, shall immediately notify the Department, or any of
14 its agents or employees, of the nature, location and time of the discharge and of the
15 measures which are being taken or are proposed to be taken to contain and remove
16 the discharge. The agent or employee of the Department receiving the notification
17 shall immediately notify the Secretary or such member or members of the permanent
18 staff of the Department as the Secretary may designate. If the discharged substance
19 of which the Department is notified is a pesticide regulated by the North Carolina
20 Pesticide Board, the Department shall immediately inform the Chairman of the
21 Pesticide Board. Removal operations under this Article of substances identified as
22 pesticides defined in G.S. 143-460 shall be coordinated in accordance with the
23 Pesticide Emergency Plan adopted by the North Carolina Pesticide Board; provided
24 that, in instances where entry of such hazardous substances into waters of the State is

1 imminent, the Department may take such actions as are necessary to physically
2 contain or divert such substance so as to prevent entry into the surface waters.

3 (b) As used in this subsection, 'petroleum' has the same meaning as in G.S.
4 143-215.94A. A person who owns or has control over petroleum that is discharged
5 into the environment shall immediately take measures to collect and remove the
6 discharge, report the discharge to the Department within 24 hours of the discharge,
7 and begin to restore the area affected by the discharge in accordance with the
8 requirements of this Article if the volume of the petroleum that is discharged is 25
9 gallons or more or if the petroleum causes a sheen on nearby surface water or if the
10 petroleum is discharged at a distance of 100 feet or less from any surface water body.
11 If the volume of petroleum that is discharged is less than 25 gallons, the petroleum
12 does not cause a sheen on nearby surface water, and the petroleum is discharged at a
13 distance of more than 100 feet from all surface water bodies, the person who owns or
14 has control over the petroleum shall immediately take measures to collect and
15 remove the discharge. If a discharge of less than 25 gallons of petroleum cannot be
16 cleaned up within 24 hours of the discharge or if the discharge causes a sheen on
17 nearby surface water, the person who owns or has control over the petroleum shall
18 immediately notify the Department."

19 Section 2. This act is effective when it becomes law and applies to any
20 discharge of petroleum into the environment that occurs on or after that date.



HOUSE BILL 1618: Petroleum Discharges/ De Minimis Reports

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: June 22, 2000

Version: First Edition

Introduced by: Representative Warwick

Summary by: Hannah Holm,
Research Assistant for
Environmental Issues

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. The companion bill to House Bill 1618 is Senate Bill 1341, which was introduced by Senator Albertson. Senate Bill 1341 was given a favorable report by this committee.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1506*
Committee Substitute Favorable 6/1/00
Third Edition Engrossed 6/8/00
Proposed Senate Committee Substitute H1506-PCS5103-RT002

Short Title: Food Estab./Sanit. Reqments.

(Public)

Sponsors:

Referred to:

May 11, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ESTABLISHMENTS THAT PREPARE OR SERVE
3 FOOD TO A CERTAIN NUMBER OF REGULAR BOARDERS OR
4 PERMANENT HOUSEGUESTS COMPLY WITH STATE FOOD SANITATION
5 REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 130A-250 reads as rewritten:

8 "§ 130A-250. Exemptions.

9 The following shall be exempt from this Part:

- 10 (1) Establishments that provide lodging described in G.S.
11 130A-248(a1) with four or fewer lodging units.
12 (2) Condominiums.
13 (3) Establishments that prepare or serve food or provide lodging to
14 regular boarders or permanent ~~house-guests-only~~ houseguests only.
15 However, the rules governing food sanitation adopted under G.S.
16 130A-248 apply to establishments that are not regulated under G.S.
17 130A-235 and that prepare or serve food for pay to 13 or more
18 regular boarders or permanent houseguests who are disabled or
19 who are 55 years of age or older. Establishments to which the
20 rules governing food sanitation are made applicable by this
21 subdivision that are in operation as of 1 July 2000 may continue to

use equipment and construction in use on that date if no imminent hazard exists. Replacement equipment and remodeling or replacement construction for these establishments shall comply with the rules governing food sanitation adopted under G.S. 130A-248.

- (4) Private homes that occasionally offer lodging accommodations, which may include the providing of food, for two weeks or less to persons attending special events, provided these homes are not bed and breakfast homes or bed and breakfast inns.
- (5) Private clubs.
- (6) Curb markets operated by the State Agricultural Extension Service.
- (7) Establishments that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than the permitted locations.
- (8) Establishments that put together, portion, set out, or hand out only beverages that do not include those made from raw apples or potentially hazardous beverages made from raw fruits or vegetables, using single service containers that are not reused on the premises.
- (9) Establishments where meat food products or poultry products are prepared and sold and which are under inspection by the North Carolina Department of Agriculture and Consumer Services or the United States Department of Agriculture.
- (10) Markets that sell uncooked cured country ham or uncooked cured salted pork and that engage in minimal preparation such as slicing, weighing, or wrapping the ham or pork, when this minimal preparation is the only activity that would otherwise subject these markets to regulation under this Part.
- (11) Establishments that only set out or hand out beverages that are regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes.
- (12) Establishments that only set out or hand out food that is regulated by the North Carolina Department of Agriculture and Consumer Services in accordance with Article 12 of Chapter 106 of the General Statutes."

Section 2. This act becomes effective 1 July 2001.



HOUSE AGING COMMITTEE:

House Bill 1506

BILL ANALYSIS

Committee: Senate Ag, Env & Nat'l Resources
Date: June 22, 2000
Version: PCS for 3rd Edition

Introduced by: Rep. Weiss and Earle
Summary by: John Young & Barbara Riley
Committee Staff

SUMMARY:

House Bill 1506 would require establishments that prepare or serve food to 13 or more regular boarders or permanent house guests and who are disabled or 55 years of age or older to comply with the State Food Sanitation requirements.

CURRENT LAW:

The State has for many years regulated sanitation in restaurants, schools, nursing homes, adult care homes, and other types of facilities that serve food to the public or vulnerable populations (G. S. 130A-248) There are a number of exemptions to this regulation in G.S. 130A-250 including private clubs and establishments that prepare or serve food to regular boarders or permanent house guests. The State currently classifies unlicensed elderly housing developments that serve meals to residents as boarding homes and they are exempt as are the old fashioned boarding homes that once were a fixture in most North Carolina towns.

BILL ANALYSIS:

House Bill 1506 would amend G.S. 130A-250(3) to limit the complete exemption for establishments that prepare or serve food to regular boarders or permanent houseguests. Food sanitation requirements of G.S. 130A-248 would apply to establishments that prepare or serve food if: (1) the establishment prepares or serves food for pay to 13 or more regular boarders or permanent houseguests (2) the houseguests or permanent boarders are 55 years or older or disabled, and (3) the establishment is not already regulated under G.S. 130A-235 (sanitation regulation of schools and institutions). Establishments in operation as of July 1, 2000 may continue with existing equipment if no imminent hazard exists. Replacement equipment, replacement construction, and remodeling for these establishments shall comply with food sanitation rules.

BACKGROUND:

Housing is a major factor in determining the quality of life for many older persons. There is a growing demand by the elderly and their families for new housing options. Some of these options include housing with services such as meals. These new arrangements have developed rapidly over the past ten years and since most of these options are private arrangements, they have not regulated by the State. Under the current statutory scheme, the State classifies unlicensed elderly housing developments that serve meals to residents as boarding homes. As such, these properties are exempt from inspections under G.S. 130A-248 which governs the sanitation of restaurants and other food-handling establishments. House Bill 1506 would recognize this new development in elderly housing by making a distinction between elderly housing with services and the long-standing boarding home when the establishment serves food to 13 or more.

Amending the statute to require such facilities to meet State food sanitation standards would primarily affect private-pay elderly housing properties. The Division of Aging conducted a search and identified

HOUSE AGING COMMITTEE

Page 2

fifty private-pay elderly housing developments in North Carolina that provide meals to residents. These represent at least 2,629 units-apartments, villas or other types of living arrangements. This does not include continuing care retirement communities but it is assumed that since the definition of a CCRC requires one of its components to be licensed, most of the food preparation facilities are already inspected. It is almost impossible to get a complete number since these facilities are not licensed and no record is kept by any governmental agency.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 1506*
Committee Substitute Favorable 6/1/00
Third Edition Engrossed 6/8/00

Short Title: Food Estab./Sanit. Reqments.

(Public)

Sponsors:

Referred to:

May 11, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ESTABLISHMENTS THAT PREPARE OR SERVE
3 FOOD TO A CERTAIN NUMBER OF REGULAR BOARDERS OR
4 PERMANENT HOUSEGUESTS COMPLY WITH STATE FOOD SANITATION
5 REQUIREMENTS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 130A-250 reads as rewritten:

8 "**§ 130A-250. Exemptions.**

9 The following shall be exempt from this Part:

- 10 (1) Establishments that provide lodging described in G.S. 130A-
11 248(a1) with four or fewer lodging units.
- 12 (2) Condominiums.
- 13 (3) Establishments that prepare or serve food or provide lodging to
14 regular boarders or permanent ~~house-guests-only~~; houseguests only,
15 except that food sanitation requirements of G.S. 130A-248 apply to
16 establishments that prepare or serve food for pay to 13 or more
17 regular boarders or permanent houseguests who are disabled or 55
18 years of age or older if the establishment is not already regulated
19 under G.S. 130A-235. Establishments subject to this exception that
20 are in operation as of July 1, 2000, may continue with existing
21 equipment and construction if no imminent hazard exists.
22 Replacement equipment and remodeling or replacement

1 construction for these establishments shall comply with food
2 sanitation rules applicable under G.S. 130A-248.

- 3 (4) Private homes that occasionally offer lodging accommodations,
4 which may include the providing of food, for two weeks or less to
5 persons attending special events, provided these homes are not bed
6 and breakfast homes or bed and breakfast inns.
- 7 (5) Private clubs.
- 8 (6) Curb markets operated by the State Agricultural Extension
9 Service.
- 10 (7) Establishments that prepare or serve food or drink for pay no more
11 frequently than once a month for a period not to exceed two
12 consecutive days, including establishments permitted pursuant to
13 this Part when preparing or serving food or drink at a location
14 other than the permitted locations.
- 15 (8) Establishments that put together, portion, set out, or hand out only
16 beverages that do not include those made from raw apples or
17 potentially hazardous beverages made from raw fruits or
18 vegetables, using single service containers that are not reused on
19 the premises.
- 20 (9) Establishments where meat food products or poultry products are
21 prepared and sold and which are under inspection by the North
22 Carolina Department of Agriculture and Consumer Services or the
23 United States Department of Agriculture.
- 24 (10) Markets that sell uncooked cured country ham or uncooked cured
25 salted pork and that engage in minimal preparation such as slicing,
26 weighing, or wrapping the ham or pork, when this minimal
27 preparation is the only activity that would otherwise subject these
28 markets to regulation under this Part.
- 29 (11) Establishments that only set out or hand out beverages that are
30 regulated by the North Carolina Department of Agriculture and
31 Consumer Services in accordance with Article 12 of Chapter 106
32 of the General Statutes.
- 33 (12) Establishments that only set out or hand out food that is regulated
34 by the North Carolina Department of Agriculture and Consumer
35 Services in accordance with Article 12 of Chapter 106 of the
36 General Statutes."

37 Section 2. This act becomes effective July 1, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00
Proposed Senate Committee Substitute H1638-PCS5099-RT/SB002

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.
9 The General Assembly of North Carolina enacts:
10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:
11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to

1 the Commissioner of Motor Vehicles that ambient air quality will
2 be improved by the implementation of a motor vehicle emissions
3 inspection and maintenance program in a county. The Commission
4 shall implement this subdivision as provided in G.S.
5 143-215.107A."

6 Section 2. G.S. 143-215.107A(b) is repealed.

7 Section 3. G.S. 143-215.107A(d) reads as rewritten:

8 "(d) Additional Counties. -- The Commission may require that motor vehicle
9 emissions inspections be performed in counties in addition to those set out in
10 subsection (c) of this section. In determining whether to require that motor vehicle
11 emissions inspections be performed in a county, the Commission may consider the
12 population of, and distribution of population in, the county; the projected change in
13 population of, and distribution of population in, the county; the number of vehicles
14 registered in the county; the projected change in the number of vehicles registered in
15 the county; vehicle miles traveled in the county; the projected change in vehicle miles
16 traveled in the county; current and projected commuting patterns in the county; and
17 the current and projected impact of these factors on attainment of air quality
18 standards in the county and in areas outside the county. The Commission may not
19 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
20 with a population of less than 40,000 based on the most recent population estimates
21 prepared by the State Planning Officer. The Commission may not require that motor
22 vehicle emissions ~~testing~~ inspections be performed in any county in which the
23 number of vehicle miles traveled per day is less than 900,000, based on the most
24 recent estimates prepared by the Department of Transportation. In order to
25 disapprove a rule that requires that motor vehicle emissions inspections be performed
26 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
27 must amend subsection (c) of this section to add one or more other counties in which
28 the total population and vehicle miles traveled per day equal or exceed the total
29 population and vehicle miles traveled in the county or counties listed in the rule that
30 the bill would disapprove."

31 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

32 "~~Section 3.2. The Environmental Management Commission shall adopt rules to~~
33 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
34 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
35 shall not require that motor vehicle emissions inspections be performed in any county
36 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
37 July 2006. The Environmental Management Commission shall not require motor
38 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

39 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

40 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

41 "~~§ 20-128. Prevention of noise, smoke, etc., muffler cut-outs regulated. Exhaust~~
42 ~~system and emissions control devices.~~

43 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
44 is equipped with a muffler, or other exhaust system of the type installed at the time of

1 manufacture, in good working order and in constant operation to prevent excessive
2 or unusual noise, annoying smoke and smoke screens.

3 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
4 highway.

5 (c) No motor vehicle registered in this State ~~which that~~ was manufactured after
6 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
7 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
8 installed on the vehicle at the time of ~~manufacture, provided the foregoing~~
9 ~~requirement~~ the vehicle was manufactured and these devices are properly connected.

10 (d) The requirements of subsection (c) of this section shall not apply where such if
11 the emissions control devices have been removed for the purpose of converting the
12 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
13 have been made in order to reduce air ~~pollution, further provided that such~~
14 ~~modifications shall have first been~~ pollution and these modifications are approved by
15 the Department of Environment and Natural Resources."

16 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

- 19 (1) It is subject to registration with the Division under Article 3 of this
20 Chapter.
- 21 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
22 house trailer, or a motorcycle.
- 23 (3) It is a 1975 or later model.
- 24 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 25 (5) It meets any of the following descriptions:
 - 26 a. It is required to be registered in an emissions county.
 - 27 b. It is part of a fleet that is operated primarily in an emissions
28 county.
 - 29 c. It is offered for rent in an emissions county.
 - 30 d. It is a used vehicle offered for sale by a dealer in an
31 emissions county.
 - 32 e. It is operated on a federal installation located in an
33 emissions county and it is not a tactical military vehicle.
34 Vehicles operated on a federal installation include those that
35 are owned or leased by employees of the installation and are
36 used to commute to the installation and those owned or
37 operated by the federal agency that conducts business at the
38 installation.
 - 39 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
40 an emissions inspection.

41 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

42 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

43 "§ 20-183.3. Scope of safety inspection and emissions inspection.

1 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
2 following equipment to determine if the vehicle has the equipment required by Part 9
3 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 4 (1) Brakes, as required by G.S. 20-124.
- 5 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 6 (3) Horn, as required by G.S. 20-125(a).
- 7 (4) Steering mechanism, as required by G.S. 20-123.1.
- 8 (5) Windows and windshield wipers, as required by G.S. 20-127. To
9 determine if a vehicle window meets the window tinting
10 restrictions, a safety inspection mechanic must first determine,
11 based on use of an automotive film check card or knowledge of
12 window tinting techniques, if after-factory tint has been applied to
13 the window. If after-factory tint has been applied, the mechanic
14 must use a light meter approved by the Commissioner to
15 determine if the window meets the window tinting restrictions.
- 16 (6) Directional signals, as required by G.S. 20-125.1.
- 17 (7) Tires, as required by G.S. 20-122.1.
- 18 (8) Mirrors, as required by G.S. 20-126.
- 19 (9) ~~Exhaust system,~~ system and emissions control devices, as required
20 by G.S. 20-128. For a vehicle that is subject to an emissions
21 inspection in addition to a safety inspection, a visual inspection of
22 the vehicle's ~~emission-control~~ emissions control devices is included
23 in the emissions inspection rather than the safety inspection.

24 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
25 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
26 devices are present, are properly connected, and are the correct type for the vehicle
27 ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust
28 emissions of the vehicle to determine if the exhaust emissions meet the standards for
29 the model year of the vehicle set by the Environmental Management Commission or,
30 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
31 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
32 deterioration or malfunction in the operation of the vehicle that violates standards for
33 the model year of the vehicle set by the Environmental Management Commission.
34 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
35 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis-
36 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
37 emissions inspection is performed on a vehicle, a safety inspection must be performed
38 on the vehicle as well.

39 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
40 been repaired after failing an inspection is the same as the original inspection unless
41 the vehicle is presented for reinspection within 30 days of failing the original
42 inspection. If the vehicle is presented for reinspection within this time limit and the
43 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
44 inspection of the equipment that failed the original inspection. If the vehicle is

1 presented for reinspection within this time limit and the inspection the vehicle failed
2 was an emissions inspection, the reinspection is limited to the portion of the
3 inspection the vehicle failed and any other portion of the inspection that would be
4 affected by repairs made to correct the failure."

5 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section
6 7 of this act, reads as rewritten:

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

- 9 (1) It is subject to registration with the Division under Article 3 of this
10 Chapter.
- 11 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
12 house trailer, or a motorcycle.
- 13 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a ~~1975~~ 1996 or later
14 model.
- 15 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 16 (5) It meets any of the following descriptions:
 - 17 a. It is required to be registered in an emissions county.
 - 18 b. It is part of a fleet that is operated primarily in an emissions
19 county.
 - 20 c. It is offered for rent in an emissions county.
 - 21 d. It is a used vehicle offered for sale by a dealer in an
22 emissions county.
 - 23 e. It is operated on a federal installation located in an
24 emissions county and it is not a tactical military vehicle.
25 Vehicles operated on a federal installation include those that
26 are owned or leased by employees of the installation and are
27 used to commute to the installation and those owned or
28 operated by the federal agency that conducts business at the
29 installation.
 - 30 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
31 an emissions inspection.
- 32 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

33 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
34 of this act, reads as rewritten:

35 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

36 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
37 following equipment to determine if the vehicle has the equipment required by Part 9
38 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 39 (1) Brakes, as required by G.S. 20-124.
- 40 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 41 (3) Horn, as required by G.S. 20-125(a).
- 42 (4) Steering mechanism, as required by G.S. 20-123.1.
- 43 (5) Windows and windshield wipers, as required by G.S. 20-127. To
44 determine if a vehicle window meets the window tinting

1 restrictions, a safety inspection mechanic must first determine,
2 based on use of an automotive film check card or knowledge of
3 window tinting techniques, if after-factory tint has been applied to
4 the window. If after-factory tint has been applied, the mechanic
5 must use a light meter approved by the Commissioner to
6 determine if the window meets the window tinting restrictions.

7 (6) Directional signals, as required by G.S. 20-125.1.

8 (7) Tires, as required by G.S. 20-122.1.

9 (8) Mirrors, as required by G.S. 20-126.

10 (9) Exhaust system and emissions control devices, as required by G.S.
11 20-128. For a vehicle that is subject to an emissions inspection in
12 addition to a safety inspection, a visual inspection of the vehicle's
13 emissions control devices is included in the emissions inspection
14 rather than the safety inspection.

15 (b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An
16 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
17 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
18 visual inspection of the vehicle's emissions control devices to determine if the devices
19 are present, are properly connected, and are the correct type for the vehicle and, if
20 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
21 vehicle to determine if the exhaust emissions meet the standards for the model year
22 of the vehicle set by the Environmental Management Commission or, if the vehicle is
23 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
24 equipment installed by the vehicle manufacturer to identify any deterioration or
25 malfunction in the operation of the vehicle that would cause an increase in the
26 emission of pollutants by the vehicle that violates standards for the model year of the
27 vehicle set by the Environmental Management Commission. To pass an emissions
28 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
29 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
30 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
31 safety inspection must be performed on the vehicle as well.

32 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
33 inspection of the vehicle's emission control devices to determine if the devices are
34 present, are properly connected, and are the correct type for the vehicle and an
35 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
36 the vehicle manufacturer to identify any deterioration or malfunction in the operation
37 of the vehicle that violates standards for the model year of the vehicle set by the
38 Environmental Management Commission. To pass an emissions inspection a vehicle
39 must pass both the visual inspection and the OBD analysis. When an emissions
40 inspection is performed on a vehicle, a safety inspection must be performed on the
41 vehicle as well.

42 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
43 been repaired after failing an inspection is the same as the original inspection unless
44 the vehicle is presented for reinspection within 30 days of failing the original

1 inspection. If the vehicle is presented for reinspection within this time limit and the
2 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
3 inspection of the equipment that failed the original inspection. If the vehicle is
4 presented for reinspection within this time limit and the inspection the vehicle failed
5 was an emissions inspection, the reinspection is limited to the portion of the
6 inspection the vehicle failed and any other portion of the inspection that would be
7 affected by repairs made to correct the failure."

8 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
9 Section 9 of this act, reads as rewritten:

10 "(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later
11 model."

12 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
13 Sections 8 and 10 of this act, is repealed.

14 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

15 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
16 **license.**

17 (a) License Required. -- An emissions inspection must be performed by one of the
18 following methods:

19 (1) At a station that has an emissions inspection station license issued
20 by the Division and by a mechanic who is employed by the station
21 and has an emissions inspection mechanic license issued by the
22 Division.

23 (2) At a place of business of a person who has an emissions
24 self-inspector license issued by the Division and by an individual
25 who has an emissions inspection mechanic license.

26 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
27 station must meet all of the following requirements:

28 (1) Have a license as a safety inspection station.

29 (2) Have an emissions analyzer approved by the Environmental
30 Management ~~Commission. Commission, equipment to analyze data~~
31 provided by the on-board diagnostic (OBD) equipment approved
32 by the Environmental Management Commission, or both.

33 (3) Have equipment to transfer information on emissions inspections
34 to the Division by electronic means.

35 (4) Regularly employ at least one mechanic who has an emissions
36 inspection mechanic license.

37 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
38 inspection mechanic must meet all of the following requirements:

39 (1) Have a license as a safety inspection mechanic.

40 (2) Have successfully completed an eight-hour course approved by the
41 Division that teaches students about the causes and effects of the
42 air pollution ~~problem; problem;~~ the purpose of the emissions
43 inspection ~~program; program;~~ the vehicle emission standards
44 established by the ~~federal~~ United States Environmental Protection

1 ~~Agency, Agency;~~ the emission control devices on ~~vehicles, vehicles;~~
2 how to conduct an emissions inspection using an emissions
3 analyzer approved by the Environmental Management
4 Commission, equipment to analyze data provided by the on-board
5 diagnostic (OBD) equipment approved by the Environmental
6 Management Commission, or both; and any other topic required by
7 40 C.F.R. § 51.367 to be included in the course. Successful
8 completion requires a passing score on a written test and on a
9 hands-on test in which the student is required to conduct an
10 emissions inspection of a motor vehicle.

11 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
12 self-inspector must meet all of the following requirements:

- 13 (1) Have a license as a safety self-inspector.
- 14 (2) Operate a fleet of at least 10 vehicles that are subject to an
15 emissions inspection.
- 16 (3) Have, or have a contract with a person who has, an emissions
17 analyzer approved by the Environmental Management
18 ~~Commission. Commission, equipment to analyze data provided by~~
19 the on-board diagnostic (OBD) equipment approved by the
20 Environmental Management Commission, or both.
- 21 (4) Regularly employ or contract with an individual who has an
22 emissions inspection mechanic license and who will perform an
23 emissions inspection on the vehicles that are part of the
24 self-inspector's fleet."

25 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
26 13 of this act, reads as rewritten:

27 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
28 **license.**

29 (a) License Required. -- An emissions inspection must be performed by one of the
30 following methods:

- 31 (1) At a station that has an emissions inspection station license issued
32 by the Division and by a mechanic who is employed by the station
33 and has an emissions inspection mechanic license issued by the
34 Division.
- 35 (2) At a place of business of a person who has an emissions
36 self-inspector license issued by the Division and by an individual
37 who has an emissions inspection mechanic license.

38 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
39 station must meet all of the following requirements:

- 40 (1) Have a license as a safety inspection station.
- 41 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
42 Guilford, Mecklenburg, Orange, Union, and Wake, have an
43 emissions analyzer approved by the Environmental Management
44 Commission, equipment to analyze data provided by the on-board

- 1 diagnostic (OBD) equipment approved by the Environmental
2 Management Commission, or both.
- 3 (2a) Have equipment to analyze data provided by the on-board
4 diagnostic (OBD) equipment approved by the Environmental
5 Management Commission.
- 6 (3) Have equipment to transfer information on emissions inspections
7 to the Division by electronic means.
- 8 (4) Regularly employ at least one mechanic who has an emissions
9 inspection mechanic license.
- 10 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
11 inspection mechanic must meet all of the following requirements:
- 12 (1) Have a license as a safety inspection mechanic.
- 13 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
14 Guilford, Mecklenburg, Orange, Union, and Wake, have
15 successfully completed an eight-hour course approved by the
16 Division that teaches students about the causes and effects of the
17 air pollution problem; the purpose of the emissions inspection
18 program; the vehicle emission standards established by the United
19 States Environmental Protection Agency; the emission control
20 devices on vehicles; how to conduct an emissions inspection using
21 an emissions analyzer approved by the Environmental Management
22 Commission, equipment to analyze data provided by the on-board
23 diagnostic (OBD) equipment approved by the Environmental
24 Management Commission, or both; and any other topic required by
25 40 C.F.R. § 51.367 to be included in the course. Successful
26 completion requires a passing score on a written test and on a
27 hands-on test in which the student is required to conduct an
28 emissions inspection of a motor vehicle.
- 29 (2a) Have successfully completed an eight-hour course approved by the
30 Division that teaches students about the causes and effects of the
31 air pollution problem, the purpose of the emissions inspection
32 program, the vehicle emission standards established by the United
33 States Environmental Protection Agency, the emission control
34 devices on vehicles, how to conduct an emissions inspection using
35 equipment to analyze data provided by the on-board diagnostic
36 (OBD) equipment approved by the Environmental Management
37 Commission, and any other topic required by 40 C.F.R. § 51.367 to
38 be included in the course. Successful completion requires a
39 passing score on a written test and on a hands-on test in which the
40 student is required to conduct an emissions inspection of a motor
41 vehicle.
- 42 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
43 self-inspector must meet all of the following requirements:
- 44 (1) Have a license as a safety self-inspector.

- 1 (2) Operate a fleet of at least 10 vehicles that are subject to an
2 emissions inspection.
- 3 (3) ~~Have, In the Counties of Cabarrus, Durham, Forsyth, Gaston,~~
4 ~~Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a~~
5 ~~contract with a person who has, an emissions analyzer approved by~~
6 ~~the Environmental Management Commission, equipment to~~
7 ~~analyze data provided by the on-board diagnostic (OBD)~~
8 ~~equipment approved by the Environmental Management~~
9 ~~Commission, or both.~~
- 10 (3a) Have, or have a contract with a person who has, equipment to
11 analyze data provided by the on-board diagnostic (OBD)
12 equipment approved by the Environmental Management
13 Commission.
- 14 (4) Regularly employ or contract with an individual who has an
15 emissions inspection mechanic license and who will perform an
16 emissions inspection on the vehicles that are part of the
17 self-inspector's fleet."

18 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
19 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
20 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

21 Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

22 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
23 of the following requirements:

- 24 (1) Fails an emissions inspection because it passes the visual inspection
25 ~~part of the inspection~~ but fails the analysis of exhaust emissions
26 ~~analysis part of the inspection. or the analysis of data provided by~~
27 the on-board diagnostic (OBD) equipment.
- 28 (2) Has documented repairs costing at least the waiver amount made
29 to the vehicle to correct the cause of the failure. The waiver
30 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
31 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
32 or newer model.
- 33 (3) Is reinspected and again fails the inspection because it passes the
34 visual inspection ~~part of the inspection~~ but fails the analysis of
35 exhaust emissions analysis part of the inspection. or the analysis of
36 data provided by the on-board diagnostic (OBD) equipment.
- 37 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

38 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
39 Section 16 of this act, reads as rewritten:

40 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
41 of the following requirements:

- 42 (1) Fails an emissions inspection because it passes the visual inspection
43 but fails ~~the analysis of exhaust emissions or the analysis of data~~
44 ~~provided by the on-board diagnostic (OBD) equipment.~~

- 1 (2) Has documented repairs costing at least the waiver amount made
 2 to the vehicle to correct the cause of the failure. The waiver
 3 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
 4 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
 5 or newer model.
- 6 (3) Is reinspected and again fails the inspection because it passes the
 7 visual inspection but fails ~~the analysis of exhaust emissions or the~~
 8 analysis of data provided by the on-board diagnostic (OBD)
 9 equipment.
- 10 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

11 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

12 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

13 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
 14 inspection station, or an emissions inspection mechanic to do any of the following:

- 15 (1) Put an emissions inspection sticker on a vehicle without
 16 performing an emissions inspection of the vehicle.
- 17 (1a) Put an emissions inspection sticker on a vehicle after performing
 18 an emissions inspection of the vehicle and determining that the
 19 vehicle did not pass the inspection.
- 20 (2) Use a test-defeating strategy when conducting an emissions
 21 inspection, such as holding the accelerator pedal down slightly
 22 during an idle test, disconnecting or crimping a vacuum hose to
 23 effect a passing result, or changing the emission standards for a
 24 vehicle by incorrectly entering the vehicle type or model year to
 25 achieve a passing result.
- 26 (3) Allow a person who is not licensed as an emissions inspection
 27 mechanic to perform an emissions inspection for a self-inspector or
 28 at an emissions station.
- 29 (4) Sell or otherwise give an inspection sticker to another other than
 30 as the result of a vehicle inspection in which the vehicle passed the
 31 inspection or for which the vehicle received a waiver.
- 32 (5) Be unable to account for five or more inspection stickers at any
 33 one time upon the request of an auditor of the Division.
- 34 (6) Perform a safety-only inspection on a vehicle that is subject to both
 35 a safety and an emissions inspection.
- 36 (7) Transfer an inspection sticker from one vehicle to another.

