2001

HOUSE ENVIRONMENT & NATURAL RESOURCES

MINUTES

Bill	Short Title		Date	Latest Action
H 308	ENVIRONMENTAL MANAGEMENT COMMISSION MEMBERSHIP.	H	04-26-2001	Re-ref Com On Environment and Natural Resources
H 371=	WORKERS' COMPENSATION FOR PICKUP FIREFIGHTERS.	H	03-01-2001	Ref To Com On Environment and Natural Resources
$ H 418	**BEACH PRESERVATION & RESTORATION ACT.**	**H**	**06-04-2001**	**Re-ref Com On Environment and Natural Resources**
$ H 617	**FREEZE CERTAIN HIGHWAY FUNDS.**	**H**	**06-28-2001**	**Re-ref Com On Environment and Natural Resources**
H 840=	LOCAL/STATE FORESTRY PILOT PROGRAM.	H	03-28-2001	Ref To Com On Environment and Natural Resources
H1008=	REMOVE LUST SUNSET/LAND-USE RESTRICTIONS.	H	04-09-2001	Ref To Com On Environment and Natural Resources
H1058=	AMEND NC CONSTITUTION TO CONSERVE OPEN SPACE.	H	04-10-2001	Ref to the Com on Environment and Natural Resources and, if favorable, to the Com on Finance
H1079	HAZARDOUS DISCHARGE/RISK-BASED CORRECTIVE ACTION	H	04-11-2001	Ref To Com On Environment and Natural Resources
H1156	EXTEND SWINE FARM MORATORIA-3.	H	04-12-2001	Ref To Com On Environment and Natural Resources
H1227	I-40 BILLBOARD PERMANENT MORATORIUM.	H	04-12-2001	Ref To Com On Environment and Natural Resources
H1236	TRAWL NET LIMITATIONS.	H	04-12-2001	Ref To Com On Environment and Natural Resources
H1283	STRENGTHEN LITTERING LAWS.	H	04-12-2001	Ref To Com On Environment and Natural Resources
H1303	LUST/CLARIFY CLEANUP REQ./INCREASE TANK FEES.	H	04-12-2001	Ref to the Com on Environment and Natural Resources and, if favorable, to the Com on Finance
H1311=	STATE NATURE AND HISTORIC PRESERVE.	H	04-12-2001	Ref To Com On Environment and Natural Resources
H1344	DEVELOPMENTS OF REGIONAL IMPACT.	H	04-12-2001	Ref To Com On Environment and Natural Resources
$ H1381	**LOCAL WATER QUALITY PLANS.**	**H**	**04-26-2001**	**Ref To Com On Environment and Natural Resources**
S 204=	REPEAL FISHERIES SUNSETS/ EXTEND CORE SOUND MOR.	H	03-13-2001	Ref To Com On Environment and Natural Resources
S 205=	STAGGER MARINE FISHERIES COMMISSION TERMS.	*H	03-13-2001	Ref To Com On Environment and Natural Resources
S 827=	EXTEND SUNSET LUST LAND-USE RESTRICTIONS.	*H	04-25-2001	Ref To Com On Environment and Natural Resources
S 855	AIRPORT FACILITIES DEFINED.	*H	04-30-2001	Ref To Com On Environment and Natural Resources
S 955=	ENV. REMEDIATION NOT CAPITAL IMPROVEMENT.	H	04-26-2001	Ref To Com On Environment and Natural Resources
S1034=	ENVIRONMENT REPORT CONSOLIDATION.	H	04-26-2001	Ref To Com On Environment and Natural Resources
S1037	NO AIR PMT. REQUIRED UNTIL FACILITY OPERATIONAL.	*H	09-27-2001	Ref To Com On Environment and Natural Resources
S1047	RESTORE MOUNTAIN AIR QUALITY.	*H	04-30-2001	Ref To Com On Environment and Natural Resources
S1098	OUTDOOR ADVERTISING ALONG I-40.	*H	05-17-2001	Re-ref Com On Environment and Natural Resources

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

HOUSE COMMITTEE ON

ENVIRONMENT & NATURAL RESOURCES

2001-2002

CHAIRS

REPRESENTATIVE PRYOR GIBSON

REPRESENTATIVE DANIEL McCOMAS

REPRESENTATIVE NURHAM WARWICK

Committee Assistants

Shirlyn MacPherson
Linda Uzzle
Jayne Walton

NORTH CAROLINA GENERAL ASSEMBLY

ENVIRONMENT AND NATURAL RESOURCES
2001 – 2002 SESSION

Rep. Gibson
Chair

Rep. McComas
Chair

Rep. Warwick
Chair

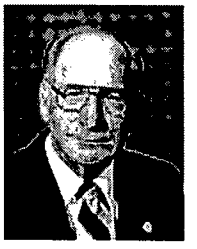
Rep. Cox
Vice-Chair

Rep. Underhill
Vice-Chair

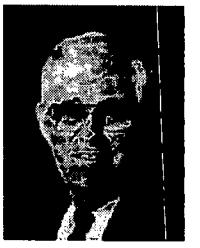
Rep. Weiss
Vice-Chair

Rep. Allen

Rep. Bowie



Rep. Culp



Rep. Davis

Rep. Gray

Rep. Gulley

Rep. Hackney

Rep. Hill

Rep. Insko

Rep. Luebke

Rep. McCombs

Rep. Miner

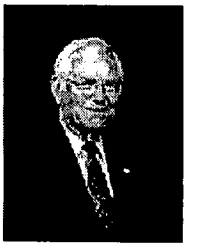
Rep. Mitchell

Rep. Preston

Rep. Smith

Rep. Tucker

Rep. Warner



Rep. Weatherly

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

2001-2002

MEMBER	ASSISTANT	PHONE	OFFICE
Gibson, Pryor – Cochair	Shirlyn MacPhearson	715-3007	419A
McComas, Danny – Cochair	Jayne Walton	733-5786	606
Warwick, Nurham –Cochair	Linda Uzzle	715-3003	419C
Cox, Leslie – V. Chair	Ferebee Stainback	733-5746	1220
Underhill, Alice G. –V. Chair	Marian Phillips	733-5776	1219
Weiss, Jennifer – V. Chair	Susan Doty	733-5781	2221
Allen, Gordon	Lillie Pearce	733-5995	532
Bowie, Joanne	Sharon Gaudette	733-5877	538
Culp, Arlie	Waneta Lord	733-5765	1010
Davis, Don	Ellen Picket	715-6707	504
Gray, Lyons	Cindy Brooks	733-5820	533
Gulley, Jim	Lucille Carter	733-5860	1307
Hackney, Joe	Emily Reynolds	733-5752	2207
Hill, Dewey	Ginny McCann	733-5830	1309
Insko, Verla	Linda McCrodden	733-7208	2121
Luebke, Paul	Joyce Harris	733-7663	529
McCombs, Eugene	Suzanne Erskine	733-5881	514
Miner, David	Susan Phillips	733-5861	1006
Mitchell, Frank	Susan West	733-5931	513

Preston, Jean	Dot Barber	733-5706	603
Smith, Ronald	Ann Jordan	733-5773	2223
Tucker, Russell	Surena Henderson	715-3015	417C
Warner, Alex	Ann Stancil	733-5853	1206
Weatherly, John	Nancy Garriss	733-4838	502

Committee Counsel 733-2578

George Givens
Jeff Hudson
Susan Iddings
Rick Zechini
Tim Dodge, Research Assistant

ATTENDANCE

House Committee on Environment & Natural Resources

DATES	2/27	3/13	3/23	4/10	4/12	4/17		4/24 8:00 am	5/1	5/22	10/12	10/14	10/19	10/20	11/17
GIBSON, Pryor **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
McCOMAS, Daniel **CHAIR**	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓	✓
WARWICK, Nurham **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
COX, Leslie **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
UNDERHILL, Alice **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
WEISS, Jennifer **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ALLEN, Gordon	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
BOWIE, Joanne	✓	✓	✓		✓	✓	✓	✓	✓		✓				✓
CULP, Arlie	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
DAVIS, Don	✓		✓	✓	✓	✓		✓		✓	✓	✓	✓	✓	✓
GRAY, Lyons							✓		✓		✓				✓
GULLEY, Jim	✓	✓	✓		✓		✓		✓	✓	✓	✓	✓	✓	✓
HACKNEY, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HILL, Dewey	✓	✓	✓	✓	✓			✓	✓	✓	✓			✓	✓
INSKO, Verla	✓	✓			✓			✓	✓			✓	✓	✓	✓
LUEBKE, Paul	✓	✓	✓		✓	✓		✓	✓	✓				✓	✓
MCCOMBS, Eugene	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
MINER, David		✓			✓		✓	✓	✓				✓	✓	✓
MITCHELL, Frank	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
PRESTON, Jean	✓	ef ab.	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓
SMITH, Ronnie	✓	✓	✓			✓		✓		✓				✓	✓
TUCKER, Russell	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓
WARNER, Alex	✓	✓	✓	✓	✓	✓				✓	✓		✓		✓
WEATHERLY, John	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓

Earle, Beverly 24 mins 6 ✓

Quorum - 5 members + the Chair

ATTENDANCE

House Committee on Environment & Natural Resources

DATES	7/24	8/14	8/21	9/12	9/18									
GIBSON, Pryor **CHAIR**	✓	✓	✓	✓	✓									
McCOMAS, Daniel **CHAIR**	✓	✓	✓	✓	✓									
WARWICK, Nurham **CHAIR**	✓	✓	EXC	✓	✓									
COX, Leslie **VICE-CHAIR**	✓	✓	✓	✓	✓									
UNDERHILL, Alice **VICE-CHAIR**	✓	✓	✓	✓	✓									
WEISS, Jennifer **VICE-CHAIR**	✓	✓	✓	✓	EXC									
ALLEN, Gordon	✓	✓	✓											
BOWIE, Joanne	✓		✓		✓									
CULP, Arlie	✓	✓	EXC	✓	✓									
DAVIS, Don	✓	✓	✓	✓	✓									
GRAY, Lyons			✓											
GULLEY, Jim	✓	✓	✓	✓	✓									
HACKNEY, Joe		✓	✓	✓										
HILL, Dewey	✓	✓	✓											
INSKO, Verla	✓		✓		✓									
LUEBKE, Paul	✓	✓												
MCCOMBS, Eugene	✓	✓		✓	✓									
MINER, David	✓													
MITCHELL, Frank	✓	✓	✓	✓	✓									
PRESTON, Jean	✓	EXC	✓	✓										
SMITH, Ronnie	✓	✓	✓	✓	✓									
TUCKER, Russell	✓			✓										
WARNER, Alex	✓		✓	✓										
WEATHERLY, John	✓	✓	✓	✓	✓									

Quorum 5 + Chair

ATTENDANCE

House Committee on Environment & Natural Resources

DATES	3/13	3/21	4/10	4/12	4/17	4/19	4/24 AM	4/24 PM	5/1	5/22	6/12	6/14	6/19	7/10	7/17
GIBSON, Pryor **CO-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
McCOMAS, Daniel **CO-CHAIR**	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓
WARWICK, Nurham **CO-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
COX, Leslie **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
UNDERHILL, Alice **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
WEISS, Jennifer **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ALLEN, Gordon	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
BOWIE, Joanne	✓			✓	✓	✓	✓	✓	✓		✓				✓
CULP, Arlie	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
DAVIS, Don		✓	✓	✓	✓		✓			✓	✓	✓	✓	✓	✓
GRAY, Lyons						✓		✓	✓		✓				✓
GULLEY, Jim	✓	✓		✓		✓			✓	✓	✓	✓	✓	✓	✓
HACKNEY, Joe	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
HILL, Dewey	✓	✓	✓	✓			✓	✓	✓	✓	✓			✓	✓
INSKO, Verla	✓			✓			✓	✓	✓			✓	✓	✓	✓
LUEBKE, Paul	✓	✓		✓	✓		✓	✓	✓	✓				✓	✓
MCCOMBS, Eugene	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
MINER, David	✓			✓		✓	✓	✓	✓				✓	✓	✓
MITCHELL, Frank	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
PRESTON, Jean	Excused	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓
SMITH, Ronnie	✓	✓			✓		✓	✓		✓				✓	✓
TUCKER, Russell	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓
WARNER, Alex	✓	✓	✓	✓	✓	✓		✓		✓	✓		✓		✓
WEATHERLY, John	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓	✓

Earle - 7/17

ATTENDANCE

House Committee on Environment & Natural Resources

DATES	7/24	8/14	8/21	9/12	9/18	10/18								
GIBSON, Pryor **CHAIR**	✓	✓	✓	✓	✓	✓								
McCOMAS, Daniel **CHAIR**	✓	✓	✓	✓	✓	✓								
WARWICK, Nurham **CHAIR**	✓	✓	ex	✓	✓	✓								
COX, Leslie **VICE-CHAIR**	✓	✓	✓	✓	✓									
UNDERHILL, Alice **VICE-CHAIR**	✓	✓	✓	✓	✓	✓								
WEISS, Jennifer **VICE-CHAIR**	✓	✓	✓	✓	ex	✓								
ALLEN, Gordon	✓	✓	✓			✓								
BOWIE, Joanne	✓		✓		✓	✓								
CULP, Arlie	✓	✓	ex	✓	✓	✓								
DAVIS, Don	✓	✓	✓	✓	✓	✓								
GRAY, Lyons			✓											
GULLEY, Jim	✓	✓	✓	✓	✓	✓								
HACKNEY, Joe		✓	✓	✓		✓								
HILL, Dewey	✓	✓	✓		✓	✓								
INSKO, Verla	✓		✓		✓	✓								
LUEBKE, Paul	✓	✓				✓								
MCCOMBS, Eugene	✓	✓		✓	✓	✓								
MINER, David	✓					✓								
MITCHELL, Frank	✓	✓	✓	✓	✓	✓								
PRESTON, Jean	✓	ex abs	✓	✓										
SMITH, Ronnie	✓	✓	✓		✓	✓								
TUCKER, Russell	✓			✓		✓								
WARNER, Alex	✓		✓	✓		✓								
WEATHERLY, John	✓	✓	✓	✓	✓	✓								

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
February 27, 2001

MINUTES

The House Committee on Environment and Natural Resources met Tuesday, February 27, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick, Pryor Gibson, and Daniel McComas, Chairs, presided. Other members attending were Vice Chairs, Representatives Leslie Cox, Alice Underhill and Jennifer Weiss, Representatives Gordon Allen, Joanne Bowie, Arlie Culp, Donald Davis, Jim Gulley, Joe Hackney, Dewey Hill, Verla Insko, Paul Luebke, Eugene McCombs, Frank Mitchell, Jean Preston, Ronald Smith, Russell Tucker, Alex Warner, and John Weatherly.

Chair Warwick called the meeting to order at 12:08 pm. Committee members and staff were introduced.

Chair Warwick reported the three co-chairs had met and discussed the work of the committee. The intent of the committee being: to anticipate hearing all bills, taking time on the bills heard, and the time line involved in scheduling and presenting a bill. The committee will meet once a week with no Thursday meetings until necessary. Meetings of committee members for information only will be held on a voluntary basis. There may or may not be subcommittees with this committee.

Chair Warwick encouraged members to do their research on their bills and to brief the committee as much as possible in advance. He asked that bills be based on good science, good knowledge, and good facts as well as cost effectiveness in terms of implementation. The bills are to be clear, easy to understand and as fair as possible for all parties concerned.

Representative Gibson noted the early House deadline for commission bills.

Representative Bowie questioned if there were plans for review time for the new members of the committee to be brought up to date on the current issues before they were brought to the floor. Chair Warwick assured the new members they would be adequately informed.

At this time, Secretary Bill Ross, Department of Natural and Environmental Resources introduced himself and his staff and offered suggestions as to how his staff and the committee could work together. Chief Deputy Dempsey Benson also introduced himself and reiterated his cooperation on environmental issues.

George Givens, Staff counsel, gave a brief survey of bills and issues. The main issues and bills being related to marine fisheries, air quality, land-use restrictions and recordation of those restrictions, swine farms and other animal waste management systems, solid waste, state park system and the state historic preserve, technical corrections bills, litter issues, bills to disapprove various administrative rules, and others which may arise.

In a question and answer period Representative McComas questioned Secretary Ross regarding permit fees and the time involved in obtaining a permit. Representative Weiss questioned needs for additional personnel to handle the existing regulations.

The meeting was adjourned at 1:00 pm.

Representative Nurham Warwick
Chair

Representative Pryor Gibson
Chair

Representative Danny McComas
Chair

Linda Uzzle, Committee Assistant

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

March 13, 2001

1. Call to Order – Representative Daniel F. McComas, Presiding

2. Remarks
   Overview of Marine Fisheries Issues – Preston Pate,
   Director Div. Of Marine Fisheries, DENR

3. Agenda Items

   HB 147 – RAISE CAP ON FUNDS TO ADMINISTER FRGP – REP. WAINWRIGHT

   HB 148 – AMEND FISHERY MANAGEMENT PLAN – REP. WAINWRIGHT

   HB 149 – STAGGER MARINE FISHERIES COMM'N – REP. WAINWRIGHT

   HB 189 – REPEAL FISHERIES SUNSETS/EXTEND CORE SOUND MOR. - REP. WAINWRIGHT

4. Adjournment

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

March 13, 2001

The House Committee on Environment & Natural Resources met on Tuesday, March 13, 2001, in room 643 of the Legislative Office Building at 12:00 Noon. The following members were present: Cochairmen Gibson, McComas, and Warwick, Vice-Chairmen Cox, Underhill, Weiss, and Representatives Allen, Bowie, Culp, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Smith, Tucker, Warner, and Weatherly. George Givens, Jeff Hudson, Susan Iddings and Rick Zechini of Counsel were in attendance. Donnell Leathers and Thomas Wilder were House Pages for the meeting. A Visitor's Sheet is attached and made a part of these minutes.

Representative McComas called the meeting to order at 12:00 Noon. The Cochairman introduced Mr. Preston Pate, Director of the Division of Marine Fisheries with DENR. Mr. Pate gave the committee an overview of the history of the division and past problems, licensing needs and the reorganization of the division. Mr. Pate stated that the bills being taken up were statutory changes for oversight to improve the management of Marine Fisheries (see Attachment #1).

The Cochair thanked Mr. Pate and called on Representative Wainwright to explain his first bill before the committee.

Representative Wainwright explained HB 147 A BILL TO BE ENTITLED AN ACT TO RAISE THE CAP ON THE AMOUNT OF FUNDS THAT MAY BE USED TO ADMINISTER THE FISHERIES RESOURCE GRANT PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE (see Attachment #s 2, and 2a). Cochairman Warwick offered an amendment (see Attachment 2b). Upon motion made by Representative Mitchell the amendment was adopted. Upon motion made by Rep. Mitchell the amendment was rolled into a Proposed Committee Substitute, given a favorable report and re-referred to APPROPRIATIONS.

Representative Wainwright explained the next bill HB 148 A BILL TO BE ENTITLED AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE. Upon motion by Representative Smith the committee voted to give the bill a favorable report (see Attachment #s 3 and 3a).

Representative Wainwright presented the next bill HB 149 A BILL TO BE ENTITLED AN ACT TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE

COMMISSION ON SEAFOOD AND AQUACULTURE (see Attachment #s 4, and 4a) Cochairman Warwick put forth an amendment (see Attachment 4b). Jeff Hudson explained the amendment. The committee voted to amend the bill and roll it into a Proposed Committee Substitute and gave it a favorable report upon the motion of Representative Smith.

Representative Wainwright was recognized to explain HB 189 A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE (see Attachment #s 5 and 5a). Upon motion of Representative Allen the Committee voted for a favorable report.

The Cochair then asked for comments or questions. Cochairman Gibson announced that there would be an air briefing for the committee in the next couple of weeks. Cochairman Warwick announced that study groups would begin to meet on Monday afternoons from 4:00 p.m. until 6:00 p.m. and that attendance would be optional. The first study group to be held on Monday, March 19, 2001 in LOB room 424 to study Waste Management and Hog Lagoons.

Cochairman McComas adjourned the meeting at 12:45 p.m.

Representative Daniel F. McComas
Cochairman

Jayne Nelson Walton
Committee Assistant

Resource Enhancement

Shellfish Restoration

- Restore native shellfish species to habitats favorable to their recovery and growth.
- Plant over 380,000 bushels of clutch material annually to provide favorable habitat for oyster reproduction and growth.
- Relocate over 20,000 bushels of seed oysters to aid stock recovery.
- Issue and administer over 300 shellfish leases and franchises to encourage mariculture operations.
- Map over 16,000 acres (cumulative) of shellfish habitat for fisheries and habitat planning purposes.

Artificial Reefs

- Create and develop structure suitable for marine fisheries species reproduction and stock growth.
- Manage 48 coastal artificial reefs to provide fish habitat for the benefit of commercial and recreational fishermen.
- Expand 10 artificial reefs per year by deploying up to 5,000 tons of reef construction material to enhanced fisheries habitat.
- Maintain navigation buoys on artificial reefs for the benefit of the fishing and boating public, and as required by federal permitting rules.

Shellfish Disease

- Monitor shellfish stocks for the presence of parasitic disease or other factors that may inhibit shellfish restoration and recovery.
- Tested over 4,000 oyster samples from 64 coastal locations for the presence of parasitic disease.

Habitat Protection

- Protect coastal habitat essential to estuarine and marine fisheries.
- Develop Coastal Habitat Protection Plans (CHPPs) as required by the Fisheries Reform Act of 1997 in conjunction with the Coastal Resources and Environmental Management Commissions.
- Review 1,700 habitat alteration documents annually.

Licensing and Statistics

- Quantify and characterize fisheries participation and harvest.
- Issue over 38,000 fishing licenses and permits annually.
- Collect daily harvest data from over 800 commercial seafood dealers statewide.
- Collect and process over 250,000 commercial fisheries harvest data collection forms per year to monitor the daily, seasonal and yearly take of fisheries resources by commercial fishermen.
- Provide data to satisfy over 1,100 requests per year by the public, scientists, legislators, etc. for fisheries harvest, participation, effort, licensing and socio-economical information.
- Conduct over 21,000 interviews per year with recreational fishermen to estimate recreational harvest.
- Conduct socio-economic surveys and studies to evaluate the impact of fisheries conservation measures.

Law Enforcement

- Ensure compliance with fisheries conservation and seafood safety rules and statutes.
- Conduct over 120,000 inspections of recreational and commercial fishermen and seafood dealers annually to ensure compliance with fisheries rules and statutes.
- Conduct over 82,000 hours of law enforcement patrol of state coastal waters per year by boat, aircraft and wheeled vehicle to ensure compliance with fisheries conservation measures and to protect the public from contaminated seafood.
- Inform the fishing public through contact by individual officers of fisheries conservation measures and their importance in resource conservation.

Public Information

- Provide real-time information concerning fisheries issues and conservation measures to over 7,000 full time commercial fishermen and 1.5 million recreational anglers.
- Educate the public (over 200,000 contacts per year) about fisheries conservation issues through media interviews, participation in fishing and boating events, educational presentations at schools and civic organizations, and by responding to requests for information.
- Provide electronic notification directly to nearly 1,000 concerned subscribers about fisheries management measures and events.
- Issue over 200 news releases per year to inform the public of significant fisheries conservation issues and events.
- Maintain a public information web site for fisheries information that receives over 1,000,000 page requests annually (nearly 3,000 page requests per day).