37 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
 38 inspection station, or an emissions inspection mechanic to do any of the following:

- 39 (1) Use the identification code of another to gain access to an
 40 emissions ~~analyzer.~~ analyzer or to equipment to analyze data
 41 provided by on-board diagnostic (OBD) equipment.
- 42 (2) Keep inspection stickers and other compliance documents in a
 43 manner that makes them easily accessible to individuals who are
 44 not inspection mechanics.

- 1 (3) Put an emissions inspection sticker on a vehicle that is required to
2 have one of the following emissions control devices but does not
3 have it:
4 a. Catalytic converter.
5 b. PCV valve.
6 c. Thermostatic air control.
7 d. Oxygen sensor.
8 e. Unleaded gas restrictor.
9 f. Gasoline tank cap.
10 g. Air injection system.
11 h. Evaporative emissions system.
12 i. Exhaust gas recirculation (EGR) valve.
- 13 (4) Put an emissions inspection sticker on a vehicle without
14 performing a visual inspection of the vehicle's exhaust system and
15 checking the exhaust system for leaks.
- 16 (5) Impose no fee for an emissions inspection of a vehicle or the
17 issuance of an emissions inspection sticker or impose a fee for one
18 of these actions in an amount that differs from the amount set in
19 G.S. 20-183.7.

20 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
21 emissions inspection station, or an emissions inspection mechanic to do any of the
22 following:

- 23 (1) Fail to post an emissions license issued by the Division.
24 (2) Fail to send information on emissions inspections to the Division at
25 the time or in the form required by the Division.
26 (3) Fail to post emissions information required by federal law to be
27 posted.
28 (4) Fail to put the required information on an inspection sticker in a
29 legible manner using ink.
30 (5) Fail to put the required information on an inspection receipt in a
31 legible manner.
32 (6) Fail to maintain ~~an emissions analyzer a maintenance log. log for~~
33 an emissions analyzer or for equipment to analyze data provided
34 by on-board diagnostic (OBD) equipment.

35 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
36 Type III violations are not the only acts that are one of these types of violations. The
37 Division may designate other acts that are a Type I, Type II, or Type III violation."

38 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
39 Section 18 of this act, reads as rewritten:

40 "§ 20-183.8C. Acts that are Type I, II, or III emissions violations.

41 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
42 inspection station, or an emissions inspection mechanic to do any of the following:

- 43 (1) Put an emissions inspection sticker on a vehicle without
44 performing an emissions inspection of the vehicle.

- 1 (1a) Put an emissions inspection sticker on a vehicle after performing
- 2 an emissions inspection of the vehicle and determining that the
- 3 vehicle did not pass the inspection.
- 4 (2) Use a test-defeating strategy when conducting an emissions
- 5 inspection, such as holding the accelerator pedal down slightly
- 6 during an idle test, disconnecting or crimping a vacuum hose to
- 7 effect a passing result, or changing the emission standards for a
- 8 vehicle by incorrectly entering the vehicle type or model year to
- 9 achieve a passing result.
- 10 (3) Allow a person who is not licensed as an emissions inspection
- 11 mechanic to perform an emissions inspection for a self-inspector or
- 12 at an emissions station.
- 13 (4) Sell or otherwise give an inspection sticker to another other than
- 14 as the result of a vehicle inspection in which the vehicle passed the
- 15 inspection or for which the vehicle received a waiver.
- 16 (5) Be unable to account for five or more inspection stickers at any
- 17 one time upon the request of an auditor of the Division.
- 18 (6) Perform a safety-only inspection on a vehicle that is subject to both
- 19 a safety and an emissions inspection.
- 20 (7) Transfer an inspection sticker from one vehicle to another.
- 21 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
- 22 inspection station, or an emissions inspection mechanic to do any of the following:
- 23 (1) Use the identification code of another to gain access to ~~an~~
- 24 ~~emissions analyzer~~ or to equipment to analyze data provided by
- 25 on-board diagnostic (OBD) equipment.
- 26 (2) Keep inspection stickers and other compliance documents in a
- 27 manner that makes them easily accessible to individuals who are
- 28 not inspection mechanics.
- 29 (3) Put an emissions inspection sticker on a vehicle that is required to
- 30 have one of the following emissions control devices but does not
- 31 have it:
- 32 a. Catalytic converter.
- 33 b. PCV valve.
- 34 c. Thermostatic air control.
- 35 d. Oxygen sensor.
- 36 e. Unleaded gas restrictor.
- 37 f. Gasoline tank cap.
- 38 g. Air injection system.
- 39 h. Evaporative emissions system.
- 40 i. Exhaust gas recirculation (EGR) valve.
- 41 (4) Put an emissions inspection sticker on a vehicle without
- 42 performing a visual inspection of the vehicle's exhaust system and
- 43 checking the exhaust system for leaks.

- 1 (5) Impose no fee for an emissions inspection of a vehicle or the
2 issuance of an emissions inspection sticker or impose a fee for one
3 of these actions in an amount that differs from the amount set in
4 G.S. 20-183.7.

5 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
6 emissions inspection station, or an emissions inspection mechanic to do any of the
7 following:

- 8 (1) Fail to post an emissions license issued by the Division.
9 (2) Fail to send information on emissions inspections to the Division at
10 the time or in the form required by the Division.
11 (3) Fail to post emissions information required by federal law to be
12 posted.
13 (4) Fail to put the required information on an inspection sticker in a
14 legible manner using ink.
15 (5) Fail to put the required information on an inspection receipt in a
16 legible manner.
17 (6) Fail to maintain a maintenance log ~~for an emissions analyzer or~~ for
18 equipment to analyze data provided by on-board diagnostic (OBD)
19 equipment.

20 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
21 Type III violations are not the only acts that are one of these types of violations. The
22 Division may designate other acts that are a Type I, Type II, or Type III violation."

23 Section 20. During the period 1 July 2002 through 31 December 2005, in
24 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
25 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
26 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
27 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
28 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
29 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
30 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
31 model vehicles using equipment to analyze data provided by the on-board diagnostic
32 (OBD) equipment. This section shall not be construed to authorize an emissions
33 inspection station or an emissions self-inspector to perform an emissions inspection
34 on a vehicle of a model year for which the emissions inspection station or emissions
35 self-inspector does not have the equipment necessary to perform an emissions
36 inspection of vehicles of that model year. This section shall not be construed to
37 authorize an emissions inspection mechanic to perform an emissions inspection on a
38 vehicle unless the emissions inspection mechanic has successfully completed a course,
39 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
40 use of the equipment necessary to perform an emissions inspection on vehicles of that
41 model year.

42 Section 21. This act constitutes a recent act of the General Assembly
43 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
44 NCAC 2C.0102(11), the Environmental Management Commission and the Division of

1 Motor Vehicles of the Department of Transportation may adopt temporary rules to
2 implement the provisions of this act. This section shall continue in effect until all
3 rules necessary to implement the provisions of this act have become effective as either
4 temporary rules or permanent rules.

5 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

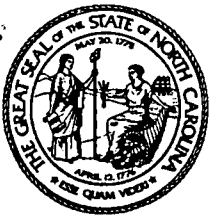
6 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
7 both State and federal-aid funds expended under the Transportation Improvement
8 Program, other than federal congestion mitigation and air quality improvement
9 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
10 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in
11 G.S. 136-180 and funds received through competitive awards or discretionary grants
12 through federal appropriations either for local governments, transportation
13 authorities, transit authorities, or the Department, shall be distributed throughout the
14 State in accordance with this section.

- 15 (1) Distribution Region A consists of the following counties: Bertie,
16 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
17 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
18 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 19 (2) Distribution Region B consists of the following counties: Beaufort,
20 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
21 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 22 (3) Distribution Region C consists of the following counties: Bladen,
23 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
24 Person, Robeson, Vance, Wake, and Warren.
- 25 (4) Distribution Region D consists of the following counties:
26 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
27 Rockingham, Rowan, and Stokes.
- 28 (5) Distribution Region E consists of the following counties: Anson,
29 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
30 Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- 31 (6) Distribution Region F consists of the following counties:
32 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
33 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 34 (7) Distribution Region G consists of the following counties:
35 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
36 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
37 Rutherford, Swain, Transylvania, and Yancey."

38 Section 23. The Environmental Review Commission, with the assistance
39 of the Department of Environment and Natural Resources, the Division of Motor
40 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
41 Research Division of the Legislative Services Office shall study issues related to the
42 costs associated with the motor vehicle safety and emissions inspection and
43 maintenance program. The Commission shall determine what constitutes a
44 reasonable fee for motor vehicle inspections under the current program and under

1 the enhanced inspection and maintenance program to be implemented pursuant to
2 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
3 constitutes a reasonable fee, the Commission shall consider the cost of emissions
4 inspection equipment, the useful life of the equipment, the average period of time
5 during which a purchaser of this equipment is able to amortize this cost, telephone
6 charges incurred in connection with the registration denial program, whether a fee
7 should be charged to reinspect a vehicle that fails an emissions inspection after
8 repairs to the vehicle have been made, the cost of the safety inspection program in
9 relation to the emissions inspection program, and any other factors that the
10 Commission determines to be relevant. The Commission may also evaluate strategies
11 to ensure an efficient and orderly implementation of the enhanced inspection and
12 maintenance program required by Part III of S.L. 1999-328 and this act. The
13 Environmental Review Commission shall recommend legislation to amend G.S.
14 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
15 General Assembly.

16 Section 24. Except as otherwise provided in this act, this act is effective
17 when it becomes law.



HOUSE BILL 1638: I/M Technology Amendments/CMAQ Funds

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Introduced by: Representative Hackney

Date: June 20, 2000

Summary by: Jeff Hudson,
Committee Counsel;
Hannah Holm,
Research Assistant for
Environmental Issues

Version: Proposed Committee Substitute
for the Third Edition

SUMMARY: *House Bill 1638, Third Edition, provides for the use of on-board diagnostic equipment in the motor vehicle emissions inspection and maintenance program. The bill 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.

HOUSE BILL 1638

Page 2

EMISSIONS INSPECTION PROGRAM EXPANSION SCHEDULE (New Test)	
July 1, 2002	Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, Wake (<i>counties where emissions tests are already required</i>)
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).

HOUSE BILL 1638

Page 3

ANALYSIS OF HOUSE BILL 1638 (THIRD EDITION): House Bill 1638 (Third Edition) provides for the following:

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.

House Bill 1638 (Third Edition) 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.
- Exempts new motor vehicles (those that have been used for 12 months or less) from emissions inspections.

CHANGE MADE BY PROPOSED COMMITTEE SUBSTITUTE: The only change made by the Proposed Committee Substitute for House Bill 1638 (Third Edition) is the removal of the exemption from emissions inspections for new motor vehicles (those that have been used for 12 months or less).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.
9 The General Assembly of North Carolina enacts:
10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:
11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to
22 the Commissioner of Motor Vehicles that ambient air quality will

1 be improved by the implementation of a motor vehicle emissions
2 inspection and maintenance program in a county. The Commission
3 shall implement this subdivision as provided in G.S.
4 143-215.107A."

5 Section 2. G.S. 143-215.107A(b) is repealed.

6 Section 3. G.S. 143-215.107A(d) reads as rewritten:

7 "(d) Additional Counties. -- The Commission may require that motor vehicle
8 emissions inspections be performed in counties in addition to those set out in
9 subsection (c) of this section. In determining whether to require that motor vehicle
10 emissions inspections be performed in a county, the Commission may consider the
11 population of, and distribution of population in, the county; the projected change in
12 population of, and distribution of population in, the county; the number of vehicles
13 registered in the county; the projected change in the number of vehicles registered in
14 the county; vehicle miles traveled in the county; the projected change in vehicle miles
15 traveled in the county; current and projected commuting patterns in the county; and
16 the current and projected impact of these factors on attainment of air quality
17 standards in the county and in areas outside the county. The Commission may not
18 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
19 with a population of less than 40,000 based on the most recent population estimates
20 prepared by the State Planning Officer. The Commission may not require that motor
21 vehicle emissions ~~testing~~ inspections be performed in any county in which the
22 number of vehicle miles traveled per day is less than 900,000, based on the most
23 recent estimates prepared by the Department of Transportation. In order to
24 disapprove a rule that requires that motor vehicle emissions inspections be performed
25 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
26 must amend subsection (c) of this section to add one or more other counties in which
27 the total population and vehicle miles traveled per day equal or exceed the total
28 population and vehicle miles traveled in the county or counties listed in the rule that
29 the bill would disapprove."

30 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

31 "~~Section 3.2. The Environmental Management Commission shall adopt rules to~~
32 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
33 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
34 shall not require that motor vehicle emissions inspections be performed in any county
35 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
36 July 2006. The Environmental Management Commission shall not require motor
37 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

38 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

39 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

40 "~~§ 20-128. Prevention of noise, smoke, etc., muffler cut-outs regulated. Exhaust~~
41 ~~system and emissions control devices.~~

42 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
43 is equipped with a muffler, or other exhaust system of the type installed at the time of

1 manufacture, in good working order and in constant operation to prevent excessive
2 or unusual noise, annoying smoke and smoke screens.

3 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
4 highway.

5 (c) No motor vehicle registered in this State ~~which that~~ was manufactured after
6 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
7 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
8 installed on the vehicle at the time of ~~manufacture, provided the foregoing~~
9 ~~requirement~~ the vehicle was manufactured and these devices are properly connected.

10 (d) The requirements of subsection (c) of this section shall not apply where such if
11 the emissions control devices have been removed for the purpose of converting the
12 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
13 have been made in order to reduce air ~~pollution, further provided that such~~
14 ~~modifications shall have first been~~ pollution and these modifications are approved by
15 the Department of Environment and Natural Resources."

16 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

- 19 (1) It is subject to registration with the Division under Article 3 of this
20 Chapter.
- 21 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
22 house trailer, or a motorcycle.
- 23 (3) It is a 1975 or later model.
- 24 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 25 (5) It meets any of the following descriptions:
- 26 a. It is required to be registered in an emissions county.
- 27 b. It is part of a fleet that is operated primarily in an emissions
28 county.
- 29 c. It is offered for rent in an emissions county.
- 30 d. It is a used vehicle offered for sale by a dealer in an
31 emissions county.
- 32 e. It is operated on a federal installation located in an
33 emissions county and it is not a tactical military vehicle.
34 Vehicles operated on a federal installation include those that
35 are owned or leased by employees of the installation and are
36 used to commute to the installation and those owned or
37 operated by the federal agency that conducts business at the
38 installation.
- 39 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
40 an emissions inspection.

41 (6) It is not licensed at the former rate under G.S. 20-88(b)."

42 Section 7.1. Effective 1 July 2002, G.S. 20-183.2(b) reads as rewritten:

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

- 1 (1) It is subject to registration with the Division under Article 3 of this
2 Chapter.
- 3 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
4 house trailer, or a motorcycle.
- 5 (3) It is a 1975 or later model.
- 6 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 7 (5) It meets any of the following descriptions:
- 8 a. It is required to be registered in an emissions county.
- 9 b. It is part of a fleet that is operated primarily in an emissions
10 county.
- 11 c. It is offered for rent in an emissions county.
- 12 d. It is a used vehicle offered for sale by a dealer in an
13 emissions county.
- 14 e. It is operated on a federal installation located in an
15 emissions county and it is not a tactical military vehicle.
16 Vehicles operated on a federal installation include those that
17 are owned or leased by employees of the installation and are
18 used to commute to the installation and those owned or
19 operated by the federal agency that conducts business at the
20 installation.
- 21 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
22 an emissions inspection.
- 23 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
- 24 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
25 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
26 more than 12 months."

27 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

28 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

29 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
30 following equipment to determine if the vehicle has the equipment required by Part 9
31 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 32 (1) Brakes, as required by G.S. 20-124.
- 33 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 34 (3) Horn, as required by G.S. 20-125(a).
- 35 (4) Steering mechanism, as required by G.S. 20-123.1.
- 36 (5) Windows and windshield wipers, as required by G.S. 20-127. To
37 determine if a vehicle window meets the window tinting
38 restrictions, a safety inspection mechanic must first determine,
39 based on use of an automotive film check card or knowledge of
40 window tinting techniques, if after-factory tint has been applied to
41 the window. If after-factory tint has been applied, the mechanic
42 must use a light meter approved by the Commissioner to
43 determine if the window meets the window tinting restrictions.
- 44 (6) Directional signals, as required by G.S. 20-125.1.

- 1 (7) Tires, as required by G.S. 20-122.1.
2 (8) Mirrors, as required by G.S. 20-126.
3 (9) Exhaust ~~system~~, system and emissions control devices, as required
4 by G.S. 20-128. For a vehicle that is subject to an emissions
5 inspection in addition to a safety inspection, a visual inspection of
6 the vehicle's ~~emission-control~~ emissions control devices is included
7 in the emissions inspection rather than the safety inspection.

8 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
9 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
10 devices are present, are properly connected, and are the correct type for the vehicle
11 ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust
12 emissions of the vehicle to determine if the exhaust emissions meet the standards for
13 the model year of the vehicle set by the Environmental Management Commission or,
14 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
15 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
16 deterioration or malfunction in the operation of the vehicle that violates standards for
17 the model year of the vehicle set by the Environmental Management Commission.
18 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
19 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis.
20 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
21 emissions inspection is performed on a vehicle, a safety inspection must be performed
22 on the vehicle as well.

23 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
24 been repaired after failing an inspection is the same as the original inspection unless
25 the vehicle is presented for reinspection within 30 days of failing the original
26 inspection. If the vehicle is presented for reinspection within this time limit and the
27 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
28 inspection of the equipment that failed the original inspection. If the vehicle is
29 presented for reinspection within this time limit and the inspection the vehicle failed
30 was an emissions inspection, the reinspection is limited to the portion of the
31 inspection the vehicle failed and any other portion of the inspection that would be
32 affected by repairs made to correct the failure."

33 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section
34 7 of this act, reads as rewritten:

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

- 37 (1) It is subject to registration with the Division under Article 3 of this
38 Chapter.
39 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
40 house trailer, or a motorcycle.
41 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a 1975 1996 or later
42 model.
43 (4) Repealed by Session Laws 1999-328, s. 3.11.
44 (5) It meets any of the following descriptions:

- 1 a. It is required to be registered in an emissions county.
2 b. It is part of a fleet that is operated primarily in an emissions
3 county.
4 c. It is offered for rent in an emissions county.
5 d. It is a used vehicle offered for sale by a dealer in an
6 emissions county.
7 e. It is operated on a federal installation located in an
8 emissions county and it is not a tactical military vehicle.
9 Vehicles operated on a federal installation include those that
10 are owned or leased by employees of the installation and are
11 used to commute to the installation and those owned or
12 operated by the federal agency that conducts business at the
13 installation.
14 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
15 an emissions inspection.
16 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
17 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
18 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
19 more than 12 months."

20 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
21 of this act, reads as rewritten:

22 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

23 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
24 following equipment to determine if the vehicle has the equipment required by Part 9
25 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 26 (1) Brakes, as required by G.S. 20-124.
27 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
28 (3) Horn, as required by G.S. 20-125(a).
29 (4) Steering mechanism, as required by G.S. 20-123.1.
30 (5) Windows and windshield wipers, as required by G.S. 20-127. To
31 determine if a vehicle window meets the window tinting
32 restrictions, a safety inspection mechanic must first determine,
33 based on use of an automotive film check card or knowledge of
34 window tinting techniques, if after-factory tint has been applied to
35 the window. If after-factory tint has been applied, the mechanic
36 must use a light meter approved by the Commissioner to
37 determine if the window meets the window tinting restrictions.
38 (6) Directional signals, as required by G.S. 20-125.1.
39 (7) Tires, as required by G.S. 20-122.1.
40 (8) Mirrors, as required by G.S. 20-126.
41 (9) Exhaust system and emissions control devices, as required by G.S.
42 20-128. For a vehicle that is subject to an emissions inspection in
43 addition to a safety inspection, a visual inspection of the vehicle's

1 emissions control devices is included in the emissions inspection
2 rather than the safety inspection.

3 (b) ~~Emissions~~: Emissions Inspection Requirements in Certain Counties. -- An
4 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
5 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
6 visual inspection of the vehicle's emissions control devices to determine if the devices
7 are present, are properly connected, and are the correct type for the vehicle and, if
8 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
9 vehicle to determine if the exhaust emissions meet the standards for the model year
10 of the vehicle set by the Environmental Management Commission or, if the vehicle is
11 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
12 equipment installed by the vehicle manufacturer to identify any deterioration or
13 malfunction in the operation of the vehicle that would cause an increase in the
14 emission of pollutants by the vehicle that violates standards for the model year of the
15 vehicle set by the Environmental Management Commission. To pass an emissions
16 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
17 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
18 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
19 safety inspection must be performed on the vehicle as well.

20 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
21 inspection of the vehicle's emission control devices to determine if the devices are
22 present, are properly connected, and are the correct type for the vehicle and an
23 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
24 the vehicle manufacturer to identify any deterioration or malfunction in the operation
25 of the vehicle that violates standards for the model year of the vehicle set by the
26 Environmental Management Commission. To pass an emissions inspection a vehicle
27 must pass both the visual inspection and the OBD analysis. When an emissions
28 inspection is performed on a vehicle, a safety inspection must be performed on the
29 vehicle as well.

30 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
31 been repaired after failing an inspection is the same as the original inspection unless
32 the vehicle is presented for reinspection within 30 days of failing the original
33 inspection. If the vehicle is presented for reinspection within this time limit and the
34 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
35 inspection of the equipment that failed the original inspection. If the vehicle is
36 presented for reinspection within this time limit and the inspection the vehicle failed
37 was an emissions inspection, the reinspection is limited to the portion of the
38 inspection the vehicle failed and any other portion of the inspection that would be
39 affected by repairs made to correct the failure."

40 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
41 Section 9 of this act, reads as rewritten:

42 "(3) ~~Except as provided in G.S. 20-183.3(b),~~ It is a 1996 or later
43 model."

1 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
2 Sections 8 and 10 of this act, is repealed.

3 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

4 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
5 **license.**

6 (a) License Required. -- An emissions inspection must be performed by one of the
7 following methods:

8 (1) At a station that has an emissions inspection station license issued
9 by the Division and by a mechanic who is employed by the station
10 and has an emissions inspection mechanic license issued by the
11 Division.

12 (2) At a place of business of a person who has an emissions
13 self-inspector license issued by the Division and by an individual
14 who has an emissions inspection mechanic license.

15 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
16 station must meet all of the following requirements:

17 (1) Have a license as a safety inspection station.

18 (2) Have an emissions analyzer approved by the Environmental
19 Management ~~Commission.~~ Commission, equipment to analyze data
20 provided by the on-board diagnostic (OBD) equipment approved
21 by the Environmental Management Commission, or both.

22 (3) Have equipment to transfer information on emissions inspections
23 to the Division by electronic means.

24 (4) Regularly employ at least one mechanic who has an emissions
25 inspection mechanic license.

26 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
27 inspection mechanic must meet all of the following requirements:

28 (1) Have a license as a safety inspection mechanic.

29 (2) Have successfully completed an eight-hour course approved by the
30 Division that teaches students about the causes and effects of the
31 air pollution ~~problem,~~ problem; the purpose of the emissions
32 inspection ~~program,~~ program; the vehicle emission standards
33 established by the ~~federal~~ United States Environmental Protection
34 Agency, Agency; the emission control devices on ~~vehicles,~~ vehicles;
35 how to conduct an emissions inspection using an emissions
36 analyzer approved by the Environmental Management
37 Commission, equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission, or both; and any other topic required by
40 C.F.R. § 51.367 to be included in the course. Successful
41 completion requires a passing score on a written test and on a
42 hands-on test in which the student is required to conduct an
43 emissions inspection of a motor vehicle.

1 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
2 self-inspector must meet all of the following requirements:

- 3 (1) Have a license as a safety self-inspector.
4 (2) Operate a fleet of at least 10 vehicles that are subject to an
5 emissions inspection.
6 (3) Have, or have a contract with a person who has, an emissions
7 analyzer approved by the Environmental Management
8 ~~Commission.~~ Commission, equipment to analyze data provided by
9 the on-board diagnostic (OBD) equipment approved by the
10 Environmental Management Commission, or both.
11 (4) Regularly employ or contract with an individual who has an
12 emissions inspection mechanic license and who will perform an
13 emissions inspection on the vehicles that are part of the
14 self-inspector's fleet."

15 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
16 13 of this act, reads as rewritten:

17 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
18 **license.**

19 (a) License Required. -- An emissions inspection must be performed by one of the
20 following methods:

- 21 (1) At a station that has an emissions inspection station license issued
22 by the Division and by a mechanic who is employed by the station
23 and has an emissions inspection mechanic license issued by the
24 Division.
25 (2) At a place of business of a person who has an emissions
26 self-inspector license issued by the Division and by an individual
27 who has an emissions inspection mechanic license.

28 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
29 station must meet all of the following requirements:

- 30 (1) Have a license as a safety inspection station.
31 (2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
32 Guilford, Mecklenburg, Orange, Union, and Wake, have an
33 emissions analyzer approved by the Environmental Management
34 Commission, equipment to analyze data provided by the on-board
35 diagnostic (OBD) equipment approved by the Environmental
36 Management Commission, or both.
37 (2a) Have equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission.
40 (3) Have equipment to transfer information on emissions inspections
41 to the Division by electronic means.
42 (4) Regularly employ at least one mechanic who has an emissions
43 inspection mechanic license.

1 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
2 inspection mechanic must meet all of the following requirements:

3 (1) Have a license as a safety inspection mechanic.

4 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
5 Guilford, Mecklenburg, Orange, Union, and Wake, have
6 successfully completed an eight-hour course approved by the
7 Division that teaches students about the causes and effects of the
8 air pollution problem; the purpose of the emissions inspection
9 program; the vehicle emission standards established by the United
10 States Environmental Protection Agency; the emission control
11 devices on vehicles; how to conduct an emissions inspection using
12 an emissions analyzer approved by the Environmental Management
13 Commission, equipment to analyze data provided by the on-board
14 diagnostic (OBD) equipment approved by the Environmental
15 Management Commission, or both; and any other topic required by
16 40 C.F.R. § 51.367 to be included in the course. Successful
17 completion requires a passing score on a written test and on a
18 hands-on test in which the student is required to conduct an
19 emissions inspection of a motor vehicle.

20 (2a) Have successfully completed an eight-hour course approved by the
21 Division that teaches students about the causes and effects of the
22 air pollution problem, the purpose of the emissions inspection
23 program, the vehicle emission standards established by the United
24 States Environmental Protection Agency, the emission control
25 devices on vehicles, how to conduct an emissions inspection using
26 equipment to analyze data provided by the on-board diagnostic
27 (OBD) equipment approved by the Environmental Management
28 Commission, and any other topic required by 40 C.F.R. § 51.367 to
29 be included in the course. Successful completion requires a
30 passing score on a written test and on a hands-on test in which the
31 student is required to conduct an emissions inspection of a motor
32 vehicle.

33 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
34 self-inspector must meet all of the following requirements:

35 (1) Have a license as a safety self-inspector.

36 (2) Operate a fleet of at least 10 vehicles that are subject to an
37 emissions inspection.

38 (3) Have, In the Counties of Cabarrus, Durham, Forsyth, Gaston,
39 Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a
40 contract with a person who has, an emissions analyzer approved by
41 the Environmental Management Commission, equipment to
42 analyze data provided by the on-board diagnostic (OBD)
43 equipment approved by the Environmental Management
44 Commission, or both.

1 (3a) Have, or have a contract with a person who has, equipment to
2 analyze data provided by the on-board diagnostic (OBD)
3 equipment approved by the Environmental Management
4 Commission.

5 (4) Regularly employ or contract with an individual who has an
6 emissions inspection mechanic license and who will perform an
7 emissions inspection on the vehicles that are part of the
8 self-inspector's fleet."

9 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
10 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
11 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

12 Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

13 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
14 of the following requirements:

15 (1) Fails an emissions inspection because it passes the visual inspection
16 ~~part of the inspection~~ but fails the analysis of exhaust emissions
17 ~~analysis part of the inspection. or the analysis of data provided by~~
18 the on-board diagnostic (OBD) equipment.

19 (2) Has documented repairs costing at least the waiver amount made
20 to the vehicle to correct the cause of the failure. The waiver
21 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
22 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
23 or newer model.

24 (3) Is reinspected and again fails the inspection because it passes the
25 visual inspection ~~part of the inspection~~ but fails the analysis of
26 exhaust emissions ~~analysis part of the inspection. or the analysis of~~
27 data provided by the on-board diagnostic (OBD) equipment.

28 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

29 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
30 Section 16 of this act, reads as rewritten:

31 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
32 of the following requirements:

33 (1) Fails an emissions inspection because it passes the visual inspection
34 but fails ~~the analysis of exhaust emissions or the analysis of data~~
35 provided by the on-board diagnostic (OBD) equipment.

36 (2) Has documented repairs costing at least the waiver amount made
37 to the vehicle to correct the cause of the failure. The waiver
38 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
39 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
40 or newer model.

41 (3) Is reinspected and again fails the inspection because it passes the
42 visual inspection but fails ~~the analysis of exhaust emissions or the~~
43 analysis of data provided by the on-board diagnostic (OBD)
44 equipment.

1 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

2 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

3 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

4 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
5 inspection station, or an emissions inspection mechanic to do any of the following:

6 (1) Put an emissions inspection sticker on a vehicle without
7 performing an emissions inspection of the vehicle.

8 (1a) Put an emissions inspection sticker on a vehicle after performing
9 an emissions inspection of the vehicle and determining that the
10 vehicle did not pass the inspection.

11 (2) Use a test-defeating strategy when conducting an emissions
12 inspection, such as holding the accelerator pedal down slightly
13 during an idle test, disconnecting or crimping a vacuum hose to
14 effect a passing result, or changing the emission standards for a
15 vehicle by incorrectly entering the vehicle type or model year to
16 achieve a passing result.

17 (3) Allow a person who is not licensed as an emissions inspection
18 mechanic to perform an emissions inspection for a self-inspector or
19 at an emissions station.

20 (4) Sell or otherwise give an inspection sticker to another other than
21 as the result of a vehicle inspection in which the vehicle passed the
22 inspection or for which the vehicle received a waiver.

23 (5) Be unable to account for five or more inspection stickers at any
24 one time upon the request of an auditor of the Division.

25 (6) Perform a safety-only inspection on a vehicle that is subject to both
26 a safety and an emissions inspection.

27 (7) Transfer an inspection sticker from one vehicle to another.

28 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
29 inspection station, or an emissions inspection mechanic to do any of the following:

30 (1) Use the identification code of another to gain access to an
31 emissions ~~analyzer.~~ analyzer or to equipment to analyze data
32 provided by on-board diagnostic (OBD) equipment.

33 (2) Keep inspection stickers and other compliance documents in a
34 manner that makes them easily accessible to individuals who are
35 not inspection mechanics.

36 (3) Put an emissions inspection sticker on a vehicle that is required to
37 have one of the following emissions control devices but does not
38 have it:

- 39 a. Catalytic converter.
40 b. PCV valve.
41 c. Thermostatic air control.
42 d. Oxygen sensor.
43 e. Unleaded gas restrictor.
44 f. Gasoline tank cap.

- 1 g. Air injection system.
2 h. Evaporative emissions system.
3 i. Exhaust gas recirculation (EGR) valve.
4 (4) Put an emissions inspection sticker on a vehicle without
5 performing a visual inspection of the vehicle's exhaust system and
6 checking the exhaust system for leaks.
7 (5) Impose no fee for an emissions inspection of a vehicle or the
8 issuance of an emissions inspection sticker or impose a fee for one
9 of these actions in an amount that differs from the amount set in
10 G.S. 20-183.7.

11 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
12 emissions inspection station, or an emissions inspection mechanic to do any of the
13 following:

- 14 (1) Fail to post an emissions license issued by the Division.
15 (2) Fail to send information on emissions inspections to the Division at
16 the time or in the form required by the Division.
17 (3) Fail to post emissions information required by federal law to be
18 posted.
19 (4) Fail to put the required information on an inspection sticker in a
20 legible manner using ink.
21 (5) Fail to put the required information on an inspection receipt in a
22 legible manner.
23 (6) Fail to maintain ~~an emissions analyzer~~ a maintenance log, log for
24 an emissions analyzer or for equipment to analyze data provided
25 by on-board diagnostic (OBD) equipment.

26 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
27 Type III violations are not the only acts that are one of these types of violations. The
28 Division may designate other acts that are a Type I, Type II, or Type III violation."

29 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
30 Section 18 of this act, reads as rewritten:

31 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

32 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
33 inspection station, or an emissions inspection mechanic to do any of the following:

- 34 (1) Put an emissions inspection sticker on a vehicle without
35 performing an emissions inspection of the vehicle.
36 (1a) Put an emissions inspection sticker on a vehicle after performing
37 an emissions inspection of the vehicle and determining that the
38 vehicle did not pass the inspection.
39 (2) Use a test-defeating strategy when conducting an emissions
40 inspection, such as holding the accelerator pedal down slightly
41 during an idle test, disconnecting or crimping a vacuum hose to
42 effect a passing result, or changing the emission standards for a
43 vehicle by incorrectly entering the vehicle type or model year to
44 achieve a passing result.

- 1 (3) Allow a person who is not licensed as an emissions inspection
2 mechanic to perform an emissions inspection for a self-inspector or
3 at an emissions station.
- 4 (4) Sell or otherwise give an inspection sticker to another other than
5 as the result of a vehicle inspection in which the vehicle passed the
6 inspection or for which the vehicle received a waiver.
- 7 (5) Be unable to account for five or more inspection stickers at any
8 one time upon the request of an auditor of the Division.
- 9 (6) Perform a safety-only inspection on a vehicle that is subject to both
10 a safety and an emissions inspection.
- 11 (7) Transfer an inspection sticker from one vehicle to another.
- 12 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
13 inspection station, or an emissions inspection mechanic to do any of the following:
- 14 (1) Use the identification code of another to gain access to ~~an~~
15 ~~emissions analyzer or~~ to equipment to analyze data provided by
16 on-board diagnostic (OBD) equipment.
- 17 (2) Keep inspection stickers and other compliance documents in a
18 manner that makes them easily accessible to individuals who are
19 not inspection mechanics.
- 20 (3) Put an emissions inspection sticker on a vehicle that is required to
21 have one of the following emissions control devices but does not
22 have it:
- 23 a. Catalytic converter.
24 b. PCV valve.
25 c. Thermostatic air control.
26 d. Oxygen sensor.
27 e. Unleaded gas restrictor.
28 f. Gasoline tank cap.
29 g. Air injection system.
30 h. Evaporative emissions system.
31 i. Exhaust gas recirculation (EGR) valve.
- 32 (4) Put an emissions inspection sticker on a vehicle without
33 performing a visual inspection of the vehicle's exhaust system and
34 checking the exhaust system for leaks.
- 35 (5) Impose no fee for an emissions inspection of a vehicle or the
36 issuance of an emissions inspection sticker or impose a fee for one
37 of these actions in an amount that differs from the amount set in
38 G.S. 20-183.7.
- 39 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
40 emissions inspection station, or an emissions inspection mechanic to do any of the
41 following:
- 42 (1) Fail to post an emissions license issued by the Division.
43 (2) Fail to send information on emissions inspections to the Division at
44 the time or in the form required by the Division.

- 1 (3) Fail to post emissions information required by federal law to be
2 posted.
3 (4) Fail to put the required information on an inspection sticker in a
4 legible manner using ink.
5 (5) Fail to put the required information on an inspection receipt in a
6 legible manner.
7 (6) Fail to maintain a maintenance log ~~for an emissions analyzer~~ or for
8 equipment to analyze data provided by on-board diagnostic (OBD)
9 equipment.

10 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
11 Type III violations are not the only acts that are one of these types of violations. The
12 Division may designate other acts that are a Type I, Type II, or Type III violation."

13 Section 20. During the period 1 July 2002 through 31 December 2005, in
14 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
15 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
16 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
17 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
18 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
19 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
20 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
21 model vehicles using equipment to analyze data provided by the on-board diagnostic
22 (OBD) equipment. This section shall not be construed to authorize an emissions
23 inspection station or an emissions self-inspector to perform an emissions inspection
24 on a vehicle of a model year for which the emissions inspection station or emissions
25 self-inspector does not have the equipment necessary to perform an emissions
26 inspection of vehicles of that model year. This section shall not be construed to
27 authorize an emissions inspection mechanic to perform an emissions inspection on a
28 vehicle unless the emissions inspection mechanic has successfully completed a course,
29 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
30 use of the equipment necessary to perform an emissions inspection on vehicles of that
31 model year.

32 Section 21. This act constitutes a recent act of the General Assembly
33 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
34 NCAC 2C.0102(11), the Environmental Management Commission and the Division of
35 Motor Vehicles of the Department of Transportation may adopt temporary rules to
36 implement the provisions of this act. This section shall continue in effect until all
37 rules necessary to implement the provisions of this act have become effective as either
38 temporary rules or permanent rules.

39 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:
40 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
41 both State and federal-aid funds expended under the Transportation Improvement
42 Program, other than federal congestion mitigation and air quality improvement
43 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
44 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in

1 G.S. 136-180 and funds received through competitive awards or discretionary grants
2 through federal appropriations either for local governments, transportation
3 authorities, transit authorities, or the Department, shall be distributed throughout the
4 State in accordance with this section.

- 5 (1) Distribution Region A consists of the following counties: Bertie,
6 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
7 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
8 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 9 (2) Distribution Region B consists of the following counties: Beaufort,
10 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
11 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 12 (3) Distribution Region C consists of the following counties: Bladen,
13 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
14 Person, Robeson, Vance, Wake, and Warren.
- 15 (4) Distribution Region D consists of the following counties:
16 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
17 Rockingham, Rowan, and Stokes.
- 18 (5) Distribution Region E consists of the following counties: Anson,
19 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
20 Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- 21 (6) Distribution Region F consists of the following counties:
22 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
23 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 24 (7) Distribution Region G consists of the following counties:
25 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
26 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
27 Rutherford, Swain, Transylvania, and Yancey."

28 Section 23. The Environmental Review Commission, with the assistance
29 of the Department of Environment and Natural Resources, the Division of Motor
30 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
31 Research Division of the Legislative Services Office shall study issues related to the
32 costs associated with the motor vehicle safety and emissions inspection and
33 maintenance program. The Commission shall determine what constitutes a
34 reasonable fee for motor vehicle inspections under the current program and under
35 the enhanced inspection and maintenance program to be implemented pursuant to
36 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
37 constitutes a reasonable fee, the Commission shall consider the cost of emissions
38 inspection equipment, the useful life of the equipment, the average period of time
39 during which a purchaser of this equipment is able to amortize this cost, telephone
40 charges incurred in connection with the registration denial program, whether a fee
41 should be charged to reinspect a vehicle that fails an emissions inspection after
42 repairs to the vehicle have been made, the cost of the safety inspection program in
43 relation to the emissions inspection program, and any other factors that the
44 Commission determines to be relevant. The Commission may also evaluate strategies

1 to ensure an efficient and orderly implementation of the enhanced inspection and
2 maintenance program required by Part III of S.L. 1999-328 and this act. The
3 Environmental Review Commission shall recommend legislation to amend G.S.
4 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
5 General Assembly.

6 Section 24. Except as otherwise provided in this act, this act is effective
7 when it becomes law.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

6/22/00
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Jones	Attorney Raleigh
Tommy Havelman	Lobbyist "
B. Paul Wilms	NCMBA
Polly Williams	AARP/NC Equity
Glenn Dunn	Payner & Spruill (Micell)
Marvin Musselwhite	" "
Preston Howard	MCIC
BARRY CROSS	NC DMV
Don Holman	DENR
L. Roberts	DRML
Don McHale	DENR

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Linda Sewall	DEH
Chris Hoke	DHHS
Aleen Wells	DHHS
Susan Grayson	DENR
Gene Upthum	CP&L
Malley Diggins	NC Sierra Club
Emily Meeker	CCNC
Nat Mad	CCNC
Alex Kennagh	NCCanNet / EDF
Fred Allen	NC Aggregates Assn.
David Simmons	Alley Assoc.

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 27, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Tuesday, June 27, 2000, at 11:00 a.m. in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were thirteen committee members present.

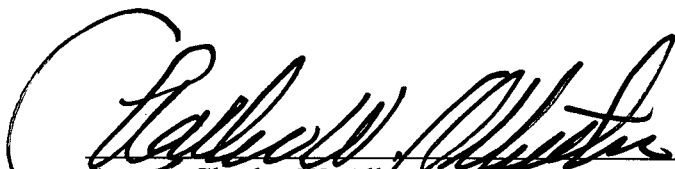
The following bills were discussed:

HOUSE BILL 1638 - I/M TECHNOLOGY AMENDS/CMAQ FUNDS -
Representative Hackney, sponsor. Staff said there was a new proposed committee substitute (PCS#7379) before the committee, and Senator Odom moved that it be adopted for discussion purposes. Motion passed. A proposed committee substitute (PCS#5099) on this bill had been adopted for discussion purposes at the June 20, 2000 meeting but no vote had been taken on it. George Givens of staff explained the new PCS. Senator Odom moved that the proposed committee substitute (PCS#7379) be given a favorable report, unfavorable as to bill. Motion carried.

HOUSE BILL 1617 - LEA ISLAND STATE NATURAL AREA -
Representative Warwick, sponsor. Senator Wellons moved that the bill be given a favorable report. Motion carried.

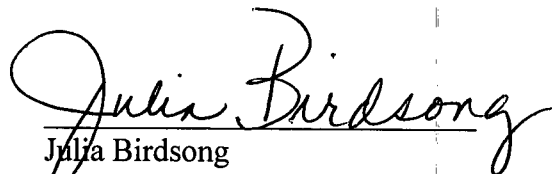
SENATE BILL 1479 - DEEP RIVER HERITAGE CORRIDOR - Senator Kinnaird, sponsor. Senator Horton moved that a proposed committee substitute be adopted for discussion purposes. Motion carried. Senator Kinnaird explained the PCS. Senator Harris moved that the proposed committee substitute be given a favorable report, unfavorable as to bill. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson

Chairman



Julia Birdsong

Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Tuesday, June 27, 2000
11:00 a.m.
Room 544 - LOB

A G E N D A

- HB 1617 LEA ISLAND STATE NATURAL AREA
Representative Warwick
- HB 1638 I/M TECHNOLOGY AMENDS/CMAQ FUNDS
Representative Hackney
(PCS and bill summary in folder)
- SB 1479 DEEP RIVER HERITAGE CORRIDOR
Senator Kinnaird
- SB 1329 ADD. NOTICE/MINING PERMIT APPLICATIONS
Senator Odom

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Tuesday, June 27, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1)1617 LEA ISLAND STATE NATURAL AREA
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1479 DEEP RIVER HERITAGE CORRIDOR
 Draft Number: PCS2856
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)1638 I/M TECHNOLOGY AMENDS/CMAQ FUNDS
 Draft Number: PCS7379
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

TOTAL REPORTED: 3

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00
Proposed Senate Committee Substitute H1638-PCS7379-RT/SB003

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.
9 The General Assembly of North Carolina enacts:
10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:
11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to

1 the Commissioner of Motor Vehicles that ambient air quality will
2 be improved by the implementation of a motor vehicle emissions
3 inspection and maintenance program in a county. The Commission
4 shall implement this subdivision as provided in G.S.
5 143-215.107A."

6 Section 2. G.S. 143-215.107A(b) is repealed.

7 Section 3. G.S. 143-215.107A(d) reads as rewritten:

8 "(d) Additional Counties. -- The Commission may require that motor vehicle
9 emissions inspections be performed in counties in addition to those set out in
10 subsection (c) of this section. In determining whether to require that motor vehicle
11 emissions inspections be performed in a county, the Commission may consider the
12 population of, and distribution of population in, the county; the projected change in
13 population of, and distribution of population in, the county; the number of vehicles
14 registered in the county; the projected change in the number of vehicles registered in
15 the county; vehicle miles traveled in the county; the projected change in vehicle miles
16 traveled in the county; current and projected commuting patterns in the county; and
17 the current and projected impact of these factors on attainment of air quality
18 standards in the county and in areas outside the county. The Commission may not
19 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
20 with a population of less than 40,000 based on the most recent population estimates
21 prepared by the State Planning Officer. The Commission may not require that motor
22 vehicle emissions ~~testing~~ inspections be performed in any county in which the
23 number of vehicle miles traveled per day is less than 900,000, based on the most
24 recent estimates prepared by the Department of Transportation. In order to
25 disapprove a rule that requires that motor vehicle emissions inspections be performed
26 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
27 must amend subsection (c) of this section to add one or more other counties in which
28 the total population and vehicle miles traveled per day equal or exceed the total
29 population and vehicle miles traveled in the county or counties listed in the rule that
30 the bill would disapprove."

31 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

32 "~~Section 3.2. The Environmental Management Commission shall adopt rules to~~
33 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
34 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
35 shall not require that motor vehicle emissions inspections be performed in any county
36 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
37 July 2006. The Environmental Management Commission shall not require motor
38 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

39 Section 4.1. Sections 3.3 through 3.8 of S.L. 1999-328 are amended by
40 deleting "G.S. 143-215.7A(c)" and substituting "G.S. 143-215.107A(c)" in the
41 introductory language of each section.

42 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

43 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

1 "§ 20-128. ~~Prevention of noise, smoke, etc.; muffler cut-outs regulated.~~ Exhaust
2 system and emissions control devices.

3 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
4 is equipped with a muffler, or other exhaust system of the type installed at the time of
5 manufacture, in good working order and in constant operation to prevent excessive
6 or unusual noise, annoying smoke and smoke screens.

7 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
8 highway.

9 (c) No motor vehicle registered in this State ~~which~~ that was manufactured after
10 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
11 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
12 installed on the vehicle at the time of ~~manufacture, provided the foregoing~~
13 ~~requirement~~ the vehicle was manufactured and these devices are properly connected.

14 (d) The requirements of subsection (c) of this section shall not apply where such if
15 the emissions control devices have been removed for the purpose of converting the
16 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
17 have been made in order to reduce air ~~pollution, further provided that such~~
18 ~~modifications shall have first been~~ pollution and these modifications are approved by
19 the Department of Environment and Natural Resources."

20 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

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

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

27 (3) It is a 1975 or later model.

28 (4) Repealed by Session Laws 1999-328, s. 3.11.

29 (5) It meets any of the following descriptions:

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

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

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

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

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

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

1 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

2 Section 7.1. Effective 1 July 2002, G.S. 20-183.2(b) reads as rewritten:

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

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

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

9 (3) It is a 1975 or later model.

10 (4) Repealed by Session Laws 1999-328, s. 3.11.

11 (5) It meets any of the following descriptions:

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

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

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

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

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

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

27 (6) It is not licensed at the farmer rate under G.S. 20-88(b).

28 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
29 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
30 12 months or more. However, a motor vehicle that has been
31 leased or rented, or offered for lease or rent, is subject to an
32 emissions inspection when it either:

33 a. Has been leased or rented, or offered for lease or rent, for
34 12 months or more.

35 b. Is sold to a consumer-purchaser."

36 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

37 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

38 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
39 following equipment to determine if the vehicle has the equipment required by Part 9
40 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

41 (1) Brakes, as required by G.S. 20-124.

42 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.

43 (3) Horn, as required by G.S. 20-125(a).

44 (4) Steering mechanism, as required by G.S. 20-123.1.

- 1 (5) Windows and windshield wipers, as required by G.S. 20-127. To
2 determine if a vehicle window meets the window tinting
3 restrictions, a safety inspection mechanic must first determine,
4 based on use of an automotive film check card or knowledge of
5 window tinting techniques, if after-factory tint has been applied to
6 the window. If after-factory tint has been applied, the mechanic
7 must use a light meter approved by the Commissioner to
8 determine if the window meets the window tinting restrictions.
- 9 (6) Directional signals, as required by G.S. 20-125.1.
- 10 (7) Tires, as required by G.S. 20-122.1.
- 11 (8) Mirrors, as required by G.S. 20-126.
- 12 (9) Exhaust ~~system~~, system and emissions control devices, as required
13 by G.S. 20-128. For a vehicle that is subject to an emissions
14 inspection in addition to a safety inspection, a visual inspection of
15 the vehicle's ~~emission-control~~ emissions control devices is included
16 in the emissions inspection rather than the safety inspection.

17 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
18 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
19 devices are present, are properly connected, and are the correct type for the vehicle
20 ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust
21 emissions of the vehicle to determine if the exhaust emissions meet the standards for
22 the model year of the vehicle set by the Environmental Management Commission or,
23 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
24 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
25 deterioration or malfunction in the operation of the vehicle that violates standards for
26 the model year of the vehicle set by the Environmental Management Commission.
27 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
28 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions analysis-
29 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
30 emissions inspection is performed on a vehicle, a safety inspection must be performed
31 on the vehicle as well.

32 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
33 been repaired after failing an inspection is the same as the original inspection unless
34 the vehicle is presented for reinspection within 30 days of failing the original
35 inspection. If the vehicle is presented for reinspection within this time limit and the
36 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
37 inspection of the equipment that failed the original inspection. If the vehicle is
38 presented for reinspection within this time limit and the inspection the vehicle failed
39 was an emissions inspection, the reinspection is limited to the portion of the
40 inspection the vehicle failed and any other portion of the inspection that would be
41 affected by repairs made to correct the failure."

42 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by
43 Sections 7 and 7.1 of this act, reads as rewritten:

- 1 "(b) Emissions. -- A motor vehicle is subject to an emissions inspection in
2 accordance with this Part if it meets all of the following requirements:
- 3 (1) It is subject to registration with the Division under Article 3 of this
4 Chapter.
 - 5 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
6 house trailer, or a motorcycle.
 - 7 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a ~~1975~~ 1996 or later
8 model.
 - 9 (4) Repealed by Session Laws 1999-328, s. 3.11.
 - 10 (5) It meets any of the following descriptions:
 - 11 a. It is required to be registered in an emissions county.
 - 12 b. It is part of a fleet that is operated primarily in an emissions
13 county.
 - 14 c. It is offered for rent in an emissions county.
 - 15 d. It is a used vehicle offered for sale by a dealer in an
16 emissions county.
 - 17 e. It is operated on a federal installation located in an
18 emissions county and it is not a tactical military vehicle.
19 Vehicles operated on a federal installation include those that
20 are owned or leased by employees of the installation and are
21 used to commute to the installation and those owned or
22 operated by the federal agency that conducts business at the
23 installation.
 - 24 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
25 an emissions inspection.
 - 26 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
 - 27 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
28 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
29 12 months or more. However, a motor vehicle that has been
30 leased or rented, or offered for lease or rent, is subject to an
31 emissions inspection when it either:
 - 32 a. Has been leased or rented, or offered for lease or rent, for
33 12 months or more.
 - 34 b. Is sold to a consumer-purchaser."
- 35 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
36 of this act, reads as rewritten:
- 37 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**
- 38 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
39 following equipment to determine if the vehicle has the equipment required by Part 9
40 of Article 3 of this Chapter and if the equipment is in a safe operating condition:
- 41 (1) Brakes, as required by G.S. 20-124.
 - 42 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
 - 43 (3) Horn, as required by G.S. 20-125(a).
 - 44 (4) Steering mechanism, as required by G.S. 20-123.1.

- 1 (5) Windows and windshield wipers, as required by G.S. 20-127. To
2 determine if a vehicle window meets the window tinting
3 restrictions, a safety inspection mechanic must first determine,
4 based on use of an automotive film check card or knowledge of
5 window tinting techniques, if after-factory tint has been applied to
6 the window. If after-factory tint has been applied, the mechanic
7 must use a light meter approved by the Commissioner to
8 determine if the window meets the window tinting restrictions.
- 9 (6) Directional signals, as required by G.S. 20-125.1.
- 10 (7) Tires, as required by G.S. 20-122.1.
- 11 (8) Mirrors, as required by G.S. 20-126.
- 12 (9) Exhaust system and emissions control devices, as required by G.S.
13 20-128. For a vehicle that is subject to an emissions inspection in
14 addition to a safety inspection, a visual inspection of the vehicle's
15 emissions control devices is included in the emissions inspection
16 rather than the safety inspection.

17 (b) ~~Emissions.~~ Emissions Inspection Requirements in Certain Counties. -- An
18 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
19 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
20 visual inspection of the vehicle's emissions control devices to determine if the devices
21 are present, are properly connected, and are the correct type for the vehicle and, if
22 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
23 vehicle to determine if the exhaust emissions meet the standards for the model year
24 of the vehicle set by the Environmental Management Commission or, if the vehicle is
25 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
26 equipment installed by the vehicle manufacturer to identify any deterioration or
27 malfunction in the operation of the vehicle that would cause an increase in the
28 emission of pollutants by the vehicle that violates standards for the model year of the
29 vehicle set by the Environmental Management Commission. To pass an emissions
30 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
31 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
32 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
33 safety inspection must be performed on the vehicle as well.

34 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
35 inspection of the vehicle's emission control devices to determine if the devices are
36 present, are properly connected, and are the correct type for the vehicle and an
37 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
38 the vehicle manufacturer to identify any deterioration or malfunction in the operation
39 of the vehicle that violates standards for the model year of the vehicle set by the
40 Environmental Management Commission. To pass an emissions inspection a vehicle
41 must pass both the visual inspection and the OBD analysis. When an emissions
42 inspection is performed on a vehicle, a safety inspection must be performed on the
43 vehicle as well.

1 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
2 been repaired after failing an inspection is the same as the original inspection unless
3 the vehicle is presented for reinspection within 30 days of failing the original
4 inspection. If the vehicle is presented for reinspection within this time limit and the
5 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
6 inspection of the equipment that failed the original inspection. If the vehicle is
7 presented for reinspection within this time limit and the inspection the vehicle failed
8 was an emissions inspection, the reinspection is limited to the portion of the
9 inspection the vehicle failed and any other portion of the inspection that would be
10 affected by repairs made to correct the failure."

11 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
12 Section 9 of this act, reads as rewritten:

13 "(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later
14 model."

15 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
16 Sections 8 and 10 of this act, is repealed.

17 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:

18 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
19 **license.**

20 (a) License Required. -- An emissions inspection must be performed by one of the
21 following methods:

22 (1) At a station that has an emissions inspection station license issued
23 by the Division and by a mechanic who is employed by the station
24 and has an emissions inspection mechanic license issued by the
25 Division.

26 (2) At a place of business of a person who has an emissions
27 self-inspector license issued by the Division and by an individual
28 who has an emissions inspection mechanic license.

29 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
30 station must meet all of the following requirements:

31 (1) Have a license as a safety inspection station.

32 (2) Have an emissions analyzer approved by the Environmental
33 Management ~~Commission.~~ Commission, equipment to analyze data
34 provided by the on-board diagnostic (OBD) equipment approved
35 by the Environmental Management Commission, or both.

36 (3) Have equipment to transfer information on emissions inspections
37 to the Division by electronic means.

38 (4) Regularly employ at least one mechanic who has an emissions
39 inspection mechanic license.

40 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
41 inspection mechanic must meet all of the following requirements:

42 (1) Have a license as a safety inspection mechanic.

43 (2) Have successfully completed an eight-hour course approved by the
44 Division that teaches students about the causes and effects of the

1 air pollution ~~problem, program;~~ problem; the purpose of the emissions
2 inspection ~~program, program;~~ the vehicle emission standards
3 established by the ~~federal~~ United States Environmental Protection
4 ~~Agency, Agency;~~ the emission control devices on ~~vehicles, vehicles;~~
5 how to conduct an emissions inspection using an emissions
6 analyzer approved by the Environmental Management
7 Commission, equipment to analyze data provided by the on-board
8 diagnostic (OBD) equipment approved by the Environmental
9 Management Commission, or both; and any other topic required by
10 40 C.F.R. § 51.367 to be included in the course. Successful
11 completion requires a passing score on a written test and on a
12 hands-on test in which the student is required to conduct an
13 emissions inspection of a motor vehicle.

14 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
15 self-inspector must meet all of the following requirements:

- 16 (1) Have a license as a safety self-inspector.
- 17 (2) Operate a fleet of at least 10 vehicles that are subject to an
18 emissions inspection.
- 19 (3) Have, or have a contract with a person who has, an emissions
20 analyzer approved by the Environmental Management
21 ~~Commission. Commission, equipment to analyze data provided by~~
22 the on-board diagnostic (OBD) equipment approved by the
23 Environmental Management Commission, or both.
- 24 (4) Regularly employ or contract with an individual who has an
25 emissions inspection mechanic license and who will perform an
26 emissions inspection on the vehicles that are part of the
27 self-inspector's fleet."

28 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
29 13 of this act, reads as rewritten:

30 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
31 **license.**

32 (a) License Required. -- An emissions inspection must be performed by one of the
33 following methods:

- 34 (1) At a station that has an emissions inspection station license issued
35 by the Division and by a mechanic who is employed by the station
36 and has an emissions inspection mechanic license issued by the
37 Division.
- 38 (2) At a place of business of a person who has an emissions
39 self-inspector license issued by the Division and by an individual
40 who has an emissions inspection mechanic license.

41 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
42 station must meet all of the following requirements:

- 43 (1) Have a license as a safety inspection station.

- 1 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
2 Guilford, Mecklenburg, Orange, Union, and Wake, have an
3 emissions analyzer approved by the Environmental Management
4 Commission, equipment to analyze data provided by the on-board
5 diagnostic (OBD) equipment approved by the Environmental
6 Management Commission, or both.
- 7 (2a) Have equipment to analyze data provided by the on-board
8 diagnostic (OBD) equipment approved by the Environmental
9 Management Commission.
- 10 (3) Have equipment to transfer information on emissions inspections
11 to the Division by electronic means.
- 12 (4) Regularly employ at least one mechanic who has an emissions
13 inspection mechanic license.
- 14 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
15 inspection mechanic must meet all of the following requirements:
- 16 (1) Have a license as a safety inspection mechanic.
- 17 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
18 Guilford, Mecklenburg, Orange, Union, and Wake, have
19 successfully completed an eight-hour course approved by the
20 Division that teaches students about the causes and effects of the
21 air pollution problem; the purpose of the emissions inspection
22 program; the vehicle emission standards established by the United
23 States Environmental Protection Agency; the emission control
24 devices on vehicles; how to conduct an emissions inspection using
25 an emissions analyzer approved by the Environmental Management
26 Commission, equipment to analyze data provided by the on-board
27 diagnostic (OBD) equipment approved by the Environmental
28 Management Commission, or both; and any other topic required by
29 40 C.F.R. § 51.367 to be included in the course. Successful
30 completion requires a passing score on a written test and on a
31 hands-on test in which the student is required to conduct an
32 emissions inspection of a motor vehicle.
- 33 (2a) Have successfully completed an eight-hour course approved by the
34 Division that teaches students about the causes and effects of the
35 air pollution problem, the purpose of the emissions inspection
36 program, the vehicle emission standards established by the United
37 States Environmental Protection Agency, the emission control
38 devices on vehicles, how to conduct an emissions inspection using
39 equipment to analyze data provided by the on-board diagnostic
40 (OBD) equipment approved by the Environmental Management
41 Commission, and any other topic required by 40 C.F.R. § 51.367 to
42 be included in the course. Successful completion requires a
43 passing score on a written test and on a hands-on test in which the

1 student is required to conduct an emissions inspection of a motor
2 vehicle.

3 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
4 self-inspector must meet all of the following requirements:

5 (1) Have a license as a safety self-inspector.
6 (2) Operate a fleet of at least 10 vehicles that are subject to an
7 emissions inspection.

8 (3) ~~Have;~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
9 Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a
10 contract with a person who has, an emissions analyzer approved by
11 the Environmental Management Commission, equipment to
12 analyze data provided by the on-board diagnostic (OBD)
13 equipment approved by the Environmental Management
14 Commission, or both.

15 (3a) Have, or have a contract with a person who has, equipment to
16 analyze data provided by the on-board diagnostic (OBD)
17 equipment approved by the Environmental Management
18 Commission.

19 (4) Regularly employ or contract with an individual who has an
20 emissions inspection mechanic license and who will perform an
21 emissions inspection on the vehicles that are part of the
22 self-inspector's fleet."

23 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
24 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
25 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

26 Section 16. Effective 1 July 2002, G.S. 20-183.5(a) reads as rewritten:

27 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
28 of the following requirements:

29 (1) Fails an emissions inspection because it passes the visual inspection
30 ~~part of the inspection~~ but fails the analysis of exhaust emissions
31 ~~analysis part of the inspection.~~ or the analysis of data provided by
32 the on-board diagnostic (OBD) equipment.

33 (2) Has documented repairs costing at least the waiver amount made
34 to the vehicle to correct the cause of the failure. The waiver
35 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
36 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
37 or newer model.