3-13-01 attachment 2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 147*

Short Title:	Raise Cap on Funds to Administer FRGP.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Environment and Natural Resources.	

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO RAISE THE CAP ON THE AMOUNT OF FUNDS THAT MAY BE USED TO ADMINISTER THE FISHERIES RESOURCE GRANT PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5 of Chapter 633 of the 1995 Session Laws, as amended by Section 14.3B of S.L. 1998-212, reads as rewritten:

"Sec. 5. Funds appropriated to the Department of Environment and Natural Resources for the Fishery Resource Grant Program under Section 2 of Chapter 324 of the 1994 Session Laws shall be transferred to the Board of Governors of The University of North Carolina for the Sea Grant College Program to administer the Fishery Resource Grant Program. ~~The Sea Grant College Program may use up to seventy-five thousand dollars ($75,000) for administrative expenses relating to the Fishery Resource Grant Program.~~"

SECTION 2. G.S. 113-200 is amended by adding a new subsection to read:

"(j) Administrative Expense. – The Sea Grant College Program may not use more than ten percent (10%) of the funds appropriated for the Fishery Resource Grant Program to administer the Fishery Resource Grant Program."

SECTION 3. This act becomes effective July 1, 2001.

3-13-01 Attachment 2a

HOUSE BILL 147:
Raise Cap on Funds to Administer FRGP

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Wainwright
Date:	March 13, 2001	**Summary by:**	Jeff Hudson Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 147 would increase the amount of funds that North Carolina Sea Grant may use to administer the Fishery Resource Grant Program from seventy-five thousand dollars ($75,000) to one hundred thousand dollars ($100,000).***

BACKGROUND: In 1994, the General Assembly established the Fishery Resource Grant Program (Program) under the administration of the Division of Marine Fisheries in the Department of Environment and Natural Resources. In 1996, the General Assembly transferred administration of the Program to North Carolina Sea Grant (Sea Grant) at North Carolina State University. Since its inception, the Program has received an annual appropriation of one million dollars ($1,000,000) to be distributed as grants for research in:

- Fisheries equipment and gear
- Environmental studies, including water quality and fisheries habitat studies
- Mariculture
- Seafood technology

Under the 1996 legislation that transferred administration of the Program to Sea Grant, Sea Grant was authorized to use up to twenty-five thousand dollars ($25,000) of the appropriation for administrative expenses relating to the Program. In 1998, the General Assembly increased the amount of funds that could be used for administration of the Program to seventy-five thousand dollars ($75,000).

House Bill 147 was recommended by the Joint Legislative Commission on Seafood and Aquaculture. Its companion bill, Senate Bill 203, was introduced by Senator Albertson.

CURRENT LAW AND BILL ANALYSIS: Under current law, Sea Grant may use up to seventy-five thousand dollars ($75,000) of appropriated funds to administer the Program. House Bill 147 would authorize Sea Grant to use up to ten percent (10%) of the funds appropriated for the Program for administration. Sea Grant has historically received an annual appropriation of one million dollars ($1,000,000) for the Program. If Sea Grant continues to receive the same level of appropriations for the Program, House Bill 147 would effectively increase the amount of funds that Sea Grant may use to administer the Program from seventy-five thousand dollars ($75,000) to one hundred thousand dollars ($100,000).

EFFECTIVE DATE: This act becomes effective July 1, 2001.

3-13-01 Attachment 2b

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 147*

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

H147-ASB-5 [v.1]

Date 13 March 2001

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

Representative Warwick

moves to amend the bill on page 1, lines 17 and 18, by rewriting those lines to read:
"'(j) Administrative Expense. - The Sea Grant College Program may use up to ten percent (10%) of the funds appropriated for the Fishery Resource Grant".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 13 Mar 2001 FAILED _____ TABLED _____

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 147 A BILL TO BE ENTITLED AN ACT TO RAISE THE CAP ON THE AMOUNT OF FUNDS THAT MAY BE USED TO ADMINISTER THE FISHERIES RESOURCE GRANT PROGRAM, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

3-28-01 Attachment 3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 148*

Short Title:	Amend Fishery Management Plan Revision.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Environment and Natural Resources.	

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(d) reads as rewritten:

"(d) Each Fishery Management Plan shall be ~~revised~~ reviewed at least once every ~~three~~ five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources."

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

3-13-01 Attachment 3a

HOUSE BILL 148:
Amend Fishery Management Plan Revision

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Wainwright
		Summary by:	Jeff Hudson Committee Counsel
Date:	March 13, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 148 would direct the Marine Fisheries Commission to review each Fishery Management Plan at least once every five years rather than revise each Fishery Management Plan at least once every three years.***

CURRENT LAW: Under current law, the Marine Fisheries Commission must revise each Fishery Management Plan at least once every three years.

BILL ANALYSIS: House Bill 148 would require the Marine Fisheries Commission to review each Fishery Management Plan at least once every five years.

BACKGROUND: Members of the Marine Fisheries Commission and staff of the Division of Marine Fisheries have expressed concern that under current law, the term "revise" implies that the Commission must amend each Fishery Management Plan at least once every three years regardless of whether existing fisheries management practices require amendment. They have also expressed concern that the requirement to revise each Fisheries Management Plan at least once every three years is too frequent and have stated that the Commission will revise Fishery Management Plans more often than every three years if necessary for sound fisheries management. For these reasons, the Marine Fisheries Commission and Division of Marine Fisheries recommended to the Joint Legislative Commission on Seafood and Aquaculture that current law be amended to require the Marine Fisheries Commission to review each Fishery Management Plan at least once every five years rather than revise each Fishery Management Plan at least once every three years.

House Bill 148 was recommended by the Joint Legislative Commission on Seafood and Aquaculture. Its companion bill, Senate Bill 202, was introduced by Senator Albertson.

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

H148-SMSB-001

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 148 A BILL TO BE ENTITLED AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

3-13-01 Attachment 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H **1**

HOUSE BILL 149*

Short Title:	Stagger Marine Fisheries Commission Terms.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Environment and Natural Resources.	

February 19, 2001

A BILL TO BE ENTITLED

AN ACT TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-289.4(d) reads as rewritten:

"(d) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), ~~(2), and (3)~~ (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions ~~(4), (5), and (6)~~ (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions ~~(7), (8),~~ (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three."

SECTION 2. In order to alter the schedule of staggered terms of three years for the Marine Fisheries Commission and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-289.54, as amended by Section 1 of this act, notwithstanding G.S. 143B-289.54(d), the following provisions apply:

(1) Willy Phillips shall serve in the position established by G.S. 143B-289.54(a)(1) through June 30, 2001.

(2) Robert Southerland shall serve in the position established by G.S. 143B-289.54(a)(2) through June 30, 2001. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2003.

(3) Jimmy Johnson shall serve in the position established by G.S. 143B-289.54(a)(3) for a term of four years through June 30, 2002.

(4) Norman F. Bradford, Jr., shall serve in the position established by G.S. 143B-289.54(a)(4) for a term of four years through June 30, 2004.

(5) William T. Russ, Jr., shall serve in the position established by G.S. 143B-289.54(a)(5) through June 30, 2003.

(6) Benjamin Currin shall serve in the position established by G.S. 143B-289.54(a)(6) through June 30, 2003. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2005.

(7) Barbara Garrity-Blake shall serve in the position established by G.S. 143B-289.54(a)(7) through June 30, 2002. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2004.

(8) Bryan Gillikin shall serve in the position established by G.S. 143B-289.54(a)(8) for a term of four years through June 30, 2003.

(9) B.J. Copeland shall serve in the position established by G.S. 143B-289.54(a)(9) through June 30, 2002.

SECTION 3. This act becomes effective June 30, 2001.

HOUSE BILL 149:
Stagger Marine Fisheries Commission Terms

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Wainwright
		Summary by:	Jeff Hudson Committee Counsel
Date:	March 13, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 149 would stagger the terms of members of the Marine Fisheries Commission so that experienced Commission members representing various interest groups would remain on the Commission each year.***

CURRENT LAW: Members of the Marine Fisheries Commission serve three-year terms. The Commission is composed of:

- Three members representing commercial fishing interests
- Three members representing recreational fishing interests
- Two members with general knowledge of fisheries issues
- One member who is a fisheries scientist

Under current law, the terms of all three commercial interest members expire at the same time, the terms of all three recreational interest members expire at the same time, and the terms of the general knowledge members and the fisheries scientist expire at the same time.

BILL ANALYSIS: House Bill 149 would stagger the terms of members of the Marine Fisheries Commission so that the term of only one commercial interest member and one recreational interest member would expire each year. The terms of some current members and some subsequent appointees have been adjusted so that the term of no sitting member is shortened by the legislation.

BACKGROUND: House Bill 149 was recommended by the Joint Legislative Commission on Seafood and Aquaculture. Its companion bill, Senate Bill 205, was introduced by Senator Albertson.

EFFECTIVE DATE: This act becomes effective June 30, 2001.

3-13-01 Attachment 2b

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 149*

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

H149-ASB-6 [v.1]

Date 13 March ,2001

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

Representative Warwick

1 moves to amend the bill on page 1, line 6, by deleting "G.S. 143B-289.4(d)" and
2 substituting "G.S. 143B-289.54(d)".
3

SIGNED N. Warwick
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 13 Mar 2001 FAILED _____ TABLED _____

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 149 A BILL TO BE ENTITLED AN ACT TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

3-13-01 Attachment 5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 189*

Short Title:	Repeal Fisheries Sunsets/ Extend Core Sound Mor.	(Public)
Sponsors:	Representatives Wainwright, Smith; Preston and Underhill.	
Referred to:	Environment and Natural Resources.	

February 21, 2001

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.15 of S.L. 1997-400 reads as rewritten:

"Section 6.15. Sections 1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 5.5, 5.6, 5.8, 6.2, 6.7, 6.10, 6.11, 6.12, 6.13, and 6.15 of this act are effective when this act becomes law. Sections 2.1, 4.4, 5.3, 6.3, 6.4, 6.5, 6.6, and 6.8 of this act become effective 1 September 1997. Sections 4.1, 4.2, and 4.3 of this act become effective 1 September 1997 and apply to violations and offenses on or after 1 September 1997. Section 1.2 of this act is effective retroactively as of 1 March 1997. Sections 6.1 and 6.14 of this act become effective 15 August 1997. Sections 3.1, 3.2, 3.3, 3.4, 3.5, and 6.9 of this act become effective 1 July 1998. Sections 2.2, 5.1, 5.2, 5.4, and 5.7 of this act become effective 1 July 1999. Section 4.5 of this act becomes effective 1 July 1999 and applies to violations and offenses on or after 1 July 1999. ~~Sections 5.1 and 5.2 of this act expire 1 September 2003.~~"

SECTION 2. Section 5.6 of S.L. 1998-225 reads as rewritten:

"Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6,

4.7, and 4.8 are effective retroactively to September 1, 1997. ~~Section 4.15 expires September 1, 2003.~~"

SECTION 3. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; and Section 1 of S.L. 1999-209, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2001.~~October 1, 2002."

SECTION 4. This act becomes effective July 1, 2001.

3-13-01 Attachment 5a

HOUSE BILL 189:
Repeal Fish. Sunsets/Extend Core Sound Mor.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Wainwright and Smith
Date:	March 13, 2001	**Summary by:**	Jeff Hudson
Version:	First Edition		Committee Counsel

SUMMARY: ***House Bill 189 would repeal the September 1, 2003, sunsets on the marine fishing license provisions of the Fisheries Reform Act of 1997 and the Marine Fisheries Amendments of 1998. House Bill 189 would also extend the moratorium on issuing new shellfish cultivation leases in Core Sound from October 1, 2001, to October 1, 2002.***

SECTIONS 1 AND 2: REPEAL FISHERIES SUNSETS

Under current law, the licensing provisions of the Fisheries Reform Act of 1997 and the Marine Fisheries Amendments of 1998 will sunset on September 1, 2003. These sunsets were enacted as a precaution in case the Division of Marine Fisheries was unable to adequately administer the licensing provisions of the 1997 and 1998 fisheries legislation. Sections 1 and 2 of House Bill 189 would repeal these sunsets so that the current fishing license programs would continue.

SECTION 3: EXTEND CORE SOUND MORATORIUM

Core Sound is a water body located between mainland Carteret County and Core Banks. In this area of the State there is a great deal of user conflict between individuals who lease areas underlying coastal fishing waters for shellfish cultivation and individuals who harvest shellfish from naturally occurring shellfish beds. Under current law, there is a moratorium on issuing new shellfish cultivation leases in Core Sound. This moratorium was originally imposed by the General Assembly during the 1996 Regular Session from the period May 1, 1996, through July 1, 1997, and has been extended three times. The moratorium is currently scheduled to expire on October 1, 2001. Section 3 of House Bill 189 would extend the moratorium on issuing new shellfish cultivation leases in Core Sound from October 1, 2001, to October 1, 2002. The Division of Marine Fisheries expects that the Fishery Management Plan for Shellfish will be completed by October 1, 2002. This Plan may be helpful in resolving some of the user conflicts that exist in Core Sound.

BACKGROUND: House Bill 189 was recommended by the Joint Legislative Commission on Seafood and Aquaculture. Its companion bill, Senate Bill 204, was recommended by Senator Albertson.

EFFECTIVE DATE: This act becomes effective July 1, 2001.

H189-SMSB-001

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 189 A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

VISITOR REGISTRATION SHEET

Environment & Natural Resources 3-12-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
George Everett	Duke Energy
John McAliley	Duke Energy
Ron Sigmon	Catawba Co. Schools - teacher
Elizabeth Curtis	NCPIRG
[illegible]	NCSSA/AUTO PRO
[illegible]	Rep. Hackney's Office
JERRY SEMIEL	NC Fisheries Association
Meghan Risley	Intern - Rep. Pryor Gibson
PRESTON HOWARD	NCIC
Paul Meyer	NCACC
[illegible]	NC CHAMBER
R. Paul Wilms	NCMBA
Tim Minor	NC Home Builders Assn
Nancy Thompson	UNC IC
John Cyrus	NC State Grange
Jerry Warberg	NC Farm Council
Molly Diggins	NC Sierra Club
Matt Mead	Consumer Council of NC
Grady McMillan	N.C. Conservation Network
David Knight	NC Sierra, NC Wildlife Fed, TPL
Ken Melton	Allen Associates
[illegible]	N.C.A.C.C.
Jim Kessler	Cap. Assn.

HOUSE JOINT COMMITTEES ON ENVIRONMENT & NATURAL RESOURCES AND AGRICULTURE

Meeting Agenda

March 22, 2001

1. Call to Order – Representative Warwick, Presiding

2. Topic: FOOT AND MOUTH LIVESTOCK DISEASE

   Presenters: Secretary Meg Scott Phipps, Commissioner of Agriculture
   Dr. David Marshall, State Veterinarian

3. Discussion by Members

4. Adjourn

HOUSE JOINT COMMITTEES ON ENVIRONMENT AND NATURAL RESOURCES AND AGRICULTURE
March 22, 2001

MINUTES

The House Joint Committees on Environment and Natural Resources and Agriculture met Tuesday, March 22, 2001 in Room 643 of the Legislative Office Building at 12:00 pm. Representatives Pryor Gibson, Danny McComas, and Nurham Warwick, Cochairmen of the Environment and Natural Resources Committee as well as Representative Dewey Hill, Chairman of the Agricultural Committee presided. Other members present were Vice-Chairmen Cox, Underhill and Weiss and Representatives Allen, Culp, Davis, Hackney, Hill McCombs, Mitchell, Preston, Tucker, Warner and Weatherly. Allison Carr of Wake County and Ben Fleetwood of Alamance County were House Pages for the meeting. A Visitor's Sheet is attached and made a part of these minutes.

Chairman Warwick called the meeting to order at 12:10 pm. The purpose of this meeting was to discuss Foot and Mouth Disease in livestock and prevention of said disease. Chairman Warwick introduced State Commissioner of Agriculture Meg Scott Phipps.

After introductions Commissioner Phipps gave an update of what had transpired up to the present time. Members of agricultural groups and the Environment and Natural Resources Committee had met at Commissioner Phipps' home for a briefing and had asked that some informative and policy meetings start in the legislature this week. The two main concerns were 1) to try to alleviate some of the public concern and heightened awareness that is going on now in order for the representatives to relay the proper message to their constituents, and 2) concern to producers who are debating whether or not to sell their livestock or wait to have them slaughtered.

Commissioner Phipps introduced State Veterinarian Dr. David Marshall as well as Clara Gay and Alan Foster of the budget division to answer budgetary questions. David McCloud, legal counsel, was also present to answer questions of statutory authority.

Dr. Marshall spoke on foot and mouth disease, the speech was broken down into three segments:

1. Information about the disease (See Attachment #1).
2. Steps being taken to prevent and prepare for the disease should an outbreak occur in North Carolina (see Attachment #2).
3. The NER Committee concerns as to what needs Agricultural Department has in order to be prepared for a possible outbreak (see Attachment #3).

Ok N. Warwick

After a question and answer session, Chairman Warwick assured the committees that drafting of a bill would begin Monday, March 26, and would be ready for review the following Wednesday or Thursday. immediately + be available

provides everything stayed on a normal schedule.

Commissioner Phipps interjected the fact that dairy producers and Billy Holiday from the Department of Agriculture attended a meeting at her home over the weekend. North Carolina dairy farmers are already introducing their own measures to prevent travel on their farms. The Asheboro Zoo is a high-risk area and has agreed to comply and suspend their petting zoo. After thanking Dr. Marshall and the committees for inviting them to attend the meeting, Commissioner Phipps turned the meeting back over to Chairman Warwick.

Chairman Warwick thanked Commissioner Phipps for attending the meeting and thanked Dr. Marshall for his presentation and others for their participation.

The meeting was adjourned at 1:16 pm.

Nurham Warwick

Representative Nurham Warwick
Chair

Linda Uzzle

Linda Uzzle, Committee Assistant

Attachment #1

FACTSHEET

APHIS

United States Department of Agriculture

Animal and Plant Health Inspection Service

March 2001

Foot-and-Mouth Disease

Foot-and-mouth disease (FMD) is a severe, highly communicable viral disease of cattle and swine. It also affects sheep, goats, deer, and other cloven-hooved ruminants. FMD is not recognized as a zoonotic disease.

This country has been free of FMD since 1929, when the last of nine U.S. outbreaks was eradicated.

The disease is characterized by fever and blister-like lesions followed by erosions on the tongue and lips, in the mouth; on the teats, and between the hooves. Many affected animals recover, but the disease leaves them debilitated. It causes severe losses in the production of meat and milk.

Because it spreads widely and rapidly and because it has grave economic as well as clinical consequences, FMD is one of the animal diseases that livestock owners dread most.

What Causes It

The disease is caused by a virus. The virus survives in lymph nodes and bone marrow at neutral pH, but destroyed in muscle when in pH<6.0 i.e. after rigor mortis. The virus can persist in contaminated fodder and the environment for up to one month, depending on the temperature and pH conditions.

There are at least seven separate types and many subtypes of the FMD virus. Immunity to one type does not protect an animal against other types.

How It Spreads

FMD viruses can be spread by animals, people, or materials that bring the virus into physical contact with susceptible animals. An outbreak can occur when:

- People wearing contaminated clothes or footwear or using contaminated equipment pass the virus to susceptible animals.
- Animals carrying the virus are introduced into susceptible herds.
- Contaminated facilities are used to hold susceptible animals.
- Contaminated vehicles are used to move susceptible animals.
- Raw or improperly cooked garbage containing infected meat or animal products is fed to susceptible animals.
- Susceptible animals are exposed to materials such as hay, feedstuffs, hides, or biologics contaminated with the virus.
- Susceptible animals drink common source contaminated water.
- A susceptible cow is inseminated by semen from an infected bull.

Signs

Vesicles (blisters) followed by erosions in the mouth or on the feet and the resulting excessive salivating or lameness are the best known signs of the disease. Often blisters may not be observed because they easily rupture, leading to erosions. Some of these other signs may appear in affected animals during an FMD outbreak:

- Temperatures rise markedly, then usually fall in about 2 to 3 days.
- Ruptured vesicles discharge either clear or cloudy fluid and leave raw, eroded areas surrounded by ragged fragments of loose tissue.
- Sticky, foamy, stringy saliva is produced.
- Consumption of feed is reduced because of painful tongue and mouth lesions.
- Lameness with reluctance to move is often observed.
- Abortions often occur.
- Milk flow of infected cows drops abruptly.
- Conception rates may be low.
- FMD can lead to myocarditis (inflammation of the muscular walls of the heart) and death, especially in newborn animals.

Animals do not normally regain lost weight for many months. Recovered cows seldom produce milk at their former rates.

Confusion With Other Diseases

FMD can be confused with several similar, but less harmful, diseases, such as vesicular stomatitis, bluetongue, bovine viral diarrhea, and foot rot in cattle, vesicular exanthema of swine, and swine

vesicular disease. Whenever mouth or feet blisters or other typical signs are observed and reported, laboratory tests must be completed to determine whether the disease causing them is FMD.

Where FMD Occurs

While the disease is widespread around the world, North America, Central America, Australia, New Zealand, Chile, and some countries in Europe are considered free of FMD. Various types of FMD virus have been identified in Africa, South America, Asia, and part of Europe.

Prevention and Control

FMD is one of the most difficult animal infections to control. Because the disease occurs in many parts of the world, there is always a chance of its accidental introduction into the United States.

Animals and animal byproducts from areas known to be infected are prohibited entry into this country.

Livestock animals in this country are highly susceptible to FMD viruses. If an outbreak occurred in the United States, this disease could spread rapidly to all sections of the country by routine livestock movements unless it was detected early and eradicated immediately.

If FMD were to spread unchecked, the economic impact could reach billions of dollars in the first year. Deer and wildlife populations could become infected rapidly and could be a source for reinfection of livestock.

What You Can Do

You can support U.S. efforts against FMD by:

- Watching for excessive salivating, lameness, and other signs of FMD in your herd; and
- Immediately reporting any unusual or suspicious signs of disease to your veterinarian, to State or Federal animal disease control officials, or to your county agricultural agent.

If FMD should appear in your animals, your report will set in motion an effective State and Federal eradication program.

Your participation is vital. Both the early recognition of disease signs and the prompt notification of veterinary officials are essential if eradication is to be carried out successfully. Your warning may prevent FMD from becoming established in the United States, or, if it does spread, reduce the time and money needed to wipe it out.

Additional Information

For more information about FMD, contact
USDA, APHIS, Veterinary Services
Emergency Programs
4700 River Road, Unit 41
Riverdale, MD 20737–1231
Telephone (301) 734–8073
Fax (301) 734–7817

Current information on animal diseases and suspected outbreaks is also available on the Internet at http://www.aphis.usda.gov.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250–9410 or call (202) 720–5964 (voice and TDD). USDA is an equal opportunity provider and employer.

Attachment #2

FACTSHEET

APHIS

United States Department of Agriculture

Animal and Plant Health Inspection Service

March 2001

Foot-and-mouth disease Q's and A's

Q: What is foot-and-mouth disease (FMD)?
A: FMD is a highly contagious and economically devastating disease of cattle and swine. It also affects sheep, goats, deer, and other cloven-hooved ruminants. Many affected animals recover, but the disease leaves them debilitated. FMD causes severe losses in the production of meat and milk. Because it spreads widely and rapidly and because it has grave economic as well as physical consequences, FMD is one of the animal diseases that livestock owners dread most. The disease does not affect food safety or humans.

Q: What are the potential economic ramifications of an FMD outbreak in the United States?
A: An FMD outbreak in the United States could potentially cost the U.S. livestock industry billions of dollars in losses in the first year.

Q: Can people get the disease from animals?
A: It is not believed to readily affect humans. There was one recorded case in Britain in 1966. The effects of the disease for that person were similar to flu with some blisters. The disease has no implications for the human food chain. People, however, can spread the virus to animals because it can remain in human nasal passages for as long as 28 hours.

Q: How do you get rid of foot-and-mouth disease?
A: The virus can be killed off by heat, low humidity, or some disinfectants. It is only rarely fatal, although it is more likely to kill very young animals. There is no cure for the disease, and it usually runs its course in 2 or 3 weeks with most animals recovering, although some animals take up to 6 months to fully recover.

Q: If most animals don't die, why go to such great lengths to eradicate it?
A: The disease is highly contagious with nearly 100 percent of exposed animals becoming infected. If the disease became widespread in any country there would be disastrous economic consequences. For example, the most serious effects of the disease in dairy cattle are loss of milk and yield.

Q: What is the U.S. Department of Agriculture (USDA) doing to protect the United States from foot-and-mouth disease?
A: In order to protect U.S. livestock from the introduction of FMD, USDA implemented an interim rule on February 21, prohibiting or restricting the importation into the United States of live swine and ruminants and any fresh swine or ruminant meat (chilled or frozen) or products from Great Britain or Northern Ireland. USDA's FMD policy has been to be proactive and preventative. As a result, the interim rule is effective retroactively. Products dated after January 14 are not permitted entry into the United States. This rule has not yet been published in the *Federal Register.*

Q: What is USDA doing to prevent travelers from bringing FMD into the United States?
A: There is no change in the regulation regarding U.S. surveillance measures of travelers for FMD. However, ports of entry have been notified to enhance surveillance of travelers coming from Europe, particularly the United Kingdom (UK) because that area is now considered to be at high risk for FMD.

Q: What should travelers do if they are planning to visit a farm or are in contact with livestock while abroad?
A: All international travelers must state on their Customs declaration form whether or not they have been on a farm or in contact with livestock and if they are bringing any meat or dairy products from their travels back with them. APHIS officials will inspect the baggage of all travelers who indicate they have been on a farm or in contact with livestock. Any soiled footwear must be disinfected with detergent

and bleach. If travelers are around livestock in the UK and they have livestock at home in the United States, they should avoid contact with their animals for 5 days after returning. In addition, soiled clothing must be washed and disinfected prior to returning to the United States.

Q: Can travelers bring animal products back to the United States from Europe?
A: Any ruminant or swine products (cattle, sheep, goats, deer, and other cloven-hooved animals included), with the exception of hard cheeses and canned products with a shelf life, will be confiscated.

Q: How can farmers support USDA in its efforts to prevent FMD in the United States?
A: As always, farmers can support U.S. efforts against FMD by watching for excessive salivating, lameness, and other signs of FMD in their herd and immediately reporting any unusual or suspicious signs of disease to their veterinarian, State or Federal animal disease control officials, or their county agricultural agent. Garbage feeders are encouraged to fully cook their feed before giving it to livestock.

Additional Information

For more information about FMD, contact:

USDA, APHIS, Veterinary Services
Emergency Programs
4700 River Road, Unit 41
Riverdale, MD 20737-1231
Telephone (301) 734-8073
Fax (301) 734-7817

Current information on animal diseases and suspected outbreaks is also available on the Internet at http://www.aphis.usda.gov.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250–9410 or call (202) 720–5964 (voice and TDD). USDA is an equal opportunity provider and employer.

FOR IMMEDIATE RELEASE
MONDAY, MARCH 5, 2001

NCDA&CS officials monitoring European foot-and-mouth disease situation

RALEIGH - Animal health officials in the Veterinary Division of the N.C. Department of Agriculture and Consumer Services are closely monitoring the recent outbreak of foot-and-mouth disease (FMD) in Britain. The disease was originally discovered in 27 pigs at a slaughterhouse in England on Feb. 19 and has since spread to Ireland and continental Europe.

"Over the weekend, foot-and-mouth disease was discovered in animals in Belgium and France," said Agriculture Commissioner Meg Scott Phipps. "Because the disease is easily transmitted to animals through clothes and shoes, it is possible the disease may be introduced in the U.S. The disease is not a threat to humans but would be a serious threat to the livestock industry in our state."

FMD is a severe, highly contagious viral disease of cattle, swine, sheep, goats, and deer characterized by blister-like lesions on the mouth, lips, tongue, teats, and between the hooves. There is no treatment for the disease and infected or exposed animals must be slaughtered, burned or buried, and all premises and equipment must be cleaned and disinfected. Vaccine can only be used in the face of an outbreak to help control the spread.

The last outbreak of FMD in the United States was in 1929. The virus has been active recently in Asia, Europe, Africa and South America. Mechanical transfer of the virus on the clothing, shoes, and other personal items of international travelers is a possible source of introduction. In 1999, 16.4 million passengers arrived in the U.S. on direct flights from the U.K. Smuggled meat and food items that elude USDA quarantine monitoring inspections are of particular concern.

The importation of affected animals or animal products from the U.K. has been addressed through a series of restrictions. The previous ban on British cattle and bovine meat products, in place since 1989 as the result of mad cow disease, was expanded on Jan. 29 to include swine, and products derived from swine, unless those products were processed in such a manner as to inactivate the FMD virus. Pork products that had already arrived in the U.S. from the U.K. are being quarantined at U.S. ports.

N.C. livestock producers are advised to strengthen farm biosecurity measures. Producers and farmers should be cautious and limit potential sources of introduction to their farms. Officials from the NCDA& CS Veterinary Division are advising farmers to be wary of used farm equipment that may have originated overseas, herd

additions of unknown origin, and people or employees who may have traveled internationally in recent months or who have relatives visiting from overseas. In addition, they should contact their veterinarian if livestock exhibit any symptoms of FMD including blister like lesions, excessive salivation, reluctance to eat, or lameness.

-2,3

Contact: Dr. David Marshall, state veterinarian, N.C. Department of Agriculture and Consumer Services, (919) 733-7601.

Subject: [Fwd: Foot-and Mouth Alert]
Date: Tue, 06 Mar 2001 12:36:45 -0500
From: Dianne Whitman <Dianne.Whitman@ncmail.net>
Organization: NCDA&CS
To: goatmon <goatmon@aol.com>, lowderwc <lowderwc@ncfb.com>,
NIAA <NIAA2000@aol.com>, Brinton_Hopkins <Brinton_Hopkins@ncsu.edu>,
tmickey <tmickey@ibm.net>, mprasor <mprasor@cs.com>, nasda <nasda@patriot.net>,
bundy <bundy@nccattle.com>, usaha <usaha@usaha.org>,
James Knight <James.Knight@ncmail.net>, Jim Kubiak <Jim_Kubiak@ncsu.edu>,
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Linda Kooistra <Linda.Kooistra@ncmail.net>,
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melanderje <melanderje@bragg.army.mil>, "todd.weaver" <todd.weaver@pope.af.mil>,
Jay Donecker <donecker@netmcr.com>, rjones <rjones@eastlink.net>,
dclahdvm <dclahdvm@msn.com>, Betty Herring <Betty.Herring@ncmail.net>,
Carol Woodlief <Carol.Woodlief@ncmail.net>,
Clint Nygaard <Clint.Nygaard@ncmail.net>, Dan Wilson <Daniel.Wilson@ncmail.net>,
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Eugene Richmond <Eugene.J.Richmond@usda.gov>,
Fred Kirkland <Fred.Kirkland@ncmail.net>,
Garland Wells <Garland.Wells@ncmail.net>,
James Kittrell <James.Kittrell@ncmail.net>, James Lee <James.Lee@ncmail.net>,
Jimmy Tickel <Jimmy.Tickel@ncmail.net>, Lynne Riley <Lynne.J.Riley@usda.gov>,
Michael Wooten <Michael.D.Wooten@usda.gov>, Pat Sholar <Pat.Sholar@ncmail.net>,
Robert Fulghum <Robert.Fulghum@ncmail.net>,
Terry Clark <Terry.W.Clark@usda.gov>, Weldon Denny <Weldon.Denny@ncmail.net>,
Wendy Lane <Wendy.Lane@ncmail.net>,
William Groce <William.T.Groce@usda.gov>, Lee Hunter <Lee.Hunter@ncmail.net>,
Stephanie Kordick <Stephanie.Kordick@ncmail.net>,
meg phipps <meg.phipps@ncmail.net>, David Smith <David.Smith@ncmail.net>,
David McLeod <David.McLeod@ncmail.net>, steven wells <steven.wells@ncmail.net>,
bruce shankle <bruce.shankle@ncmail.net>, chuck miller <chuck.miller@ncmail.net>,
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wilsonrc <wilsonrc@mail.wildlife.state.nc.us>,
JoAnna Quinn <JoAnna.Quinn@ncmail.net>, Bob Ivey <bivey@gmcom.net>,
Mike Miller <millerm@carrollsfoods.com>,
Roland Scheiber <RolandScheiber@BrownsofCarolina.com>,
Terry Coffey <tcoffey@murphyfarms.com>, Luc DuFresne <l_dufresne@hotmail.com>,
zackm <zackm@prestagefarms.com>, coharie <coharie@intrstar.net>,
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Cecil Brownie <cecil_brownie@ncsu.edu>, "Edwin.Jones" <Edwin.Jones@ncsu.edu>,
roger_mccraw <roger_mccraw@ncsu.edu>,
"ken.esbenshade" <ken.esbenshade@ncsu.edu>,
oscar_fletcher <oscar_fletcher@ncsu.edu>

Subject: Foot-and Mouth Alert
Date: Tue, 06 Mar 2001 08:54:32 -0800
From: David Marshall <David.Marshall@ncmail.net>
Organization: NCDA&CS
To: Dianne Whitman <Dianne.Whitman@ncmail.net>

FOR IMMEDIATE RELEASE

LIVESTOCK PRODUCERS ADVISED TO BE WARY
OF FOOT-AND-MOUTH DISEASE

Dr.David Marshall, North Carolina's state veterinarian, is cautioning livestock industry representatives and other citizens to aid in the effort to prevent the introduction of Foot-and Mouth disease (FMD) into the country.

Foot-and-Mouth disease is a highly contagious viral disease that affects all cloven hoofed animals, including swine, cattle, sheep, goats, and deer. Clinical signs include blisters and sores on the mouth, tongue, lips, teats, and between and around the claws. While not always fatal, animals that survive become debilitated , lose production capacity, and can serve as viral shedders in spreading the disease. Humans are not infected, and there is no treatment or approved vaccine for animal use.

"Foot-and mouth disease is probably considered as the most devastating of all livestock diseases, primarily because of it's highly infectious nature and the ability to infect multiple species," said Marshall. "We are extremely concerned here in North Carolina for a variety of reasons. Our large swine population, as well as the presence of numerous military bases puts us at high risk. In addition, a fair amount of our population travel overseas and we have a widespread international trade presence in meat and meat food items, as well as other agricultural products. The contagious nature of it is evident as we have seen it spread from one source premises in England on February 19th to the entirety of the United Kingdom, Belgium, and suspected cases in France and Denmark in a matter of weeks"

While the USDA has issued a ban on the importation of animals and animal related products from all countries with FMD, there are a variety of ways that it could enter the country. The virus can be mechanically transmitted on people's shoes, clothes, other personal effects, and equipment. It can remain airborne and spread up to a radius of approximately 40 miles. In addition, the feeding of contaminated food items and waste food products is a major source of spread. " I am particularly concerned with the introduction of the virus by animals and products originating in FMD affected countries entering the US secondarily through non infected countries," said Marshall. "It would be prudent to be wary of any imported agricultural or meat food product during this high risk period."

The North Carolina Department of Agriculture and Consumer Services is recommending the following precautions as an aid in preventing introduction:

---Increase farm biosecurity measures by limiting traffic and personal access of persons not directly affiliated with farm operations.
---Be aware of the international travel status of farm employees and restrict access if they have traveled overseas within the past 30 days.
---Limit introductions of new additions to the herd. If necessary, be

aware of the background and health status of the additions, isolating and observing them for a period of 10-14 days prior to introduction.
---Refrain from feeding to animals any garbage or waste food products of any type.
---Educate farm employees not to receive any gifts or products, particularly food or meat items, from relatives that may reside overseas.
---Restrict the purchase or use of feed, forage, hay, vaccines, and medications to those produced domestically. Purchase or lease no used farm equipment unless confident of it's domestic origin.

"While a safety net is in place to aid in the prevention of the introduction of this virus, the nature of this disease makes it vitally important that all North Carolinians, particularly those who travel internationally and are involved in the agricultural industry, become educated and aid in the effort on the local level," said Marshall. "This is a situation to be overly cautious and not take anything for granted."

Livestock owners are asked to be epecially observant of the health status of their animals and investigate any animal showing clinical signs suggestive of of FMD. Signs include blisters or sores on the muzzle, feet, teats, or mouth; lameness associated with foot lesions; or lack of appetite or excessive slobbering associated with mouth lesions. While other diseases can cause similar clinical signs, anything suspicious should be pursued through veterinary examination. Producers and veterinarians are encouraged to report any suspicious case to the NCDA&CS, Veterinary Division at (919) 733-7601.

FOOT AND MOUTH DISEASE PRECAUTIONARY UPDATE
March 17, 2001

North Carolina Department of Agriculture and Consumer Services animal health officials are continuing to advise livestock producers and citizens to take all precautions necessary as we continue to attempt to prevent the introduction of Foot and Mouth Disease (FMD) into our country.

As of this date, the outbreak in the United Kingdom has enveloped large portions of England, Wales, and Scotland, and has crossed the English Channel with one confirmed case in France. While endemic in much of the world over recent years, this latest event is particularly troubling because of the large amount of international trade and passenger movement between the U.S. and the affected area. The disease has not been detected in the U.S. since 1929.

FMD, while not infectious to humans, is one of the most devastating of livestock diseases because of its extremely contagious nature. Susceptible animals include most cloven (split) hoofed animals, including cattle, swine, sheep, goats, and deer. Horses are not affected. The disease causes blisters and sores around the feet, muzzle, mouth, and teats of infected animals. Animals that do not die become severely debilitated and lose production capacity.

There is no treatment for FMD, and vaccine is only authorized in the face of an outbreak when other eradication methods have failed. Animals become infected by direct contact with the virus, which can be carried in the air for distances up to 40 miles. The most common means of spread is mechanically through the movement of animals from one premise to another, or on farm equipment, bedding, feed, food items, waste, vehicles, or people's shoes, clothes, or other personal effects.

"Much has been accomplished over the past three weeks in an effort to prevent FMD from entering North Carolina, but we cannot afford to let our guard down," said Dr. David T. Marshall, State Veterinarian. "The financial repercussions could run in the billions of dollars if it were to emerge and gain a foothold in our country." Among the actions taken by the department include:

--Distribution of a FMD clinical signs manual with color photos to all meat inspection slaughter

--Agreed to suspend routine nonessential NCDA&CS veterinarian and inspector swine farm visits in an effort to tighten biosecurity.

--Jointly conducting a FMD Emergency Response Workshop and tabletop exercise on March 29, in cooperation with NC Emergency Management
(NCEM), SART (State Animal Response Team), the NCSU College of Veterinary Medicine, the Division of Motor Vehicles, the State Highway Patrol, and the N.C. National Guard.

--Developed a "FMD Alert" web site section, including links to NCDA&CS press releases, other sites, and an interactive FMD training module for veterinarians and producers. The site is located at www.ncagr.com/vet on the division's home page.

"North Carolinians are again reminded to be extremely diligent in their efforts to prevent introduction

of this disease," said Commissioner of Agriculture Meg Scott Phipps. "While we cannot guarantee prevention, we all can work together to minimize the risk as much as humanly possible." Efforts to accomplish this goal include:

--Producers and veterinarians should become as familiar as possible with the disease by utilizing the previously mentioned training module on the department web site.

--Producers should observe their stock closely for symptoms and immediately contact their veterinarian if clinical signs are seen.

--New herd additions should be minimized or suspended. If new animals must be added, they should be limited to those of known background and isolated and observed for illness for 2 weeks prior to introduction.

--Refrain from feeding farm animals any garbage or waste food products of any type.

--Restrict the purchase of feed, forage, hay, or bedding materials to those of known domestic or local origin. If used equipment must be purchased, limit it to that of known local origin and thoroughly sanitize it prior to bringing on to the farm.

--Restrict the entry of any non- farm employee. Clean and disinfect shoes and clothing prior allowing entry of personnel to the animal holding areas of the premise.

--Thoroughly investigate the international travel status of farm employees. Prohibit them from accessing the premise for at least 7 days after returning from abroad. All clothing and personal items should be washed and disinfected upon reentry.

--Prohibit employees from receiving any gifts or food products from relatives residing overseas.

--Discontinue the practice of allowing free ranging dogs or pets on the farm premise. Limit wildlife entry to the farm as much as possible.

FOR MORE INFORMATION visit the Veterinary Division's web site at www.ncagr.com/vet. The division is also interested in learning of concerns or potential threats that require investigation. They can be reached at (919)733-7601 or by e-mail at david.marshall@ncmail.net.

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--Distribution of a FMD clinical signs manual with color photos to all meat inspection slaughter inspectors.

--Temporary reorganization of the Veterinary Division administrative structure by detailing Dr. Beth Yongue, Asst. Director of Meat Inspection, to full time FMD activities.

--Conferring with representatives of the major swine companies at the Pseudorabies Task Force meeting to discuss prevention strategies.

--Scheduling FMD refresher training for all Field Forces inspectors and veterinarians, to be conducted on March 20 and 22.

--Rescheduling the quarterly Meat and Poultry Inspection Service supervisors meeting to the week of March 29 to provide personnel with FMD training.

--Notified all state inspected and Talmadge-Aiken slaughter plants by formal letter of increased FMD surveillance and inspection activities on all animals presented to the plant for processing.

--NCDA&CS veterinarians visited both Raleigh-Durham and Charlotte International Airports and monitored incoming direct flights from England. U.S. Customs and USDA, APHIS (Animal Plant Health Inspection Service) disease prevention inspection protocols were observed for effectiveness.

--Dr. Marshall and N. David Smith, Deputy Commissioner, met with the USDA, APHIS, PPQ (Plant Protection and Quarantine) state director and conveyed their concerns and suggestions for improving the surveillance and prevention protocols at airports, seaports, and military bases.

--Scheduling visits, beginning the week of March 19, to all four N.C. military bases receiving incoming international flights.

--Distributed FMD fact sheets for posting at all livestock markets, and have instructed NCDA&CS livestock inspectors to increase their presence and educational efforts at these markets.

--Agreed to suspend routine nonessential NCDA&CS veterinarian and inspector swine farm visits in an effort to tighten biosecurity.

--Jointly conducting a FMD Emergency Response Workshop and tabletop exercise on March 29, in cooperation with NC Emergency Management
(NCEM), SART (State Animal Response Team), the NCSU College of Veterinary Medicine, the Division of Motor Vehicles, the State Highway Patrol, and the N.C. National Guard.

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Attachment #3

ANIMAL DISEASE ISSUES
Veterinary Services Division
North Carolina Department of Agriculture and Consumer Services

1. Authority Issues

   - The Commissioner of Agriculture and the State Veterinarian already have the authority to quarantine any animal affected with or exposed to a contagious disease. However, we do not have the authority to quarantine areas. General Statute 106-401 should be amended to give the Commissioner or the State Veterinarian authority to quarantine areas in addition to individual premises.

   - Enact legislation authorizing the Commissioner of Agriculture to prohibit public assembly or exhibition of livestock when necessary to prevent the spread of disease.

2. Foot and Mouth Disease Issues

   - The Field Services Section operating budget needs to be increased immediately by $100,000 for travel and to purchase and store core equipment and supplies to deal with the sudden outbreak of a highly infectious disease. In the face of an emergency, authority is needed to obtain items outside the normal state purchasing process.

   - Establish a $500,000 reserve fund so that emergency expenditures could be made in the event of a disease outbreak. The fund would bridge the gap between the division's normal operating budget and emergency action by the Governor or the General Assembly.

   - Increase the amount budgeted for reimbursing local, private veterinarians to provide final disposition services on retained animals at state inspected slaughter plants ($10,000).

   - Maintain the cell phones currently used in the Veterinary Services Division.

   - An additional veterinarian position is needed for public outreach and producer education efforts ($100,000 salary, benefits, and overhead).

   - Additional funding is needed to provide all VMOs formal training in USDA Foreign Animal Disease diagnosis ($17,500).

   - The department needs relief in the amount of $500,000 from the amount targeted for reversion in the current budget year.

   - Provide funding to assist the State Animal Response Team (SART).

3. Other Issues with Respect to Animal Diseases

- A Level 3 Bio-Security Laboratory is needed to augment the efforts of the Division of Public Health (DHHS) in West Nile Virus surveillance (cost of package lab estimated between $600,000 and $750,000).

- Additional funds are needed in the Rollins Animal Disease Diagnostic Laboratory system to replace old equipment, repair deteriorating facilities, implement new technologies for animal disease diagnosis, and replenish the laboratory supply and operating budgets ($800,000).

- Because of the difficulty in attracting and retaining veterinarians, a complete review of the salary structure of all veterinarian positions in the division is needed (immediate funding when study is completed).

HOUSE JOINT COMMITTEES ON ENVIRONMENT & NATURAL RESOURCES AND AGRICULTURE

Meeting Agenda

March 22, 2001

1. Call to Order – Representative Nurham Warwick
   Representative Pryor Gibson
   Representative Danny McComas
   Representative Dewey Hill

2. Topic: FOOT AND MOUTH LIVESTOCK DISEASE

   Presenters: Secretary Meg Scott Phipps, Commissioner of Agriculture
   Dr. David Marshall, State Veterinarian

3. Discussion by Members

4. Adjourn

VISITOR REGISTRATION SHEET

JOINT committee
Environment, Natural Resources + Agriculture
Name of Committee

3/22/01
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Rachel Rogers	DENR
Tommy Stevens	DWQ
Laura DeVivo	DENR
Grady McCallie	N.C. Conservation Network
Terry Coffey	Smithfield Foods
Jerry Godwin	Smithfield Foods
Jeff Turner	Smithfield Foods
Sherry Kostrzewa	Cap Sdn.
Ross M. Smith	PCS PHOSPHATE
Roger Bone	Bone Assoc - NCFB
Lori Britt	Smithfield Foods
JOHN SANDERS	—
Karen Carpenter	NC Park Council
J. H. MacCormack	NC DHHS
Steve Cline	NC-DHHS Public Health

VISITOR REGISTRATION SHEET

Joint Committee
Environment, Natural Resources & Agriculture — 3/22/01
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Lee Hunter	NCDHHS - Div of Public Health
Becki Gray	House Minority Leader's office 2013 509
PD	NFIB
Lee-Ann Coe	NC Agribusiness Council, Inc
Cissy Porter	Bone and Associates
David Meredith	NC State Grange
John Cyrus	N.C. State Grange
Robert Caldwell	NC State Grange
Ed Regan	N.C. Assoc. of Co. Comm.
Johnny Gray	058 Pm

VISITOR REGISTRATION SHEET

House ~~Committee~~ Committee on Environment & Natural Resources & AGRICULTURE — March 22, 2001

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	Alley Associates
Doug Canter	NCSTA

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

April 10, 2001

1. Call to Order – Representative Gibson, Presiding

2. Bills to be considered:

   HB 316 – EXPAND FLOYD RELIEF TO INCLUDE FISH DEALERS
   Representative Wainwright
   SB 202 – AMEND FISHERY MANAGEMENT PLAN REVISION
   Senator Albertson
   SB 204 – REPEAL FISHERIES SUNSETS/EXTEND CORE SOUND MOR.
   Senator Albertson
   SB 205 – STAGGER MARINE FISHERIES COMMISSION TERMS
   Senator Albertson

3. Adjourn

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 10, 2001

MINUTES

The House Committee on Environment and Natural Resources met April 10, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Nurham Warwick and Pryor Gibson, Chairs. Other members attending were Vice Chairs, Representatives Leslie Cox, Alice Underhill, Jennifer Weiss, and Committee members Representatives Gordon Allen, Arlie Culp, Don Davis, Joe Hackney, Dewey Hill, Verla Insko, Paul Luebke, Eugene McCombs, Frank Mitchell, Jean Preston, Russell Tucker, Alex Warner and John Weatherly. A Visitor Registration list is attached and made part of these minutes.