38 (3) Is reinspected and again fails the inspection because it passes the
39 visual inspection ~~part of the inspection~~ but fails the analysis of
40 exhaust emissions ~~analysis part of the inspection.~~ or the analysis of
41 data provided by the on-board diagnostic (OBD) equipment.

42 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

43 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
44 Section 16 of this act, reads as rewritten:

1 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
2 of the following requirements:

- 3 (1) Fails an emissions inspection because it passes the visual inspection
4 but fails ~~the analysis of exhaust emissions or~~ the analysis of data
5 provided by the on-board diagnostic (OBD) equipment.
6 (2) Has documented repairs costing at least the waiver amount made
7 to the vehicle to correct the cause of the failure. The waiver
8 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
9 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
10 or newer model.
11 (3) Is reinspected and again fails the inspection because it passes the
12 visual inspection but fails ~~the analysis of exhaust emissions or~~ the
13 analysis of data provided by the on-board diagnostic (OBD)
14 equipment.
15 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

16 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:

17 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

18 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
19 inspection station, or an emissions inspection mechanic to do any of the following:

- 20 (1) Put an emissions inspection sticker on a vehicle without
21 performing an emissions inspection of the vehicle.
22 (1a) Put an emissions inspection sticker on a vehicle after performing
23 an emissions inspection of the vehicle and determining that the
24 vehicle did not pass the inspection.
25 (2) Use a test-defeating strategy when conducting an emissions
26 inspection, such as holding the accelerator pedal down slightly
27 during an idle test, disconnecting or crimping a vacuum hose to
28 effect a passing result, or changing the emission standards for a
29 vehicle by incorrectly entering the vehicle type or model year to
30 achieve a passing result.
31 (3) Allow a person who is not licensed as an emissions inspection
32 mechanic to perform an emissions inspection for a self-inspector or
33 at an emissions station.
34 (4) Sell or otherwise give an inspection sticker to another other than
35 as the result of a vehicle inspection in which the vehicle passed the
36 inspection or for which the vehicle received a waiver.
37 (5) Be unable to account for five or more inspection stickers at any
38 one time upon the request of an auditor of the Division.
39 (6) Perform a safety-only inspection on a vehicle that is subject to both
40 a safety and an emissions inspection.
41 (7) Transfer an inspection sticker from one vehicle to another.

42 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
43 inspection station, or an emissions inspection mechanic to do any of the following:

- 1 (1) Use the identification code of another to gain access to an
2 emissions ~~analyzer.~~ analyzer or to equipment to analyze data
3 provided by on-board diagnostic (OBD) equipment.
- 4 (2) Keep inspection stickers and other compliance documents in a
5 manner that makes them easily accessible to individuals who are
6 not inspection mechanics.
- 7 (3) Put an emissions inspection sticker on a vehicle that is required to
8 have one of the following emissions control devices but does not
9 have it:
- 10 a. Catalytic converter.
11 b. PCV valve.
12 c. Thermostatic air control.
13 d. Oxygen sensor.
14 e. Unleaded gas restrictor.
15 f. Gasoline tank cap.
16 g. Air injection system.
17 h. Evaporative emissions system.
18 i. Exhaust gas recirculation (EGR) valve.
- 19 (4) Put an emissions inspection sticker on a vehicle without
20 performing a visual inspection of the vehicle's exhaust system and
21 checking the exhaust system for leaks.
- 22 (5) Impose no fee for an emissions inspection of a vehicle or the
23 issuance of an emissions inspection sticker or impose a fee for one
24 of these actions in an amount that differs from the amount set in
25 G.S. 20-183.7.
- 26 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
27 emissions inspection station, or an emissions inspection mechanic to do any of the
28 following:
- 29 (1) Fail to post an emissions license issued by the Division.
30 (2) Fail to send information on emissions inspections to the Division at
31 the time or in the form required by the Division.
32 (3) Fail to post emissions information required by federal law to be
33 posted.
34 (4) Fail to put the required information on an inspection sticker in a
35 legible manner using ink.
36 (5) Fail to put the required information on an inspection receipt in a
37 legible manner.
38 (6) Fail to maintain ~~an emissions analyzer~~ a maintenance log. log for
39 an emissions analyzer or for equipment to analyze data provided
40 by on-board diagnostic (OBD) equipment.
- 41 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
42 Type III violations are not the only acts that are one of these types of violations. The
43 Division may designate other acts that are a Type I, Type II, or Type III violation."

1 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
2 Section 18 of this act, reads as rewritten:

3 **"§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

4 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
5 inspection station, or an emissions inspection mechanic to do any of the following:

6 (1) Put an emissions inspection sticker on a vehicle without
7 performing an emissions inspection of the vehicle.

8 (1a) Put an emissions inspection sticker on a vehicle after performing
9 an emissions inspection of the vehicle and determining that the
10 vehicle did not pass the inspection.

11 (2) Use a test-defeating strategy when conducting an emissions
12 inspection, such as holding the accelerator pedal down slightly
13 during an idle test, disconnecting or crimping a vacuum hose to
14 effect a passing result, or changing the emission standards for a
15 vehicle by incorrectly entering the vehicle type or model year to
16 achieve a passing result.

17 (3) Allow a person who is not licensed as an emissions inspection
18 mechanic to perform an emissions inspection for a self-inspector or
19 at an emissions station.

20 (4) Sell or otherwise give an inspection sticker to another other than
21 as the result of a vehicle inspection in which the vehicle passed the
22 inspection or for which the vehicle received a waiver.

23 (5) Be unable to account for five or more inspection stickers at any
24 one time upon the request of an auditor of the Division.

25 (6) Perform a safety-only inspection on a vehicle that is subject to both
26 a safety and an emissions inspection.

27 (7) Transfer an inspection sticker from one vehicle to another.

28 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
29 inspection station, or an emissions inspection mechanic to do any of the following:

30 (1) Use the identification code of another to gain access to ~~an~~
31 ~~emissions analyzer or~~ to equipment to analyze data provided by
32 on-board diagnostic (OBD) equipment.

33 (2) Keep inspection stickers and other compliance documents in a
34 manner that makes them easily accessible to individuals who are
35 not inspection mechanics.

36 (3) Put an emissions inspection sticker on a vehicle that is required to
37 have one of the following emissions control devices but does not
38 have it:

- 39 a. Catalytic converter.
- 40 b. PCV valve.
- 41 c. Thermostatic air control.
- 42 d. Oxygen sensor.
- 43 e. Unleaded gas restrictor.
- 44 f. Gasoline tank cap.

- 1 g. Air injection system.
2 h. Evaporative emissions system.
3 i. Exhaust gas recirculation (EGR) valve.
4 (4) Put an emissions inspection sticker on a vehicle without
5 performing a visual inspection of the vehicle's exhaust system and
6 checking the exhaust system for leaks.
7 (5) Impose no fee for an emissions inspection of a vehicle or the
8 issuance of an emissions inspection sticker or impose a fee for one
9 of these actions in an amount that differs from the amount set in
10 G.S. 20-183.7.

11 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
12 emissions inspection station, or an emissions inspection mechanic to do any of the
13 following:

- 14 (1) Fail to post an emissions license issued by the Division.
15 (2) Fail to send information on emissions inspections to the Division at
16 the time or in the form required by the Division.
17 (3) Fail to post emissions information required by federal law to be
18 posted.
19 (4) Fail to put the required information on an inspection sticker in a
20 legible manner using ink.
21 (5) Fail to put the required information on an inspection receipt in a
22 legible manner.
23 (6) Fail to maintain a maintenance log ~~for an emissions analyzer or for~~
24 ~~equipment to analyze data provided by on-board diagnostic (OBD)~~
25 ~~equipment.~~

26 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
27 Type III violations are not the only acts that are one of these types of violations. The
28 Division may designate other acts that are a Type I, Type II, or Type III violation."

29 Section 20. During the period 1 July 2002 through 31 December 2005, in
30 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
31 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
32 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
33 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
34 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
35 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
36 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
37 model vehicles using equipment to analyze data provided by the on-board diagnostic
38 (OBD) equipment. This section shall not be construed to authorize an emissions
39 inspection station or an emissions self-inspector to perform an emissions inspection
40 on a vehicle of a model year for which the emissions inspection station or emissions
41 self-inspector does not have the equipment necessary to perform an emissions
42 inspection of vehicles of that model year. This section shall not be construed to
43 authorize an emissions inspection mechanic to perform an emissions inspection on a
44 vehicle unless the emissions inspection mechanic has successfully completed a course,

1 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
2 use of the equipment necessary to perform an emissions inspection on vehicles of that
3 model year.

4 Section 21. This act constitutes a recent act of the General Assembly
5 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
6 NCAC 2C.0102(11), the Environmental Management Commission and the Division of
7 Motor Vehicles of the Department of Transportation may adopt temporary rules to
8 implement the provisions of this act. This section shall continue in effect until all
9 rules necessary to implement the provisions of this act have become effective as either
10 temporary rules or permanent rules.

11 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

12 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
13 both State and federal-aid funds expended under the Transportation Improvement
14 Program, other than federal congestion mitigation and air quality improvement
15 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
16 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in
17 G.S. 136-180 and funds received through competitive awards or discretionary grants
18 through federal appropriations either for local governments, transportation
19 authorities, transit authorities, or the Department, shall be distributed throughout the
20 State in accordance with this section.

- 21 (1) Distribution Region A consists of the following counties: Bertie,
22 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
23 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
24 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 25 (2) Distribution Region B consists of the following counties: Beaufort,
26 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
27 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 28 (3) Distribution Region C consists of the following counties: Bladen,
29 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
30 Person, Robeson, Vance, Wake, and Warren.
- 31 (4) Distribution Region D consists of the following counties:
32 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
33 Rockingham, Rowan, and Stokes.
- 34 (5) Distribution Region E consists of the following counties: Anson,
35 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
36 Moore, Randolph, Richmond, Scotland, Stanly, and Union.
- 37 (6) Distribution Region F consists of the following counties:
38 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
39 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 40 (7) Distribution Region G consists of the following counties:
41 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
42 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
43 Rutherford, Swain, Transylvania, and Yancey."

1 Section 23. The Environmental Review Commission, with the assistance
2 of the Department of Environment and Natural Resources, the Division of Motor
3 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
4 Research Division of the Legislative Services Office shall study issues related to the
5 costs associated with the motor vehicle safety and emissions inspection and
6 maintenance program. The Commission shall determine what constitutes a
7 reasonable fee for motor vehicle inspections under the current program and under
8 the enhanced inspection and maintenance program to be implemented pursuant to
9 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
10 constitutes a reasonable fee, the Commission shall consider the cost of emissions
11 inspection equipment, the useful life of the equipment, the average period of time
12 during which a purchaser of this equipment is able to amortize this cost, telephone
13 charges incurred in connection with the registration denial program, whether a fee
14 should be charged to reinspect a vehicle that fails an emissions inspection after
15 repairs to the vehicle have been made, the cost of the safety inspection program in
16 relation to the emissions inspection program, and any other factors that the
17 Commission determines to be relevant. The Commission may also evaluate strategies
18 to ensure an efficient and orderly implementation of the enhanced inspection and
19 maintenance program required by Part III of S.L. 1999-328 and this act. The
20 Environmental Review Commission shall recommend legislation to amend G.S.
21 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
22 General Assembly.

23 Section 24. Except as otherwise provided in this act, this act is effective
24 when it becomes law.



HOUSE BILL 1638: I/M Technology Amendments/CMAQ Funds

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: June 20, 2000

Version: Proposed Committee Substitute
for the Third Edition

Introduced by: Representative Hackney

Summary by: Jeff Hudson,
Committee Counsel;
Hannah Holm,
Research Assistant for
Environmental Issues

SUMMARY: *House Bill 1638, Third Edition, provides for the use of on-board diagnostic equipment in the motor vehicle emissions inspection and maintenance program. The bill 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.

HOUSE BILL 1638

Page 2

EMISSIONS INSPECTION PROGRAM EXPANSION SCHEDULE (New Test)	
July 1, 2002	Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, Wake (<i>counties where emissions tests are already required</i>)
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).

HOUSE BILL 1638

Page 3

ANALYSIS OF HOUSE BILL 1638 (THIRD EDITION): House Bill 1638 (Third Edition) provides for the following:

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.

House Bill 1638 (Third Edition) 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.
- Exempts new motor vehicles (those that have been used for 12 months or less) from emissions inspections.

CHANGE MADE BY PROPOSED COMMITTEE SUBSTITUTE: The only change made by the Proposed Committee Substitute for House Bill 1638 (Third Edition) is the removal of the exemption from emissions inspections for new motor vehicles (those that have been used for 12 months or less).

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES



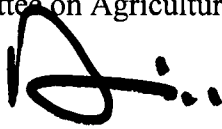
June 27, 2000

JAMES B. HUNT JR.
GOVERNOR

MEMORANDUM

BILL HOLMAN
SECRETARY

TO: Senator Charlie Albertson, Chairman
Senate Committee on Agriculture and Environment

FROM: Bill Holman 

SUBJECT: Exempting Newer Vehicles from Inspection/Maintenance Requirements

H.B. 1638, I/M Technology Amends/CMAQ Funds (S.B. 1317) is a further and important step in the implementation of the Governor's Clean Air Plan, building on S.B. 953 which you enacted last year. I strongly urge your continued support of this year's legislation and the Plan.

Currently the North Carolina Inspection/Maintenance (I/M) Program does NOT require that a dealer inspect a new car for emissions. However, a used car must be inspected for emissions before being offered for sale. This means that most vehicles, but not all, receive their first emissions inspection when they are one year old.

H.B. 1638, third edition, as passed by the House, contains an amendment that would exempt vehicles from emissions inspections until they are more than 12 months old. This means that many vehicles would receive their first inspection for emissions when they are one year eleven months old because a vehicle sold new in January could receive a safety-only inspection in December which would be good until the following December.

North Carolina has a widespread excessive ozone pollution. To solve this problem, significant reductions in emissions of pollutants, particularly nitrogen oxides, that generate the ozone must be made. This extension of time by the amendment before the first emissions inspection is estimated through an EPA model to reduce the emissions reduction benefit of the I/M Program by 1%. This shortfall in emissions reduction benefit received from the I/M Program must be compensated for by additional emissions reductions from mobile sources or industries or the public.



Senator Charlie Albertson

Page Two

June 27, 2000

EPA gives the states latitude in the design of their I/M programs provided that they get the same or better emission reductions as the standard program. Of the thirty-six state programs, twenty-eight do not allow any new car exemptions. Three states exempt vehicles up to two years old, one state exempts up to three years old, two states exempt up to four years old, and two states exempt up to five years old. The corresponding estimates of the losses of emissions reduction benefit are 1%, 3.5%, 7%, and 11% for 1, 2, 3 and 4 year exemptions, respectively. (5 year exemption has not been calculated but is expected to be significantly above 11%)

Similarly, EPA and the federal Clean Air Act give the states wide latitude in designing their plans for attaining the National Ambient Air Quality Standards, but the plans must demonstrate that the Standards will be attained by the deadlines through the emissions reductions in the plan. Those emission reductions lost by allowed exemptions must be made up to the extent necessary to meet our public health based air quality standards.

The bottom line is that we have an ozone problem that requires significant emissions reductions and, the more those reductions are not obtained from one sector, the more they must come from another sector using more stringent, and perhaps more expensive, requirements. I urge you to resist weakening the design of the I/M Program by reducing its effectiveness through exemption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

3

HOUSE BILL 1638*
Committee Substitute Favorable 6/6/00
Third Edition Engrossed 6/8/00

Short Title: I/M Technology Amends/CMAQ Funds.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AMBIENT AIR QUALITY, TO PROVIDE FOR THE
3 USE OF ON-BOARD DIAGNOSTIC EQUIPMENT IN THE MOTOR VEHICLE
4 EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO
5 EXCLUDE FEDERAL CONGESTION MITIGATION AND AIR QUALITY
6 FUNDS FROM THE DISTRIBUTION FORMULA FOR FUNDS EXPENDED
7 ON TRANSPORTATION, AS RECOMMENDED BY THE ENVIRONMENTAL
8 REVIEW COMMISSION.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 143-215.107(a)(6) reads as rewritten:

11 "(6) To adopt motor vehicle emissions standards; to adopt, when
12 necessary and practicable, a motor vehicle emissions inspection
13 and maintenance program to improve ambient air quality; ~~to~~
14 ~~require that motor vehicle emissions be monitored while the~~
15 ~~vehicle is in operation by means of onboard diagnostic equipment~~
16 ~~(OBD) installed by the vehicle manufacturer;~~ to require
17 manufacturers of motor vehicles to furnish to the Equipment and
18 Tool Institute and, upon request and at a reasonable charge, to any
19 person who maintains or repairs a motor vehicle, all information
20 necessary to fully make use of the ~~onboard~~ on-board diagnostic
21 equipment and the data compiled by that equipment; to certify to
22 the Commissioner of Motor Vehicles that ambient air quality will

1 be improved by the implementation of a motor vehicle emissions
2 inspection and maintenance program in a county. The Commission
3 shall implement this subdivision as provided in G.S.
4 143-215.107A."

5 Section 2. G.S. 143-215.107A(b) is repealed.

6 Section 3. G.S. 143-215.107A(d) reads as rewritten:

7 "(d) Additional Counties. -- The Commission may require that motor vehicle
8 emissions inspections be performed in counties in addition to those set out in
9 subsection (c) of this section. In determining whether to require that motor vehicle
10 emissions inspections be performed in a county, the Commission may consider the
11 population of, and distribution of population in, the county; the projected change in
12 population of, and distribution of population in, the county; the number of vehicles
13 registered in the county; the projected change in the number of vehicles registered in
14 the county; vehicle miles traveled in the county; the projected change in vehicle miles
15 traveled in the county; current and projected commuting patterns in the county; and
16 the current and projected impact of these factors on attainment of air quality
17 standards in the county and in areas outside the county. The Commission may not
18 require that motor vehicle emissions ~~testing~~ inspections be performed in any county
19 with a population of less than 40,000 based on the most recent population estimates
20 prepared by the State Planning Officer. The Commission may not require that motor
21 vehicle emissions ~~testing~~ inspections be performed in any county in which the
22 number of vehicle miles traveled per day is less than 900,000, based on the most
23 recent estimates prepared by the Department of Transportation. In order to
24 disapprove a rule that requires that motor vehicle emissions inspections be performed
25 in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b)
26 must amend subsection (c) of this section to add one or more other counties in which
27 the total population and vehicle miles traveled per day equal or exceed the total
28 population and vehicle miles traveled in the county or counties listed in the rule that
29 the bill would disapprove."

30 Section 4. Section 3.2 of S.L. 1999-328 reads as rewritten:

31 "Section 3.2. ~~The Environmental Management Commission shall adopt rules to~~
32 ~~implement G.S. 143-215.107A(b), as enacted by Section 3.1 of this act. These rules~~
33 ~~shall become effective on 1 July 2002.~~ The Environmental Management Commission
34 shall not require that motor vehicle emissions inspections be performed in any county
35 pursuant to G.S. 143-215.107A(d), as enacted by Section 3.1 of this act, prior to 1
36 July 2006. The Environmental Management Commission shall not require motor
37 vehicle emissions inspections for diesel powered vehicles prior to 1 July 2001."

38 Section 5. Section 3.9 of S.L. 1999-328 is repealed.

39 Section 6. Effective 1 July 2000, G.S. 20-128 reads as rewritten:

40 "~~§ 20-128. Prevention of noise, smoke, etc., muffler cut-outs regulated. Exhaust~~
41 ~~system and emissions control devices.~~

42 (a) No person shall drive a motor vehicle on a highway unless such motor vehicle
43 is equipped with a muffler, or other exhaust system of the type installed at the time of

1 manufacture, in good working order and in constant operation to prevent excessive
2 or unusual noise, annoying smoke and smoke screens.

3 (b) It shall be unlawful to use a 'muffler cut-out' on any motor vehicle upon a
4 highway.

5 (c) No motor vehicle registered in this State ~~which that~~ was manufactured after
6 model year 1967 shall be operated in this State unless it is equipped with ~~such~~
7 ~~emission control~~ emissions control devices ~~to reduce air pollution as that~~ were
8 installed on the vehicle at the time of ~~manufacture, provided the foregoing~~
9 ~~requirement~~ the vehicle was manufactured and these devices are properly connected.

10 (d) The requirements of subsection (c) of this section shall not apply where such if
11 the emissions control devices have been removed for the purpose of converting the
12 motor vehicle to operate on natural or liquefied petroleum gas or other modifications
13 have been made in order to reduce air ~~pollution, further provided that such~~
14 ~~modifications shall have first been~~ pollution and these modifications are approved by
15 the Department of Environment and Natural Resources."

16 Section 7. Effective 1 July 2000, G.S. 20-183.2(b) reads as rewritten:

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

- 19 (1) It is subject to registration with the Division under Article 3 of this
20 Chapter.
- 21 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
22 house trailer, or a motorcycle.
- 23 (3) It is a 1975 or later model.
- 24 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 25 (5) It meets any of the following descriptions:
- 26 a. It is required to be registered in an emissions county.
- 27 b. It is part of a fleet that is operated primarily in an emissions
28 county.
- 29 c. It is offered for rent in an emissions county.
- 30 d. It is a used vehicle offered for sale by a dealer in an
31 emissions county.
- 32 e. It is operated on a federal installation located in an
33 emissions county and it is not a tactical military vehicle.
34 Vehicles operated on a federal installation include those that
35 are owned or leased by employees of the installation and are
36 used to commute to the installation and those owned or
37 operated by the federal agency that conducts business at the
38 installation.
- 39 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
40 an emissions inspection.

41 (6) It is not licensed at the farmer rate under G.S. 20-88(b)."

42 Section 7.1. Effective 1 July 2002, G.S. 20-183.2(b) reads as rewritten:

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

- 1 (1) It is subject to registration with the Division under Article 3 of this
2 Chapter.
- 3 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
4 house trailer, or a motorcycle.
- 5 (3) It is a 1975 or later model.
- 6 (4) Repealed by Session Laws 1999-328, s. 3.11.
- 7 (5) It meets any of the following descriptions:
- 8 a. It is required to be registered in an emissions county.
- 9 b. It is part of a fleet that is operated primarily in an emissions
10 county.
- 11 c. It is offered for rent in an emissions county.
- 12 d. It is a used vehicle offered for sale by a dealer in an
13 emissions county.
- 14 e. It is operated on a federal installation located in an
15 emissions county and it is not a tactical military vehicle.
16 Vehicles operated on a federal installation include those that
17 are owned or leased by employees of the installation and are
18 used to commute to the installation and those owned or
19 operated by the federal agency that conducts business at the
20 installation.
- 21 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
22 an emissions inspection.
- 23 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
- 24 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a, and
25 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
26 more than 12 months."

27 Section 8. Effective 1 July 2002, G.S. 20-183.3 reads as rewritten:

28 **"§ 20-183.3. Scope of safety inspection and emissions inspection.**

29 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
30 following equipment to determine if the vehicle has the equipment required by Part 9
31 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 32 (1) Brakes, as required by G.S. 20-124.
- 33 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 34 (3) Horn, as required by G.S. 20-125(a).
- 35 (4) Steering mechanism, as required by G.S. 20-123.1.
- 36 (5) Windows and windshield wipers, as required by G.S. 20-127. To
37 determine if a vehicle window meets the window tinting
38 restrictions, a safety inspection mechanic must first determine,
39 based on use of an automotive film check card or knowledge of
40 window tinting techniques, if after-factory tint has been applied to
41 the window. If after-factory tint has been applied, the mechanic
42 must use a light meter approved by the Commissioner to
43 determine if the window meets the window tinting restrictions.
- 44 (6) Directional signals, as required by G.S. 20-125.1.

- 1 (7) Tires, as required by G.S. 20-122.1.
2 (8) Mirrors, as required by G.S. 20-126.
3 (9) Exhaust ~~system~~, system and emissions control devices, as required
4 by G.S. 20-128. For a vehicle that is subject to an emissions
5 inspection in addition to a safety inspection, a visual inspection of
6 the vehicle's ~~emission control~~ emissions control devices is included
7 in the emissions inspection rather than the safety inspection.

8 (b) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
9 inspection of the vehicle's ~~emission~~ emissions control devices to determine if the
10 devices are present, are properly connected, and are the correct type for the vehicle
11 ~~and~~ and, if the vehicle is a 1975 through 1995 model, an analysis of the exhaust
12 emissions of the vehicle to determine if the exhaust emissions meet the standards for
13 the model year of the vehicle set by the Environmental Management Commission or,
14 if the vehicle is a 1996 or later model, an analysis of data provided by the on-board
15 diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any
16 deterioration or malfunction in the operation of the vehicle that violates standards for
17 the model year of the vehicle set by the Environmental Management Commission.
18 To pass an emissions inspection a vehicle must pass both the visual inspection ~~and~~
19 and, if the vehicle is a 1975 through 1995 model, the exhaust emissions ~~analysis~~.
20 analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an
21 emissions inspection is performed on a vehicle, a safety inspection must be performed
22 on the vehicle as well.

23 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
24 been repaired after failing an inspection is the same as the original inspection unless
25 the vehicle is presented for reinspection within 30 days of failing the original
26 inspection. If the vehicle is presented for reinspection within this time limit and the
27 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
28 inspection of the equipment that failed the original inspection. If the vehicle is
29 presented for reinspection within this time limit and the inspection the vehicle failed
30 was an emissions inspection, the reinspection is limited to the portion of the
31 inspection the vehicle failed and any other portion of the inspection that would be
32 affected by repairs made to correct the failure."

33 Section 9. Effective 1 July 2003, G.S. 20-183.2(b), as amended by Section
34 7 of this act, reads as rewritten:

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

- 37 (1) It is subject to registration with the Division under Article 3 of this
38 Chapter.
39 (2) It is not a trailer whose gross weight is less than 4,000 pounds, a
40 house trailer, or a motorcycle.
41 (3) ~~It~~ Except as provided in G.S. 20-183.3(b), it is a 1975 1996 or later
42 model.
43 (4) Repealed by Session Laws 1999-328, s. 3.11.
44 (5) It meets any of the following descriptions:

- 1 a. It is required to be registered in an emissions county.
- 2 b. It is part of a fleet that is operated primarily in an emissions
- 3 county.
- 4 c. It is offered for rent in an emissions county.
- 5 d. It is a used vehicle offered for sale by a dealer in an
- 6 emissions county.
- 7 e. It is operated on a federal installation located in an
- 8 emissions county and it is not a tactical military vehicle.
- 9 Vehicles operated on a federal installation include those that
- 10 are owned or leased by employees of the installation and are
- 11 used to commute to the installation and those owned or
- 12 operated by the federal agency that conducts business at the
- 13 installation.
- 14 f. It is otherwise required by 40 C.F.R. Part 51 to be subject to
- 15 an emissions inspection.
- 16 (6) It is not licensed at the farmer rate under G.S. 20-88(b).
- 17 (7) It is not a new motor vehicle, as defined in G.S. 20-286(10)a. and
- 18 has been a used motor vehicle, as defined in G.S. 20-286(10)b., for
- 19 more than 12 months."

20 Section 10. Effective 1 July 2003, G.S. 20-183.3, as amended by Section 8
21 of this act, reads as rewritten:

22 "**§ 20-183.3. Scope of safety inspection and emissions inspection.**

23 (a) Safety. -- A safety inspection of a motor vehicle consists of an inspection of the
24 following equipment to determine if the vehicle has the equipment required by Part 9
25 of Article 3 of this Chapter and if the equipment is in a safe operating condition:

- 26 (1) Brakes, as required by G.S. 20-124.
- 27 (2) Lights, as required by G.S. 20-129 or G.S. 20-129.1.
- 28 (3) Horn, as required by G.S. 20-125(a).
- 29 (4) Steering mechanism, as required by G.S. 20-123.1.
- 30 (5) Windows and windshield wipers, as required by G.S. 20-127. To
- 31 determine if a vehicle window meets the window tinting
- 32 restrictions, a safety inspection mechanic must first determine,
- 33 based on use of an automotive film check card or knowledge of
- 34 window tinting techniques, if after-factory tint has been applied to
- 35 the window. If after-factory tint has been applied, the mechanic
- 36 must use a light meter approved by the Commissioner to
- 37 determine if the window meets the window tinting restrictions.
- 38 (6) Directional signals, as required by G.S. 20-125.1.
- 39 (7) Tires, as required by G.S. 20-122.1.
- 40 (8) Mirrors, as required by G.S. 20-126.
- 41 (9) Exhaust system and emissions control devices, as required by G.S.
- 42 20-128. For a vehicle that is subject to an emissions inspection in
- 43 addition to a safety inspection, a visual inspection of the vehicle's

1 emissions control devices is included in the emissions inspection
2 rather than the safety inspection.

3 (b) ~~Emissions:~~ Emissions Inspection Requirements in Certain Counties. -- An
4 emissions inspection of a motor vehicle in the Counties of Cabarrus, Durham,
5 Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake consists of a
6 visual inspection of the vehicle's emissions control devices to determine if the devices
7 are present, are properly connected, and are the correct type for the vehicle and, if
8 the vehicle is a 1975 through 1995 model, an analysis of the exhaust emissions of the
9 vehicle to determine if the exhaust emissions meet the standards for the model year
10 of the vehicle set by the Environmental Management Commission or, if the vehicle is
11 a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD)
12 equipment installed by the vehicle manufacturer to identify any deterioration or
13 malfunction in the operation of the vehicle that would cause an increase in the
14 emission of pollutants by the vehicle that violates standards for the model year of the
15 vehicle set by the Environmental Management Commission. To pass an emissions
16 inspection a vehicle must pass both the visual inspection and, if the vehicle is a 1975
17 through 1995 model, the exhaust emissions analysis or, if the vehicle is a 1996 or later
18 model, the OBD analysis. When an emissions inspection is performed on a vehicle, a
19 safety inspection must be performed on the vehicle as well.

20 (b1) Emissions. -- An emissions inspection of a motor vehicle consists of a visual
21 inspection of the vehicle's emission control devices to determine if the devices are
22 present, are properly connected, and are the correct type for the vehicle and an
23 analysis of data provided by the on-board diagnostic (OBD) equipment installed by
24 the vehicle manufacturer to identify any deterioration or malfunction in the operation
25 of the vehicle that violates standards for the model year of the vehicle set by the
26 Environmental Management Commission. To pass an emissions inspection a vehicle
27 must pass both the visual inspection and the OBD analysis. When an emissions
28 inspection is performed on a vehicle, a safety inspection must be performed on the
29 vehicle as well.