Chair Gibson called the meeting to order at 12:07 pm.

HB 316 – Expand Floyd Relief to Include Fish Dealers (Attachment 1) – Representative Wainwright said that the bill came out of Seafood and Aquaculture Commission and the funding that had been earmarked for this bill had been delimited due to budgetary restrictions.

After a brief discussion, Representative Tucker moved to re-refer the bill to Appropriation without prejudice. Representative Gibson seconded. Passed.

SB 202 – Amend Fishery Management Plan Revision
SB 204 – Repeal Fisheries Sunsets/Extend Core Sound Mor.
SB 205 – Stagger Marine Fisheries Commission Terms
(Attachments 2A, B, C)

Representative Wainwright said that these three related bills would be rolled into a Proposed Committee Substitute for SB 202 (Attachment 3). Representative McComas moved to adopt the Proposed Committee Substitute and to the PCS a favorable report. Passed.

Representative Gibson adjourned the meeting at 12:12 p.m.

Representative Pryor Gibson
Chair

Shirlyn MacPherson, Committee Assistant

ATT. 1
4/10/01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H **1**

HOUSE BILL 316*

Short Title:	Expand Floyd Relief to Include Fish Dealers.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Environment and Natural Resources, if favorable, Appropriations.	

February 28, 2001

A BILL TO BE ENTITLED

AN ACT TO EXPAND HURRICANE FLOYD RELIEF TO INCLUDE LICENSED FISH DEALERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Funds appropriated for grants and loans to commercial fishermen, described in item G. 20 of the Report of the House Appropriations Committee on Hurricane Floyd Recovery cited in Section 3.1(f) of the Hurricane Floyd Recovery Act of 1999, S.L. 1999-463 ES, may be used to provide grants and loans to fish dealers licensed under G.S. 113-169.3 for losses of income incurred due to the effects of Hurricane Floyd. Losses of income shall be verified by data collected pursuant to G.S. 168.2(i).

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

ATT#2 B
4/10/01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE BILL 202*

Short Title:	Amend Fishery Management Plan Revision.	(Public)
Sponsors:	Senators Albertson; and Shaw of Guilford.	
Referred to:	Agriculture/Environment/Natural Resources.	

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(d) reads as rewritten:

"(d) Each Fishery Management Plan shall be ~~revised~~ reviewed at least once every ~~three~~ five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources."

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

ATT. #2A
4/10/01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE BILL 204*

Short Title:	Repeal Fisheries Sunsets/ Extend Core Sound Mor.	(Public)
Sponsors:	Senators Albertson; and Shaw of Guilford.	
Referred to:	Agriculture/Environment/Natural Resources.	

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.15 of S.L. 1997-400 reads as rewritten:

"Section 6.15. Sections 1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 5.5, 5.6, 5.8, 6.2, 6.7, 6.10, 6.11, 6.12, 6.13, and 6.15 of this act are effective when this act becomes law. Sections 2.1, 4.4, 5.3, 6.3, 6.4, 6.5, 6.6, and 6.8 of this act become effective 1 September 1997. Sections 4.1, 4.2, and 4.3 of this act become effective 1 September 1997 and apply to violations and offenses on or after 1 September 1997. Section 1.2 of this act is effective retroactively as of 1 March 1997. Sections 6.1 and 6.14 of this act become effective 15 August 1997. Sections 3.1, 3.2, 3.3, 3.4, 3.5, and 6.9 of this act become effective 1 July 1998. Sections 2.2, 5.1, 5.2, 5.4, and 5.7 of this act become effective 1 July 1999. Section 4.5 of this act becomes effective 1 July 1999 and applies to violations and offenses on or after 1 July 1999. ~~Sections 5.1 and 5.2 of this act expire 1 September 2003.~~"

SECTION 2. Section 5.6 of S.L. 1998-225 reads as rewritten:

"Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6,

4.7, and 4.8 are effective retroactively to September 1, 1997. ~~Section 4.15 expires September 1, 2003.~~"

SECTION 3. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; and Section 1 of S.L. 1999-209, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2001.~~October 1, 2002."

SECTION 4. This act becomes effective July 1, 2001.

ATT. 1C
4.10.01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 205*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3/7/01

Short Title: Stagger Marine Fisheries Commission Terms. (Public)

Sponsors:

Referred to:

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-289.54(d) reads as rewritten:

"(d) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), ~~(2), and (3)~~ (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions ~~(4), (5), and (6)~~ (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions ~~(7), (8),~~ (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three."

SECTION 2. In order to alter the schedule of staggered terms of three years for the Marine Fisheries Commission and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-289.54, as amended by Section 1 of this act, notwithstanding G.S. 143B-289.54(d), the following provisions apply:

(1) Willy Phillips shall serve in the position established by G.S. 143B-289.54(a)(1) through June 30, 2001.

(2) Robert Southerland shall serve in the position established by G.S. 143B-289.54(a)(2) through June 30, 2001. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2003.

(3) Jimmy Johnson shall serve in the position established by G.S. 143B-289.54(a)(3) for a term of four years through June 30, 2002.

(4) Norman F. Bradford, Jr., shall serve in the position established by G.S. 143B-289.54(a)(4) for a term of four years through June 30, 2004.

(5) William T. Russ, Jr., shall serve in the position established by G.S. 143B-289.54(a)(5) through June 30, 2003.

(6) Benjamin Currin shall serve in the position established by G.S. 143B-289.54(a)(6) through June 30, 2003. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2005.

(7) Barbara Garrity-Blake shall serve in the position established by G.S. 143B-289.54(a)(7) through June 30, 2002. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2004.

(8) Bryan Gillikin shall serve in the position established by G.S. 143B-289.54(a)(8) for a term of four years through June 30, 2003.

(9) B.J. Copeland shall serve in the position established by G.S. 143B-289.54(a)(9) through June 30, 2002.

SECTION 3. This act becomes effective June 30, 2001.

Att. # 3
4/10/01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S D

SENATE BILL 202*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S202*-PCS7174-SB-14

Short Title: Amend Fisheries Laws. (Public)

Sponsors:

Referred to:

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998, TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND, AND TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(d) reads as rewritten:

"(d) Each Fishery Management Plan shall be ~~revised~~ reviewed at least once every ~~three~~ five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources."

SECTION 2. Section 6.15 of S.L. 1997-400 reads as rewritten:

"Section 6.15. Sections 1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 5.5, 5.6, 5.8, 6.2, 6.7, 6.10, 6.11, 6.12, 6.13, and 6.15 of this act are effective when this act becomes law. Sections 2.1, 4.4, 5.3, 6.3, 6.4, 6.5, 6.6, and 6.8 of this act become effective 1 September 1997. Sections 4.1, 4.2, and 4.3 of this act become effective 1 September 1997 and apply to violations and offenses on or after 1 September 1997. Section 1.2 of this act is effective retroactively as of 1 March 1997. Sections 6.1 and 6.14 of this act become effective 15 August 1997. Sections 3.1, 3.2, 3.3, 3.4, 3.5, and 6.9 of this act become effective 1 July 1998. Sections 2.2, 5.1, 5.2, 5.4, and 5.7 of this act become effective 1 July 1999. Section 4.5 of this act becomes effective 1 July 1999 and applies to violations and

offenses on or after 1 July 1999. ~~Sections 5.1 and 5.2 of this act expire 1 September 2003.~~"

SECTION 3. Section 5.6 of S.L. 1998-225 reads as rewritten:

"Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6, 4.7, and 4.8 are effective retroactively to September 1, 1997. ~~Section 4.15 expires September 1, 2003.~~"

SECTION 4. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; and Section 1 of S.L. 1999-209, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2001.~~ October 1, 2002."

SECTION 5. G.S. 143B-289.54(d) reads as rewritten:

"(d) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), ~~(2), and (3)~~ (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions ~~(4), (5), and (6)~~ (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions ~~(7), (8),~~ (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three."

SECTION 6. In order to alter the schedule of staggered terms of three years for the Marine Fisheries Commission and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-289.54, as amended by Section 1 of this act, notwithstanding G.S. 143B-289.54(d), the following provisions apply:

(1) Willy Phillips shall serve in the position established by G.S. 143B-289.54(a)(1) through June 30, 2001.

(2) Robert Southerland shall serve in the position established by G.S. 143B-289.54(a)(2) through June 30, 2001. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2003.

(3) Jimmy Johnson shall serve in the position established by G.S. 143B-289.54(a)(3) for a term of four years through June 30, 2002.

(4) Norman F. Bradford, Jr., shall serve in the position established by G.S. 143B-289.54(a)(4) for a term of four years through June 30, 2004.

(5) William T. Russ, Jr., shall serve in the position established by G.S. 143B-289.54(a)(5) through June 30, 2003.

(6) Benjamin Currin shall serve in the position established by G.S. 143B-289.54(a)(6) through June 30, 2003. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2005.

(7) Barbara Garrity-Blake shall serve in the position established by G.S. 143B-289.54(a)(7) through June 30, 2002. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2004.

(8) Bryan Gillikin shall serve in the position established by G.S. 143B-289.54(a)(8) for a term of four years through June 30, 2003.

(9) B.J. Copeland shall serve in the position established by G.S. 143B-289.54(a)(9) through June 30, 2002.

SECTION 7. Sections 1 and 7 of this act are effective when it becomes law. Sections 2 through 4 of this act become effective July 1, 2001. Sections 5 and 6 of this act become effective June 30, 2001.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 202 A BILL TO BE ENTITLED AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 316 A BILL TO BE ENTITLED AN ACT TO EXPAND HURRICANE FLOYD RELIEF TO INCLUDE LICENSED FISH DEALERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☒ Without prejudice. reported and recommendation that the bill be re-referred to the Committee on Appropriations

☐ With an indefinite postponement report.

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

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

2/15/01

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES. 4-10-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady Miller	N.C. Conservation Network.
NetMail	CCNC
Preston Howard	MCIC
LAURA DEVO	DENR
HASKELL RHETT	NC STATE PORTS AUTHORITY
Preston Pate	NC DENR
JERRY SCHILL	NC Fisheries Assoc.
Nancy Thompson	MCIC
David Meredith	NC State Grange
John Cyrus	N.C. State Grange
Meagan Perry	Intern

VISITOR REGISTRATION SHEET

House Committee on Environment & Natural Resources April 10, 2001

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY AND ADDRESS
Bob Slocum	NC Forestry Assoc.

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

April 12, 2001

1. Call to Order – Representative Daniel F. McComas, Presiding

2. Agenda Items

HB 1006 – ENVIRONMENTAL REPORT CONSOLIDATION
Representative Gibson

HB 609 – DISAPPROVE WELL CONSTRUCTION STANDARDS RULE
Representative Walend

4. Adjournment

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

April 12, 2001

The House Committee on Environment & Natural Resources met on Thursday, April 12, 2001 in Room 643 of the Legislative Office Building at 12:00 Noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice Chairmen Cox, Underhill and Weiss and Representatives Allen, Bowie, Culp, Davis, Gulley, Hackney, Hill Insko, Luebke, McCombs, Miner, Mitchell, Preston, Tucker, Warner and Weatherly. George Givens, Jeff Hudson, Susan Iddings and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative Warwick called the meeting to order at 12:02 PM and then handed the gavel to Representative McComas to preside. The Cochairman called on Representative Trudi Walend to present the first bill, a **Committee Substitute for HB 609, AN ACT TO SPECIFY THE MINIMUM SEPARATION DISTANCES BETWEEN A WELL SERVING CERTAIN SINGLE-FAMILY DWELLINGS AND CERTAIN OTHER STRUCTURES ON THE SAME LOT AND TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT A RULE TO INCORPORATE THOSE MINIMUM SEPARATION DISTANCES**. Representative Walend explained the bill. Representative Hackney asked if the Department of Environment & Natural Resources supported the bill and Mr. Richard Rogers replied that they do. Representative Hackney addressed several questions concerning the wording of the bill and questions to the Technical Staff of DENR that were answered by Mr. Rogers, Ms. Linda Sewall of the Department and by Mr. Jeff Hudson of Counsel. Representative Leubke asked a series of questions regarding the public health implications that Mr. Hudson also answered. Representative Warwick said that he favored the Act and that it is an appropriate policy statement for now that will not stop future decisions. Representative Mitchell added that the bill was common sense and moved for a favorable report at the appropriate time. After a series of questions regarding public health, the rule making process and lot sizes, Committee Substitute for HB609 received a favorable report. (See attachment 1 and 2).

The Cochair called on Cochairman Gibson to present **HB1006, AN ACT TO AMEND ENVIRONMENTAL REPORTING REQUIREMENTS**. Representative Gibson

explained the bill. Representative Gibson stated that this bill would streamline the reporting process. Representative Bowie moved for a favorable report. Vice Chairman Cox asked if the bill had the support of the Department and Mr. George Givens responded that it does. The bill received a favorable report. (See attachments 3 and 4).

Cochairman McComas adjourned the meeting at 1:00 PM.

Representative Daniel F. McComas
Cochairman (presiding)

Jayne Nelson Walton
Committee Assistant

4-12-01 att# 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 609
PROPOSED COMMITTEE SUBSTITUTE H609-CSSB-9 [v.7]

4/8/2001 10:01:20 AM

Short Title: Well Construction Standards/Rulemaking. (Public)

Sponsors:

Referred to:

March 14, 2001

A BILL TO BE ENTITLED

AN ACT TO SPECIFY THE MINIMUM SEPARATION DISTANCES BETWEEN A WELL SERVING CERTAIN SINGLE-FAMILY DWELLINGS AND CERTAIN OTHER STRUCTURES ON THE SAME LOT AND TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT A RULE TO INCORPORATE THOSE MINIMUM SEPARATION DISTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. For a well serving a single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in subparagraph (a)(2) of 15A NCAC 2C .0107 (Standards of Construction: Water-Supply Wells), as adopted by the Environmental Management Commission on October 12, 2000, and approved by the Rules Review Commission on November 16, 2000, the required separation distances shall be the maximum possible, but shall in no case be less than the following:

(1)	Septic tank and drainfield	50 feet
(2)	Water-tight sewage or liquid-waste collection or transfer facility	25 feet
(3)	Animal barns	50 feet
(4)	Cesspool or privies	50 feet.

SECTION 2. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management Commission may adopt temporary and permanent rules that incorporate the provisions of Section 1 of this act. If the Environmental Management Commission adopts a rule pursuant to this act, the application of the rule shall not be limited to existing single-family dwellings.

SECTION 3. This act is effective retroactively to the date upon which it was ratified and expires on the date that a permanent rule adopted pursuant to this act becomes effective.

4-12-01 ATTH 2

HOUSE BILL 609:
Well Construction Standards/Rulemaking

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Walend
Date:	April 12, 2001	**Summary by:**	Jeff Hudson Committee Counsel
Version:	Proposed Committee Substitute H609-CSSB-9 [v.7]		

SUMMARY: ***The proposed committee substitute for House Bill 609 (Well Construction Standards/Rulemaking) sets out the minimum separation distances required between wells serving single-family dwellings and certain possible sources of contamination where lot size or other fixed conditions preclude the larger separation distances required by the administrative rule that regulates the construction of water-supply wells.***

CURRENT LAW: Administrative rule 15A NCAC 2C .0107 (Well Construction Standards Rule) sets out the minimum separation distances required between wells serving single-family dwellings and certain possible sources of contamination. For example, the rule requires a minimum separation distance of 100 feet between a well serving a single-family dwelling and a septic tank. The rule provides exceptions to these general separation distances where lot size or other fixed conditions preclude compliance with the general separation distances. Under these exceptions, the separation distance allowed between a well serving a single family dwelling and a septic tank may be as little as 50 feet.

BACKGROUND: The Environmental Management Commission adopted a number of changes to the Well Construction Standards Rule at its October 12, 2000, meeting. One of these changes provides that the exceptions to the general separation distances would only be available for existing single-family dwellings. This change would preclude application of the exceptions to single-family dwellings constructed after April 1, 2001, the effective date of the changes to the rule.

BILL ANALYSIS: The changes to the Well Construction Standards Rule adopted by the Environmental Management Commission did not become effective April 1, 2001. The effective date of the changes was stayed by the introduction of House Bill 609 (Disapprove Well Construction Standards Rule). House Bill 609, as introduced, would disapprove all of the changes to the Well Construction Standards Rule adopted by the Environmental Management Commission. The proposed committee substitute for House Bill 609 (Well Construction Standards/Rulemaking) would not disapprove the changes to the Well Construction Standards Rule, but would instead provide in uncodified law that the exceptions to the general separation distances are available for both existing and future single-family dwellings. The proposed committee substitute would also provide that the Environmental Management Commission may adopt temporary and permanent rules that make these exceptions available for existing and future single-family dwellings. If the Environmental Management Commission adopts a permanent rule to provide that these exceptions are available for existing and future single-family dwellings, the uncodified law expires. This sunset would allow the Environmental Management Commission to revisit the separation distance exceptions in future rulemaking.

EFFECTIVE DATE: The act is effective retroactively to the date of its ratification. Ratification of House Bill 609 by the General Assembly is an event that will remove the stay on the effective date of the changes to the Well Construction Standards Rule adopted by the Environmental Management Commission. By making the act effective upon ratification, the minimum separation distances set out in the proposed committee substitute for House Bill 609 and the changes to the rule become effective simultaneously.

15A NCAC 2C .0107 has been amended with changes as published in 15:5 NCR 549– 554 as follows:

.0107 STANDARDS OF CONSTRUCTION: WATER-SUPPLY WELLS

(a) Location.

(1) The well shall not be located in an area generally subject to flooding. Areas which have a propensity for flooding include those with concave slope, alluvial or colluvial soils, gullies, depressions, and drainage ways.

(2) The minimum horizontal separation between a well, intended for a single-family residence or other non-public water system, and potential sources of groundwater ~~contamination~~ contamination, which exists at the time the well is constructed, shall be as follows unless otherwise specified:

(A) Septic tank and drainfield ..... 100 ft.

(B) Other subsurface ground absorption waste disposal system ..... 100 ft.

(C) Industrial or municipal sludge-spreading or wastewater-irrigation sites ..... 100 ft.

(D) Water-tight sewage or liquid-waste collection or transfer facility ..... 50 ft.

(E) Other sewage and liquid-waste collection or transfer facility ..... 100 ft.

(F) Cesspools and privies ..... 100 ft.

(G) Animal feedlots or manure piles ..... 100 ft.

(H) Fertilizer, pesticide, herbicide or other chemical storage areas ..... 100 ft.

(I) Non-hazardous waste storage, treatment or disposal lagoons ..... 100 ft.

(J) Sanitary landfills ..... 500 ft.

(K) Other non-hazardous solid waste ~~landfills~~ landfills, such as Land Clearing and Inert Debris (LCID) landfills ..... 100 ft.

(L) Animal barns ..... 100 ft.

(M) Building ~~foundations~~ foundations, excluding the foundation of a structure housing the well head ..... ~~50 ft.~~ 25 ft.

(N) Surface water bodies which act as sources of groundwater recharge, such as ponds, lakes and reservoirs ..... 50 ft.

(O) All other surface water bodies, such as brooks, creeks, streams, rivers, sounds, bays and tidal estuaries ..... 25 ft.

~~(O)~~ (P) Chemical or petroleum fuel underground storage tanks regulated under 15A NCAC 2N:

(i) with secondary containment ..... 50 ft.

(ii) without secondary containment ..... 100 ft.

(Q) Above ground or underground storage tanks which contain petroleum fuels used for heating equipment, boilers or furnaces ..... 50 ft.

~~(P)~~ (R) All other potential sources of groundwater contamination ..... ~~100 ft.~~ 50 ft.

(3) For a well serving ~~a~~ an existing single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in Subparagraph (a)(2) of this Rule, the required separation distances shall be the maximum possible but shall in no case be less than the following:

(A) Septic tank and drainfield ..... 50 ft.

(B) Water-tight sewage or liquid-waste collection or transfer facility ..... 25 ft.

~~(C) Building foundations ..... 25 ft.~~

(C) Animal barns ..... 50 ft.

~~(C)~~(D) Cesspool or privies ..... 50 ft.

(4) A well or well system, serving more than one single-family dwelling but with a designed capacity of less than 100,000 gpd, must meet the separation requirements specified in Subparagraph (a) (2) of this Rule;

(5) A well or well system with a designed capacity of 100,000 gpd or greater must be located a sufficient distance from known or anticipated sources of groundwater contamination so as to prevent a violation of applicable groundwater quality standards, resulting from the movement of contaminants, in response to the operation of the well or well system at the proposed rate and schedule of pumping;

(6) Actual separation distances must conform with the most stringent of applicable federal, state or local requirements;

(7) Wells drilled for public water supply systems regulated by the Division of Environmental Health shall meet the siting and all other requirements of that Division.

(b) Source of water.

(1) The source of water for any well intended for domestic use shall not be from a water bearing zone or aquifer that is known to be contaminated;

(2) In designated areas described in ~~Rule~~ 15A NCAC 2C .0117 of this Section, the source shall be greater than 35 feet;

(3) In designated areas described in ~~Rule~~ 15A NCAC 2C .0116 of this Section, the source may be less than 20 feet, but in no case less than 10 feet; and

(4) In all other areas the source shall be at least 20 feet below land surface.

(c) Drilling Fluids and Additives. Drilling Fluids and Additives shall not contain organic or toxic substances or include water obtained from surface water bodies or water from a non-potable supply and may be comprised only of:

(1) the formational material encountered during drilling; or

(2) materials manufactured specifically for the purpose of borehole conditioning or water well construction.

(d) Casing.

(1) If steel casing is used, then:

(A) The casing shall be new, seamless or electric-resistance welded galvanized or black steel pipe. Galvanizing shall be done in accordance with requirements of ASTM A-120.

(B) The casing, threads and couplings shall meet or exceed the specifications of ASTM A-53, A-120 or A589.

(C) The minimum wall thickness for a given diameter shall equal or exceed that specified in Table 1.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1006*

Short Title:	Environmental Report Consolidation.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND ENVIRONMENTAL REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. REPORTING REQUIREMENTS REPEALED.

SECTION 1.1. Subsections 27.13(b) and (c) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Subsection 27.26(c) (Straight Pipe Elimination Amnesty Program) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Subsection 27.30(b) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Section 15.2 of S.L. 1997-443, Subsection 15.14(b) of S.L. 1997-443, Section 3.2 of S.L. 1997-458, Section 9.1 of S.L. 1997-483, Section 9.2 of S.L. 1997-483, Subsection 14.14(b) of S.L. 1998-212, Subsections 15.14(a) through (g) of S.L. 1999-237, Section 11.2 of S.L. 1999-329, and G.S. 143-670 through G.S. 143-674 are repealed.

SECTION 1.2. Section 3 of Chapter 603 of the 1989 Session Laws, as amended by Section 222 of Chapter 727 of the 1989 Session Laws and Section 3 of Chapter 990 of the 1991 Session Laws, is repealed.

PART II. REPORTING REQUIREMENTS AMENDED OR CODIFIED.

SECTION 2.1. Section 15.42 of S.L. 1999-443 reads as rewritten:

"The Oyster Rehabilitation Program in the Division of Marine Fisheries in the Department of Environment, Health, and Natural Resources shall be renamed the Shellfish Rehabilitation Program. Funds appropriated for the Oyster Rehabilitation Program or the Shellfish Rehabilitation Program shall be used for the Shellfish Rehabilitation Program. The Oyster, Clam, and Scallop Subcommittee of the Marine Fisheries Commission shall advise the Division of Marine Fisheries on the expenditure of Shellfish Rehabilitation Program funds. ~~The Division of Marine Fisheries shall report to the Joint Legislative Commission on Seafood and Aquaculture on the expenditure of Shellfish Rehabilitation Program funds annually, beginning January 1, 1998.~~"

SECTION 2.2. G.S. 113-182.1(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture ~~and the Environmental Review Commission~~ on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture ~~and the Environmental Review Commission~~ within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture ~~and the Environmental Review Commission~~ shall concurrently review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Seafood and Aquaculture ~~and the Environmental Review Commission~~ may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

SECTION 2.3. G.S. 113A-241 reads as rewritten:

"**§ 113A-241. State to Preserve One Million Acres; Annual Report.**

(a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009. These lands shall be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or by private entities that are organized to receive and administer lands for conservation purposes.

(b) The Secretary of Environment and Natural Resources shall lead the effort to add one million acres to the State's protected lands and shall plan and coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes.

(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission ~~annually beginning on September 1, 2000,~~ on or before 1 September of each year on the State's progress towards attaining the goal established in Section 2 of this Article."

SECTION 2.4. G.S. 130A-310.10 reads as rewritten:

"**§ 130A-310.10. Annual reports.**

(a) The Secretary shall ~~present a~~ report on inactive hazardous sites to the Environmental Review ~~Commission.~~ Commission on or before 1 October of each year. The report shall include at least:

(1) The Inactive Hazardous Waste Sites Priority List;

(2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund;

(3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said plans;

(4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement such plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of such plan;

(5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval;

(6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of said plans;

(7) A list of sites ~~which~~ that pose an imminent hazard;

(8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund; and

(9) Any other information requested by the General Assembly or the Environmental Review Commission.

~~(b) The report required by this section shall be made by the Secretary on or before 1 November of even-numbered years.~~"

SECTION 2.5. G.S. 143-215.3A(c) reads as rewritten:

"(c) The Department shall ~~make an annual~~ report to the ~~General Assembly and its~~ Environmental Review Commission and the Fiscal Research Division on the cost of the State's environmental permitting programs contained within ~~such~~ the ~~Department.~~ Department on or before 1 November of each year. In addition, the Department shall ~~make an annual~~ report to the ~~General Assembly and its~~ Environmental Review Commission and the Fiscal Research Division on the cost of the Title V ~~program.~~ Program on or before 1 November of each year. The reports shall include, but are not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

SECTION 2.6. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.8C. Neuse River Modeling and Monitoring Project reports.**

The Primary Investigator or Researcher receiving funding pursuant to Subsection 14.14(a) of Chapter 212 of the 1998 Session Laws shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and

Coastal Fisheries Management, and the Fiscal Research Division on January 1 and July 1 of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report to the entities listed above."

SECTION 2.7. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.8D. North Carolina Water Quality Workgroup; Rivernet.**

(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

(1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.

(2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.

(3) To maintain a web-based water quality data distribution site.

(4) To organize and evaluate existing scientific and State agency water quality databases.

(5) To prioritize recognized knowledge gaps in water quality issues for immediate funding.

(b) The North Carolina Water Quality Workgroup shall be composed of no more than 15 members. Those members shall be jointly appointed by the Chancellor of North Carolina State University and the Secretary of Environment and Natural Resources. Any person appointed as a member of the Workgroup shall be knowledgeable in one of the following areas:

(1) Water Quality Assessment, Water Quality Monitoring and Permitting.

(2) Nutrient Management.

(3) Water Pollution Control.

(4) Waste Management.

(5) Groundwater Resources.

(6) Stream Hydrology.

(7) Aquatic Biology.

(8) Environmental Education and Web-Based Data Dissemination.

(c) North Carolina State University shall provide meeting facilities for the North Carolina Water Quality Workgroup as requested by the Chair.

(d) The members of the North Carolina Water Quality Workgroup shall elect a Chair. The Chair shall call meetings of the Workgroup and set the meeting agenda.

(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, to the Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup.

(f) The North Carolina Water Quality Workgroup shall develop a water quality monitoring system to be known as Rivernet that effectively uses the combined resources of North Carolina State University and State agencies. The Rivernet system shall be designed to implement advances in monitoring technology and information management systems with web-based data dissemination in the waters that are impaired based on the criteria of the State's basinwide water quality management plans. Water quality and nutrient parameters shall be continuously monitored at each station, and the data shall be sent back to a centralized computer server.

The Rivernet system shall be coordinated with related data collection and monitoring activities of the Department of Environment and Natural Resources, the Water Resources Research Institute, the North Carolina Water Quality Workgroup, and other research efforts pursued by academic institutions or State government entities. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are testing procedure guidelines promulgated by the United States Environmental Protection Agency, the American Public Health Association, the American Water Works Association, or the Water Environment Federation then the testing procedures shall comply with the appropriate guidelines. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are no testing procedure guidelines promulgated by any of the groups cited in this subsection, then the North Carolina Water Quality Workgroup may establish testing procedure guidelines.

The Rivernet system shall also have the capabilities to trigger alarms and notify the appropriate member of the Workgroup when monitoring stations exceed defined limits indicating a spill or a significant water quality or nutrient measurement event, which then can be comprehensively analyzed.

(g) For the 1999-2001 biennium, the North Carolina Water Quality Workgroup shall select as a pilot project site an area of impaired waters within one of the State's river basins based on criteria of the State's basinwide water quality management plans and shall implement a Rivernet monitoring system pilot project in those waters."

SECTION 2.8. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.9B. Systemwide municipal and domestic wastewater collection system permit program report.**

The Environmental Management Commission shall develop and implement a permit program for municipal and domestic wastewater collection systems on a systemwide

basis. The collection system permit program shall provide for performance standards, minimum design and construction requirements, a capital improvement plan, operation and maintenance requirements, and minimum reporting requirements. In order to ensure an orderly and cost-effective phase-in of the collection system permit program, the Commission shall implement the permit program over a five-year period beginning 1 July 2000. The Commission shall issue permits for approximately twenty percent (20%) of municipal and domestic wastewater collection systems that are in operation on 1 July 2000 during each of the five calendar years beginning 1 July 2000 and shall give priority to those collection systems serving the largest populations, those under a moratorium imposed by the Commission under G.S. 143-215.67, and those for which the Department of Environment and Natural Resources has issued a notice of violation for the discharge of untreated wastewater. The Commission shall report on its progress in developing and implementing the collection system permit program required by this section as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."

SECTION 2.9. G.S. 143-355 is amended by adding the following new subsection:

"(n) The Department of Environment and Natural Resources shall report to the Environmental Review Commission on the implementation of this section and the development of the State water supply plan on or before 1 September of each year."

SECTION 2.10. G.S. 143B-279.7(c) reads as rewritten:

"(c) The Department of Environment and Natural Resources shall report annually to the Environmental Review Commission ~~and the Senate Agriculture and Environment Committee~~ no later than December 1 of each year. This report shall include a summary of all fish kill activity within the last year, an overview of any trend analyses, a discussion of any new or modified methodologies or reporting protocols, and any other relevant information."

PART III. SOLID WASTE AND RECYCLING REPORT CONSOLIDATION.

SECTION 3.1. G.S. 130A-309.06 reads as rewritten:

"**§ 130A-309.06. Additional powers and duties of the Department.**

(a) In addition to other powers and duties set forth in this Part, the Department shall:

(1) Develop a comprehensive solid waste management plan consistent with this Part. The plan shall be developed in consultation with units of local government and shall be updated at least every three years. In developing the State solid waste management plan, the Department shall hold public hearings around the State and shall give notice of these public hearings to all units of local government and regional planning agencies.

(2) Provide guidance for the orderly collection, transportation, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the State.

(3) Encourage coordinated local activity for solid waste management within a common geographical area.

(4) Provide planning, technical, and financial assistance to units of local government and State agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal.

(5) Cooperate with appropriate federal agencies, local governments, and private organizations in carrying out the provisions of this Part.

(6) Promote and assist the development of solid waste reduction, recycling, and resource recovery programs that preserve and enhance the quality of the air, water, and other natural resources of the State.

(7) Maintain a directory of recycling and resource recovery systems in the State and provide assistance with matching recovered materials with markets.

(8) Manage a program of grants for programs for recycling and special waste management, and for programs that provide for the safe and proper management of solid waste.

(9) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

(10) Develop descriptive literature to inform units of local government of their solid waste management responsibilities and opportunities.

(11) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 10.

(12) Provide and maintain recycling bins for the collection and recycling of newspaper, aluminum cans, glass containers, and recyclable plastic beverage containers at the North Carolina Zoological Park.

(13) Identify, based on reports required under G.S. 130A-309.14 and any other relevant information, those materials in the municipal solid waste stream that are marketable in the State or any portion thereof and that should be recovered from the waste stream prior to treatment or disposal.

(14) Identify and analyze, with assistance from the Department of Commerce pursuant to G.S. 130A-309.14, components of the State's recycling industry and present and potential markets for recyclable materials in this State, other states, and foreign countries.

(b) The Department may refuse to issue a permit to an applicant who by past conduct in this State has repeatedly violated related statutes, rules, orders, or permit terms or conditions relating to any solid waste management facility and who is deemed by the Department to be responsible for the violations. For the purpose of this subdivision, an applicant includes the owner or operator of the facility, or, if the owner or operator is a business entity, the parent of the subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than fifty percent (50%) of the stock of the corporation.

(c) The Department shall ~~prepare by 1 March of each year a~~ report to the Environmental Review Commission on or before January 15 of each year on the status

of solid waste management efforts in the State. The ~~scope of the~~ report ~~shall be determined by the resources available to the Department for its preparation and, to the extent possible,~~ shall include:

(1) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the State projected for the 20-year period beginning on 1 July 1991.

(2) The total amounts of solid waste recycled and disposed of and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.

(3) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.

(4) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in G.S. 130A-309.04.

(5) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for units of local government and State agencies to implement to meet the requirements of this Part.

(6) An evaluation of the recycling industry, the markets for recycled ~~materials~~ materials, the recycling of polystyrene, and the success of State, local, and private industry efforts to enhance the markets for these materials.

(7) Recommendations to the Governor and the Environmental Review Commission to improve the management and recycling of solid waste in the State, including any proposed legislation to implement the recommendations.

(8) A description of the condition of the Solid Waste Management Trust Fund and the use of all funds allocated from the Solid Waste Management Trust Fund, as required by G.S. 130A-309.12(c).

(9) A description of the review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products by both the Department of Administration and the Department of Transportation, as required by G.S. 130A-309.14(a1)(3).

(10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites, as required by G.S. 130A-309.63(e).

(11) A description of the management of white goods in the State, as required by G.S. 130A-309.85.

(12) A summary of the report by the Department of Transportation on the amounts and types of recycled materials that were specified or used in contracts that were entered into by the Department of Transportation during the previous fiscal year, as required by G.S. 136-28.8(g).

(13) A summary of the reports by each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies detailing the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and the progress toward reaching the goals under G.S. 143-58.3, as required by G.S. 143-58.2(f).

~~(d) The Department shall prepare a report assessing the recycling industry and recyclable materials markets in the State every two years, and shall submit the report to the Environmental Review Commission on or before 1 March of even-numbered years. The report shall include information on progress in recycling polystyrene in the State.~~"

SECTION 3.2. G.S. 130A-309.12(c) reads as rewritten:

"(c) The Department shall ~~report annually on or before September 1 to the Environmental Review Commission as to~~ include in the report required by G.S. 130A-309.06(c) a description of the condition of the Solid Waste Management Trust Fund and ~~as to~~ the use of all funds allocated from the Solid Waste Management Trust Fund."

SECTION 3.3. G.S. 130A-309.14(a1) reads as rewritten:

"(a1) The Department of Administration shall review and revise its bid procedures and specifications set forth in Article 3 of Chapter 143 of the General Statutes and the Department of Transportation shall review and revise its bid procedures and specifications set forth in Article 2 of Chapter 136 of the General Statutes to encourage the purchase or use of reusable, refillable, repairable, more durable, and less toxic supplies and products.

(1) The Department of Administration shall require the procurement of such supplies and products to the extent that the purchase or use is practicable and cost-effective. The Department of Administration shall require the purchase or use of remanufactured toner cartridges for laser printers to the extent practicable.

(2) The Department of Transportation shall require the purchase or use of such supplies and products in the construction and maintenance of highways and bridges to the extent that the purchase or use is practicable and cost-effective.

(3) The Department of Administration and the Department of Transportation shall each ~~prepare an annual report by October 1 of each year to the Environmental Review Commission~~ provide by 1 October of each year to the Department of Environment and Natural Resources a detailed description of the respective Agency's ~~concerning the~~ review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products. The information provided by the Department of

Administration and the Department of Transportation to the Department of Environment and Natural Resources shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 3.4. G.S. 130A-309.63(e) reads as rewritten:

"(e) Reports. – The Department shall ~~report annually on the Scrap Tire Disposal Account to the Environmental Review Commission. The report shall be submitted by 1 October of each year for the fiscal year ending the preceding 30 June. The report shall show~~ include in the report required by G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act that includes the beginning and ending balances in the Account for the reporting period, the amount credited to the Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites."

SECTION 3.5. G.S. 130A-309.85 reads as rewritten:

"**§ 130A-309.85. Department to submit annual report on the management of white goods.**

The Department shall ~~report annually to the Environmental Review Commission and to the Revenue Laws Study Committee concerning the management of white goods. The report shall be submitted by February 1 of each year for the fiscal year ending on the preceding June 30. The report shall~~ include in the report required by G.S. 130A-309.06(c) a description of the management of white goods in the State, including the following information:

(1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.

(2) The cost to each county of managing white goods during the period covered by the report.

(3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.

(4) Any other information the Department considers helpful in understanding the problem of managing white goods.

(5) A summary of the information concerning the counties' white goods management programs contained in the counties' Annual Financial Information Report."

SECTION 3.6. G.S. 136-28.8 reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental ~~Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission.~~ Operations and the Joint Legislative Transportation Oversight Committee.

The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 3.7. G.S. 143-58.2(f) reads as rewritten:

"(f) On or before October 1 of each year, each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources, the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and its progress toward reaching the goals under G.S. 143-58.3. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of these reports and submit the summary to the Joint Legislative Commission on Governmental ~~Operations and the Environmental Review Commission.~~ Operations. The summary of these reports shall also be included in the report required by G.S. 130A-309.06(c)."

PART IV. EFFECTIVE DATE.

SECTION 4.1. This act is effective when it becomes law.

4-12-01 Att # 4

HOUSE BILL 1006:
Environmental Report Consolidation

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Rep. Gibson
		Summary by:	Rick Zechini Committee Counsel
Date:	April 12, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1006 repeals, amends, codifies, and consolidates various environmental reporting requirements.***

Part I - Reporting Requirements Repealed

Section 1.1

The following reports are repealed:

Subsections 27.13(b) and (c) of Chapter 18 of the Session Laws of the 1996 Second Extra Session and Section 15.2 of S.L. 1997-443 (status of permitting and inspecting animal waste management systems). This reporting requirement was later codified as G.S. 143-215.10M.

Subsection 27.26(c) of Chapter 18 of the Session Laws of the 1996 Second Extra Session (Straight Pipe Elimination Amnesty Program)

Subsection 27.30(b) of Chapter 18 of the Session Laws of the 1996 Second Extra Session (Aboveground storage tank inspection and monitoring)

Subsection 15.14(b) of S.L. 1997-443 (Use of Cape Fear River Funds Reserve). All of the money appropriated to the Cape Fear River Assembly has been spent.

Section 3.2 of S.L. 1997-458 (Progress in developing and adopting a rule to regulate the emission of odor from animal waste management systems). This rule has been adopted.

Section 9.1 of S.L. 1997-483 (Findings, recommendations, and legislative proposals regarding whether the Inspection and Maintenance (I/M) Program should be expanded to include all metropolitan counties). The I/M Program has been expanded.

Section 9.2 of S.L. 1997-483 (Findings, recommendations, and legislative proposals regarding the implementation and enforcement of the I/M program). Study was in response to an EPA audit. EPA now says I/M program is compliant.

Subsection 14.14(b) of S.L. 1998-212 (Neuse Modeling Project Funds Report). This reporting requirement is codified in Part II of the bill.

Subsections 15.14(a) through (g) of S.L. 1999-237 (North Carolina Water Quality Workgroup Inititive/Rivernet Monitoring). These subsections are codified in Part II of the bill.

Section 11.2 of S.L. 1999-329 (Systemwide permit program for municipal and domestic wastewater collection systems). This section is codified in Part II of the bill.

G.S. 143-670 through G.S. 143-674 (Adopt-A-Beach Program). Pilot program that no longer receives money.

Section 1.2

Section 3 of Chapter 603 of the 1989 Session Laws, as amended by Section 222 of Chapter 727 of the 1989 Session Laws and Section 3 of Chapter 990 of the 1991 Session Laws (State Water Supply Plan). The reporting requirement is codified in Part II of the bill.

Part II - Reporting Requirements Amended or Codified

Section 2.1

Reporting requirement for the Shellfish Rehabilitation Program is repealed.

Section 2.2

Repeals the requirement that reports on the development and implementation of Fishery Management Plans and individual Fishery Management Plans be sent to the Environmental Review Commission. They will still be sent to the Joint Legislative Commission on Seafood and Aquaculture.

Section 2.3

Technical correction to Million Acres reporting requirement.

Section 2.4

Amends the reporting requirement for the Inactive Hazardous Sites Program, and by reference the report on the Brownfields program, from every other year to on or before October 1 of each year.

Section 2.5

Amends the reporting requirements for the reports on the cost of the State's environmental permitting programs and the cost of the Title V program to provide a date certain (November 1) that the reports are due.

Section 2.6

This section codifies the reporting requirement for the Neuse Modeling Project or MODMON.

Section 2.7

This section codifies the establishment of and reporting requirement for the North Carolina Water Quality Workgroup Inititive/Rivernet Monitoring Project.

Section 2.8

This section codifies the directive for the Environmental Management Commission to develop, implement, and report on a systemwide permit program for municipal and domestic wastewater collection systems.

Section 2.9

This section codifies the reporting requirement regarding the State Water Supply Plan.

Section 2.10

This section eliminates the requirement that the fish kill report be delivered to the Senate Agriculture and Environment Committee. It will still be delivered to the Environmental Review Commission.

Part III – Solid Waste and Recycling Report Consolidation

Section 3.1

This section moves the reporting date for the annual solid waste management report from March 1 to January 15 and adds the following topics to the report:

- Solid Waste Management Trust Fund
- Bid procedures review and revision for environmentally friendly products by the Department of Administration and the Department of Transportation
- Scrap Tire Disposal Program
- White Goods Program
- Amounts and types of recycled material used by DOT
- Amounts and types of materials and supplies with recycled content purchased by agencies, et. al.

Sections 3.2 through 3.7 make conforming changes to the statutes dealing with the aforementioned topics.

Part IV Effective Date

Section 4.1

This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES 4/12/01
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Linda Sewall	DEH
WCheroy	Bone & Assoc.
Nancy Thompson	MCIC
Amy Fullbright	Hunton & Williams
PRESTON HOWARD	MCIC
George Everett	Duke Energy

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken McHoy	Alley Associates
R. Paul Wilms	NCHBA
Kim Hibbard	NCLM
County Mgrs	N.C. Com'rs.
[illegible]	CCNC
Scott Mouw	DENR
Meghan Ridley	Intern
Drew Nelsen	Intern
[illegible]	DWQ - Groundwater
[illegible]	Bone + Assoc -
Matt [illegible]	Visitor

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

April 17, 2001

1. **Call to Order – Representative Warwick, Presiding**

2. **Bills to be considered:**

   HB 609 – DISAPPROVE WELL CONSTRUCTION STANDARDS RULE
   Representative Walend

   HB 1108 – PERSON/CASWELL LAKE ELIGIBLE FOR TRUST FUNDS
   Representative Crawford

   HB 1063 – PAY FOR PERFORMANCE/LUST CLEANUPS
   Representative Gibson

3. **Adjourn**

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

April 17, 2001

The House Committee on Environment and Natural Resources met April 17, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson, McComas, and Warwick, Vice-Chairmen Cox, Underhill, and Weiss, and Representatives Allen, Bowie, Culp, Davis, Hackney, Luebke, McCombs, Mitchell, Preston, Smith, Tucker, Warner and Weatherly.

Chairman McComas called the meeting to order at 12:07. Action was taken on the following bills:

HB 609 – DISAPPROVE WELL CONSTRUCTION STANDARD RULE. (See attachments #1 and 1a) The proposed committee substitute CSSB-21 (v-1) for House Bill 609 (Well Construction Standards/Rulemaking) sets out the minimum separation distances required between wells serving single-family dwellings and certain possible sources of contamination where lot size or other fixed conditions preclude the larger separation distances required by the administrative rule that regulates the construction of water supply wells. Representative Walend presented the bill for reconsideration and referred to staff counsel, George Givens. Mr. Givens recommended that a motion be made for the amendment to be rolled into PCS H609CSSB21. Representative McComas moved for a favorable report to the PCS and rolled out. Seconded by Representative Warner. Representative Weiss moved for a favorable report for the PCS. Passed.

HB1108 – PERSON/CASWELL LAKE ELIGIBLE FOR TRUST FUNDS. See attachments #2 and 2a) Representative Crawford said that this bill would make public authorities eligibility for grants from the Parks and Recreation Trust Fund. On an amendment recommended by staff, Representative Cox moved to amend the bill on page 1, line 15, by inserting, after the period on that line: "The appraised value of land donated to a local government unit or public authority may be applied to the matching requirement of this subdivision." (See attachment #3). Representative Smith moved for a favorable report as amended incorporate the PCS and gives the PCS a favorable report. Passed.