30 (c) Reinspection After Failure. -- The scope of a reinspection of a vehicle that has
31 been repaired after failing an inspection is the same as the original inspection unless
32 the vehicle is presented for reinspection within 30 days of failing the original
33 inspection. If the vehicle is presented for reinspection within this time limit and the
34 inspection the vehicle failed was a safety inspection, the reinspection is limited to an
35 inspection of the equipment that failed the original inspection. If the vehicle is
36 presented for reinspection within this time limit and the inspection the vehicle failed
37 was an emissions inspection, the reinspection is limited to the portion of the
38 inspection the vehicle failed and any other portion of the inspection that would be
39 affected by repairs made to correct the failure."

40 Section 11. Effective 1 January 2006, G.S. 20-182.2(b)(3), as amended by
41 Section 9 of this act, reads as rewritten:

42 "(3) ~~Except as provided in G.S. 20-183.3(b), it~~ It is a 1996 or later
43 model."

1 Section 12. Effective 1 January 2006, G.S. 20-183.3(b), as amended by
2 Sections 8 and 10 of this act, is repealed.

3 Section 13. Effective 1 July 2002, G.S. 20-183.4A reads as rewritten:
4 **"§ 20-183.4A. License required to perform emissions inspection; qualifications for**
5 **license.**

6 (a) License Required. -- An emissions inspection must be performed by one of the
7 following methods:

8 (1) At a station that has an emissions inspection station license issued
9 by the Division and by a mechanic who is employed by the station
10 and has an emissions inspection mechanic license issued by the
11 Division.

12 (2) At a place of business of a person who has an emissions
13 self-inspector license issued by the Division and by an individual
14 who has an emissions inspection mechanic license.

15 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
16 station must meet all of the following requirements:

17 (1) Have a license as a safety inspection station.

18 (2) Have an emissions analyzer approved by the Environmental
19 Management ~~Commission~~ Commission, equipment to analyze data
20 provided by the on-board diagnostic (OBD) equipment approved
21 by the Environmental Management Commission, or both.

22 (3) Have equipment to transfer information on emissions inspections
23 to the Division by electronic means.

24 (4) Regularly employ at least one mechanic who has an emissions
25 inspection mechanic license.

26 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
27 inspection mechanic must meet all of the following requirements:

28 (1) Have a license as a safety inspection mechanic.

29 (2) Have successfully completed an eight-hour course approved by the
30 Division that teaches students about the causes and effects of the
31 air pollution ~~problem~~, problem; the purpose of the emissions
32 inspection ~~program~~, program; the vehicle emission standards
33 established by the ~~federal~~ United States Environmental Protection
34 ~~Agency~~, Agency; the emission control devices on ~~vehicles~~, vehicles;
35 how to conduct an emissions inspection using an emissions
36 analyzer approved by the Environmental Management
37 Commission, equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission, or both; and any other topic required by
40 C.F.R. § 51.367 to be included in the course. Successful
41 completion requires a passing score on a written test and on a
42 hands-on test in which the student is required to conduct an
43 emissions inspection of a motor vehicle.

1 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
2 self-inspector must meet all of the following requirements:

- 3 (1) Have a license as a safety self-inspector.
4 (2) Operate a fleet of at least 10 vehicles that are subject to an
5 emissions inspection.
6 (3) Have, or have a contract with a person who has, an emissions
7 analyzer approved by the Environmental Management
8 ~~Commission.~~ Commission, equipment to analyze data provided by
9 the on-board diagnostic (OBD) equipment approved by the
10 Environmental Management Commission, or both.
11 (4) Regularly employ or contract with an individual who has an
12 emissions inspection mechanic license and who will perform an
13 emissions inspection on the vehicles that are part of the
14 self-inspector's fleet."

15 Section 14. Effective 1 July 2003, G.S. 20-183.4A, as amended by Section
16 13 of this act, reads as rewritten:

17 "**§ 20-183.4A. License required to perform emissions inspection; qualifications for**
18 **license.**

19 (a) License Required. -- An emissions inspection must be performed by one of the
20 following methods:

- 21 (1) At a station that has an emissions inspection station license issued
22 by the Division and by a mechanic who is employed by the station
23 and has an emissions inspection mechanic license issued by the
24 Division.
25 (2) At a place of business of a person who has an emissions
26 self-inspector license issued by the Division and by an individual
27 who has an emissions inspection mechanic license.

28 (b) Station Qualifications. -- An applicant for a license as an emissions inspection
29 station must meet all of the following requirements:

- 30 (1) Have a license as a safety inspection station.
31 (2) ~~Have~~ In the Counties of Cabarrus, Durham, Forsyth, Gaston,
32 Guilford, Mecklenburg, Orange, Union, and Wake, have an
33 emissions analyzer approved by the Environmental Management
34 Commission, equipment to analyze data provided by the on-board
35 diagnostic (OBD) equipment approved by the Environmental
36 Management Commission, or both.
37 (2a) Have equipment to analyze data provided by the on-board
38 diagnostic (OBD) equipment approved by the Environmental
39 Management Commission.
40 (3) Have equipment to transfer information on emissions inspections
41 to the Division by electronic means.
42 (4) Regularly employ at least one mechanic who has an emissions
43 inspection mechanic license.

1 (c) Mechanic Qualifications. -- An applicant for a license as an emissions
2 inspection mechanic must meet all of the following requirements:

3 (1) Have a license as a safety inspection mechanic.

4 (2) Have In the Counties of Cabarrus, Durham, Forsyth, Gaston,
5 Guilford, Mecklenburg, Orange, Union, and Wake, have
6 successfully completed an eight-hour course approved by the
7 Division that teaches students about the causes and effects of the
8 air pollution problem; the purpose of the emissions inspection
9 program; the vehicle emission standards established by the United
10 States Environmental Protection Agency; the emission control
11 devices on vehicles; how to conduct an emissions inspection using
12 an emissions analyzer approved by the Environmental Management
13 Commission, equipment to analyze data provided by the on-board
14 diagnostic (OBD) equipment approved by the Environmental
15 Management Commission, or both; and any other topic required by
16 40 C.F.R. § 51.367 to be included in the course. Successful
17 completion requires a passing score on a written test and on a
18 hands-on test in which the student is required to conduct an
19 emissions inspection of a motor vehicle.

20 (2a) Have successfully completed an eight-hour course approved by the
21 Division that teaches students about the causes and effects of the
22 air pollution problem, the purpose of the emissions inspection
23 program, the vehicle emission standards established by the United
24 States Environmental Protection Agency, the emission control
25 devices on vehicles, how to conduct an emissions inspection using
26 equipment to analyze data provided by the on-board diagnostic
27 (OBD) equipment approved by the Environmental Management
28 Commission, and any other topic required by 40 C.F.R. § 51.367 to
29 be included in the course. Successful completion requires a
30 passing score on a written test and on a hands-on test in which the
31 student is required to conduct an emissions inspection of a motor
32 vehicle.

33 (d) Self-Inspector Qualifications. -- An applicant for a license as an emissions
34 self-inspector must meet all of the following requirements:

35 (1) Have a license as a safety self-inspector.

36 (2) Operate a fleet of at least 10 vehicles that are subject to an
37 emissions inspection.

38 (3) Have, In the Counties of Cabarrus, Durham, Forsyth, Gaston,
39 Guilford, Mecklenburg, Orange, Union, and Wake, have, or have a
40 contract with a person who has, an emissions analyzer approved by
41 the Environmental Management Commission, equipment to
42 analyze data provided by the on-board diagnostic (OBD)
43 equipment approved by the Environmental Management
44 Commission, or both.

- 1 (3a) Have, or have a contract with a person who has, equipment to
2 analyze data provided by the on-board diagnostic (OBD)
3 equipment approved by the Environmental Management
4 Commission.
5 (4) Regularly employ or contract with an individual who has an
6 emissions inspection mechanic license and who will perform an
7 emissions inspection on the vehicles that are part of the
8 self-inspector's fleet."

9 Section 15. Effective 1 January 2006, subdivision (2) of subsection (b),
10 subdivision (2) of subsection (c), and subdivision (3) of subsection (d) of G.S.
11 20-183.4A, as amended by Sections 13 and 14 of this act, are repealed.

12 Section 16. Effective 1 July 2002, G.S. 20 183.5(a) reads as rewritten:

13 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
14 of the following requirements:

- 15 (1) Fails an emissions inspection because it passes the visual inspection
16 ~~part of the inspection~~ but fails the analysis of exhaust emissions
17 ~~analysis part of the inspection.~~ or the analysis of data provided by
18 the on-board diagnostic (OBD) equipment.
19 (2) Has documented repairs costing at least the waiver amount made
20 to the vehicle to correct the cause of the failure. The waiver
21 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
22 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
23 or newer model.
24 (3) Is reinspected and again fails the inspection because it passes the
25 visual inspection ~~part of the inspection~~ but fails the analysis of
26 exhaust emissions ~~analysis part of the inspection.~~ or the analysis of
27 data provided by the on-board diagnostic (OBD) equipment.
28 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."

29 Section 17. Effective 1 January 2006, G.S. 20-183.5(a), as amended by
30 Section 16 of this act, reads as rewritten:

31 "(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all
32 of the following requirements:

- 33 (1) Fails an emissions inspection because it passes the visual inspection
34 but fails ~~the analysis of exhaust emissions~~ or the analysis of data
35 provided by the on-board diagnostic (OBD) equipment.
36 (2) Has documented repairs costing at least the waiver amount made
37 to the vehicle to correct the cause of the failure. The waiver
38 amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981
39 model and is two hundred dollars (\$200.00) if the vehicle is a 1981
40 or newer model.
41 (3) Is reinspected and again fails the inspection because it passes the
42 visual inspection but fails ~~the analysis of exhaust emissions~~ or the
43 analysis of data provided by the on-board diagnostic (OBD)
44 equipment.

- 1 (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360."
2 Section 18. Effective 1 July 2002, G.S. 20-183.8C reads as rewritten:
3 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**
4 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
5 inspection station, or an emissions inspection mechanic to do any of the following:
6 (1) Put an emissions inspection sticker on a vehicle without
7 performing an emissions inspection of the vehicle.
8 (1a) Put an emissions inspection sticker on a vehicle after performing
9 an emissions inspection of the vehicle and determining that the
10 vehicle did not pass the inspection.
11 (2) Use a test-defeating strategy when conducting an emissions
12 inspection, such as holding the accelerator pedal down slightly
13 during an idle test, disconnecting or crimping a vacuum hose to
14 effect a passing result, or changing the emission standards for a
15 vehicle by incorrectly entering the vehicle type or model year to
16 achieve a passing result.
17 (3) Allow a person who is not licensed as an emissions inspection
18 mechanic to perform an emissions inspection for a self-inspector or
19 at an emissions station.
20 (4) Sell or otherwise give an inspection sticker to another other than
21 as the result of a vehicle inspection in which the vehicle passed the
22 inspection or for which the vehicle received a waiver.
23 (5) Be unable to account for five or more inspection stickers at any
24 one time upon the request of an auditor of the Division.
25 (6) Perform a safety-only inspection on a vehicle that is subject to both
26 a safety and an emissions inspection.
27 (7) Transfer an inspection sticker from one vehicle to another.
28 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
29 inspection station, or an emissions inspection mechanic to do any of the following:
30 (1) Use the identification code of another to gain access to an
31 emissions ~~analyzer~~. analyzer or to equipment to analyze data
32 provided by on-board diagnostic (OBD) equipment.
33 (2) Keep inspection stickers and other compliance documents in a
34 manner that makes them easily accessible to individuals who are
35 not inspection mechanics.
36 (3) Put an emissions inspection sticker on a vehicle that is required to
37 have one of the following emissions control devices but does not
38 have it:
39 a. Catalytic converter.
40 b. PCV valve.
41 c. Thermostatic air control.
42 d. Oxygen sensor.
43 e. Unleaded gas restrictor.
44 f. Gasoline tank cap.

- 1 g. Air injection system.
2 h. Evaporative emissions system.
3 i. Exhaust gas recirculation (EGR) valve.
4 (4) Put an emissions inspection sticker on a vehicle without
5 performing a visual inspection of the vehicle's exhaust system and
6 checking the exhaust system for leaks.
7 (5) Impose no fee for an emissions inspection of a vehicle or the
8 issuance of an emissions inspection sticker or impose a fee for one
9 of these actions in an amount that differs from the amount set in
10 G.S. 20-183.7.

11 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
12 emissions inspection station, or an emissions inspection mechanic to do any of the
13 following:

- 14 (1) Fail to post an emissions license issued by the Division.
15 (2) Fail to send information on emissions inspections to the Division at
16 the time or in the form required by the Division.
17 (3) Fail to post emissions information required by federal law to be
18 posted.
19 (4) Fail to put the required information on an inspection sticker in a
20 legible manner using ink.
21 (5) Fail to put the required information on an inspection receipt in a
22 legible manner.
23 (6) Fail to maintain ~~an emissions analyzer~~ a maintenance log, log for
24 an emissions analyzer or for equipment to analyze data provided
25 by on-board diagnostic (OBD) equipment.

26 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
27 Type III violations are not the only acts that are one of these types of violations. The
28 Division may designate other acts that are a Type I, Type II, or Type III violation."

29 Section 19. Effective 1 January 2006, G.S. 20-183.8C, as amended by
30 Section 18 of this act, reads as rewritten:

31 "**§ 20-183.8C. Acts that are Type I, II, or III emissions violations.**

32 (a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions
33 inspection station, or an emissions inspection mechanic to do any of the following:

- 34 (1) Put an emissions inspection sticker on a vehicle without
35 performing an emissions inspection of the vehicle.
36 (1a) Put an emissions inspection sticker on a vehicle after performing
37 an emissions inspection of the vehicle and determining that the
38 vehicle did not pass the inspection.
39 (2) Use a test-defeating strategy when conducting an emissions
40 inspection, such as holding the accelerator pedal down slightly
41 during an idle test, disconnecting or crimping a vacuum hose to
42 effect a passing result, or changing the emission standards for a
43 vehicle by incorrectly entering the vehicle type or model year to
44 achieve a passing result.

- 1 (3) Allow a person who is not licensed as an emissions inspection
2 mechanic to perform an emissions inspection for a self-inspector or
3 at an emissions station.
- 4 (4) Sell or otherwise give an inspection sticker to another other than
5 as the result of a vehicle inspection in which the vehicle passed the
6 inspection or for which the vehicle received a waiver.
- 7 (5) Be unable to account for five or more inspection stickers at any
8 one time upon the request of an auditor of the Division.
- 9 (6) Perform a safety-only inspection on a vehicle that is subject to both
10 a safety and an emissions inspection.
- 11 (7) Transfer an inspection sticker from one vehicle to another.
- 12 (b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions
13 inspection station, or an emissions inspection mechanic to do any of the following:
- 14 (1) Use the identification code of another to gain access to ~~an~~
15 ~~emissions analyzer~~ or to equipment to analyze data provided by
16 on-board diagnostic (OBD) equipment.
- 17 (2) Keep inspection stickers and other compliance documents in a
18 manner that makes them easily accessible to individuals who are
19 not inspection mechanics.
- 20 (3) Put an emissions inspection sticker on a vehicle that is required to
21 have one of the following emissions control devices but does not
22 have it:
- 23 a. Catalytic converter.
- 24 b. PCV valve.
- 25 c. Thermostatic air control.
- 26 d. Oxygen sensor.
- 27 e. Unleaded gas restrictor.
- 28 f. Gasoline tank cap.
- 29 g. Air injection system.
- 30 h. Evaporative emissions system.
- 31 i. Exhaust gas recirculation (EGR) valve.
- 32 (4) Put an emissions inspection sticker on a vehicle without
33 performing a visual inspection of the vehicle's exhaust system and
34 checking the exhaust system for leaks.
- 35 (5) Impose no fee for an emissions inspection of a vehicle or the
36 issuance of an emissions inspection sticker or impose a fee for one
37 of these actions in an amount that differs from the amount set in
38 G.S. 20-183.7.
- 39 (c) Type III. -- It is a Type III violation for an emissions self-inspector, an
40 emissions inspection station, or an emissions inspection mechanic to do any of the
41 following:
- 42 (1) Fail to post an emissions license issued by the Division.
- 43 (2) Fail to send information on emissions inspections to the Division at
44 the time or in the form required by the Division.

- 1 (3) Fail to post emissions information required by federal law to be
2 posted.
3 (4) Fail to put the required information on an inspection sticker in a
4 legible manner using ink.
5 (5) Fail to put the required information on an inspection receipt in a
6 legible manner.
7 (6) Fail to maintain a maintenance log ~~for an emissions analyzer or~~ for
8 equipment to analyze data provided by on-board diagnostic (OBD)
9 equipment.

10 (d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or
11 Type III violations are not the only acts that are one of these types of violations. The
12 Division may designate other acts that are a Type I, Type II, or Type III violation."

13 Section 20. During the period 1 July 2002 through 31 December 2005, in
14 the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange,
15 Union, and Wake, an emissions inspection station, an emissions inspection mechanic,
16 and an emissions self-inspector, as those terms are used in G.S. 20-183.4A, may elect
17 to perform emissions inspections: (i) only on 1975 through 1995 model vehicles using
18 an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to
19 analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on
20 1975 through 1995 model vehicles using an emissions analyzer and on 1996 or later
21 model vehicles using equipment to analyze data provided by the on-board diagnostic
22 (OBD) equipment. This section shall not be construed to authorize an emissions
23 inspection station or an emissions self-inspector to perform an emissions inspection
24 on a vehicle of a model year for which the emissions inspection station or emissions
25 self-inspector does not have the equipment necessary to perform an emissions
26 inspection of vehicles of that model year. This section shall not be construed to
27 authorize an emissions inspection mechanic to perform an emissions inspection on a
28 vehicle unless the emissions inspection mechanic has successfully completed a course,
29 as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the
30 use of the equipment necessary to perform an emissions inspection on vehicles of that
31 model year.

32 Section 21. This act constitutes a recent act of the General Assembly
33 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
34 NCAC 2C.0102(11), the Environmental Management Commission and the Division of
35 Motor Vehicles of the Department of Transportation may adopt temporary rules to
36 implement the provisions of this act. This section shall continue in effect until all
37 rules necessary to implement the provisions of this act have become effective as either
38 temporary rules or permanent rules.

39 Section 22. Effective 1 July 2000, G.S. 136-17.2A(a) reads as rewritten:

40 "(a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
41 both State and federal-aid funds expended under the Transportation Improvement
42 Program, other than federal congestion mitigation and air quality improvement
43 program funds appropriated to the State by the United States pursuant to 23 U.S.C. §
44 104(b)(2) and 23 U.S.C. § 149, funds expended on an urban loop project listed in

1 G.S. 136-180 and funds received through competitive awards or discretionary grants
2 through federal appropriations either for local governments, transportation
3 authorities, transit authorities, or the Department, shall be distributed throughout the
4 State in accordance with this section.

5 (1) Distribution Region A consists of the following counties: Bertie,
6 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
7 Hertford, Hyde, Johnston, Martin, Nash, Northampton,
8 Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.

9 (2) Distribution Region B consists of the following counties: Beaufort,
10 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
11 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.

12 (3) Distribution Region C consists of the following counties: Bladen,
13 Columbus, Cumberland, Durham, Franklin, Granville, Harnett,
14 Person, Robeson, Vance, Wake, and Warren.

15 (4) Distribution Region D consists of the following counties:
16 Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange,
17 Rockingham, Rowan, and Stokes.

18 (5) Distribution Region E consists of the following counties: Anson,
19 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery,
20 Moore, Randolph, Richmond, Scotland, Stanly, and Union.

21 (6) Distribution Region F consists of the following counties:
22 Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland,
23 Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

24 (7) Distribution Region G consists of the following counties:
25 Buncombe, Burke, Cherokee, Clay, Graham, Haywood,
26 Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk,
27 Rutherford, Swain, Transylvania, and Yancey."

28 Section 23. The Environmental Review Commission, with the assistance
29 of the Department of Environment and Natural Resources, the Division of Motor
30 Vehicles of the Department of Transportation, the affected parties, and the Fiscal
31 Research Division of the Legislative Services Office shall study issues related to the
32 costs associated with the motor vehicle safety and emissions inspection and
33 maintenance program. The Commission shall determine what constitutes a
34 reasonable fee for motor vehicle inspections under the current program and under
35 the enhanced inspection and maintenance program to be implemented pursuant to
36 G.S. 20-183.3, as amended by Sections 8, 10, and 12 of this act. In determining what
37 constitutes a reasonable fee, the Commission shall consider the cost of emissions
38 inspection equipment, the useful life of the equipment, the average period of time
39 during which a purchaser of this equipment is able to amortize this cost, telephone
40 charges incurred in connection with the registration denial program, whether a fee
41 should be charged to reinspect a vehicle that fails an emissions inspection after
42 repairs to the vehicle have been made, the cost of the safety inspection program in
43 relation to the emissions inspection program, and any other factors that the
44 Commission determines to be relevant. The Commission may also evaluate strategies

1 to ensure an efficient and orderly implementation of the enhanced inspection and
2 maintenance program required by Part III of S.L. 1999-328 and this act. The
3 Environmental Review Commission shall recommend legislation to amend G.S.
4 20-183.7 to increase the fee for motor vehicle emissions inspections to the 2001
5 General Assembly.

6 Section 24. Except as otherwise provided in this act, this act is effective
7 when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

H

2

HOUSE BILL 1617*
Committee Substitute Favorable 6/12/00

Short Title: Lea Island State Natural Area.

(Public)

Sponsors:

Referred to:

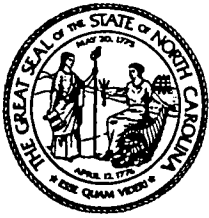
May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE
3 NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED
4 BY THE ENVIRONMENTAL REVIEW COMMISSION.
5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 states that it shall be a proper function of the State of North Carolina to acquire and
7 preserve park, recreational, and scenic areas and, in every other appropriate way, to
8 preserve as a part of the common heritage of this State its open lands and places of
9 beauty; and
10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and
15 Whereas, Lea Island in Pender County is one of the few remaining
16 undeveloped barrier islands on the North Carolina coast; contains examples of high
17 quality coastal natural communities; provides excellent breeding and migration
18 habitat for wildlife, including several rare species; and has been found to possess
19 biological and scenic resources of statewide significance; and
20 Whereas, the North Carolina State Office of the National Audubon
21 Society has expressed particular interest in the protection of Lea Island and is willing
22 to partner with the State to provide long-term management for the site; Now,
23 therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. The General Assembly authorizes the Department of
3 Environment and Natural Resources to add Lea Island State Natural Area to the
4 State Parks System as provided in G.S. 113-44.14(b).

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



HOUSE BILL 1617: Lea Island State Natural Area

BILL ANALYSIS

Committee: Senate Agriculture, Environment,
and Natural Resources

Date: June 27, 2000

Version: First Edition

Introduced by: Reps. Warwick and Wright

Summary by: Rick Zechini
Committee Counsel

SUMMARY: *House Bill 1617 authorizes the addition of Lea Island State Natural Area to the State Parks System.*

CURRENT LAW: The State Parks Act (G.S. 113-44.7, *et. seq.*) governs the procedure by which lands are added to or removed from the State Parks System. The State Parks Act mandates that additions to the State Parks System, including additions of State natural areas, must be authorized by an act of the General Assembly.

BILL ANALYSIS: 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. There are 31 individuals who own property on the island. The North Carolina Office of the National Audubon Society has been discussing the purchase of the individual tracts of land with the applicable landowners. In addition, the North Carolina Office of the National Audubon Society has applied for a grant from the United States Fish and Wildlife Service's Coastal Wetlands grant program to fund the acquisition of Lea Island. This grant will require a State match in the amount of 25% of the Coastal Wetlands grant. An application for the State's match will be submitted to the North Carolina Natural Heritage Trust Fund during the summer/fall 2000 grant cycle.

The estimated acquisition cost is one million dollars. The natural area will be managed by the North Carolina Office of the National Audubon Society pursuant to a lease agreement with the Department of Environment and Natural Resources (DENR). The Environmental Review Commission recommended this proposal to the 2000 Regular Session of the 1999 General Assembly for its consideration.

EFFECTIVE DATE: House Bill 1617 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1479
Proposed Committee Substitute S1479-PCS2856-SJ/RT004

Short Title: Deep River Heritage Corridor.

(Local)

Sponsors:

Referred to:

May 25, 2000

- 1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE DEEP RIVER HERITAGE CORRIDOR WITHIN
3 THE COUNTIES OF CHATHAM, FORSYTH, GUILFORD, LEE,
4 MONTGOMERY, MOORE, AND RANDOLPH; TO ESTABLISH THE DEEP
5 RIVER HERITAGE CORRIDOR PLANNING COMMITTEE; AND TO
6 PROVIDE FOR THE PREPARATION OF A RESOURCE MANAGEMENT
7 PLAN FOR THE DEEP RIVER HERITAGE CORRIDOR.
8 The General Assembly of North Carolina enacts:
9 Section 1. Short title. -- This act may be cited as the Deep River Heritage
10 Corridor Act of 2000.
11 Section 2. Legislative findings. -- The General Assembly finds that:
12 (1) The Deep River flows through the heart of North Carolina from its
13 headwaters in Guilford and Forsyth Counties through Randolph,
14 Chatham, and Lee Counties, to its confluence with the Haw River
15 at Mermaid Point to create the Cape Fear River. It comprises a
16 thread of human history, commerce, industry, and community
17 running through a fabric of natural, scenic, and recreational
18 resources of major significance to the State, to the South as a
19 region, and to the United States.
20 (2) The public interest would be served by preserving, protecting, and
21 enhancing these resources and by improving the planning and
22 coordination between all levels of government within the region.

1 Section 3. Purpose. -- It is the purpose of this act to provide a
2 mechanism for the development of a management plan to assist units of local and
3 regional government and citizens in developing integrated cultural, historical, and
4 natural resource management programs that will preserve, enhance, and interpret for
5 the educational and inspirational benefit of present and future generations the unique
6 and significant contributions made to our common heritage by properties, structures,
7 environmental resources, and waterways within and surrounding the Deep River
8 Basin.

9 Section 4. Deep River Heritage Corridor; Creation. -- The Deep River
10 Heritage Corridor is created. The Deep River Heritage Corridor consists of the area
11 with the Deep River Basin, as defined in G.S. 143-215.22G.

12 Section 5.(a) Deep River Heritage Corridor Planning Committee;
13 Creation. -- The Deep River Heritage Corridor Planning Committee is created.

14 Section 5.(b) Deep River Heritage Corridor Planning Committee;
15 Purpose. -- The Deep River Heritage Corridor Planning Committee shall be a
16 cooperative regional organization established to work with participating
17 municipalities, businesses, organizations, and residents to develop a management plan
18 for the Deep River Heritage Corridor, which shall be based on proposals submitted
19 by each county and municipality within the Deep River Heritage Corridor.

20 Section 5.(c) Deep River Heritage Corridor Planning Committee;
21 Membership. -- The Committee shall be composed of the following members or their
22 designees:

23 (1) The chair of the tourism development agency or convention and
24 visitor's bureau for each of the following counties: Chatham,
25 Forsyth, Guilford, Lee, Montgomery, Moore, and Randolph
26 Counties.

27 (2) The chair of the county board of commissioners for each of the
28 following counties: Chatham, Forsyth, Guilford, Lee, Montgomery,
29 Moore, and Randolph Counties.

30 (3) The mayor of the following municipalities: Archdale, Asheboro,
31 Franklinville, Goldston, Greensboro, High Point, Jamestown,
32 Ramseur, Randleman, Robbins, and Sanford.

33 (4) The President of the North Carolina Friends Historical Society.

34 Section 5.(d) Deep River Heritage Corridor Planning Committee;
35 Nonvoting members. -- The mayor, manager, or other executive officer of any county
36 or municipality, other than those listed in subsection (c) of this section, located within
37 the Deep River Heritage Corridor may participate in committee meetings as a
38 nonvoting member and shall be given notice of all committee meetings.

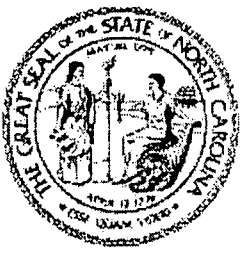
39 Section 6.(a) Deep River Heritage Corridor Resource Management Plan;
40 Preparation. -- No later than October 1, 2001, the Deep River Heritage Corridor
41 Planning Committee shall prepare a resource management plan for the Deep River
42 Heritage Corridor. The completed plan shall provide a unified plan for the
43 preservation, improvement, and interpretation of the Deep River Heritage Corridor's
44 cultural, natural, scenic, and recreational resources. The management plan shall be

1 developed with the participation of the board of commissioners of each county and
2 the governing body of each municipality located in the Deep River Heritage
3 Corridor. The Planning Committee shall submit the completed plan to the board of
4 commissioners of each county and the governing body of each municipality located in
5 the Deep River Heritage Corridor for approval.

6 Section 6.(b) Deep River Heritage Corridor Resource Management Plan;
7 Reporting. -- Upon completion of the Deep River Heritage Corridor Resource
8 Management Plan and approval of the plan by the board of commissioners of each
9 county and governing body of each municipality located in the Deep River Heritage
10 Corridor, the Deep River Heritage Corridor Planning Committee shall submit the
11 plan to the Secretary of Cultural Resources, the Secretary of Commerce, and the
12 Secretary of Environment and Natural Resources. Within six months of receiving the
13 plan, the Secretary of Cultural Resources, the Secretary of Commerce, and the
14 Secretary of Environment and Natural Resources shall jointly report to the Joint
15 Legislative Commission on Governmental Operations on the contents of the plan,
16 measures taken to implement the plan, the benefits of the Deep River Heritage
17 Corridor designation, and the feasibility and benefits of designating additional
18 heritage corridors in the State. The Secretary of Cultural Resources, the Secretary of
19 Commerce, and the Secretary of Environment and Natural Resources may also make
20 recommendations for how the State could enhance the benefits of designated heritage
21 corridors.

22 Section 7. This act applies only to the counties of Chatham, Forsyth,
23 Guilford, Lee, Montgomery, Moore, and Randolph and to the municipalities within
24 those counties that are located in the Deep River Basin, as defined in G.S.
25 143-215.22G.