HB1063 – PAY FOR PERFORMANCE/LUST CLEANUPS. (See attachments #4 and 4a) Representative Gibson's said that this bill would allow the Department of Environment and Natural Resources to allocate up to fifty percent (50%) of the available funds in the Commercial and Noncommercial Underground Storage Tank Trust Fund for performance-based cleanups of petroleum-contaminated sites. The bill would also grant authority to the Department of Environment and Natural Resources (DENR) for implementation of the pay-for-performance program, as well as authorize the Environmental Management Commission to develop temporary rules for implementation of the program. Representative Gibson asked the staff to explain the bill. Mr. Givens asked Mr. Bill Meyer, Director of Division of Waste Management, to explain the cost and billing process for clean-up programs for underground

and aboveground storage tanks. Mr. Phil McNally of the Parks and Recreation Department stated the requirements of appraised value of deeded land and ways local government can get matching funds. Mr. Givens stated the local governments must have cash in hand before applying for a grant. Representative Cox moved to amend the bill to say, "donated to". Approved unanimously and amendment was approved. Jack Cozart from Consulting Engineering Council (attachment #5) also made comments as to the bidding process for storage tank spill clean up. Mr. Cozart is against change in the selection process from qualifications to a low-bid process and the section of the bill on line 21, which states, "The Department shall select contractors for performance-based cleanup through a competitive bidding process that is open to all qualified professionals". It was suggested the committee move on the bill before the April 26th crossover deadline. George Givens called attention to a typographical error on page 1, line 16, changing the word contact to contract. The same change is to be made on page 2, line 17 (See attachment #6).

Due to time constraints, HB1063 was carried over to the next Environment and Natural Resources meeting.

The meeting was adjourned at 12:53 pm.

Representative Daniel McComas
Chairman

Linda Uzzle
Committee Assistant

Jayne –

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas & Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 609 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE AMENDMENTS TO THE ADMINISTRATIVE RULE ENTITLED "STANDARDS OF CONSTRUCTION: WATER-SUPPLY WELLS" ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas & Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 609 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE AMENDMENTS TO THE ADMINISTRATIVE RULE ENTITLED "STANDARDS OF CONSTRUCTION: WATER-SUPPLY WELLS" ADOPTED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H D

HOUSE BILL 609
PROPOSED COMMITTEE SUBSTITUTE H609-PCS3391-SB-21

Short Title: Well Construction Standards/Rule Making. (Public)

Sponsors:

Referred to:

March 14, 2001

A BILL TO BE ENTITLED

AN ACT TO SPECIFY THE MINIMUM SEPARATION DISTANCES BETWEEN A WELL SERVING CERTAIN SINGLE-FAMILY DWELLINGS AND CERTAIN OTHER STRUCTURES ON THE SAME LOT AND TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT A TEMPORARY RULE TO INCORPORATE THOSE MINIMUM SEPARATION DISTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. For a well serving a single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in subparagraph (a)(2) of 15A NCAC 2C .0107 (Standards of Construction: Water-Supply Wells), as adopted by the Environmental Management Commission on October 12, 2000, and approved by the Rules Review Commission on November 16, 2000, the required separation distances shall be the maximum possible, but shall in no case be less than the following:

(1)	Septic tank and drainfield	50 feet
(2)	Water-tight sewage or liquid-waste collection or transfer facility	25 feet
(3)	Animal barns	50 feet
(4)	Cesspool or privies	50 feet.

SECTION 2. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management Commission may adopt a temporary rule that incorporates the provisions of Section 1 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until a permanent rule adopted to replace the temporary rule becomes effective.

SECTION 3. Except as provided by Section 1 of this act, this act does not limit the authority of the Environmental Management Commission to adopt rules governing the location, construction, repair, and abandonment of wells pursuant to G.S. 87-87 and Article 2A of Chapter 150B of the General Statutes.

SECTION 4. This act is effective retroactively to the date on which it is ratified. If the Environmental Management Commission adopts a temporary rule as provided in Section 2 of this act, Section 1 of this act expires when the temporary rule becomes effective.

#1A

HOUSE BILL 609:
Well Construction Standards/Rulemaking

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Walend
Date:	April 17, 2001	**Summary by:**	Jeff Hudson Committee Counsel
Version:	Proposed Committee Substitute H609-CSSB-21[v.1]		

SUMMARY: ***The proposed committee substitute CSSB-21 [v.1] for House Bill 609 (Well Construction Standards/Rulemaking) sets out the minimum separation distances required between wells serving single-family dwellings and certain possible sources of contamination where lot size or other fixed conditions preclude the larger separation distances required by the administrative rule that regulates the construction of water supply wells.***

CURRENT LAW: Administrative rule 15A NCAC 2C .0107 (Well Construction Standards Rule) sets out the minimum separation distances required between wells serving single-family dwellings and certain possible sources of contamination. The rule provides exceptions to these general separation distances where lot size or other fixed conditions preclude compliance with the general separation distances.

BACKGROUND: The Environmental Management Commission adopted a number of changes to the Well Construction Standards Rule at its October 12, 2000, meeting. One of these changes provides that the exceptions to the general separation distances would only be available for existing single-family dwellings. This change would preclude application of the exceptions to single-family dwellings constructed after April 1, 2001, the effective date of the changes to the rule. These changes did not become effective April 1, 2001, due to the introduction of House Bill 609 (Disapprove Well Construction Rules).

BILL ANALYSIS: Section 1 of CSSB-21 [v.1] would provide in uncodified law that the exceptions to the general separation distances are available for both existing and future single-family dwellings. Section 2 of CSSB-21 [v.1] would authorize the Environmental Management Commission to adopt a temporary rule that makes these exceptions available for existing and future single-family dwellings. Section 4 of CSSB-21 [v.1] would provide that on the effective date of the temporary rule, the minimum separation distances set out in Section 1 would expire. The Environmental Management could then adopt a permanent rule that differs from the minimum separation distances set out in Section 1. Section 3 would provide that, except as provided in Section 1, CSSB-21 [v.1] does not limit the authority of the Environmental Management Commission to adopt rules governing the location, construction, repair, and abandonment of wells.

While CSSB-21 [v.1] would allow the Environmental Management Commission to adopt a permanent rule that differs from the minimum separation distances set out in Section 1 of the proposed committee substitute in one full permanent rulemaking process, the proposed committee substitute that was adopted by the House Committee on Environment and Natural Resources on Thursday, April 12, 2001, would require the Environmental Management Commission to go through two permanent rulemaking processes in order to adopt a permanent rule that differs from the minimum separation distances set out in Section 1.

H609-CMSB-002

15A NCAC 2C .0107 has been amended with changes as published in 15:5 NCR 549– 554 as follows:

.0107 STANDARDS OF CONSTRUCTION: WATER-SUPPLY WELLS

(a) Location.

(1) The well shall not be located in an area generally subject to flooding. Areas which have a propensity for flooding include those with concave slope, alluvial or colluvial soils, gullies, depressions, and drainage ways.

(2) The minimum horizontal separation between a well, intended for a single-family residence or other non-public water system, and potential sources of groundwater ~~contamination.~~ contamination, which exists at the time the well is constructed, shall be as follows unless otherwise specified:

(A) Septic tank and drainfield ..... 100 ft.

(B) Other subsurface ground absorption waste disposal system ..... 100 ft.

(C) Industrial or municipal sludge-spreading or wastewater-irrigation sites ..... 100 ft.

(D) Water-tight sewage or liquid-waste collection or transfer facility ..... 50 ft.

(E) Other sewage and liquid-waste collection or transfer facility ..... 100 ft.

(F) Cesspools and privies ..... 100 ft.

(G) Animal feedlots or manure piles ..... 100 ft.

(H) Fertilizer, pesticide, herbicide or other chemical storage areas ..... 100 ft.

(I) Non-hazardous waste storage, treatment or disposal lagoons ..... 100 ft.

(J) Sanitary landfills ..... 500 ft.

(K) Other non-hazardous solid waste ~~landfills~~ landfills, such as Land Clearing and Inert Debris (LCID) landfills ..... 100 ft.

(L) Animal barns ..... 100 ft.

(M) Building ~~foundations~~ foundations, excluding the foundation of a structure housing the well head ..... ~~50 ft.~~ 25 ft.

(N) Surface water bodies which act as sources of groundwater recharge, such as ponds, lakes and reservoirs ..... 50 ft.

(O) All other surface water bodies, such as brooks, creeks, streams, rivers, sounds, bays and tidal estuaries ..... 25 ft.

~~(O)~~ (P) Chemical or petroleum fuel underground storage tanks regulated under 15A NCAC 2N:

(i) with secondary containment ..... 50 ft.

(ii) without secondary containment ..... 100 ft.

(Q) Above ground or underground storage tanks which contain petroleum fuels used for heating equipment, boilers or furnaces ..... 50 ft.

~~(P)~~ (R) All other potential sources of groundwater contamination ..... ~~100 ft.~~ 50 ft.

(3) For a well serving ~~a~~ an existing single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in Subparagraph (a)(2) of this Rule, the required separation distances shall be the maximum possible but shall in no case be less than the following:

(A) Septic tank and drainfield ..... 50 ft.

(B) Water-tight sewage or liquid-waste collection or transfer facility . . . . . 50 ft.

~~(C) Building foundations . . . . . 25 ft.~~

(C) Animal barns . . . . . 50 ft.

~~(C)~~(D) Cesspool or privies . . . . . 50 ft.

(4) A well or well system, serving more than one single-family dwelling but with a designed capacity of less than 100,000 gpd, must meet the separation requirements specified in Subparagraph (a) (2) of this Rule;

(5) A well or well system with a designed capacity of 100,000 gpd or greater must be located a sufficient distance from known or anticipated sources of groundwater contamination so as to prevent a violation of applicable groundwater quality standards, resulting from the movement of contaminants, in response to the operation of the well or well system at the proposed rate and schedule of pumping;

(6) Actual separation distances must conform with the most stringent of applicable federal, state or local requirements;

(7) Wells drilled for public water supply systems regulated by the Division of Environmental Health shall meet the siting and all other requirements of that Division.

(b) Source of water.

(1) The source of water for any well intended for domestic use shall not be from a water bearing zone or aquifer that is known to be contaminated;

(2) In designated areas described in ~~Rule~~ 15A NCAC 2C .0117 of this Section, the source shall be greater than 35 feet;

(3) In designated areas described in ~~Rule~~ 15A NCAC 2C .0116 of this Section, the source may be less than 20 feet, but in no case less than 10 feet; and

(4) In all other areas the source shall be at least 20 feet below land surface.

(c) Drilling Fluids and Additives. Drilling Fluids and Additives shall not contain organic or toxic substances or include water obtained from surface water bodies or water from a non-potable supply and may be comprised only of:

(1) the formational material encountered during drilling; or

(2) materials manufactured specifically for the purpose of borehole conditioning or water well construction.

(d) Casing.

(1) If steel casing is used, then:

(A) The casing shall be new, seamless or electric-resistance welded galvanized or black steel pipe. Galvanizing shall be done in accordance with requirements of ASTM A-120.

(B) The casing, threads and couplings shall meet or exceed the specifications of ASTM A-53, A-120 or A589.

(C) The minimum wall thickness for a given diameter shall equal or exceed that specified in Table 1.

#2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1108

Short Title:	Person/Caswell Lake Eligible for Trust Funds.	(Public)
Sponsors:	Representative Crawford.	
Referred to:	Environment and Natural Resources.	

April 11, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PUBLIC AUTHORITIES ARE ELIGIBLE FOR GRANTS FROM THE PARKS AND RECREATION TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

SECTION 2. This act is effective when it becomes law and applies to grants awarded on or after that date.

#2A

HOUSE BILL 1108:
Person/Caswell Lake Eligible for Trust Funds.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Crawford
Date:	April 17, 2001	**Summary by:**	Tim Dodge, Research Assistant
Version:	First Edition		

SUMMARY: ***House Bill 1108 would make public authorities eligible for grants from the North Carolina Parks and Recreation Trust Fund.***

The bill would become effective when it becomes law.

CURRENT LAW: The North Carolina Parks and Recreation Authority is authorized to allocate thirty percent (30%) of the funds available in the Parks and Recreation Trust Fund (Fund) to *local governmental units* for local park and recreation purposes through its matching grants program. Under G.S. 159-7, public authorities are defined separately from local governmental units, creating an eligibility question for grants and funds under this category.

BILL ANALYSIS: House Bill 1108 would allow public authorities to receive grants from the Fund by specifying that public authorities be eligible to receive matching funds. The definition of a public authority under G.S. 159-7 includes:

- A Municipal corporation other than a unit of local government that is not subject to the Executive Budget Act, or
- A local government authority, board, commission, council, or agency that is (i) not a municipal corporation, (ii) is not subject to the Executive Budget Act, and (iii) operates on an area, regional, or multi-unit basis and whose budgeting and accounting systems are not fully a part of the budgeting and accounting systems of a unit of local government.

The bill would become effective when the bill becomes law and would apply to grants awarded on or after that date.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
H.B. 1108 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT PUBLIC AUTHORITIES ARE ELIGIBLE FOR GRANTS FROM THE PARKS AND RECREATION TRUST FUND.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen) #3

EDITION No. 1

H. B. No. 1108 DATE 17 April 2001

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Cox
~~Sen.~~)

moves to amend the bill on page 1, line 15

( ) WHICH CHANGES THE TITLE

by inserting, after the period on that line,

"The appraised value of land donated to a local government unit or public authority may be ~~used to~~ applied to the matching requirement of this subdivision."

SIGNED _____

Adopted

ADOPTED 17 April 2001 FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H **1**

HOUSE BILL 1108

Short Title: Person/Caswell Lake Eligible for Trust Funds. (Public)
Sponsors: Representative Crawford.
Referred to: Environment and Natural Resources.

April 11, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PUBLIC AUTHORITIES ARE ELIGIBLE FOR GRANTS FROM THE PARKS AND RECREATION TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

SECTION 2. This act is effective when it becomes law and applies to grants awarded on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 2

HOUSE BILL 1108
Committee Substitute Favorable 4/19/01

Short Title: Person/Caswell Lake Eligible for Trust Funds. (Public)

Sponsors:

Referred to:

April 11, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PUBLIC AUTHORITIES ARE ELIGIBLE FOR GRANTS FROM THE PARKS AND RECREATION TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The approved value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used

by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

SECTION 2. This act is effective when it becomes law and applies to grants awarded on or after that date.

#4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1063*

Short Title:	Pay for Performance/LUST Cleanups.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94B is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Commercial Fund that are not otherwise obligated for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a commercial underground storage tank. The Department may contact for performance-based cleanups with licensed professionals, including Professional Engineers, Professional Geologists, Registered Environmental Consultants, and other professional consultants that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select contractors for performance-based cleanup through a competitive bidding process that is open to all qualified professionals. The Department shall award a performance-based contract to the qualified contractor who submits the lowest responsible bid."

SECTION 2. G.S. 143-215.94D is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Noncommercial Fund that are not otherwise obligated

for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a noncommercial underground storage tank. The Department may contact for performance-based cleanups with licensed professionals, including Professional Engineers, Professional Geologists, Registered Environmental Consultants, and other professional consultants that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select contractors for performance-based cleanup through a competitive bidding process that is open to all qualified professionals. The Department shall award a performance-based contract to the qualified contractor who submits the lowest responsible bid."

SECTION 3. G.S. 143-215.94G is amended by adding a new subsection to read:

"(a3) The Department may implement the provisions of subsection (a) of this section as provided in G.S. 143-215.95B(f) and G.S. 143-215.94D(f)."

SECTION 4. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission may adopt temporary rules to implement this act until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Secretary shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Secretary shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 5. This act becomes effective 1 July 2001.

#4A

HOUSE BILL 1063:
Pay for Performance/LUST Cleanups.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Tim Dodge, Research Assistant
Date:	April 17, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1063 would allow the Department of Environment and Natural Resources (Department) to allocate up to fifty percent (50%) of the available funds in the Commercial and Noncommercial Underground Storage Tank Trust Fund for performance-based cleanups of petroleum-contaminated sites. The bill would also grant authority to the Department for implementation of the pay-for-performance program, as well as authorize the Environmental Management Commission (EMC) to develop temporary rules for implementation of the program.***

The bill would become effective on July 1, 2001.

CURRENT LAW: The Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Commercial Fund) and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Noncommercial Fund) were established by the General Assembly in 1988 to pay for the costs, above applicable deductibles, of cleanup at underground storage tank (UST) sites. Both funds pay for cleanup costs on a time and materials basis, based on reasonable rate guidelines.

BILL ANALYSIS: House Bill 1063 would allow the Department to implement performance-based cleanup programs for both the Commercial Fund and the Noncommercial Fund, using up to fifty percent (50%) of the funds available in each fund on a quarterly basis. The pay-for-performance program allows the Department to select qualified contractors for site cleanup using a competitive bidding process. The critical elements of a performance-based contract include the timeline for cleanup and the cleanup cost.

House Bill 1063 also grants the Department authority to use performance-based cleanups at sites under investigation or cleanup by the Department under G.S. 143-215.94G. In addition, House Bill 1063 grants the EMC temporary rule-making authority until July 1, 2002, in order to implement rules to administer the pay-for-performance program.

A companion bill, Senate Bill 956, was introduced by Senator Odom and is currently in the Senate Agriculture, Environment, and Natural Resources Committee. The bill would become effective on July 1, 2001.

HOUSE BILL 1060/HOUSE BILL 1063
PAY FOR PERFORMANCE (PFP)

COMPONENTS OF A LEAKING UNDERGROUND STORAGE TANK CLEANUP

- DISCOVERY
- ASSESSMENT (DEFINE THE EXTENT)
- CORRECTIVE ACTION PLAN
- DESIGN
- CONSTRUCTION
- OPERATION AND MAINTENANCE (Data evaluation and refinements responding to site specific conditions)

WHAT IS THE QUALIFICATION BASED SELECTION (QBS) PROCESS?

- A procurement process for selection of design professionals based on qualifications and competence in relation to the work to be performed. Once selected, the project scope is better defined and the fee negotiated.

- A process that has proven to reduce the costs of projects while simultaneously improving the quality of the work product.

- A process that have been proven to save money by selecting a qualified contractor **before** the work is awarded and negotiating a contract that all parties are comfortable with.

- A process where the benefit of the design professional's innovation and creativity (which will be used throughout the project) is not lost because focus is on meeting lowest price obtained through competitive bidding.

- A process that has proven to provide the greatest protection of life, health, property and public welfare.

- A process required by North Carolina General Statute 143-64.

CURRENT SELECTION PROCESS FOR LUST CLEANUPS

- Responsible party selects firm.
- Responsible party, firm and NCDENR work closely on cleanup activities.
- The NCDENR monitors progress and approves recommended approach and adjustments to optimize cleanup.
- Responsible party remains in partnership with the cleanup firm and NCDENR.

HOW WILL THE PROPOSED PFP PROGRAM AFFECT THIS PARTNERSHIP?

- Invites costly and time-consuming litigation by placing the cleanup firm and the NCDENR in an adversarial role.
- The partnership erodes further as responsible parties tend to completely remove themselves from the partnership and the NCDENR's role changes from partner/regulator to "money-manager".
- Risk is transferred from the responsible party to the selected firm.
- Decisions may be influenced and risks analyzed based on financial implications and not the optimization of cleanup or protecting health, property and public welfare (e.g. financial portfolio management).

IS THE DATA PRESENTED CONCERNING OTHER PFP PROGRAMS MISLEADING?

IN FLORIDA, PFP HAS REDUCED CLEANUP COSTS 66%.

- The majority of PFP work in Florida is negotiated.*

Source: Rebecca Lockenbach – Florida Department of Environmental Protection

IN SOUTH CAROLINA, CLEANUP COSTS HAVE BEEN REDUCED 50%.

- Only 6 out of 181 sites have been cleaned up (3%). The very first PFP contract awarded is still under remediation. Can we measure the success of a program based on a 3% success rate?
- How can the actual cost of cleanup be determined when only 3% of the sites have been cleaned up? Does the bid price accurately reflect the actual cost for cleanup?
- Has enough time elapsed to allow "troubled" sites to enter litigation? Is a timebomb ticking?

IN OKLAHOMA, AN ESTIMATED $4.7 MILLION HAS BEEN SAVED ON 37 PFP SITES

- Oklahoma uses qualification-based selection and negotiation exclusively.**
- Their success has been in keeping all parties involved – the State, responsible party and the chosen firm.**

**Source: Dave Kelley – Deputy Director, Oklahoma Petroleum Storage Tank Division*

WHAT ARE THE REAL COST SAVINGS OF PFP?
ARE WE COMPARING APPLES TO APPLES?

- The majority of the sites currently under remediation are being cleaned up to the North Carolina Groundwater Quality Standards. It appears the PFP program will establish cleanup goals at less restrictive, risk-based standards. Does the real cost savings lie in the reduced cleanup levels?

IS COMPETITIVE BIDDING THE ANSWER TO LUST CLEANUPS – REAL LIFE COMPARISONS

IF YOU LIVED NEXT DOOR TO A CONTAMINATED SITE, ASK YOURSELF THE FOLLOWING QUESTIONS:

- Would you feel comfortable knowing the firm selected to cleanup the site was selected solely based on cost.
- Would you feel comfortable knowing that the responsible party and the NCDENR have taken a passive interest in the cleanup activities at the site?
- Would you feel comfortable knowing that the firm may be managing numerous sites like a stock portfolio, investing in the high returners and performing damage control on the "losers"?

IF A FAMILY MEMBER WERE FACED WITH CANCER, ASK YOURSELF THE FOLLOWING QUESTIONS:

- Would you allow your health care provider to select your doctor based on the lowest price?
- Would you ignore the progress of treatment because the doctor had assumed the financial risk and "guaranteed" a cure?
- Would you feel comfortable knowing that the doctor is only compensated based on success, and that his attention may be diverted to other patients who are responding better to treatment.

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1063 Tarrant

1109 Rd. thence

~~1257 to the point of~~

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1063*

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

H1063-ART-3 [v.1]

Date _____,2001

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

Representative Gibson

Moves to amend the bill on page 1, line 16 by deleting the word "contact" and substituting the word "contract"; and

On page 2, line 7 by deleting the word "contact" and substituting the word "contract".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1063*

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

H1063-ART-3 [v.1]

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RES. 4-17-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kurt Blevins	377 Crossroads Blvd. Suite 1K, Ft. Mill, SC 29708 CBM Environ. Services Inc.
J. K. HARRELL	HARRELL OIL COMPANY OF MOUNT AIRY, INC 514-16 FOREST DRIVE, MOUNT AIRY, NC 27030
Gary Harris	NCPMA
Doug Hovey	NCPMA
Bill Cook	Gucom Assoc. Inc 7309 RIDGE GROVE CT RALEIGH, NC. 27615
Linda Sewell	DEH / DENR
Matt Curran	5804 Heatherbrook Ct. Raleigh, NC 27612
THOMAS WARBURTON	CBM Environmental Services 101. W 14th St. Ste 107 Greenville NC 27858
Tris McKnelly	DENR / DPR
Bill Meyer	DENR / DWM
Dave Mathews	DENR / DWM
Burrie Boshoff	DENR / DWM
~~Lillian Hodgson~~ DeVan	DENR
Robin Smith	DENR
MATT EINSMANN	CEC / PENC
David Pond	CEC / PENC & Wk Dickson
DAN DAWSON	" " " " "
Chuck Donnell	CEC / PENC & The Rose Group, Inc.
Ed Rega	N.C.A.C.C.
Paul Meyer	NCACC
Drew Nelson	Rep. Hackney's Office
John Maynard	CEC/PENC & ARCADIS
~~Steve E Mason~~	CEC / Geoscience & Technology, P.A.
~~[illegible]~~	NCSSA
RICHARD C. WELLS	CEC/PENC - TRIGON ENGINEERING
William T. Sabata	CEC/PENC - ARCADIS G&M Inc. of NC
Rusty Norris	CEC/PENC
DARIN McCLURE	CEC/PENC

VISITOR REGISTRATION SHEET

Environment and Natural Res. 4-17-01
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jack Cogburt	CEC NC
BRUCE THOMPSON	PARKER POE ADAMS & BERNSTEIN
Bob miller	CEC / Kimley-Horn & Associates
John Eick	CEC / Carter & Burgess
Ken Carper	PENC / Env. Committee

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

April 19, 2001

The House Committee on ENVIRONMENT & NATURAL RESOURCES met on Thursday, April 19, 2001 in Room 643 of the Legislative Office Building at 12:00 Noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice Chairmen Cox, Underhill and Weiss and Representatives Allen, Bowie, Culp, Gray, Gulley, Hackney, Miner, Mitchell, Preston, Tucker and Warner. George Givens and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative McComas called the meeting to order at 12:00 Noon. The Cochairman called on Cochairmen Gibson to present the first bill to the committee.