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



SENATE BILL 1479: Deep River Heritage Corridor (PCS)

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: June 27, 2000

Version: PCS for First Edition

Introduced by: Senator Kinnaird

Summary by: Hannah Holm,
Research Assistant for
Environmental Issues

SUMMARY: *The Proposed Committee Substitute for the First Edition of House Bill 1479 would create the Deep River Heritage Corridor and create a framework for the development of a plan to preserve and enhance the historic, natural, and recreational resources in the Corridor.*

CURRENT LAW: The State does not currently have a procedure for designating heritage corridors.

BILL ANALYSIS: The Proposed Committee Substitute for the First Edition of House Bill 1479 (PCS) states that the public interest would be served by preserving and enhancing the historic, natural and recreational resources of the Deep River Watershed and sets out a framework for developing a plan to protect those resources.

Deep River Heritage Corridor. The PCS would create the Deep River Heritage Corridor (Corridor) and define its boundaries as the boundaries of the Deep River Watershed. The Deep River Watershed is located within the boundaries of Chatham, Forsyth, Guilford, Lee, Montgomery, Moore, and Randolph Counties.

Deep River Heritage Corridor Planning Committee. The PCS would create the Deep River Heritage Corridor Planning Committee (Planning Committee) for the purpose of working with municipalities, businesses, organizations, and residents to assemble a resource management plan for the Corridor. The membership of the Planning Committee would include representatives from the tourism development bodies, boards of county commissioners, and mayors' offices of the counties and cities within the Corridor. The membership would also include the President of the North Carolina Friends Historical Society.

Deep River Heritage Corridor Resource Management Plan. The PCS would require the Planning Committee to complete a resource management plan for the Corridor by October 1, 2001 and submit the plan to the governing bodies of Chatham, Forsyth, Guilford, Lee, Montgomery, Moore, and Randolph Counties and each municipality located in the Deep River Heritage Corridor for their approval.

Reporting. The PCS would require the Planning Committee to submit the plan, upon its completion and approval by the participating local governments, to the Secretaries of Cultural Resources, Commerce, and Environment and Natural Resources. The PCS would require the Secretaries to report to the Joint Legislative Commission on Governmental Operations within six months of receiving the plan on the contents of the plan, any measures taken to implement the plan, and the feasibility and benefits of designating additional heritage corridors in the State. The Secretaries would also be authorized to recommend ways the State could enhance the benefits of designated heritage corridors.

BACKGROUND: The PCS removed provisions from the First Edition of SB 1479 that would have granted the Planning Committee broad general powers and implementation authority. The PCS also added the reporting requirements summarized above.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1479

Short Title: Deep River Heritage Corridor.

(Local)

Sponsors: Senators Kinnaid; Cochrane, Dannelly, Garrou, Hagan, Horton, Lee, Martin of Guilford, Purcell, and Shaw of Guilford.

Referred to: Agriculture/Environment/Natural Resources.

May 25, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE DEEP RIVER HERITAGE CORRIDOR WITHIN
3 CHATHAM, FORSYTH, GUILFORD, LEE, MONTGOMERY, MOORE, AND
4 RANDOLPH COUNTIES, TO ESTABLISH THE DEEP RIVER HERITAGE
5 CORRIDOR PLANNING COMMITTEE, AND TO PROVIDE FOR THE
6 PREPARATION OF A RESOURCE MANAGEMENT PLAN FOR THE DEEP
7 RIVER HERITAGE CORRIDOR.

8 The General Assembly of North Carolina enacts:

9 Section 1. Short title. This act may be cited as the Deep River Heritage
10 Corridor Act.

11 Section 2. Legislative findings. The General Assembly finds that:

12 (1) The Deep River flows through the heart of North Carolina from its
13 headwaters in Guilford and Forsyth Counties through Randolph,
14 Chatham, and Lee Counties, to its confluence with the Haw River
15 at Mermaid Point to create the Cape Fear River. It comprises a
16 thread of human history, commerce, industry, and community
17 running through a fabric of natural, scenic, and recreational
18 resources of major significance to the State, to the South as a
19 region, and to the United States.

20 (2) The public interest would be served by preserving, protecting, and
21 enhancing these resources and by improving the planning and
22 coordination between all levels of government within the region.

1 Section 3. Purpose. It is the purpose of this act to provide a
2 management framework to assist units of local and regional government and citizens
3 in developing and implementing integrated cultural, historical, and natural resource
4 management programs that will preserve, enhance, and interpret for the educational
5 and inspirational benefit of present and future generations the unique and significant
6 contributions made to our common heritage by properties, structures, environmental
7 resources, and waterways within and surrounding the Deep River watershed.

8 Section 4. Deep River Heritage Corridor. (a) Creation. -- The Deep
9 River Heritage Corridor is created, hereinafter referred to as the Corridor.

10 Section 4.(b) Boundaries. -- The Corridor shall generally consist of that
11 area known as the Deep River watershed and specifically depicted on the map
12 entitled "The Deep River Heritage Corridor Area Master Plan," which shall be on
13 file and available for public inspection in the Office of the Secretary of Cultural
14 Resources.

15 Section 4.(c) Administration. -- The Corridor shall be administered in
16 accordance with this act.

17 Section 5. Deep River Heritage Corridor Planning Committee. (a)
18 Creation. -- The Deep River Heritage Corridor Planning Committee is created. The
19 Committee shall exist until a successor entity charged with implementing the
20 management plan under Section 6 of this act is created or designated.

21 Section 5.(b) Purpose. -- The Committee shall be a cooperative regional
22 organization established to work with participating municipalities, businesses,
23 organizations, and residents to assemble a management plan under Section 6 of this
24 act for the Corridor, which plan shall be assembled from proposals submitted by each
25 county subject to this act and each municipality within those counties.

26 Section 5.(c) Membership. -- The Committee shall be composed of the
27 following 19 members, or their designee: the chairperson of each county's tourism
28 development agency or convention and visitor's bureau for each Chatham, Forsyth,
29 Guilford, Lee, Montgomery, Moore, and Randolph Counties; the mayor of the
30 following municipalities having Deep River or one of its tributaries within its
31 corporate limits: Greensboro, High Point, Jamestown, Archdale, Randleman,
32 Asheboro, Franklinville, Ramseur, Robbins, Goldston, and Sanford; the President of
33 the North Carolina Friends Historical Society. The mayor, manager, or other
34 executive officer of any county or municipality within the Corridor may participate in
35 committee meetings as nonvoting members and shall receive notice of all committee
36 meetings.

37 Section 5.(d) Powers. -- To carry out the foregoing purposes and
38 responsibilities, the Committee has the corporate power to do all things necessary or
39 convenient to carry out its purposes and exercise the duties under this act.

40 Section 6. Corridor Resource Management Plan. (a) Preparation of
41 Plan. -- No later than October 1, 2001, the Deep River Heritage Corridor Committee
42 shall complete a resource management plan. The resource management plan shall
43 present a unified plan for the preservation, improvement, and interpretation of the
44 Corridor's cultural, natural, scenic, and recreational resources. The local planning,

1 cultural, and recreation activities of each governmental unit within the counties
2 subject to this act shall coordinate the development of the management plan. The
3 management plan shall be based upon the participation of the governing body of each
4 county subject to this act and must be approved by the governing body of each
5 county subject to this act.

6 Section 6.(b) Implementation of Plan. -- The Committee shall implement
7 the approved resource management plan by taking appropriate steps throughout the
8 Corridor, consistent with the goals of the resource management plan to preserve and
9 interpret its historic resources, develop its recreational resources, and support public
10 and private efforts in economic revitalization.

11 Section 7. This act applies only to Chatham, Forsyth, Guilford, Lee,
12 Montgomery, Moore, and Randolph Counties and to the municipalities located within
13 those counties.

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

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
Name of Committee

6/27/00
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Brian Buzby	NC CarNet
JERRY Schill	NC Fisheries Assoc.
Bob Sproum	NC Forestry Assoc.
Lisa Martin	Upper Neuse River Basin Assn.
Ed Rege	N. C. Assoc. of Co. Comm.
ROBERT GLAZER	NC Auto Dealers
SAM JOHNSON	ATTY
DAN MILLER	ENTERPRISE RENT-A-CAR
Charles Gardner	DENR - Div. of Land Resources
Tommy Harrel	Lobbyist
Lucius PULLEN	ATTORNEY NCMIA

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

June 29, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Thursday, June 29, 2000, at 11:00 a.m. in Room 544 of the Legislative Office Building. Senator Albertson, chairman, presided and there were ten committee members present.

The following bills were discussed:

HOUSE BILL 1506 - FOOD ESTAB./SANIT. REQMENTS. - Representative Weiss, sponsor. The committee had adopted and passed a proposed committee substitute on this bill on June 22, 2000, and it had been re-referred to committee for minor changes. There was a new proposed committee substitute before the committee and Senator Garwood moved that it be adopted for discussion purposes. Motion carried. Representative Weiss proceeded to explain the changes. Senator Clodfelter moved that the PCS be given a favorable report, unfavorable as previous proposed committee substitute. Motion carried.

SENATE BILL 1329 - ADD. NOTICE/MINING PERMIT APPLICATION - Senator Odom, sponsor. Senator East moved that a proposed committee substitute be adopted for discussion. Motion passed. George Givens of staff explained the PCS in Senator Odom's absence. Senator Garrou moved that the proposed committee substitute be given a favorable report, unfavorable to bill. Motion carried.

HOUSE BILL 1617 - LEA ISLAND STATE NATURAL AREA - Representative Warwick, sponsor. This bill had been given a favorable report by committee on June 27 but had been re-referred to committee. Senator Phillips moved that a proposed committee substitute be adopted for discussion purposes. Motion carried. George Givens of staff explained the changes for Representative Warwick. Senator Clodfelter moved that the proposed committee substitute be given a favorable report, unfavorable as to bill. Motion carried.

HOUSE BILL 1625 - REMOVAL OF ABANDONED VESSELS - Representative Thomas, sponsor, explained the bill. Dan McLawhorn, attorney for Department of Environment and Natural Resources, further elaborated on statutes regarding abandoned vessels. Senator Martin moved that bill be given favorable report. Motion carried.

There being no further business, meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Thursday, June 29, 2000
11:00 a.m.
Room 544 - LOB

AGENDA

- SB 1329 ADD. NOTICE/MINING PERMIT APPLICATION
 Senator Odom
- HB 1506 FOOD ESTAB./SANIT. REQMENTS.
 Representative Weiss
- HB 1617 LEA ISLAND STATE NATURAL AREA
 Representative Warwick
- HB 1625 REMOVAL OF ABANDONED VESSELS
 Representative Thomas

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair.**

Thursday, June 29, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS #1)1625 REMOVAL OF ABANDONED VESSELS
 Sequential Referral: None
 Recommended Referral: None

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1329 ADD. NOTICE/MINING PERMIT APPLICATION
 Draft Number: PCS3991
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)1617 LEA ISLAND STATE NATURAL AREA
 Draft Number: PCS8213
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1,
BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

H.B.(SCS #1) 1506 FOOD ESTAB./SANIT. REQMENTS.
 Draft Number: PCS2453
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

TOTAL REPORTED: 4

Committee Clerk Comment:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1506*

Committee Substitute Favorable 6/1/00

Third Edition Engrossed 6/8/00

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/22/00

Proposed Senate Committee Substitute H1506-PCS2453-RT003

Short Title: Food Estab./Sanit. Reqments.

(Public)

Sponsors:

Referred to:

May 11, 2000

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE ESTABLISHMENTS THAT PREPARE OR SERVE
2 FOOD TO A CERTAIN NUMBER OF REGULAR BOARDERS OR
3 PERMANENT HOUSEGUESTS COMPLY WITH STATE FOOD SANITATION
4 REQUIREMENTS.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 130A-250 reads as rewritten:

8 "§ 130A-250. Exemptions.

9 The following shall be exempt from this Part:

- 10 (1) Establishments that provide lodging described in G.S.
11 130A-248(a1) with four or fewer lodging units.
12 (2) Condominiums.
13 (3) Establishments that prepare or serve food or provide lodging to
14 regular boarders or permanent ~~house guests only~~. houseguests only.
15 However, the rules governing food sanitation adopted under G.S.
16 130A-248 apply to establishments that are not regulated under G.S.
17 130A-235 and that prepare or serve food for pay to 13 or more
18 regular boarders or permanent houseguests who are disabled or
19 who are 55 years of age or older. Establishments to which the
20 rules governing food sanitation are made applicable by this

1 subdivision that are in operation as of 1 July 2000 may continue to
2 use equipment and construction in use on that date if no imminent
3 hazard exists. Replacement equipment for these establishments
4 shall comply with the rules governing food sanitation adopted
5 under G.S. 130A-248.

- 6 (4) Private homes that occasionally offer lodging accommodations,
7 which may include the providing of food, for two weeks or less to
8 persons attending special events, provided these homes are not bed
9 and breakfast homes or bed and breakfast inns.
- 10 (5) Private clubs.
- 11 (6) Curb markets operated by the State Agricultural Extension
12 Service.
- 13 (7) Establishments that prepare or serve food or drink for pay no more
14 frequently than once a month for a period not to exceed two
15 consecutive days, including establishments permitted pursuant to
16 this Part when preparing or serving food or drink at a location
17 other than the permitted locations.
- 18 (8) Establishments that put together, portion, set out, or hand out only
19 beverages that do not include those made from raw apples or
20 potentially hazardous beverages made from raw fruits or
21 vegetables, using single service containers that are not reused on
22 the premises.
- 23 (9) Establishments where meat food products or poultry products are
24 prepared and sold and which are under inspection by the North
25 Carolina Department of Agriculture and Consumer Services or the
26 United States Department of Agriculture.
- 27 (10) Markets that sell uncooked cured country ham or uncooked cured
28 salted pork and that engage in minimal preparation such as slicing,
29 weighing, or wrapping the ham or pork, when this minimal
30 preparation is the only activity that would otherwise subject these
31 markets to regulation under this Part.
- 32 (11) Establishments that only set out or hand out beverages that are
33 regulated by the North Carolina Department of Agriculture and
34 Consumer Services in accordance with Article 12 of Chapter 106
35 of the General Statutes.
- 36 (12) Establishments that only set out or hand out food that is regulated
37 by the North Carolina Department of Agriculture and Consumer
38 Services in accordance with Article 12 of Chapter 106 of the
39 General Statutes."

40 Section 2. This act becomes effective 1 July 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

4

HOUSE BILL 1506*
Committee Substitute Favorable 6/1/00
Third Edition Engrossed 6/8/00
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/22/00

Short Title: Food Estab./Sanit. Reqments.

(Public)

Sponsors:

Referred to:

May 11, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ESTABLISHMENTS THAT PREPARE OR SERVE
3 FOOD TO A CERTAIN NUMBER OF REGULAR BOARDERS OR
4 PERMANENT HOUSEGUESTS COMPLY WITH STATE FOOD SANITATION
5 REQUIREMENTS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 130A-250 reads as rewritten:
8 "**§ 130A-250. Exemptions.**
9 The following shall be exempt from this Part:
10 (1) Establishments that provide lodging described in G.S.
11 130A-248(a1) with four or fewer lodging units.
12 (2) Condominiums.
13 (3) Establishments that prepare or serve food or provide lodging to
14 regular boarders or permanent ~~house guests only.~~ houseguests only.
15 However, the rules governing food sanitation adopted under G.S.
16 130A-248 apply to establishments that are not regulated under G.S.
17 130A-235 and that prepare or serve food for pay to 13 or more
18 regular boarders or permanent houseguests who are disabled or
19 who are 55 years of age or older. Establishments to which the
20 rules governing food sanitation are made applicable by this
21 subdivision that are in operation as of 1 July 2000 may continue to

1 use equipment and construction in use on that date if no imminent
2 hazard exists. Replacement equipment and remodeling or
3 replacement construction for these establishments shall comply
4 with the rules governing food sanitation adopted under G.S.
5 130A-248.

- 6 (4) Private homes that occasionally offer lodging accommodations,
7 which may include the providing of food, for two weeks or less to
8 persons attending special events, provided these homes are not bed
9 and breakfast homes or bed and breakfast inns.
- 10 (5) Private clubs.
- 11 (6) Curb markets operated by the State Agricultural Extension
12 Service.
- 13 (7) Establishments that prepare or serve food or drink for pay no more
14 frequently than once a month for a period not to exceed two
15 consecutive days, including establishments permitted pursuant to
16 this Part when preparing or serving food or drink at a location
17 other than the permitted locations.
- 18 (8) Establishments that put together, portion, set out, or hand out only
19 beverages that do not include those made from raw apples or
20 potentially hazardous beverages made from raw fruits or
21 vegetables, using single service containers that are not reused on
22 the premises.
- 23 (9) Establishments where meat food products or poultry products are
24 prepared and sold and which are under inspection by the North
25 Carolina Department of Agriculture and Consumer Services or the
26 United States Department of Agriculture.
- 27 (10) Markets that sell uncooked cured country ham or uncooked cured
28 salted pork and that engage in minimal preparation such as slicing,
29 weighing, or wrapping the ham or pork, when this minimal
30 preparation is the only activity that would otherwise subject these
31 markets to regulation under this Part.
- 32 (11) Establishments that only set out or hand out beverages that are
33 regulated by the North Carolina Department of Agriculture and
34 Consumer Services in accordance with Article 12 of Chapter 106
35 of the General Statutes.
- 36 (12) Establishments that only set out or hand out food that is regulated
37 by the North Carolina Department of Agriculture and Consumer
38 Services in accordance with Article 12 of Chapter 106 of the
39 General Statutes."

40 Section 2. This act becomes effective 1 July 2001.

1 subsidiary of the applicant or operator and that is contiguous to
2 either: (i) any parcel or tract that includes the permitted area or
3 (ii) any parcels or tracts of land that are owned in whole or in part
4 by or under the control of the applicant or operator or any lessor,
5 affiliate, parent, or subsidiary of the applicant or operator and that,
6 taken together, are contiguous to the permitted area.

7 (b1) At the time of the an application for a new mining permit or permit
8 modifications that add owners of record of lands adjoining the permit boundaries, for
9 a modification of a mining permit to add land to the permitted area, the applicant or
10 operator shall make a reasonable effort, satisfactory to the Department, to notify all
11 owners of record of land adjoining the proposed site, and to notify the chief
12 administrative officer of the county or municipality in which the site is located that
13 the operator intends to conduct a mining operation on the site in question. notify:

14 (1) The chief administrative officer of each county and municipality in
15 which any part of the permitted area is located.

16 (2) The owners of record of land adjoining that lies within 1,000 feet
17 of the permit boundaries.

18 (3) The owners of record of land that lies directly across and is
19 contiguous to any highway; creek, stream, river, or other
20 watercourse; railroad track; or utility or other public right-of-way
21 and that lies within 1,000 feet of any tract of land that includes the
22 permitted area. For purposes of this subdivision, 'highway' means
23 a highway, as defined in G.S. 20-4.01(13) that has four lanes of
24 travel or less and that has not been designated a part of the
25 Interstate Highway System.

26 (b2) The notice shall inform the owners of record and chief administrative officers
27 of the opportunity to submit written comments to the Department regarding the
28 proposed mining operation and the opportunity to request a public hearing regarding
29 the proposed mining operation. Requests for public hearing shall be made within 30
30 days of issuance of the notice.

31 (b3) When the Department receives an application for a new mining permit or for
32 a modification of a mining permit to add land to the permitted area, the Department
33 shall send a notice of the application to each of the following agencies with a request
34 that each agency review and provide written comment on the application within 30
35 days of the date on which the request is made:

36 (1) Division of Air Quality, Department of Environment and Natural
37 Resources.

38 (2) Division of Parks and Recreation, Department of Environment and
39 Natural Resources.

40 (3) Division of Water Quality, Department of Environment and
41 Natural Resources.

42 (4) Division of Water Resources, Department of Environment and
43 Natural Resources.

- 1 (5) North Carolina Geological Survey, Division of Land Resources,
2 Department of Environment and Natural Resources.
3 (6) Wildlife Resources Commission, Department of Environment and
4 Natural Resources.
5 (7) Division of Archives and History, Department of Cultural
6 Resources.
7 (8) United States Fish and Wildlife Service, United States Department
8 of the Interior.
9 (9) Any other federal or State agency that the Department determines
10 to be appropriate, including the Division of Coastal Management,
11 Department of Environment and Natural Resources; the Division
12 of Marine Fisheries, Department of Environment and Natural
13 Resources; the Division of Waste Management, Department of
14 Environment and Natural Resources; and the Department of
15 Transportation.

16 (c) No permit shall become effective until the operator has deposited with the
17 Department an acceptable performance bond or other security pursuant to G.S.
18 74-54. If at any time the bond or other security, or any part thereof, shall lapse for
19 any reason other than a release by the Department, and the lapsed bond or security is
20 not replaced by the operator within 30 days after notice of the lapse, the permit to
21 which the lapsed bond or security pertains shall be automatically revoked.

22 (d) An operating permit shall be granted for a period not exceeding 10 years. If
23 the mining operation terminates and the reclamation required under the approved
24 reclamation plan is completed prior to the end of the period, the permit shall
25 terminate. Termination of a permit shall not have the effect of relieving the operator
26 of any obligations that the operator has incurred under an approved reclamation plan
27 or otherwise. Where the mining operation itself has terminated, no permit shall be
28 required in order to carry out reclamation measures under the reclamation plan."

29 Section 2. G.S. 74-51(c) reads as rewritten:

30 "(c) If the Department determines, based on public comment relevant to the
31 provisions of this Article, that significant public interest exists, the Department shall
32 conduct a public hearing on any application for a new mining permit or ~~for permit~~
33 ~~modifications that add owners of record of lands adjoining the permit boundaries.~~ for
34 a modification of a mining permit to add land to the permitted area, as defined in
35 G.S. 74-50(b). The hearing shall be held before the Department reaches a final
36 decision on the application, and in making its determination, the Department shall
37 give full consideration to all comments submitted at the public hearing. The public
38 hearing shall be held within 60 days of the end of the 30-day period within which any
39 requests for the public hearing shall be made."

40 Section 3. This act becomes effective 1 October 2000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 1329*

Short Title: Add. Notice/Mining Permit Application.

(Public)

Sponsors: Senators Odom; Albertson, Clodfelter, Dannelly, Kinnaird, Martin of Guilford, Martin of Pitt, and Weinstein.

Referred to: Agriculture/Environment/Natural Resources.

May 18, 2000

1 A BILL TO BE ENTITLED

2 AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION
3 FOR A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED
4 BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 74-50 reads as rewritten:

7 "**§ 74-50. Permits -- General.** (a) No operator shall engage in mining without having
8 first obtained from the Department an operating permit that covers the affected land
9 and that has not been terminated, revoked, suspended for the period in question, or
10 otherwise become invalid. An operating permit may be modified from time to time
11 to include land neighboring the affected land, in accordance with procedures set forth
12 in G.S. 74-52. A separate permit shall be required for each mining operation that is
13 not on land neighboring a mining operation for which the operator has a valid
14 permit.

15 (b) As used in this subsection, 'land adjoining' means any parcel or tract of land
16 that is not owned in whole or in part by or under the control of the applicant or
17 operator or any affiliate, parent, or subsidiary of the applicant or operator and that is
18 contiguous to either: (i) any parcel or tract that includes affected land or (ii) any
19 parcels or tracts of land that are owned in whole or in part by or under the control of
20 the applicant or operator or any affiliate, parent, or subsidiary of the applicant or
21 operator and that, taken together, are contiguous to affected land. At the time of the
22 an application for a new mining permit or for a permit ~~modifications that add owners~~
23 modification to add an owner of record of ~~lands~~ land adjoining the permit

1 boundaries, the applicant or operator shall make a reasonable effort, satisfactory to
2 the Department, to ~~notify all owners of record of land adjoining the proposed site,~~
3 ~~and to notify the chief administrative officer of the county or municipality in which~~
4 ~~the site is located that the operator intends to conduct a mining operation on the site~~
5 ~~in question.~~ notify:

- 6 (1) The chief administrative officer of each county and municipality in
7 which the affected land is located.
- 8 (2) The owners of record of land adjoining the tract of land that
9 includes the affected land.
- 10 (3) The owners of record of land that lies directly across a highway, as
11 defined in G.S. 20-4.01(13), that has five lanes or less if the tract of
12 land that includes the affected land is adjacent to the highway.
- 13 (4) The owners of record of land that lies directly across any creek,
14 stream, river, or other watercourse; railroad track; or utility or
15 other public right-of-way that is adjacent to the tract of land that
16 includes the affected land to the extent that the Department, in its
17 discretion, determines to be necessary to provide adequate notice
18 of the application.

19 (b1) The notice shall inform the owners of record and chief administrative officers
20 of the opportunity to submit written comments to the Department regarding the
21 proposed mining operation and the opportunity to request a public hearing regarding
22 the proposed mining operation. Requests for public hearing shall be made within 30
23 days of issuance of the notice.

24 (c) No permit shall become effective until the operator has deposited with the
25 Department an acceptable performance bond or other security pursuant to G.S.
26 74-54. If at any time the bond or other security, or any part thereof, shall lapse for
27 any reason other than a release by the Department, and the lapsed bond or security is
28 not replaced by the operator within 30 days after notice of the lapse, the permit to
29 which the lapsed bond or security pertains shall be automatically revoked.

30 (d) An operating permit shall be granted for a period not exceeding 10 years. If
31 the mining operation terminates and the reclamation required under the approved
32 reclamation plan is completed prior to the end of the period, the permit shall
33 terminate. Termination of a permit shall not have the effect of relieving the operator
34 of any obligations that the operator has incurred under an approved reclamation plan
35 or otherwise. Where the mining operation itself has terminated, no permit shall be
36 required in order to carry out reclamation measures under the reclamation plan."

37 Section 2. This act becomes effective 1 September 2000.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1329

SHORT TITLE: Additional Notice/Mining Permit Application

SPONSOR(S): Senator Odom

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05

REVENUES

EXPENDITURES

No Fiscal Impact

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Environment and Natural Resources; North Carolina local governments

EFFECTIVE DATE: September 1, 2000

BILL SUMMARY: Amends The Mining Act of 1971 (G.S. 74-50) to require an applicant for a mining permit to notify the following people:

1. the chief administrative officer of each county and municipality in which the affected land is located,
2. the owners of record of land adjoining the tract of land that includes the affected land,
3. the owners of record of land directly across a highway that has five lanes or less if the tract of land that includes the affected land is adjacent to the highway, and
4. the owners of record of land that lies directly across any watercourse, railroad track, utility or public right-of-way that is adjacent to the track of land affected.

ASSUMPTIONS AND METHODOLOGY: This bills amends The Mining Act of 1971 to require an applicant, at the time of application for a mining permit, to make a reasonable effort to notify affected landowners. The cost of notifying affected landowners falls on the applicant. There are no additional costs to the Department of Environment and Natural Resources (DENR) or local governments and thus no fiscal impact on state or local resources.

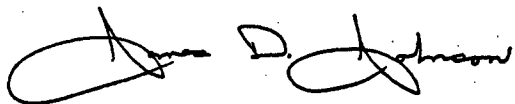
JUN 5 2000

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Jennifer Hoffmann

APPROVED BY: James D. Johnson

A handwritten signature in black ink, appearing to read "James D. Johnson". The signature is written in a cursive style with a large initial "J" and a distinct "D." before the last name.

DATE: June 5, 2000

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1617*
Committee Substitute Favorable 6/12/00
Proposed Senate Committee Substitute H1617-PCS8213-RT001

Short Title: Lea Island Nat. Area/State Property.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE
3 NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED
4 BY THE ENVIRONMENTAL REVIEW COMMISSION; TO TRANSFER
5 STATE PROPERTY IN BURKE COUNTY; AND TO REALLOCATE STATE
6 LAND IN WAKE COUNTY TO THE DEPARTMENT OF CULTURAL
7 RESOURCES FOR THE NORTH CAROLINA MUSEUM OF ART.
8 Whereas, Section 5 of Article XIV of the North Carolina Constitution
9 states that it shall be a proper function of the State of North Carolina to acquire and
10 preserve park, recreational, and scenic areas and, in every other appropriate way, to
11 preserve as a part of the common heritage of this State its open lands and places of
12 beauty; and
13 Whereas, the General Assembly enacted the State Parks Act in 1987,
14 declaring that the State of North Carolina offers unique archaeological, geological,
15 biological, scenic, and recreational resources, and that such resources are part of the
16 heritage of the people of the State to be preserved and managed by those people for
17 their use and for the use of their visitors and descendants; and
18 Whereas, Lea Island in Pender County is one of the few remaining
19 undeveloped barrier islands on the North Carolina coast; contains examples of high
20 quality coastal natural communities; provides excellent breeding and migration
21 habitat for wildlife, including several rare species; and has been found to possess
22 biological and scenic resources of statewide significance; and

1 Whereas, the North Carolina State Office of the National Audubon
2 Society has expressed particular interest in the protection of Lea Island and is willing
3 to partner with the State to provide long-term management for the site; Now,
4 therefore,

5 The General Assembly of North Carolina enacts:

6 Section 1. The General Assembly authorizes the Department of
7 Environment and Natural Resources to add Lea Island State Natural Area to the
8 State Parks System as provided in G.S. 113-44.14(b).

9 Section 2. The Department of Administration is directed to transfer or
10 otherwise convey for no monetary consideration approximately 150 acres in Burke
11 County to Western Piedmont Community College property for an agricultural
12 campus. The property adjoins current County of Burke, Western Piedmont
13 Community College, North Carolina School for the Deaf, and Broughton Hospital
14 property. Of that land, not to exceed 12 acres may be made available by Western
15 Piedmont Community College to the County of Burke for the purpose of building the
16 Burke County Agriculture Extension Complex.

17 Section 3. The State land located in Raleigh bounded by Blue Ridge
18 Road on the west, Wade Avenue on the south, the Raleigh beltline on the east, and
19 the Meredith Woods subdivision on the north is hereby reallocated to the
20 Department of Cultural Resources for the North Carolina Museum of Art.