Representative Gibson explained HB 1063, AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS (see attachments 1 and 2). Representative Gibson offered a technical amendment to correct a typographical error on page 1, line 16 and page 2, line 7 to replace the word "contact" with "contract". Cochairman Weiss moved to adopt the amendment. The committee voted to adopt the amendment (see attachment 3). After discussion of the bill by the committee, it was determined that the Professional Engineers of North Carolina needed more time to work with the bill. Representative Gibson stated that if the bill were passed out of committee, then it would not be heard on the floor until the following Tuesday or Wednesday in order to give the Professional Engineers more time. Representative Culp moved to incorporate the amendment into the original bill and to give it a favorable report, unfavorable to the original bill. The motion was adopted.

Representative McComas called on Representative Gibson to present HB1009, AN ACT TO EXPAND AND MAKE CONSISTENT THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL ALLOW FOR RISK-BASED REMEDIAL ACTIONS (see attachment 4). Representative Gibson explained the bill (see attachment 5). Representative Gibson added that this bill was a more logical approach to Remedial Regulation and would give the State more for the money it spends and be a more efficient way to handle more cleanups. Representative Bowie moved for a favorable report at the proper time. After Representative Hackney made several comments concerning giving the Secretary of

Environment & Natural Resources rulemaking authority and taking it away from citizen based boards and that this bill would result in less cleanups, Representative Hackney offered an amendment to give joint rulemaking authority to the Environmental Management Commission and the Commission for Health Services (see attachment 6).

Representative Gibson urged the committee to defeat the amendment because it would make the situation worse than it is now. Representative Tucker called for the ayes and nos. Representative McComas asked the Committee Assistant to call the roll. The amendment failed (see attachment 7).

Cochairman McComas adjourned the meeting at 1:00 PM.

Representative Daniel F. McComas
Cochairman (presiding)

Jayne Nelson Walton
Committee Assistant

4-19-01 Att # 1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H **1**

HOUSE BILL 1063*

Short Title:	Pay for Performance/LUST Cleanups.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

April 10, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94B is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Commercial Fund that are not otherwise obligated for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a commercial underground storage tank. The Department may contact for performance-based cleanups with licensed professionals, including Professional Engineers, Professional Geologists, Registered Environmental Consultants, and other professional consultants that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select contractors for performance-based cleanup through a competitive bidding process that is open to all qualified professionals. The Department shall award a performance-based contract to the qualified contractor who submits the lowest responsible bid."

SECTION 2. G.S. 143-215.94D is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Noncommercial Fund that are not otherwise obligated

for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a noncommercial underground storage tank. The Department may contact for performance-based cleanups with licensed professionals, including Professional Engineers, Professional Geologists, Registered Environmental Consultants, and other professional consultants that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select contractors for performance-based cleanup through a competitive bidding process that is open to all qualified professionals. The Department shall award a performance-based contract to the qualified contractor who submits the lowest responsible bid."

SECTION 3. G.S. 143-215.94G is amended by adding a new subsection to read:

"(a3) The Department may implement the provisions of subsection (a) of this section as provided in G.S. 143-215.95B(f) and G.S. 143-215.94D(f)."

SECTION 4. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission may adopt temporary rules to implement this act until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Secretary shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Secretary shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 5. This act becomes effective 1 July 2001.

4-19-01 Att 2

HOUSE BILL 1063:
Pay for Performance/LUST Cleanups.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Tim Dodge, Research Assistant
Date:	April 19, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1063 would allow the Department of Environment and Natural Resources (Department) to allocate up to fifty percent (50%) of the available funds in the Commercial and Noncommercial Underground Storage Tank Trust Fund for performance-based cleanups of petroleum-contaminated sites. The bill would also grant authority to the Department for implementation of the pay-for-performance program, as well as authorize the Environmental Management Commission (EMC) to develop temporary rules for implementation of the program.***

The bill would become effective on July 1, 2001.

CURRENT LAW: The Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Commercial Fund) and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Noncommercial Fund) were established by the General Assembly in 1988 to pay for the costs, above applicable deductibles, of cleanup at underground storage tank (UST) sites. Both funds pay for cleanup costs on a time and materials basis, based on reasonable rate guidelines.

BILL ANALYSIS: House Bill 1063 would allow the Department to implement performance-based cleanup programs for both the Commercial Fund and the Noncommercial Fund, using up to fifty percent (50%) of the funds available in each fund on a quarterly basis. The pay-for-performance program allows the Department to select qualified contractors for site cleanup using a competitive bidding process. The critical elements of a performance-based contract include the timeline for cleanup and the cleanup cost.

House Bill 1063 also grants the Department authority to use performance-based cleanups at sites under investigation or cleanup by the Department under G.S. 143-215.94G. In addition, House Bill 1063 grants the EMC temporary rule-making authority until July 1, 2002, in order to implement rules to administer the pay-for-performance program.

A companion bill, Senate Bill 956, was introduced by Senator Odom and is currently in the Senate Agriculture, Environment, and Natural Resources Committee. The bill would become effective on July 1, 2001.

4-19-01 AH #3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1063*

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

H1063-ART-3 [v.1]

Date 19 April ,2001

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

Representative Gibson

Moves to amend the bill on page 1, line 16 by deleting the word "contact" and substituting the word "contract"; and

On page 2, line 7 by deleting the word "contact" and substituting the word "contract".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 19 April 2001 FAILED _____ TABLED _____

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1063 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

4-19-01 AH#4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1009*

Short Title:	Consistent Risk-Based Remedial Actions.	(Public)
Sponsors:	Representatives Gibson, Baker, Allen (Primary Sponsors); Arnold, Cole, Cox, Creech, Culp, Daughtry, Fox, Harrington, Hill, Holmes, McMahan, Morris, Owens, Smith, Underhill, Warwick, Weatherly, and Wright.	
Referred to:	Environment and Natural Resources.	

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO EXPAND AND MAKE CONSISTENT THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL ALLOW FOR RISK-BASED REMEDIAL ACTIONS.

Whereas, the General Assembly finds that there are contaminated areas in North Carolina, including land and other property, surface water, and groundwater, that are adversely affected by environmental contamination due to the presence of drilling waste; hazardous and toxic materials, substances, and wastes; solid waste; oil; and other wastes, contaminants, and regulated substances; and

Whereas, the General Assembly finds that the presence of environmental contamination on these areas creates both potential and actual harm to public health, safety, and welfare, and to the environment; and

Whereas, the General Assembly finds that this potential and actual harm results in substantial economic losses, including reduced property values and tax revenues; decreased ability to develop and expand the beneficial use of these areas; and other opportunity costs because of the uncertainties and concerns that result from the environmental contamination of these areas; and

Whereas, the General Assembly finds that it is in the public interest that contaminated areas are cleaned up or managed in a manner that protects public health, safety, and welfare and the environment using procedures that are based in sound science and that can be voluntarily and independently implemented in a timely and practical fashion without overburdening State resources; and

Whereas, the General Assembly finds that North Carolina has numerous and varied State-managed remediation programs to address environmental contamination, including the Inactive Hazardous Sites Response Act of 1987, the hazardous waste management program administered by the State pursuant to the federal Resource

Conservation and Recovery Act of 1976, the Leaking Petroleum Underground Storage Tank Cleanup Act of 1988, the Brownfields Property Reuse Act of 1997, the Dry-Cleaning Solvent Cleanup Act of 1997, the federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986, and the groundwater protection rules adopted by the Environmental Management Commission; and

Whereas, the General Assembly finds that these remediation programs utilize varying standards, levels, protocols, means, methods, techniques, interpretations, and other requirements and apply various federal regulations and State rules applicable to testing, monitoring, assessing, prioritizing, characterizing, and cleanup or remediation of contaminated areas; and

Whereas, the General Assembly finds that these varying standards cause confusion and delay and create the potential for inappropriate levels of remediation, including both the possibility that inadequate remediation at some sites may result in potential or actual harm to public health, safety, or welfare or the environment, and the possibility that unnecessary remediation at other sites may result in excessive and wasteful expenditure of public and private resources; and

Whereas, the General Assembly finds that the expenditure of public and private resources on unnecessary remediation could better be channeled to other purposes, including new development, renovation and repair, research and development, training and education, and other activities that maintain and enhance North Carolina's competitive position in the world and the excellent quality of life enjoyed by the citizens of North Carolina; and

Whereas, the General Assembly finds that public health, safety, and welfare and the environment can best be protected by implementing a uniform remediation process that requires that contaminated areas be cleaned up to a level that is sufficient to ensure protection of public health, safety, and welfare and the environment without excessive expenditure of public or private resources; and

Whereas, the General Assembly finds that this remediation process should be based on an objective, scientific, and uniform approach to the evaluation of the risk posed by each contaminated area and to the determination of the appropriate level of remediation to address contamination in a manner that is protective of public health, safety, and welfare and the environment; and

Whereas, the General Assembly finds that this approach should be applied to each contaminated area on a site-specific basis using knowledge of the area, the contaminants present, the effects of those contaminants on public health, safety, and welfare, and the actions of those contaminants in, and their effect on, the environment; and

Whereas, the General Assembly intends that the levels of remediation that are established for each contaminated area are to be applicable or relevant and appropriate standards under federal remediation programs; and

Whereas, the General Assembly intends that the protections afforded to public health, safety, and welfare and to the environment by existing environmental,

health, and safety standards that apply to ongoing activities not be diminished in any way, in order that those standards will continue to protect against the discharge or release of contaminants to the environment that would result in additional contaminated areas; Now, therefore,

The General Assembly of North Carolina enacts:

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

"**§ 143B-279.11. Adoption of rules for risk-based remediation.**

(a) As used in this section:

(1) 'Contaminant' has the same meaning as in G.S. 130A-310.31.

(2) 'Department' means the Department of Environment and Natural Resources.

(3) 'Environmental contamination' has the same meaning as in G.S. 130A-310.31.

(4) 'Regulated substance' has the same meaning as in G.S. 130A-310.31.

(5) 'Remediation' means all actions that are necessary or appropriate to address the presence and effects of environmental contamination, including, without limitation, all testing, monitoring, studying, assessing, prioritizing, characterizing, preparing, restoration, cleanup, treatment, and other actions necessary or appropriate to remove, reduce, isolate, immobilize, encapsulate, mitigate, or otherwise address environmental contamination, including, without limitation, all actions that would qualify as remediation as defined in G.S. 130A-310.31.

(6) 'Secretary' means the Secretary of Environment and Natural Resources.

(b) The Secretary shall adopt rules to establish a consistent and uniform risk-based approach to the assessment, prioritization, and remediation of environmental contamination. The rules shall provide for:

(1) The assessment of the contaminated area, including types and levels of contamination and the risk to public health, safety, and welfare and the environment posed by the contamination.

(2) The anticipated future uses of the property comprising the contaminated area.

(3) The acceptable level or range of levels of risk to public health, safety, and welfare and environment

(4) The process for determining an appropriate method of remediation to achieve an acceptable level or range of levels of risk.

(5) The process for determining whether a risk-based approach to remediation under the rules is appropriate for a particular contaminated area.

(6) The process for establishing, for each contaminant, the maximum allowable quantity, concentration, range, or other measure of contamination that will remain at the contaminated area at the conclusion of active remediation.

(7) The level of oversight of the remediation that will be exercised by the Department.

(8) The determination or certification that the quantity, concentration, range, or other measure of each contaminant remaining at the contaminated area at the conclusion of active remediation does not exceed the maximum allowable maximum.

(9) The determination or certification that an acceptable level or range of levels of risk has been achieved and that no further remediation is required.

(10) Any other matter that the Secretary determines to be necessary to carry out the intent of this section.

(c) The Department may require any person who is responsible for the environmental contamination and any person who voluntarily undertakes remediation of the environmental contamination to provide information necessary to determine the degree of risk to public health, safety, and welfare and to the environment that is posed by any environmental contamination, either before or after remediation is completed.

(d) If the Department concludes that the environmental contamination poses a degree of risk to public health, safety, or welfare or the environment that is no greater than the acceptable level of risk established by the Department, the Department shall notify the person who provides the information required pursuant to subsection (c) of this section that no further remediation or action will be required unless the Department later determines, on the basis of additional information or as a result of a change in conditions in the contaminated area, that the remaining environmental contamination poses an unacceptable level of risk to public health, safety, or welfare or the environment.

(e) This section and rules adopted pursuant to this section shall not be construed to limit the authority of the Department to require investigation, initial response, or remediation of environmental contamination under any other provision of law pending a determination by the Department, under rules adopted pursuant to this section, that a risk-based approach to remediation of a contaminated area is appropriate, or if the Department determines that a risk-based approach to remediation of the contaminated area is not appropriate. This section and rules adopted pursuant to this section shall not be construed or implemented in any manner that reduces the requirements of programs that are intended to avoid or mitigate the release or discharge of contaminants to the environment that would result in additional environmental contamination.

(f) Rules adopted pursuant to this section shall apply uniformly to the remediation of environmental contamination under:

(1) The Inactive Hazardous Sites Response Act of 1987, G.S. 130A-310, et seq.

(2) The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976 Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended.

(3) The Leaking Petroleum Underground Storage Tank Cleanup Act of 1988, G.S. 143-215.94A, et seq.

(4) The Brownfields Property Reuse Act of 1997, G.S. 130A-310.30, et seq.

(5) The Dry-Cleaning Solvent Cleanup Act of 1997, G.S. 143-215, et seq.

(6) The federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, and G.S. 130A-310.20, et seq.

(7) The groundwater protection program adopted by the Environmental Management Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(g) A person who undertakes remediation of environmental contamination may elect to proceed under either the applicable provisions of law set out in subsection (f) of this section and rules adopted pursuant to those provisions or under the rules adopted pursuant to this section. If a person elects to proceed under rules adopted pursuant to this section, the rules adopted pursuant to this section shall supersede rules adopted pursuant to the provisions of law set out in subsection (f) of this section. If a person elects to proceed under rules adopted pursuant to this section, any maximum allowable quantity, concentration, limit, or other measure of contamination that is allowed to remain at the contaminated area at the conclusion of active remediation that is established under the rules will supersede rules adopted under other provisions of law

(h) Rules adopted pursuant to this section shall be based on an evaluation of all reasonably foreseeable risks presented to public health, safety, and welfare and the environment by environmental contamination, and shall be based on all relevant and reasonably available scientific information pertaining to those risks. The rules shall be written so that they can be interpreted and implemented with a reasonable degree of effort and expense. The rules may provide for reasonable distinctions among contaminated areas based on any relevant factor, including the nature and extent of the environmental contamination, the risk of harm posed by the contamination to public health, safety, and welfare and the environment, the size and complexity of the contaminated area, and the current and anticipated future uses of the contaminated area and adjacent lands.

(i) Rules adopted pursuant to this section shall require that any assumption about the future use of the contaminated area on which a level or range of levels of risk is based be reflected in appropriate restrictions on the future use of the property as provided in G.S. 143B-279.9 and that the restrictions be recorded in accordance with G.S. 143B-279.10.

(j) Rules adopted pursuant to this section shall provide for the use of licensed professionals, including Professional Engineers, Professional Geologists, and Registered Environmental Consultants, in the assessment, prioritization, and remediation of

environmental contamination. The rules shall specify the circumstances under which work performed by a licensed professional is presumed to comply with the rules."

SECTION 2. The Secretary of Environment and Natural Resources shall adopt rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act, on or before 1 October 2002. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Secretary may adopt temporary rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act until 1 October 2002. Prior to the adoption of a temporary rule under this section, the Secretary shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Secretary shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 3. The Secretary of Environment and Natural Resources shall use all reasonable efforts to obtain a written agreement from the United States Environmental Protection Agency that G.S. 143B-279.11, as enacted by Section 1 of this act, and the rules adopted by the Secretary pursuant to G.S. 143B-279.11 are consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

SECTION 5. On or before 1 October 2004, the Department of Environment and Natural Resources shall report to the Environmental Review Commission as to the steps the Secretary of Environment and Natural Resources and the Department have taken to implement this act. The report shall include information on the adoption of rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act, the number of contaminated areas that have been proposed for remediation under the rules, the number of contaminated areas that are undergoing active remediation under the rules, the number of contaminated areas at which remediation under the rules has been completed, the number of contaminated areas that are known or believed to be appropriate for remediation under the rules, the number of contaminated areas for which the Department has determined that a risk-based approach to remediation under the rules is not appropriate and the reasons for each determination, and information regarding licensed professionals who are involved in the implementation of remediation under the rules.

SECTION 6. This act is effective when it becomes law.

4-19-01 AM # 5

HOUSE BILL 1009:
Consistent Risk-Based Remedial Actions.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Gibson, Baker, and Allen
Date:	May 2, 2001	**Summary by:**	George Givens, Committee Counsel, Tim Dodge, Research Assistant
Version:	First Edition		

SUMMARY: ***House Bill 1009 directs the Department of Environment and Natural Resources (Department) to develop a risk-based approach to environmental cleanup as a voluntary alternative to certain State cleanup programs. The Secretary of Environment and Natural Resources would adopt rules to implement the risk-based program, including methods to assess, prioritize, and remediate contaminated sites that would apply to a wide range of contaminants. The rules would be consistently applied to cleanup activities, but would allow for reasonable distinctions among contaminated areas based on relevant factors such as (i) the nature of the environmental contamination, (ii) the risk of harm posed by the contamination, (iii) the size and complexity of the contaminated area, and (iv) the current and anticipated future uses of the contaminated area and adjacent lands.***

The bill would become effective when it becomes law.

CURRENT LAW: North Carolina, in conjunction with the federal government, has implemented numerous programs for remediation of environmental contamination. Based on the source, location, and nature of the contaminants present, requirements for oversight and cleanup are established within the applicable program. In some cases, a site may come under the authority of multiple programs. Each program has its own standards, methods, and requirements, which may vary from one program to another. Some, but not all programs, currently include provisions for risk-based remediation.

BILL ANALYSIS: Section 1 of House Bill 1009 directs the Secretary of Environment and Natural Resources (Secretary) to develop and adopt rules creating a uniform, risk-based approach for remediation of environmental contamination. A "risk-based" process would include an evaluation of the current and future risk posed by each contaminated area and a determination of the appropriate level of remediation necessary to protect public health, safety, welfare, and the environment. The rules would include the following steps:

- Assessment of the site;
- Analysis of the current and anticipated future uses of the contaminated property;
- Determination of acceptable level of risk based on the current and anticipated future use;
- Identification of appropriate remedial methods;
- Determination of the appropriateness of the use of the risk-based approach on the particular site;
- Establishment of less than pristine standards or methods to determine such standards for each contaminant;
- Certification of remediation goals and activities; and

- Establishment of measures necessary for closure of the site.

The bill would allow a person to choose to remediate a contaminated site under the guidance of the existing applicable programs, or may elect to proceed under the risk-based guidelines. Risk-based remediation would be available for contaminants subject to the following programs:

- The Inactive Hazardous Sites Response Act of 1987.[1]
- The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976.[2]
- The Leaking Petroleum Underground Storage Tank Cleanup Act of 1988.[3]
- The Brownfields Property Reuse Act of 1997.[4]
- The Dry-Cleaning Solvent Cleanup Act of 1997.[5]
- The federal Superfund Program administered in part by the State pursuant to CERCLA[6] and SARA.[7]
- The groundwater protection program adopted by the Environmental Management Commission (EMC) pursuant to Article 21 of Chapter 143 of the General Statutes.

The rules and standards applicable to the chosen alternative would apply to remediation activities and would supersede any rules pursuant in the alternative that was not chosen. Subsection (i) requires that any assumption of future use of the contaminated area be reflected in appropriate restrictions of the future uses of the property and that the restrictions be recorded in accordance with G.S. 143B-279.9 and G.S. 143 B-279.10.

In addition, the bill directs the Secretary to use all reasonable efforts to obtain a written agreement from the United States Environmental Protection Agency (EPA) stating that the risk-based approach developed by the State is consistent with federal requirements for the CERCLA and SARA programs.

Lastly, the bill directs the Secretary to adopt rules to implement the act on or before October 1, 2002 and authorizes the Secretary to adopt temporary rules for that purpose until that date. The Department is also required to report to the Environmental Review Commission on the progress of implementing the provisions of this bill on or before October 1, 2004.

The bill becomes effective when the bill becomes law.

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[1] G.S. 130A-310, et seq.
[2] 42 U.S.C. § 6901, et seq., as amended.
[3] G.S. 143-215.94A, et seq.
[4] G.S. 130A-310.30, et seq.
[5] G.S. 143-215, et seq.
[6] The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., as amended.
[7] The Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, and G.S. 130A-310.20, et seq.

4-19-01 AH #6

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1009 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Hackney
~~Sen.~~)

moves to amend the bill on page 3, line 26

( ) WHICH CHANGES THE TITLE

by deleting the words "Secretary shall"

and substituting:

"Environmental Management Commission

and the Commission for Health

Services shall jointly"

and conforming amendments

elsewhere in the bill

SIGNED Hackney

ADOPTED _____ FAILED 19 April 2001 TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

4-19-01 AH # 7.