21 Section 4. The following sections of prior session laws are repealed:
22 Section 25.25 of Chapter 802 of the 1977 Session Laws; Section 46 of Chapter 1086 of
23 the 1988 Session Laws; and Section 73 of Chapter 561 of the 1993 Session Laws.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

2

HOUSE BILL 1617*
Committee Substitute Favorable 6/12/00

Short Title: Lea Island State Natural Area.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF LEA ISLAND STATE
3 NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED
4 BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 Whereas, Section 5 of Article XIV of the North Carolina Constitution
6 states that it shall be a proper function of the State of North Carolina to acquire and
7 preserve park, recreational, and scenic areas and, in every other appropriate way, to
8 preserve as a part of the common heritage of this State its open lands and places of
9 beauty; and

10 Whereas, the General Assembly enacted the State Parks Act in 1987,
11 declaring that the State of North Carolina offers unique archaeological, geological,
12 biological, scenic, and recreational resources, and that such resources are part of the
13 heritage of the people of the State to be preserved and managed by those people for
14 their use and for the use of their visitors and descendants; and

15 Whereas, Lea Island in Pender County is one of the few remaining
16 undeveloped barrier islands on the North Carolina coast; contains examples of high
17 quality coastal natural communities; provides excellent breeding and migration
18 habitat for wildlife, including several rare species; and has been found to possess
19 biological and scenic resources of statewide significance; and

20 Whereas, the North Carolina State Office of the National Audubon
21 Society has expressed particular interest in the protection of Lea Island and is willing
22 to partner with the State to provide long-term management for the site; Now,
23 therefore,

1 The General Assembly of North Carolina enacts:

2 Section 1. The General Assembly authorizes the Department of
3 Environment and Natural Resources to add Lea Island State Natural Area to the
4 State Parks System as provided in G.S. 113-44.14(b).

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

1 Section 1.(c) The Department may remove an abandoned vessel as
2 provided in this act. The Department shall notify the owner of record of a vessel, as
3 provided in Rule 4 of the Rules of Civil Procedure, that the Department has
4 determined that the vessel is abandoned. The notice shall state that unless the owner
5 submits a plan for the removal of the abandoned vessel and for the restoration of the
6 affected area within 15 days of the date that notice is served on the owner and
7 removes the abandoned vessel and restores the affected area within 45 days of the
8 date that notice is served, the Department may remove the abandoned vessel, restore
9 the affected area, and charge the costs of removal and restoration to the owner. If
10 the owner of the abandoned vessel cannot be determined, the Department shall give
11 notice by publication as provided in Rule 4 of the Rules of Civil Procedure, G.S.
12 1A-1, except that, if the Department determines that the value of the abandoned
13 vessel is less than two hundred fifty dollars (\$250.00), the Department may publish
14 the notice only once.

15 Section 1.(d) If the owner of the abandoned vessel does not remove the
16 abandoned vessel and restore the affected area within 45 days of the date on which
17 notice is served, the Department may remove the abandoned vessel. The Department
18 may use staff, equipment, and material under its control or provided by any
19 cooperating federal, State, or local government or agency; may authorize or contract
20 with any private agent or contractor it deems appropriate; or may authorize or
21 contract with any federal, State, or local government or agency for the removal,
22 storage, or disposal of an abandoned vessel and restoration of the affected area. The
23 method of removal, storage, and disposal of the abandoned vessel, whether by the
24 owner, a third party, or the State, must comply with all applicable federal and State
25 laws, regulations, and rules.

26 Section 1.(e) The owner of an abandoned vessel is liable for all costs
27 incurred by or on behalf of the State to remove, store, and dispose of the abandoned
28 vessel and to restore the affected area. The Department may request the Attorney
29 General to institute a civil action in the superior court of the county where the vessel
30 is located, where the owner of the vessel resides, or where the owner has his or her
31 principal place of business to recover the amount of these costs.

32 Section 1.(f) The Department is authorized to sell or dispose of an
33 abandoned vessel and its cargo, tackle, and equipment as provided in Article 4 of
34 Chapter 116B of the General Statutes. The net proceeds of the sale shall be used to
35 reimburse the State for costs incurred to remove, store, and dispose of the abandoned
36 vessel and to restore the affected area. Any excess proceeds shall be refunded to the
37 owner or, if the owner cannot be identified or located shall be transferred to the
38 Escheat Fund administered under Article 1 of Chapter 116B of the General Statutes.

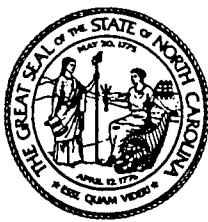
39 Section 1.(g) This act shall not be construed to limit any other civil or
40 criminal action or remedy that may be available to the State, any other agency of
41 government, or any person.

42 Section 2. The Department shall submit an interim report on the
43 implementation of this act to the Environmental Review Commission no later than 1
44 January 2002 and shall submit a final report no later than 1 January 2003. The

1 reports shall include the number of abandoned vessels removed under the pilot
2 program, the removal process for each abandoned vessel, the cost to the State for
3 each removal, and the amount of funds recovered for each removal. The report due
4 on 1 January 2003 shall also include recommendations as to whether the pilot
5 program should be extended, expanded, modified, or made permanent.

6 Section 3. This act shall not be construed to obligate the General
7 Assembly to appropriate funds to implement the provisions of this act. The
8 Department is authorized to implement this act using funds otherwise appropriated or
9 available to the Department.

10 Section 4. This act becomes effective 1 July 2000 and expires 1 January
11 2003. An action to recover costs incurred pursuant to this act shall not abate due to
12 the expiration of this act.



HOUSE BILL 1625: Removal of Abandoned Vessels

BILL ANALYSIS

Committee: Senate Committee on Agriculture,
Environment, and Natural
Resources

Introduced by: Representative Thomas
Summary by: Jeff Hudson,
Committee Counsel

Date: June 29, 2000

Version: Second Edition

SUMMARY: *House Bill 1625, Second Edition, establishes a pilot program for the removal of abandoned vessels in the Neuse River Basin.*

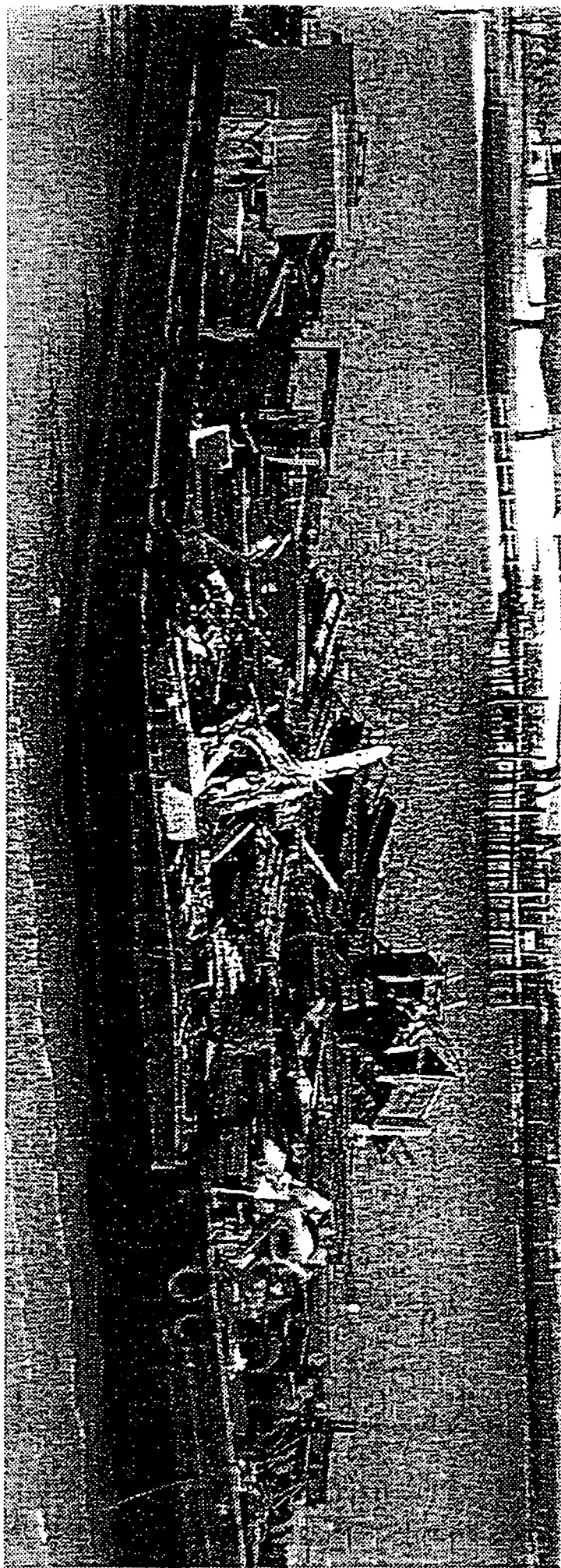
CURRENT LAW: There are a number of existing statutory provisions that regulate the placement and removal of objects in State waters. G.S. 76-40 prohibits the deposition or placement of trash, medical waste, unpermitted signs, and abandoned structures in navigable waters. G.S. 77-12, G.S. 77-13, and G.S. 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: House Bill 1625, Second 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.



NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1625 (Proposed House Committee Substitute)

SHORT TITLE: Removal of Abandoned Vessels

SPONSOR(S): Representative Thomas

FISCAL IMPACT

Yes () No () No Estimate Available (X)

FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05

REVENUES

EXPENDITURES See "Assumptions and Methodology" below.

POSITIONS

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: July 1, 2000 until January 1, 2003.

BILL SUMMARY: This bill establishes a pilot project enabling the Department of Environment and Natural Resources ("DENR") to remove abandoned vessels from the Neuse River Basin ("the pilot project area") between July 1, 2000 and January 1, 2003. Prior to removing an abandoned vessel, DENR must notify the vessel's owner and give that person the opportunity to remove the vessel. If the owner cannot be determined, DENR must give notice by publication. If the owner does not submit a removal plan within 15 days or remove the vessel within 45 days after notice is served, DENR may proceed to remove the vessel. DENR may recover removal and associated environmental restoration costs from the abandoned vessel's owner by a Court action, or may sell the vessel and contents to recoup those expenditures. DENR is required to report to the Environmental Review Commission ("ERC") by January 1, 2002 and again by January 1, 2003 regarding the number of vessels removed, the removal process used, the cost to the State, and any amounts recovered to offset those costs, to help ERC determine whether the pilot program should be expanded, modified, or made permanent.

ASSUMPTIONS AND METHODOLOGY:

Abandoned Vessels in the Pilot Project Area: The bill defines abandoned vessels as those left unattended for over 90 days or wrecked, junked, or substantially dismantled, in either coastal fishing waters¹ or upon submerged lands². While it is impossible to determine exactly the number of abandoned vessels in the pilot project area, the Wildlife Resources Commission ("WRC") estimates, based on field observations by law enforcement staff, that approximately 22 abandoned vessels lie within the portion of the pilot project area under its jurisdiction. DENR's Division of Marine Fisheries ("DMF") is currently aware of eight abandoned vessels near New Bern, in the pilot project area's coastal fishing waters. DMF estimates that one or two additional vessels may be abandoned each year.

Number of Vessels Likely to be Removed: The eight abandoned vessels located near New Bern are currently being removed pursuant to an agreement involving several governments and private parties ("the New Bern agreement"), leaving no vessels that DMF is aware of in need of removal in the coastal fishing waters of the pilot project area.

In the inland waterways of the pilot project area, the approximately twenty-two vessels observed by law enforcement staff remain. Because the powers granted by the bill are discretionary, it is unclear whether DENR will choose to remove any of those vessels. The bill provides no guidance or direction to DENR regarding when to remove abandoned vessels, or how to determine which ones to remove. If DENR chooses not to remove these vessels or any newly-abandoned ones during the length of the pilot project, this bill will have no fiscal impact because DENR will have no new expenditures. However, if DENR chooses to remove one or more abandoned vessels, the fiscal impact is uncertain, as set out in more detail below.

Costs of Vessel Removal: Because DENR has not to date removed abandoned vessels, the cost of this removal can only be estimated. Vessel removal costs depend on factors such as the vessel's size, condition, location, and proximity to an acceptable disposal area. DMF estimates that the cost of removal could range from \$10,000 for a small vessel that could be easily raised, pumped, and towed, to up to \$100,000 if the vessel were larger, located in a difficult-to-reach area, contained hazardous materials such as lead paint, asbestos, or petroleum products, and was in poor condition and therefore had to be dismantled for removal.

DMF estimates that most abandoned vessels are in poor condition and contain a moderate amount of hazardous materials, but are not difficult to reach. A local coastal marine contractor has estimated the cost of removing such a "typical" abandoned vessel to be between \$40,000 and \$50,000. These costs include evaluating the vessel, attending with suitable equipment, dismantling the vessel on site, and safely disposing of the vessel and its cargo.

Unlike DMF, WRC has removed one abandoned vessel that contained no hazardous material from the shore. Using in-house labor exclusively, the cost of this removal was \$8,414. WRC indicates that the cost of removing a vessel that is not beached but is instead entirely submerged would be higher. Similarly, using a contractor rather than in-house staff would raise the price.

¹ As defined in G.S. 113-129

² As defined in G.S. 146-64

Given the wide disparity in potential removal costs, this Fiscal Note assumes that the cost of removing an abandoned vessel would range between \$10,000 and \$45,000.

Environmental Costs: In some instances, an abandoned vessel may cause environmental damage, which will need to be repaired upon the vessel's removal. Without on-site assessment, it is impossible to predict such restoration costs, given the potential variety of abandoned vessels, locations, and contents, and the breadth of potential environmental harm. Regardless of its scope, however, any such environmental damage will need to be addressed by the State.

Recovery of Costs: Recovery of the State's costs by sale of the vessels or cargo is expected to be minimal, given the likely condition of the vessels and their cargo, and their owners' lack of interest to date. Were there any significant value in the vessel or cargo, it is assumed that the owner would have already taken steps to preserve or salvage both.

DENR may also sue the vessel's owner for removal and environmental restoration costs. Success in this endeavor is contingent upon there being an easily-found owner able to be sued, with sufficient resources to pay a judgment against him. DENR would only have an incentive to pursue this course of action if the anticipated recovery exceeds the cost of litigation plus the initial removal and restoration costs. The higher the removal and restoration costs, the greater the likelihood that DENR will choose to pursue the owner in court, if that owner can be located.

Conclusion: This bill gives DENR discretion whether or not to remove an abandoned vessel within the pilot project area, but gives no direction as to how to exercise that discretion. Each vessel removed will cost DENR approximately \$10,000, at a minimum, and the cost of potential environmental restoration is unknown. These costs are unlikely to be recovered by sale of the vessel and contents. Unless the appropriate circumstances exist for DENR to sue the owner to recoup these costs, it is expected that DENR will bear the cost of vessel removal in most cases where it chooses to act.

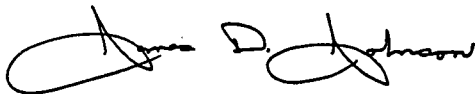
TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY:

Jennifer Hoffmann and Zoya Trofimenko (Research Assistant)

APPROVED BY: James D. Johnson



DATE: June 22, 2000

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources
 Name of Committee

6/29/00
 Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lily Farrel	DHHS
Chris Hoke	DHHS
Glenn Wells	DHHS
Susan Graepon	DEUR
W. M. [Signature]	DHHS
Mark Glass	DOA
Steve Woodson	NC Farm Bureau
Crissey J. Porter	Bone and Associates
+	
Ed Regan	N. C. Assoc. of Co. Comm.
Doug Casbiter	NC Septic Tank Assoc.

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

TRIL MCKNELLY	DENR / DPR
CHRIS CANFIELD	NC NATIONAL AUDUBON SOCIETY
Nat'l Mtd	CCNE
Don McLaughlin	DENR
Laura DeVino	DENR
Robin Smith	DENR
LUCIUS PULLEN	ATTORNEY - N.C. Mining Assoc.
Tom Dwan	(WRFP)
Fred Allen	NC Aggregates Assn.
John Long	Maria Muesel
Sandra Long	Maria Muesel

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

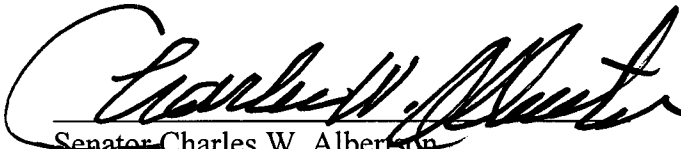
June 30, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Friday, June 30, 2000, at 9:30 a.m. in Room 414 of the Legislative Office Building. Senator Albertson, chairman, presided and there were eleven committee members present.

The following bill was discussed:

HOUSE BILL 1218 - ENV. TECH. CORRECTIONS - Representative Gibson and Representative Warwick, sponsors. There was a proposed committee substitute and Senator Weinstein moved that the PCS be adopted for discussion purposes. Motion carried. George Givens of staff explained the PCS. Dan McLawhorn, attorney for Department of Environment and Natural Resources commented on the bill as did several committee members. Hannah Holm of staff provided clarification and answered questions from committee members. Senator Martin suggested changes which staff said would be incorporated into the committee substitute. Senator Wellons moved that the proposed committee substitute, with Senator Martin's suggested changes incorporated, be given a favorable report, unfavorable as to bill. Motion carried.

There being no further business, the meeting was adjourned.



Senator Charles W. Albertson
Chairman



Julia Birdsong
Committee Clerk



SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

Friday, June 30, 2000
9:30 a.m.
Room 414 - LOB

AGENDA

HB 1218

ENV. TECH. CORRECTIONS
Representatives Gibson and Warwick

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1218

Proposed Senate Committee Substitute H1218-PCS2454-RT002

Short Title: Amend Env. Laws.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS: (1) TO PROMOTE
3 WATER CONSERVATION BY PROVIDING FOR THE USE OF SUB-METERS
4 IN CONSECUTIVE WATER SYSTEMS; (2) RELATED TO URBAN
5 WATERFRONT REDEVELOPMENT; (3) TO PROVIDE FOR VARIANCES
6 UNDER THE DREDGE AND FILL PERMIT PROGRAM; (4) TO CLARIFY
7 THE AUTHORITY OF THE GOVERNOR TO MAKE APPOINTMENTS TO
8 THE ENVIRONMENTAL MANAGEMENT COMMISSION; (5) TO REQUIRE
9 THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
10 CONSULT WITH STAKEHOLDERS PRIOR TO DEVELOPING RIPARIAN
11 BUFFER RULES; AND (6) TO MAKE CLARIFYING, CONFORMING, AND
12 TECHNICAL CHANGES.

13 The General Assembly of North Carolina enacts:

14

15 **PART I. USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS**

16

17 Section 1.1. G.S. 130A-315 is amended by adding a new subsection to
18 read:

19 "(d) When a person that receives water from a public water system is authorized
20 by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and
21 resell water to persons who occupy the same contiguous premises, that person shall
22 be regulated as a consecutive water system. The monitoring, analysis, and record-
23 keeping requirements applicable to consecutive water systems under this section shall

1 be satisfied by the monitoring, analysis, and record keeping performed by the
2 supplying water system and submitted to the Department in compliance with this
3 section. The supplying water system shall perform the same level of monitoring,
4 analysis, and record keeping that the supplying system would perform if the person
5 that receives the water had not been authorized to resell water under G.S. 62-110(g),
6 but the supplying water system shall not be required to perform additional
7 monitoring, analysis, and record keeping. A supplying water system is not
8 responsible for operation, maintenance, or repair of the consecutive water system."

9 Section 1.2. In enacting Section 1.1 of this act, it is the intent of the
10 General Assembly to promote water conservation while protecting public health,
11 safety, welfare, and the environment and avoiding unduly burdensome requirements
12 on consecutive water systems. Section 1.1 of this act shall not be construed to impose
13 any requirement on a supplying water system beyond the requirements applicable to
14 the supplying water system if a consecutive water system had not been authorized.

16 PART II. URBAN WATERFRONT REDEVELOPMENT

17
18 Section 2.1. Section 3 of S.L. 1997-337, as amended by Section 55.2B of
19 S.L. 1997-456, reads as rewritten:

20 "Section 3. This act is effective when it becomes law, expires ~~1 July 2000~~, 1 April
21 2001, and applies to permits granted and applications submitted prior to ~~1 July 2000~~.
22 1 April 2001. Any permits granted or applications issued prior to ~~July 1, 2000~~ 1
23 April 2001 shall be transferable."

24 Section 2.2. The Coastal Resources Commission shall adopt a temporary
25 rule providing for and governing urban waterfront redevelopment in historically
26 urban areas. The temporary rule shall become effective 1 April 2001 and shall
27 remain in effect until a permanent rule that replaces the temporary rule becomes
28 effective.

30 PART III. DREDGE AND FILL VARIANCES

31
32 Section 3.1. G.S. 113-229(c1) reads as rewritten:

33 "(c1) The Coastal Resources Commission may, by rule, designate certain classes of
34 major and minor development for which a general or blanket permit may be issued.
35 In developing these rules, the Commission shall ~~consider~~ consider all of the
36 following:

- 37 (1) The size of the ~~development~~; development.
- 38 (2) The impact of the development on areas of environmental ~~concern~~;
39 concern.
- 40 (3) How often the class of development is carried ~~out~~; out.
- 41 (4) The need for on-site oversight of the ~~development~~; and
42 development.
- 43 (5) The need for public review and comment on individual
44 development projects.

1 (c2) General permits may be issued by the Commission as rules under the
2 provisions of ~~G.S. 113A-107~~. G.S. 113A-118.1. Individual development carried out
3 under the provisions of general permits shall not be subject to the mandatory notice
4 provisions of this section. The Commission may impose reasonable notice provisions
5 and other appropriate conditions and safeguards on any general permit it issues. The
6 variance, appeals, and enforcement provisions of this Article shall apply to any
7 individual development projects undertaken under a general permit."

8 Section 3.2. G.S. 113-229(e) reads as rewritten:

9 "(e) Applications for permits except special emergency permit applications shall
10 be circulated by the Department among all State agencies and, in the discretion of
11 the Secretary, appropriate federal agencies having jurisdiction over the subject matter
12 which might be affected by the project so that such agencies will have an opportunity
13 to raise any objections they might have. The Department may deny an application
14 for a dredge or fill permit upon finding: (1) that there will be significant adverse
15 effect of the proposed dredging and filling on the use of the water by the public; or
16 (2) that there will be significant adverse effect on the value and enjoyment of the
17 property of any riparian owners; or (3) that there will be significant adverse effect on
18 public health, safety, and welfare; or (4) that there will be significant adverse effect
19 on the conservation of public and private water supplies; or (5) that there will be
20 significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In
21 the absence of such findings, a permit shall be granted. Such permit may be
22 conditioned upon the applicant amending his proposal to take whatever measures are
23 reasonably necessary to protect the public interest with respect to the factors
24 enumerated in this subsection. Permits may allow for projects granted a permit the
25 right to maintain such project for a period of up to 10 years. The right to maintain
26 such project shall be granted subject to such conditions as may be reasonably
27 necessary to protect the public interest. The Coastal Resources Commission shall
28 coordinate the issuance of permits under this section and G.S. 113A-118 and the
29 granting of variances under this section and G.S. 113A-120.1 to avoid duplication and
30 to create a single, expedited permitting process. The Coastal Resources Commission
31 may adopt rules interpreting and applying the provisions of this section and rules
32 specifying the procedures for obtaining a permit under this section. Maintenance
33 work as defined in this subsection shall be limited to such activities as are required to
34 maintain the project dimensions as found in the permit granted. The Department
35 shall act on an application for permit within 75 days after the completed application
36 is filed, provided the Department may extend such deadline by not more than an
37 additional 75 days if necessary properly to consider the application, except for
38 applications for a special emergency permit, in which case the Department shall act
39 within two working days after an application is filed, and failure to so act shall
40 automatically approve the application."

41

42 **PART IV. CLARIFY ENVIRONMENTAL MANAGEMENT COMMISSION**
43 **APPOINTMENTS**

44

1 Section 4.1. G.S. 143B-283(b) reads as rewritten:

2 "(b) Members ~~so~~ appointed by the Governor shall serve terms of office of six
3 years. Any appointment to fill a vacancy on the Commission created by the
4 resignation, dismissal, death or disability of a member shall be for the balance of the
5 unexpired term. ~~At the expiration of each member's term, the Governor shall~~
6 ~~replace the member with a new member of like qualifications. The Governor may~~
7 reappoint a member of the Commission to an additional term if, at the time of the
8 reappointment, the member qualifies for membership on the Commission under
9 subsection (a) of this section. ~~The initial members of the Environmental Management~~
10 ~~Commission shall be those members of the present Board of Water and Air~~
11 ~~Resources who shall meet the above standards for membership on the Environmental~~
12 ~~Management Commission and who shall serve on the Environmental Management~~
13 ~~Commission for a period equal to the remainder of their current terms on the Board~~
14 ~~of Water and Air Resources, four of whose appointments expire June 30, 1975, five of~~
15 ~~whose appointments expire June 30, 1977, and four of whose appointments expire~~
16 ~~June 30, 1979. Any initial appointment to replace a member of the present Board of~~
17 ~~Water and Air Resources who does not meet the above standards for membership on~~
18 ~~the Environmental Management Commission shall be for a period equal to the~~
19 ~~replaced member's unexpired term.~~

20 (b1) The Governor shall have the power to remove any member of the
21 Commission from office for misfeasance, malfeasance, or nonfeasance in accordance
22 with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

23 (b2) The members of the Commission shall receive per diem and necessary travel
24 and subsistence expenses in accordance with the provisions of G.S. 138-5.

25 (b3) A majority of the Commission shall constitute a quorum for the transaction
26 of business.

27 (b4) All clerical and other services required by the Commission shall be supplied
28 by the Secretary of Environment and Natural Resources."

29 Section 4.2. G.S. 143B-283(d) reads as rewritten:

30 "(d) In addition to the members designated by subsection ~~(a)~~, (a) of this section,
31 the General Assembly shall appoint four members, two upon the recommendation of
32 the Speaker of the House of Representatives, and two upon the recommendation of
33 the President Pro Tempore of the Senate. Appointments by the General Assembly
34 shall be made in accordance with G.S. 120-121, and vacancies in those appointments
35 shall be filled in accordance with G.S. 120-122. ~~The terms of initial appointees by~~
36 ~~the General Assembly shall expire on June 30, 1983. Thereafter, these members shall~~
37 ~~serve two-year terms. Members appointed by the General Assembly shall serve terms~~
38 of two years."

39

40 PART V. CONSULTATION WITH RIPARIAN BUFFER STAKEHOLDERS

41

42 Section 5.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is
43 amended by adding a new section to read:

1 "§ G.S. 143-214.24. Riparian Buffer Protection Program: Coordination with River
2 Basin Associations.

3 (a) Prior to drafting temporary or permanent rules that require the preservation of
4 riparian buffers in a river basin, the Department shall consult with major stakeholders
5 who may have an interest in the proposed rules, including the board of directors or
6 representatives designated by the board of directors of any river basin association in
7 the affected river basin that meets all of the following criteria:

- 8 (1) The association is a nonprofit corporation, as defined by G.S.
9 55A-1-40.
- 10 (2) The association has as its primary purpose the conservation,
11 preservation, and restoration of the environmental and natural
12 resources of the river basin in which it is located.
- 13 (3) Membership in the association is open on a nondiscriminatory
14 basis to all citizens in the river basin.
- 15 (4) The membership of the board of directors of the association
16 includes at least one representative from each county with a
17 significant portion of its territory in the river basin.
- 18 (5) The membership of the association includes significant
19 representation from each of the following categories of persons:
- 20 a. Elected local officials.
- 21 b. Persons involved in agriculture.
- 22 c. Persons involved in residential and commercial land
23 development.
- 24 d. Persons involved in forestry.
- 25 e. Representatives of community-based organizations.
- 26 f. Representatives of organizations that advocate for protection
27 of the environment and conservation of natural resources.
- 28 g. Persons with special training and scientific expertise in
29 protection of water who are affiliated with colleges and
30 universities.
- 31 h. Private property owners.
- 32 i. Persons with a general interest in water quality protection.

33 (b) The purpose of the consultation required by subsection (a) of this section is to
34 assure that major stakeholders who may have an interest in the proposed rules have
35 an opportunity to inform the Department of their concerns before the Department
36 drafts the rules."

37

38 **PART VI. TECHNICAL CORRECTIONS**

39

40 Section 6.1. G.S. 143-215.94E(i) reads as rewritten:

41 "(i) An owner or operator who notifies the Department of an intention to close or
42 upgrade a commercial underground storage tank as provided in G.S.
43 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and
44 shall complete the closure or upgrade prior to 1 January 1995. An owner who

1 notifies the Department of an intention to close or upgrade a commercial
2 underground storage tank and who fails to commence and complete the closure as
3 specified in this subsection is subject to a civil penalty as provided in ~~G.S.~~
4 ~~143-215.94K.~~ G.S. 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not
5 apply if an owner or operator who notifies the Department of an intention to close or
6 upgrade a commercial underground storage tank fails to commence or complete the
7 closure or upgrade within the dates specified in this subsection."
8

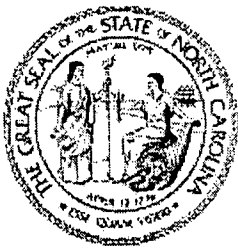
9 **PART VII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES**

10

11 Section 7.1. The headings to the Parts of this act are a convenience to
12 the reader and are for reference only. The headings do not expand, limit, or define
13 the text of this act.

14 Section 7.2. If any section or provision of this act is declared
15 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
16 provision does not affect the validity of this act as a whole or any part of this act
17 other than the part declared to be unconstitutional or invalid.

18 Section 7.3. Section 2.1 of this act is effective 1 July 2000. Section 4.1 is
19 effective upon ratification and applies retroactively to all appointments by the
20 Governor to the Environmental Management Commission. All other sections of this
21 act are effective when it becomes law.



HOUSE BILL 1218 (PCS): Amend Environmental Laws

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: June 30, 2000

Version: PCS for First Edition

Introduced by: Representative Gibson

Summary by: Hannah Holm,
Research Assistant for
Environmental Issues

The PCS for HB 1218 (PCS) contains provisions to facilitate the sub-metering of water in apartment complexes; extend the time period in which the Coastal Resource Commission (CRC) may adopt a temporary rule regarding urban waterfront redevelopment; address variances under the dredge and fill program; clarify the Governor's authority to make appointments to the Environmental Management Commission (EMC); require the Department of Environment and Natural Resources (DENR) to consult with stakeholders prior to developing riparian buffer protection rules; and update a cross-reference.

Apartment sub-metering: The PCS would provide that water monitoring at apartment complexes where water sub-meters have been installed at each unit will be done by the supplying water system in the same manner as it would if the submeters were not installed. Currently, any apartment complex that installs water sub-meters becomes responsible for conducting water testing for the apartments to which the water is re-sold..

Urban waterfront redevelopment. The PCS would delay, by approximately one year to April 1, 2001, the sunset on the CRC's authority to adopt a temporary rule governing urban waterfront development in historically urban areas. The PCS would also provide that the temporary rule would become effective April 1, 2001 and would remain in effect until it is replaced by a permanent rule.

Dredge and fill variances. The PCS would direct the CRC to coordinate the granting of variances under the dredge and fill program with the granting of variances for development in primary nursery areas and outstanding resource waters.

Environmental Management Commission appointments. The PCS would clarify that the Governor may reappoint a member of the EMC upon the expiration of that person's term, provided the person still qualifies to be a member of the EMC.

Consultation with riparian buffer stakeholders. The PCS would require that prior to drafting a temporary or permanent rule that would require the preservation of riparian buffers, DENR must consult with any river basin association that meets a set of criteria that demonstrate that the association represents stakeholders that are distributed geographically throughout the affected river basin and represent a wide range of water resource interests. The purpose of the consultation would be to ensure that major stakeholders with an interest in any proposed rules have an opportunity to inform DENR of their concerns before the rules are drafted.

Update cross-reference. The PCS would update a cross reference in G.S. 143-215.94E(i), which governs a part of the petroleum underground storage tank program.

MINUTES

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
COMMITTEE

July 5, 2000

The Senate Agriculture/Environment/Natural Resources Committee met on Wednesday, July 5, 2000, at 1:15 p.m. around Senator Albertson's chamber desk. The meeting was called to order by Senator Albertson, chairman, and there were nine committee members present.

The following bill was discussed:

HOUSE BILL 1218 - ENV. TECH. CORRECTIONS - Representative Gibson and Representative Warwick, sponsors. This bill had been given a favorable report as to a proposed committee substitute (PCS#2524) on June 30; however, it was not reported out of committee. The purpose of this meeting was to negate the previous proposed committee substitute for HB 1218 (PCS#2524) and to pass a revised proposed committee substitute. Senator Phillips moved that we reconsider the vote by which the proposed committee substitute for HB 1218 was given a favorable report on June 30 by adopting for discussion purposes the new proposed committee substitute (PCS#7391). Motion carried. Senator Phillips then moved for a favorable report of the new proposed committee substitute (PCS#7391), unfavorable as to bill. Motion carried.

There being no further business, the meeting was adjourned.


Senator Charles W. Albertson
Chairman


Julia Birdsong
Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Albertson, Chair**

Wednesday, July 05, 2000

SENATOR ALBERTSON, CHAIRMAN,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B. 1218	ENV. TECH. CORRECTIONS	
	Draft Number:	PCS7391
	Sequential Referral:	None
	Recommended Referral:	None
	Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: Please hold this report for me.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1218
Proposed Senate Committee Substitute H1218-PCS7391-RT/SB003

Short Title: Amend Env. Laws.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS: (1) TO PROMOTE
3 WATER CONSERVATION BY PROVIDING FOR THE USE OF SUB-METERS
4 IN CONSECUTIVE WATER SYSTEMS; (2) RELATED TO URBAN
5 WATERFRONT REDEVELOPMENT; (3) TO PROVIDE FOR VARIANCES
6 UNDER THE DREDGE AND FILL PERMIT PROGRAM; (4) TO CLARIFY
7 THE AUTHORITY OF THE GOVERNOR TO MAKE APPOINTMENTS TO
8 THE ENVIRONMENTAL MANAGEMENT COMMISSION; (5) TO REQUIRE
9 THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
10 CONSULT WITH STAKEHOLDERS PRIOR TO DEVELOPING RIPARIAN
11 BUFFER RULES; (6) TO PROHIBIT THE MARINE FISHERIES COMMISSION
12 FROM ESTABLISHING FEES FOR CERTAIN PERMITS AND TO ABOLISH
13 CERTAIN EXISTING PERMIT FEES; AND (7) TO MAKE CLARIFYING,
14 CONFORMING, AND TECHNICAL CHANGES.

15 The General Assembly of North Carolina enacts:

16

17 **PART I. USE OF SUB-METERS IN CONSECUTIVE WATER SYSTEMS**

18

19 Section 1.1. G.S. 130A-315 is amended by adding a new subsection to
20 read:

21 "(d) When a person that receives water from a public water system is authorized
22 by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and
23 resell water to persons who occupy the same contiguous premises, that person shall

1 be regulated as a consecutive water system. The monitoring, analysis, and record-
2 keeping requirements applicable to consecutive water systems under this section shall
3 be satisfied by the monitoring, analysis, and record keeping performed by the
4 supplying water system and submitted to the Department in compliance with this
5 section. The supplying water system shall perform the same level of monitoring,
6 analysis, and record keeping that the supplying system would perform if the person
7 that receives the water had not been authorized to resell water under G.S. 62-110(g),
8 but the supplying water system shall not be required to perform additional
9 monitoring, analysis, and record keeping. A supplying water system is not
10 responsible for operation, maintenance, or repair of the consecutive water system."

11 Section 1.2. In enacting Section 1.1 of this act, it is the intent of the
12 General Assembly to promote water conservation while protecting public health,
13 safety, welfare, and the environment and avoiding unduly burdensome requirements
14 on consecutive water systems. Section 1.1 of this act shall not be construed to impose
15 any requirement on a supplying water system other than the requirements that apply
16 to the supplying water system on the date this act becomes effective and that would
17 apply to the supplying water system if a consecutive water system had not been
18 authorized.

19

20 PART II. URBAN WATERFRONT REDEVELOPMENT

21

22 Section 2.1. Section 3 of S.L. 1997-337, as amended by Section 55.2B of
23 S.L. 1997-456, reads as rewritten:

24 "Section 3. This act is effective when it becomes law, expires ~~1 July 2000~~, 1 April
25 2001, and applies to permits granted and applications submitted prior to ~~1 July 2000~~.
26 1 April 2001. Any permits granted or applications issued prior to ~~July 1, 2000~~ 1
27 April 2001 shall be transferable."

28 Section 2.2. The Coastal Resources Commission shall adopt a temporary
29 rule providing for and governing urban waterfront redevelopment in historically
30 urban areas. The temporary rule shall become effective 1 April 2001 and shall
31 remain in effect until a permanent rule that replaces the temporary rule becomes
32 effective.

33

34 PART III. DREDGE AND FILL VARIANCES

35

36 Section 3.1. G.S. 113-229(c1) reads as rewritten:

37 "(c1) The Coastal Resources Commission may, by rule, designate certain classes of
38 major and minor development for which a general or blanket permit may be issued.
39 In developing these rules, the Commission shall ~~consider~~ consider all of the
40 following:

- 41 (1) The size of the ~~development~~, development.
42 (2) The impact of the development on areas of environmental ~~concern~~;
43 concern.
44 (3) How often the class of development is carried ~~out~~; out.

1 (4) The need for on-site oversight of the ~~development, and~~
2 development.

3 (5) The need for public review and comment on individual
4 development projects.

5 (c2) General permits may be issued by the Commission as rules under the
6 provisions of ~~G.S. 113A-107.~~ G.S. 113A-118.1. Individual development carried out
7 under the provisions of general permits shall not be subject to the mandatory notice
8 provisions of this section. The Commission may impose reasonable notice provisions
9 and other appropriate conditions and safeguards on any general permit it issues. The
10 variance, appeals, and enforcement provisions of this Article shall apply to any
11 individual development projects undertaken under a general permit."

12 Section 3.2. G.S. 113-229(e) reads as rewritten:

13 "(e) Applications for permits except special emergency permit applications shall
14 be circulated by the Department among all State agencies and, in the discretion of
15 the Secretary, appropriate federal agencies having jurisdiction over the subject matter
16 which might be affected by the project so that such agencies will have an opportunity
17 to raise any objections they might have. The Department may deny an application
18 for a dredge or fill permit upon finding: (1) that there will be significant adverse
19 effect of the proposed dredging and filling on the use of the water by the public; or
20 (2) that there will be significant adverse effect on the value and enjoyment of the
21 property of any riparian owners; or (3) that there will be significant adverse effect on
22 public health, safety, and welfare; or (4) that there will be significant adverse effect
23 on the conservation of public and private water supplies; or (5) that there will be
24 significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In
25 the absence of such findings, a permit shall be granted. Such permit may be
26 conditioned upon the applicant amending his proposal to take whatever measures are
27 reasonably necessary to protect the public interest with respect to the factors
28 enumerated in this subsection. Permits may allow for projects granted a permit the
29 right to maintain such project for a period of up to 10 years. The right to maintain
30 such project shall be granted subject to such conditions as may be reasonably
31 necessary to protect the public interest. The Coastal Resources Commission shall
32 coordinate the issuance of permits under this section and G.S. 113A-118 and the
33 granting of variances under this section and G.S. 113A-120.1 to avoid duplication and
34 to create a single, expedited permitting process. The Coastal Resources Commission
35 may adopt rules interpreting and applying the provisions of this section and rules
36 specifying the procedures for obtaining a permit under this section. Maintenance
37 work as defined in this subsection shall be limited to such activities as are required to
38 maintain the project dimensions as found in the permit granted. The Department
39 shall act on an application for permit within 75 days after the completed application
40 is filed, provided the Department may extend such deadline by not more than an
41 additional 75 days if necessary properly to consider the application, except for
42 applications for a special emergency permit, in which case the Department shall act
43 within two working days after an application is filed, and failure to so act shall
44 automatically approve the application."

1
2 **PART IV. CLARIFY ENVIRONMENTAL MANAGEMENT COMMISSION**
3 **APPOINTMENTS**

4
5 Section 4.1. G.S. 143B-283(b) reads as rewritten:

6 "(b) Members ~~se~~ appointed by the Governor shall serve terms of office of six
7 years. Any appointment to fill a vacancy on the Commission created by the
8 resignation, dismissal, death or disability of a member shall be for the balance of the
9 unexpired term. ~~At the expiration of each member's term, the Governor shall~~
10 ~~replace the member with a new member of like qualifications.~~ The Governor may
11 reappoint a member of the Commission to an additional term if, at the time of the
12 reappointment, the member qualifies for membership on the Commission under
13 subsection (a) of this section. ~~The initial members of the Environmental Management~~
14 ~~Commission shall be those members of the present Board of Water and Air~~
15 ~~Resources who shall meet the above standards for membership on the Environmental~~
16 ~~Management Commission and who shall serve on the Environmental Management~~
17 ~~Commission for a period equal to the remainder of their current terms on the Board~~
18 ~~of Water and Air Resources, four of whose appointments expire June 30, 1975, five of~~
19 ~~whose appointments expire June 30, 1977, and four of whose appointments expire~~
20 ~~June 30, 1979. Any initial appointment to replace a member of the present Board of~~
21 ~~Water and Air Resources who does not meet the above standards for membership on~~
22 ~~the Environmental Management Commission shall be for a period equal to the~~
23 ~~replaced member's unexpired term.~~

24 (b1) The Governor shall have the power to remove any member of the
25 Commission from office for misfeasance, malfeasance, or nonfeasance in accordance
26 with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

27 (b2) The members of the Commission shall receive per diem and necessary travel
28 and subsistence expenses in accordance with the provisions of G.S. 138-5.

29 (b3) A majority of the Commission shall constitute a quorum for the transaction
30 of business.

31 (b4) All clerical and other services required by the Commission shall be supplied
32 by the Secretary of Environment and Natural Resources."

33 Section 4.2. G.S. 143B-283(d) reads as rewritten:

34 "(d) In addition to the members designated by subsection ~~(a)~~, (a) of this section,
35 the General Assembly shall appoint four members, two upon the recommendation of
36 the Speaker of the House of Representatives, and two upon the recommendation of
37 the President Pro Tempore of the Senate. Appointments by the General Assembly
38 shall be made in accordance with G.S. 120-121, and vacancies in those appointments
39 shall be filled in accordance with G.S. 120-122. ~~The terms of initial appointees by~~
40 ~~the General Assembly shall expire on June 30, 1983. Thereafter, these members shall~~
41 ~~serve two year terms.~~ Members appointed by the General Assembly shall serve terms
42 of two years."

43
44 **PART V. CONSULTATION WITH RIPARIAN BUFFER STAKEHOLDERS**

1
2 Section 5.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is
3 amended by adding a new section to read:

4 "§ 143-214.24. Riparian Buffer Protection Program: Coordination with River Basin
5 Associations.

6 (a) Prior to drafting temporary or permanent rules that require the preservation of
7 riparian buffers in a river basin, the Department shall consult with major stakeholders
8 who may have an interest in the proposed rules, including the board of directors or
9 representatives designated by the board of directors of any river basin association in
10 the affected river basin that meets all of the following criteria:

- 11 (1) The association is a nonprofit corporation, as defined by G.S.
12 55A-1-40.
13 (2) The association has as its primary purpose the conservation,
14 preservation, and restoration of the environmental and natural
15 resources of the river basin in which it is located.
16 (3) Membership in the association is open on a nondiscriminatory
17 basis to all citizens in the river basin.
18 (4) The membership of the board of directors of the association
19 includes at least one representative from each county with a
20 significant portion of its territory in the river basin.
21 (5) The membership of the association includes significant
22 representation from each of the following categories of persons:
23 a. Elected local officials.
24 b. Persons involved in agriculture.
25 c. Persons involved in residential and commercial land
26 development.
27 d. Persons involved in forestry.
28 e. Representatives of community-based organizations.
29 f. Representatives of organizations that advocate for protection
30 of the environment and conservation of natural resources.
31 g. Persons with special training and scientific expertise in
32 protection of water who are affiliated with colleges and
33 universities.
34 h. Private property owners.
35 i. Persons with a general interest in water quality protection.

36 (b) The purpose of the consultation required by subsection (a) of this section is to
37 assure that major stakeholders who may have an interest in the proposed rules have
38 an opportunity to inform the Department of their concerns before the Department
39 drafts the rules."

40
41 **PART VI. FISHERIES PERMIT FEES**

42
43 Section 6.1. G.S. 113-169.1 reads as rewritten:

44 "**§ 113-169.1. Permits for gear, equipment, and other specialized activities authorized.**

1 The Commission may adopt rules to establish permits for gear, equipment, and
2 specialized activities, including commercial fishing operations that do not involve the
3 use of a vessel and transplanting oysters or clams. ~~The Commission shall establish a~~
4 ~~fee for each permit in an amount that compensates the Division for the actual~~
5 ~~administrative costs associated with the permit but that does not exceed fifty dollars~~
6 ~~(\$50.00) per permit."~~

7 Section 6.2. Any fee established by the Marine Fisheries Commission
8 pursuant to G.S. 113-169.1, as amended by Section 6.1 of this act, shall expire 1 July
9 2000.

10

11 PART VII. TECHNICAL CORRECTIONS

12

13 Section 7.1. G.S. 143-215.94E(i) reads as rewritten:

14 "(i) An owner or operator who notifies the Department of an intention to close or
15 upgrade a commercial underground storage tank as provided in G.S.
16 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and
17 shall complete the closure or upgrade prior to 1 January 1995. An owner who
18 notifies the Department of an intention to close or upgrade a commercial
19 underground storage tank and who fails to commence and complete the closure as
20 specified in this subsection is subject to a civil penalty as provided in ~~G.S.~~
21 ~~143-215.94K~~. G.S. 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not
22 apply if an owner or operator who notifies the Department of an intention to close or
23 upgrade a commercial underground storage tank fails to commence or complete the
24 closure or upgrade within the dates specified in this subsection."

25

26 PART VIII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

27

28 Section 8.1. The headings to the Parts of this act are a convenience to
29 the reader and are for reference only. The headings do not expand, limit, or define
30 the text of this act.

31 Section 8.2. If any section or provision of this act is declared
32 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
33 provision does not affect the validity of this act as a whole or any part of this act
34 other than the part declared to be unconstitutional or invalid.

35 Section 8.3. Sections 2.1, 6.1, and 6.2 of this act are effective
36 retroactively to 1 July 2000. Section 4.1 of this act is effective upon ratification and
37 applies retroactively to all appointments by the Governor to the Environmental
38 Management Commission. All other sections of this act are effective when this act
39 becomes law.

1 be satisfied by the monitoring, analysis, and record keeping performed by the
2 supplying water system and submitted to the Department in compliance with this
3 section. The supplying water system shall perform the same level of monitoring,
4 analysis, and record keeping that the supplying system would perform if the person
5 that receives the water had not been authorized to resell water under G.S. 62-110(g),
6 but the supplying water system shall not be required to perform additional
7 monitoring, analysis, and record keeping. A supplying water system is not
8 responsible for operation, maintenance, or repair of the consecutive water system."

9 Section 1.2. In enacting Section 1.1 of this act, it is the intent of the
10 General Assembly to promote water conservation while protecting public health,
11 safety, welfare, and the environment and avoiding unduly burdensome requirements
12 on consecutive water systems. Section 1.1 of this act shall not be construed to impose
13 any requirement on a supplying water system beyond the requirements applicable to
14 the supplying water system if a consecutive water system had not been authorized.

15

16 PART II. URBAN WATERFRONT REDEVELOPMENT

17

18 Section 2.1. Section 3 of S.L. 1997-337, as amended by Section 55.2B of
19 S.L. 1997-456, reads as rewritten:

20 "Section 3. This act is effective when it becomes law, expires ~~1 July 2000~~, 1 April
21 2001, and applies to permits granted and applications submitted prior to ~~1 July 2000~~.
22 1 April 2001. Any permits granted or applications issued prior to ~~July 1, 2000~~ 1
23 April 2001 shall be transferable."

24 Section 2.2. The Coastal Resources Commission shall adopt a temporary
25 rule providing for and governing urban waterfront redevelopment in historically
26 urban areas. The temporary rule shall become effective 1 April 2001 and shall
27 remain in effect until a permanent rule that replaces the temporary rule becomes
28 effective.

29

30 PART III. DREDGE AND FILL VARIANCES

31

32 Section 3.1. G.S. 113-229(c1) reads as rewritten:

33 "(c1) The Coastal Resources Commission may, by rule, designate certain classes of
34 major and minor development for which a general or blanket permit may be issued.
35 In developing these rules, the Commission shall ~~consider~~ consider all of the
36 following:

37

(1) The size of the ~~development~~; development.

38

(2) The impact of the development on areas of environmental ~~concern~~;
concern.

39

(3) How often the class of development is carried ~~out~~; out.

40

(4) The need for on-site oversight of the ~~development~~; and
development.

41

(5) The need for public review and comment on individual
development projects.

42

43

44

1 (c2) General permits may be issued by the Commission as rules under the
2 provisions of ~~G.S. 113A-107~~. G.S. 113A-118.1. Individual development carried out
3 under the provisions of general permits shall not be subject to the mandatory notice
4 provisions of this section. The Commission may impose reasonable notice provisions
5 and other appropriate conditions and safeguards on any general permit it issues. The
6 variance, appeals, and enforcement provisions of this Article shall apply to any
7 individual development projects undertaken under a general permit."

8 Section 3.2. G.S. 113-229(e) reads as rewritten:

9 "(e) Applications for permits except special emergency permit applications shall
10 be circulated by the Department among all State agencies and, in the discretion of
11 the Secretary, appropriate federal agencies having jurisdiction over the subject matter
12 which might be affected by the project so that such agencies will have an opportunity
13 to raise any objections they might have. The Department may deny an application
14 for a dredge or fill permit upon finding: (1) that there will be significant adverse
15 effect of the proposed dredging and filling on the use of the water by the public; or
16 (2) that there will be significant adverse effect on the value and enjoyment of the
17 property of any riparian owners; or (3) that there will be significant adverse effect on
18 public health, safety, and welfare; or (4) that there will be significant adverse effect
19 on the conservation of public and private water supplies; or (5) that there will be
20 significant adverse effect on wildlife or fresh water, estuarine or marine fisheries. In
21 the absence of such findings, a permit shall be granted. Such permit may be
22 conditioned upon the applicant amending his proposal to take whatever measures are
23 reasonably necessary to protect the public interest with respect to the factors
24 enumerated in this subsection. Permits may allow for projects granted a permit the
25 right to maintain such project for a period of up to 10 years. The right to maintain
26 such project shall be granted subject to such conditions as may be reasonably
27 necessary to protect the public interest. The Coastal Resources Commission shall
28 coordinate the issuance of permits under this section and G.S. 113A-118 and the
29 granting of variances under this section and G.S. 113A-120.1 to avoid duplication and
30 to create a single, expedited permitting process. The Coastal Resources Commission
31 may adopt rules interpreting and applying the provisions of this section and rules
32 specifying the procedures for obtaining a permit under this section. Maintenance
33 work as defined in this subsection shall be limited to such activities as are required to
34 maintain the project dimensions as found in the permit granted. The Department
35 shall act on an application for permit within 75 days after the completed application
36 is filed, provided the Department may extend such deadline by not more than an
37 additional 75 days if necessary properly to consider the application, except for
38 applications for a special emergency permit, in which case the Department shall act
39 within two working days after an application is filed, and failure to so act shall
40 automatically approve the application."

41

42 **PART IV. CLARIFY ENVIRONMENTAL MANAGEMENT COMMISSION**
43 **APPOINTMENTS**

44

1 Section 4.1. G.S. 143B-283(b) reads as rewritten:

2 "(b) Members ~~so~~ appointed by the Governor shall serve terms of office of six
3 years. Any appointment to fill a vacancy on the Commission created by the
4 resignation, dismissal, death or disability of a member shall be for the balance of the
5 unexpired term. ~~At the expiration of each member's term, the Governor shall~~
6 ~~replace the member with a new member of like qualifications. The Governor may~~
7 reappoint a member of the Commission to an additional term if, at the time of the
8 reappointment, the member qualifies for membership on the Commission under
9 subsection (a) of this section. The initial members of the Environmental Management
10 ~~Commission shall be those members of the present Board of Water and Air~~
11 ~~Resources who shall meet the above standards for membership on the Environmental~~
12 ~~Management Commission and who shall serve on the Environmental Management~~
13 ~~Commission for a period equal to the remainder of their current terms on the Board~~
14 ~~of Water and Air Resources, four of whose appointments expire June 30, 1975, five of~~
15 ~~whose appointments expire June 30, 1977, and four of whose appointments expire~~
16 ~~June 30, 1979. Any initial appointment to replace a member of the present Board of~~
17 ~~Water and Air Resources who does not meet the above standards for membership on~~
18 ~~the Environmental Management Commission shall be for a period equal to the~~
19 ~~replaced member's unexpired term.~~

20 (b1) The Governor shall have the power to remove any member of the
21 Commission from office for misfeasance, malfeasance, or nonfeasance in accordance
22 with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973.

23 (b2) The members of the Commission shall receive per diem and necessary travel
24 and subsistence expenses in accordance with the provisions of G.S. 138-5.

25 (b3) A majority of the Commission shall constitute a quorum for the transaction
26 of business.

27 (b4) All clerical and other services required by the Commission shall be supplied
28 by the Secretary of Environment and Natural Resources."

29 Section 4.2. G.S. 143B-283(d) reads as rewritten:

30 "(d) In addition to the members designated by subsection ~~(a)~~, (a) of this section,
31 the General Assembly shall appoint four members, two upon the recommendation of
32 the Speaker of the House of Representatives, and two upon the recommendation of
33 the President Pro Tempore of the Senate. Appointments by the General Assembly
34 shall be made in accordance with G.S. 120-121, and vacancies in those appointments
35 shall be filled in accordance with G.S. 120-122. ~~The terms of initial appointees by~~
36 ~~the General Assembly shall expire on June 30, 1983. Thereafter, these members shall~~
37 ~~serve two-year terms. Members appointed by the General Assembly shall serve terms~~
38 of two years."

39

40 PART V. CONSULTATION WITH RIPARIAN BUFFER STAKEHOLDERS

41

42 Section 5.1. Part 1 of Article 21 of Chapter 143 of the General Statutes is
43 amended by adding a new section to read:

1 "§ G.S. 143-214.24. Riparian Buffer Protection Program: Coordination with River
2 Basin Associations.

3 (a) Prior to drafting temporary or permanent rules that require the preservation of
4 riparian buffers in a river basin, the Department shall consult with major stakeholders
5 who may have an interest in the proposed rules, including the board of directors or
6 representatives designated by the board of directors of any river basin association in
7 the affected river basin that meets all of the following criteria:

- 8 (1) The association is a nonprofit corporation, as defined by G.S.
9 55A-1-40.
- 10 (2) The association has as its primary purpose the conservation,
11 preservation, and restoration of the environmental and natural
12 resources of the river basin in which it is located.
- 13 (3) Membership in the association is open on a nondiscriminatory
14 basis to all citizens in the river basin.
- 15 (4) The membership of the board of directors of the association
16 includes at least one representative from each county with a
17 significant portion of its territory in the river basin.
- 18 (5) The membership of the association includes significant
19 representation from each of the following categories of persons:
- 20 a. Elected local officials.
- 21 b. Persons involved in agriculture.
- 22 c. Persons involved in residential and commercial land
23 development.
- 24 d. Persons involved in forestry.
- 25 e. Representatives of community-based organizations.
- 26 f. Representatives of organizations that advocate for protection
27 of the environment and conservation of natural resources.
- 28 g. Persons with special training and scientific expertise in
29 protection of water who are affiliated with colleges and
30 universities.
- 31 h. Private property owners.
- 32 i. Persons with a general interest in water quality protection.

33 (b) The purpose of the consultation required by subsection (a) of this section is to
34 assure that major stakeholders who may have an interest in the proposed rules have
35 an opportunity to inform the Department of their concerns before the Department
36 drafts the rules."

37

38 **PART VI. TECHNICAL CORRECTIONS**

39

40 Section 6.1. G.S. 143-215.94E(i) reads as rewritten:

41 "(i) An owner or operator who notifies the Department of an intention to close or
42 upgrade a commercial underground storage tank as provided in G.S.
43 143-215.94B(b)(2a) shall commence the closure or upgrade prior to 1 July 1994 and
44 shall complete the closure or upgrade prior to 1 January 1995. An owner who

1 notifies the Department of an intention to close or upgrade a commercial
2 underground storage tank and who fails to commence and complete the closure as
3 specified in this subsection is subject to a civil penalty as provided in ~~G.S.~~
4 ~~143-215.94K.~~ G.S. 143-215.94W. The provisions of G.S. 143-215.94B(b)(2a) do not
5 apply if an owner or operator who notifies the Department of an intention to close or
6 upgrade a commercial underground storage tank fails to commence or complete the
7 closure or upgrade within the dates specified in this subsection."
8

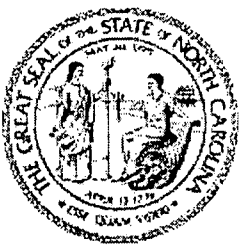
9 **PART VII. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES**

10

11 Section 7.1. The headings to the Parts of this act are a convenience to
12 the reader and are for reference only. The headings do not expand, limit, or define
13 the text of this act.

14 Section 7.2. If any section or provision of this act is declared
15 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
16 provision does not affect the validity of this act as a whole or any part of this act
17 other than the part declared to be unconstitutional or invalid.

18 Section 7.3. Section 2.1 of this act is effective 1 July 2000. Section 4.1 is
19 effective upon ratification and applies retroactively to all appointments by the
20 Governor to the Environmental Management Commission. All other sections of this
21 act are effective when it becomes law.



HOUSE BILL 1218 (PCS): Amend Environmental Laws

BILL ANALYSIS

Committee: Senate Agriculture, Environment
and Natural Resources

Date: July 5, 2000

Version: PCS v.003 for First Edition

Introduced by: Representative Gibson

Summary by: Hannah Holm,
Research Assistant for
Environmental Issues

The PCS for HB 1218 (PCS) contains provisions to facilitate the sub-metering of water in apartment complexes; provide for the adoption of rules regarding urban waterfront redevelopment; address variances under the dredge and fill program; clarify the Governor's authority to make appointments to the Environmental Management Commission (EMC); require the Department of Environment and Natural Resources (DENR) to consult with stakeholders prior to developing riparian buffer protection rules; prohibit the Marine Fisheries Commission (MFC) from establishing fees for certain permits and abolish certain existing fees; and update a cross-reference.

Apartment sub-metering: The PCS would provide that water monitoring at apartment complexes where water sub-meters have been installed at each unit will be done by the supplying water system in the same manner as it would if the submeters were not installed. Currently, any apartment complex that installs water sub-meters becomes responsible for conducting water testing for the apartments to which the water is re-sold.

Urban waterfront redevelopment. The PCS would delay, by nine months to April 1, 2001, the sunset on the statute that directs the CRC to permit urban waterfront development that would otherwise be prohibited under the Coastal Area Management Act (CAMA) if the development is on an historically urban site, is sponsored by the local government with jurisdiction over the site, and is not expected to have significant adverse effects on the environment. The PCS would also direct the CRC to develop a temporary rule to govern urban waterfront redevelopment in historically urban areas that would become effective April 1, 2001 and would remain in effect until it is replaced by a permanent rule.

Dredge and fill variances. The PCS would direct the CRC to coordinate the granting of variances under the dredge and fill program with the granting of variances for development in primary nursery areas and outstanding resource waters. This would clarify that variances may be granted under the dredge and fill program.

Environmental Management Commission appointments. The PCS would clarify that the Governor may reappoint a member of the EMC upon the expiration of that person's term, provided the person still qualifies to be a member of the EMC.

Consultation with riparian buffer stakeholders. The PCS would require that prior to drafting a temporary or permanent rule that would require the preservation of riparian buffers, DENR must consult with interested stakeholders, including any river basin association that meets a set of criteria that demonstrate that the association represents stakeholders that are distributed geographically throughout the affected river basin and represent a wide range of water resource interests. The purpose of the consultation would be to ensure that major stakeholders with an interest in any proposed rules have an opportunity to inform DENR of their concerns before the rules are drafted.

HOUSE BILL 1218 (PCS)

Page 2

MFC fees. The PCS would remove a provision in G.S. 113-169.1 that directs the MFC to establish fees to cover administrative costs for permits for gear, equipment, and specialized activities. This would effectively prohibit the MFC from establishing an administrative fee for any permit established under G.S. 113-169.1. The PCS would also abolish any existing fees established under the provision. This would not affect the statutorily established fees for commercial and recreational fishing licenses.*

Update cross-reference. The PCS would update a cross reference in G.S. 143-215.94E(i), which governs a part of the petroleum underground storage tank program.

Effective dates. All provisions of the PCS would become effective retroactively to July 1, 2000, except for the provision regarding EMC appointments, which would become effective upon ratification and apply retroactively to all appointments by the Governor to the EMC.

*Jeff Hudson provided the analysis for this section.