ROLL CALL VOTE

5 YES 10 NO = 15 (TOTAL)

HB# 1009 Hackney Amendment
SB# ____

HOUSE STANDING COMMITTEE ON 2001-2002 Environment and Natural Resources

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	✓	Gibson, Co-Chair	___	___	
✓	___	McComas, Co-Chair	___	___	
___	✓	Warwick, Co-Chair	___	___	
___	___	Cox, Vice Chair	___	___	
___	✓	Underhill, Vice Chair	___	___	
✓	___	Weiss, Vice Chair	___	___	
___	✓	Allen	___	___	
___	✓	Bowie	___	___	
✓	___	Culp	___	___	
___	___	Davis	___	___	
✓	___	Gray	___	___	
___	✓	Gulley	___	___	
✓	___	Hackney	___	___	
___	___	Hill	___	___	
___	___	Insko	___	___	
___	___	Luebke	___	___	
___	___	McCombs	___	___	
___	✓	Miner	___	___	
___	✓	Mitchell			**Ex officio Members**
___	✓	Preston	___	___	Rep. Cunningham
___	___	Smith	___	___	Speaker Pro Tem Hackney
___	✓	Tucker	___	___	Majority Leader Baddour
___	___	Warner	___	___	Majority Whip Dedmon
___	___	Weatherly	___	___	Majority Whip Earle

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES 4/19/2001
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Heidi B Barbee	CAPA
Amy Fullbright	Hunton & Williams
Ken Melton	Alley Associates
Theresa Kosmala	Cap. Adv.
Beth Anne Mumford	NCPC
Ed Regan	N.C.A.C.C.
Kim Hibbard	NCLM
Drew Nelson	Rep Hastings's Office
Laura DeVivo	DENR
Dexter Matthews	ENR / Waste Management
Burrie Bosshoff	DENR / DWM.
Lu-Ann Cox	NC AGRIB. Council

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dr. Holm	CWMTF
Grady McCallie	N.C. Conservation Network.
Michelle Cook	Weyerhaeuser
Kelli Underwood	DuPont
Preston Howard	MCIC
Doug Hovey	NCPMA
Thomas Warrington	CBM Environmental Services Inc.
Jim Kuszaty	MCIC
Anita Watkins	DENR
PS	NCFB
David Meredith	NC State Grange

VISITOR REGISTRATION SHEET

Environmental Natural Resources 4/19/01

Name of Committee Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
[illegible]	NCSSA
Edward Carl	N/A
Arthur Mouberry	DENR / DWQ / Groundwater
Angie McMillan	The Nature Conservancy, NC Chapter
Nat Mund	CCNC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

May 1, 2001

12:00 noon

McComas

1. **Call to Order – Representative ~~Warwick,~~ Presiding**

2. **Bill to be considered:**

   HB 688 – TURFGRASS FERTILIZER ASSESSMENT
   Representative Gibson

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

April 24, 2001
8:00 am

1. **Call to Order – Representative Warwick, Presiding**

2. **Bills to be considered:**

   HB 1009 – CONSISTENT RISK-BASED REMEDIAL ACTIONS
   Representative Gibson

   HB 570 – DISAPPROVE TAR-PAMLICO AGRICULTURAL
   Representative Allen

   HB 1301 – EXTEND SUNSET LUST LAND-USE RESTRICTIONS
   Representative Gibson

   HB 1308 – EXTEND LOW-SULFUR GASOLINE IMPLEMENTATION
   Representative Gibson

   HB 1312 – EXTEND SWINE MORATORIA/ANIMAL WASTE AMENDS-5
   Representative Gibson

   HB 1215 – EXTEND SUNSET/DEMOLITION DEBRIS LANDFILL
   Representative Hackney

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 24, 2001

MINUTES

The House Committee on Environment and Natural Resources met April 24, 2001, in Room 643 of the Legislative Office Building at 8:00 am. Representatives Nurham Warwick and Pryor Gibson, Chairs, were present. Other members attending were Vice Chairs, Representatives Leslie Cox, Alice Underhill, Jennifer Weiss, and Committee members Representatives Gordon Allen, Joanne Bowie, Don Davis, Joe Hackney, Dewey Hill, Verla Insko, Paul Luebke, Eugene McCombs, David Miner, Frank Mitchell, Jean Preston, Ronnie Smith, Russell Tucker, and John Weatherly.

Chair Warwick called the meeting to order at 8:00 am.

HB 1009 – Consistent Risk-Based Remedial Action (Attachments 1, 2) – Continuing with this bill from the meeting on April 19, 2001, the amendment failed, the bill is back in the original state.

David Knight, NC Sierra Club and the NC Wildlife Federation spoke against the bill. Mr. Knight said that this bill granted large amount of power to the Secretary of DENR, that ground water standards would go from health based to risk base (a standard for water quality in the state of North Carolina), and there was no disincentive to pollute.

Representative Hackney voiced his opposition, as the bill does not address long-term clean-ups. Staff Counsel, George Givens, explained that the Secretary of DENR makes both temporary and permanent rules. Representative Bowie moved for a favorable report. Passed.

HB 570 – Tar-Pamlico Agricultural Rule (Attachments 3, 4) – Representative Allen moved to adopt the Proposed Committee Substitute (PCS). Representative Cox moved to put the PCS before the Committee. Counsel Givens explained that the bill allows administrative rule 15A NCAC 2B.0356 to be implemented with the changes listed on the Bill Analysis (Attachment 4).

George Givens, Committee Counsel, explained that the bill is merely a status report and the groups will work for consensus. Nat Mund, Director of the Conservation Council, spoke in support of the bill. Representative Weiss pointed out a "typo" in the bill. Representative Smith moved for unfavorable to the original bill, favorable to the PCS. Passed.

HB 1301 – Extend Sunset LUST Land-Use Restrictions (Attachments 5, 6) – Representative Gibson said the bill extends the "sunset" (expiration date) of the exemption of cleanups of petroleum from leaking from underground storage tanks from certain land-use requirement.

Counsel Givens gave a brief history behind the bill. He said that risk-based cleanup implies restrictions on future use of the property commiserate with the assumptions that are made when the risk is determined. If the property is cleaned up to pristine standards, it can be used for any purpose with no need for restrictions. If there is residual contamination, there is some risk associated for land-use and future use must be restricted and future buyers must be informed. During the 2000 Session, a temporary "fix" that stayed the application of land-use degradation and deed recridation until September 1, 2001 in the hope that the interested parties would reach an agreement. The purpose of this bill is to give the interested parties more time to until 2002 to reach agreement on how those risk-based principles should apply to cleanups under the LUST program.

Representative Hill moved for a favorable report. Passed. (Representative Hackney asked that the minutes reflect that he did not participate or vote on HB 1301)

HB 1308 – Extend Low-Sulfur Gasoline Implementation (Attachments 7, 8) – Representative Gibson said that the bill extends the date by two years until 2006 by which only low-sulfur gasoline may be sold in the state. Representative Mitchell moved to adopt the PCS. Representative Mitchell moved for a favorable report. Representative Luebke asked for a roll call vote. The ayes 10; the nos 8. (Attachment 9)

HB 1312 – Extend Swine Moratoria/Animal Waste Amends-5 – Representative Gibson moved to approve the PCS, seconded by Representative Smith. Counsel Givens explained that the bill extends the statewide moratorium for animal waste management planning. Representative Hill moved unfavorable to the original bill and favorable report for the PCS, seconded by Representative Bowie. Passed.

HB 1215 – Extend Sunset-Demolition Debris Landfill – Representative Hackney said that this was Environmental Research Commission bill that provides for disposal of land-fill debris and extends the sunset by 5 years. Representative Smith moved to give the bill a favorable amendment. Seconded by Representative Bowie.

Being no further business Representative Warwick adjourned the meeting at 9:20 am.

Nurham L Warwick

Representative Nurham Warwick, Chair

Shirlyn MacPherson

Shirlyn MacPherson, Committee Assistant

4.24-01 Att #1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1009*

Short Title:	Consistent Risk-Based Remedial Actions.	(Public)
Sponsors:	Representatives Gibson, Baker, Allen (Primary Sponsors); Arnold, Cole, Cox, Creech, Culp, Daughtry, Fox, Harrington, Hill, Holmes, McMahan, Morris, Owens, Smith, Underhill, Warwick, Weatherly, and Wright.	
Referred to:	Environment and Natural Resources.	

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO EXPAND AND MAKE CONSISTENT THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL ALLOW FOR RISK-BASED REMEDIAL ACTIONS.

Whereas, the General Assembly finds that there are contaminated areas in North Carolina, including land and other property, surface water, and groundwater, that are adversely affected by environmental contamination due to the presence of drilling waste; hazardous and toxic materials, substances, and wastes; solid waste; oil; and other wastes, contaminants, and regulated substances; and

Whereas, the General Assembly finds that the presence of environmental contamination on these areas creates both potential and actual harm to public health, safety, and welfare, and to the environment; and

Whereas, the General Assembly finds that this potential and actual harm results in substantial economic losses, including reduced property values and tax revenues; decreased ability to develop and expand the beneficial use of these areas; and other opportunity costs because of the uncertainties and concerns that result from the environmental contamination of these areas; and

Whereas, the General Assembly finds that it is in the public interest that contaminated areas are cleaned up or managed in a manner that protects public health, safety, and welfare and the environment using procedures that are based in sound science and that can be voluntarily and independently implemented in a timely and practical fashion without overburdening State resources; and

Whereas, the General Assembly finds that North Carolina has numerous and varied State-managed remediation programs to address environmental contamination, including the Inactive Hazardous Sites Response Act of 1987, the hazardous waste management program administered by the State pursuant to the federal Resource

(7) The level of oversight of the remediation that will be exercised by the Department.

(8) The determination or certification that the quantity, concentration, range, or other measure of each contaminant remaining at the contaminated area at the conclusion of active remediation does not exceed the maximum allowable maximum.

(9) The determination or certification that an acceptable level or range of levels of risk has been achieved and that no further remediation is required.

(10) Any other matter that the Secretary determines to be necessary to carry out the intent of this section.

(c) The Department may require any person who is responsible for the environmental contamination and any person who voluntarily undertakes remediation of the environmental contamination to provide information necessary to determine the degree of risk to public health, safety, and welfare and to the environment that is posed by any environmental contamination, either before or after remediation is completed.

(d) If the Department concludes that the environmental contamination poses a degree of risk to public health, safety, or welfare or the environment that is no greater than the acceptable level of risk established by the Department, the Department shall notify the person who provides the information required pursuant to subsection (c) of this section that no further remediation or action will be required unless the Department later determines, on the basis of additional information or as a result of a change in conditions in the contaminated area, that the remaining environmental contamination poses an unacceptable level of risk to public health, safety, or welfare or the environment.

(e) This section and rules adopted pursuant to this section shall not be construed to limit the authority of the Department to require investigation, initial response, or remediation of environmental contamination under any other provision of law pending a determination by the Department, under rules adopted pursuant to this section, that a risk-based approach to remediation of a contaminated area is appropriate, or if the Department determines that a risk-based approach to remediation of the contaminated area is not appropriate. This section and rules adopted pursuant to this section shall not be construed or implemented in any manner that reduces the requirements of programs that are intended to avoid or mitigate the release or discharge of contaminants to the environment that would result in additional environmental contamination.

(f) Rules adopted pursuant to this section shall apply uniformly to the remediation of environmental contamination under:

(1) The Inactive Hazardous Sites Response Act of 1987, G.S. 130A-310, et seq.

(2) The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976 Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended.

(3) The Leaking Petroleum Underground Storage Tank Cleanup Act of 1988, G.S. 143-215.94A, et seq.

(4) The Brownfields Property Reuse Act of 1997, G.S. 130A-310.30, et seq.

(5) The Dry-Cleaning Solvent Cleanup Act of 1997, G.S. 143-215, et seq.

(6) The federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, and G.S. 130A-310.20, et seq.

(7) The groundwater protection program adopted by the Environmental Management Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(g) A person who undertakes remediation of environmental contamination may elect to proceed under either the applicable provisions of law set out in subsection (f) of this section and rules adopted pursuant to those provisions or under the rules adopted pursuant to this section. If a person elects to proceed under rules adopted pursuant to this section, the rules adopted pursuant to this section shall supersede rules adopted pursuant to the provisions of law set out in subsection (f) of this section. If a person elects to proceed under rules adopted pursuant to this section, any maximum allowable quantity, concentration, limit, or other measure of contamination that is allowed to remain at the contaminated area at the conclusion of active remediation that is established under the rules will supersede rules adopted under other provisions of law

(h) Rules adopted pursuant to this section shall be based on an evaluation of all reasonably foreseeable risks presented to public health, safety, and welfare and the environment by environmental contamination, and shall be based on all relevant and reasonably available scientific information pertaining to those risks. The rules shall be written so that they can be interpreted and implemented with a reasonable degree of effort and expense. The rules may provide for reasonable distinctions among contaminated areas based on any relevant factor, including the nature and extent of the environmental contamination, the risk of harm posed by the contamination to public health, safety, and welfare and the environment, the size and complexity of the contaminated area, and the current and anticipated future uses of the contaminated area and adjacent lands.

(i) Rules adopted pursuant to this section shall require that any assumption about the future use of the contaminated area on which a level or range of levels of risk is based be reflected in appropriate restrictions on the future use of the property as provided in G.S. 143B-279.9 and that the restrictions be recorded in accordance with G.S. 143B-279.10.

(j) Rules adopted pursuant to this section shall provide for the use of licensed professionals, including Professional Engineers, Professional Geologists, and Registered Environmental Consultants, in the assessment, prioritization, and remediation of

environmental contamination. The rules shall specify the circumstances under which work performed by a licensed professional is presumed to comply with the rules."

SECTION 2. The Secretary of Environment and Natural Resources shall adopt rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act, on or before 1 October 2002. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Secretary may adopt temporary rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act until 1 October 2002. Prior to the adoption of a temporary rule under this section, the Secretary shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Secretary shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 3. The Secretary of Environment and Natural Resources shall use all reasonable efforts to obtain a written agreement from the United States Environmental Protection Agency that G.S. 143B-279.11, as enacted by Section 1 of this act, and the rules adopted by the Secretary pursuant to G.S. 143B-279.11 are consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended.

SECTION 4. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every State agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to that agency.

SECTION 5. On or before 1 October 2004, the Department of Environment and Natural Resources shall report to the Environmental Review Commission as to the steps the Secretary of Environment and Natural Resources and the Department have taken to implement this act. The report shall include information on the adoption of rules to implement G.S. 143B-279.11, as enacted by Section 1 of this act, the number of contaminated areas that have been proposed for remediation under the rules, the number of contaminated areas that are undergoing active remediation under the rules, the number of contaminated areas at which remediation under the rules has been completed, the number of contaminated areas that are known or believed to be appropriate for remediation under the rules, the number of contaminated areas for which the Department has determined that a risk-based approach to remediation under the rules is not appropriate and the reasons for each determination, and information regarding licensed professionals who are involved in the implementation of remediation under the rules.

SECTION 6. This act is effective when it becomes law.

4-24-01 att#2

HOUSE BILL 1009:
Consistent Risk-Based Remedial Actions.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Gibson, Baker, and Allen
Date:	April 19, 2001	**Summary by:**	George Givens, Committee Counsel, Tim Dodge, Research Assistant
Version:	First Edition		

SUMMARY: ***House Bill 1009 directs the Department of Environment and Natural Resources (Department) to develop a risk-based approach to environmental cleanup as a voluntary alternative to certain State cleanup programs. The Secretary of Environment and Natural Resources would adopt rules to implement the risk-based program, including methods to assess, prioritize, and remediate contaminated sites that would apply to a wide range of contaminants. The rules would be consistently applied to cleanup activities, but would allow for reasonable distinctions among contaminated areas based on relevant factors such as (i) the nature of the environmental contamination, (ii) the risk of harm posed by the contamination, (iii) the size and complexity of the contaminated area, and (iv) the current and anticipated future uses of the contaminated area and adjacent lands.***

The bill would become effective when it becomes law.

CURRENT LAW: North Carolina, in conjunction with the federal government, has implemented numerous programs for remediation of environmental contamination. Based on the source, location, and nature of the contaminants present, requirements for oversight and cleanup are established within the applicable program. In some cases, a site may come under the authority of multiple programs. Each program has its own standards, methods, and requirements, which may vary from one program to another. Some, but not all programs, currently include provisions for risk-based remediation.

BILL ANALYSIS: Section 1 of House Bill 1009 directs the Secretary of Environment and Natural Resources (Secretary) to develop and adopt rules creating a uniform, risk-based approach for remediation of environmental contamination. A "risk-based" process would include an evaluation of the current and future risk posed by each contaminated area and a determination of the appropriate level of remediation necessary to protect public health, safety, welfare, and the environment. The rules would include the following steps:

- Assessment of the site;
- Analysis of the current and anticipated future uses of the contaminated property;
- Determination of acceptable level of risk based on the current and anticipated future use;
- Identification of appropriate remedial methods;
- Determination of the appropriateness of the use of the risk-based approach on the particular site;
- Establishment of less than pristine standards or methods to determine such standards for each contaminant;
- Certification of remediation goals and activities; and

- Establishment of measures necessary for closure of the site.

The bill would allow a person to choose to remediate a contaminated site under the guidance of the existing applicable programs, or may elect to proceed under the risk-based guidelines. Risk-based remediation would be available for contaminants subject to the following programs:

- The Inactive Hazardous Sites Response Act of 1987.[1]
- The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976.[2]
- The Leaking Petroleum Underground Storage Tank Cleanup Act of 1988.[3]
- The Brownfields Property Reuse Act of 1997.[4]
- The Dry-Cleaning Solvent Cleanup Act of 1997.[5]
- The federal Superfund Program administered in part by the State pursuant to CERCLA[6] and SARA.[7]
- The groundwater protection program adopted by the Environmental Management Commission (EMC) pursuant to Article 21 of Chapter 143 of the General Statutes.

The rules and standards applicable to the chosen alternative would apply to remediation activities and would supersede any rules pursuant in the alternative that was not chosen. Subsection (i) requires that any assumption of future use of the contaminated area be reflected in appropriate restrictions of the future uses of the property and that the restrictions be recorded in accordance with G.S. 143B-279.9 and G.S. 143 B-279.10.

In addition, the bill directs the Secretary to use all reasonable efforts to obtain a written agreement from the United States Environmental Protection Agency (EPA) stating that the risk-based approach developed by the State is consistent with federal requirements for the CERCLA and SARA programs.

Lastly, the bill directs the Secretary to adopt rules to implement the act on or before October 1, 2002 and authorizes the Secretary to adopt temporary rules for that purpose until that date. The Department is also required to report to the Environmental Review Commission on the progress of implementing the provisions of this bill on or before October 1, 2004.

The bill becomes effective when the bill becomes law.

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[1] G.S. 130A-310, et seq.
[2] 42 U.S.C. § 6901, et seq., as amended.
[3] G.S. 143-215.94A, et seq.
[4] G.S. 130A-310.30, et seq.
[5] G.S. 143-215, et seq.
[6] The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., as amended.
[7] The Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, and G.S. 130A-310.20, et seq.

4-24-01 ATT#3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 570*
PROPOSED COMMITTEE SUBSTITUTE H570*-PCS7207-SB-8

Short Title: Tar-Pamlico Agricultural Rule. (Public)

Sponsors:

Referred to:

March 12, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE ADMINISTRATIVE RULE ENTITLED TAR-PAMLICO RIVER BASIN-NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: AGRICULTURAL NUTRIENT CONTROL STRATEGY WITH CERTAIN MODIFICATIONS, TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO INCORPORATE THESE MODIFICATIONS INTO A REVISED ADMINISTRATIVE RULE, AND TO DIRECT THE SOIL AND WATER CONSERVATION COMMISSION TO ADOPT STANDARD BEST MANAGEMENT PRACTICES AND A NUTRIENT LOADING ACCOUNTING METHODOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(b), 15A NCAC 2B .0256, (Tar-Pamlico River Basin-Nutrient Sensitive Waters Management Strategy: Agricultural Nutrient Control Strategy), as adopted by the Environmental Management Commission on 12 October 2000 and approved by the Rules Review Commission on 20 November 2000, shall become effective on 1 July 2001 and shall be implemented as provided in Sections 2 and 3 of this act.

SECTION 2.(a) On or before 1 September 2001, a Local Advisory Committee shall be appointed as provided in this section in each county or watershed, as specified by the Basin Oversight Committee, within the Tar-Pamlico River Basin. The Local Advisory Committees shall terminate upon a finding by the Environmental Management Commission that the long-term maintenance of nutrient loads in the Tar-Pamlico River Basin is assured.

SECTION 2.(b) Each Local Advisory Committee shall consist of:

(1) One representative of the local Soil and Water Conservation District.

(2) One local representative of the United States Department of Agriculture – Natural Resources Conservation Service.

(3) One local representative of the North Carolina Cooperative Extension Service.

(4) One local representative of the North Carolina Division of Soil and Water Conservation.

(5) One local representative of the North Carolina Department of Agriculture and Consumer Services appointed by the Commissioner of Agriculture.

(6) At least five, but not more than 10 farmers who reside in the county or watershed.

SECTION 2.(c) The Director of the Division of Water Quality and the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall jointly appoint members described in subdivisions (1) through (4) of subsection (b) of this section. The Commissioner of Agriculture shall appoint the members described in subdivision (6) of subsection (b) of this section from persons nominated by non governmental organizations whose members produce or maintain significant agricultural commodities in each county or watershed.

SECTION 2.(d) Members of the Local Advisory Committees serve at the pleasure of their appointing authority.

SECTION 3.(a) For purposes of 15A NCAC 2B .0256, "agricultural operation" is an activity that relates to any of the following pursuits:

(1) The commercial production of crops or horticultural products.

(2) The harvesting of trees established on or after 1 July 2001 on land that was previously used primarily for another agricultural operation, as defined in subdivisions (1), (3), and (4) of this subsection and the harvesting of trees established prior to 1 July 2001 pursuant to a cost-share contract on land previously used primarily for another agricultural operation, as defined in subdivisions (1), (3) and (4) of this subsection. Harvesting trees for silviculture or for any pursuit other than those set out in subdivisions (1), (3), and (4) of this subsection is not an agricultural operation for purposes of 15A NCAC 2B .0256.

(3) Research activities in support of commercial production.

(4) The production or management of any of the following number of livestock or poultry, excluding nursing young:

a. 20 or more horses.

b. 20 or more cattle.

c. 25 or more swine.

d. 15 or more sheep.

e. 20 or more goats.

f. 160 or more turkeys.

g. 1,000 or more chickens.

h. A number of any other single species of livestock or poultry that exceeds 4,000 pounds of live weight at any time.

i. A combination of livestock or poultry species where the number of any single species is equal to or greater than the number under sub-subdivisions a. through h. of this subdivision.

SECTION 3.(b) For purposes of 15A NCAC 2B .0256, "commercial" means a pursuit conducted primarily for financial gain or profit.

SECTION 3.(c) The nutrient removal function of trees that are harvested in connection with an agricultural operation shall be replaced through other measures to meet local nutrient reduction goals and to maintain local nutrient control strategies.

SECTION 4. No person who is subject to 15A NCAC 2B .0256 shall be required to implement a best management practice for pasture-based production or management of livestock until the Soil and Water Conservation Commission has adopted standard best management practices for livestock and poultry production and management and until the Soil and Water Conservation Commission adopts a nutrient loading accounting methodology that includes credit for reductions in nutrient loading that have been achieved since 1 January 1992. The Soil and Water Conservation Commission shall involve Local Advisory Committees established pursuant to Section 2 of this act, persons engaged in the production and management of livestock and poultry, and organizations that represent these persons in the development of standard best management practices and the nutrient loading accounting methodology. The Soil and Water Conservation Commission shall adopt standard best management practices and a nutrient loading accounting methodology no later than 1 July 2002.

SECTION 5.(a) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a).

SECTION 5.(b) The Environmental Management Commission may adopt a temporary rule that incorporates the provisions of Sections 2 and 3 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until a temporary or permanent rule adopted to replace the temporary rule becomes effective.

SECTION 5.(c) If the Environmental Management Commission adopts a temporary rule as provided is subsection (b) of this section, the Commission may thereafter amend the temporary rule to revise the number of livestock or poultry that constitute an animal operation by adopting a temporary rule. In revising the number of livestock or poultry that constitutes an animal operation, the Commission shall consider the behavior characteristic of each species, equivalent nutrient production of each species, and other relevant factors. Prior to the adoption of a temporary rule under this subsection, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be addressed. The Commission shall accept written

comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 6. Except as provided by Sections 2 and 3 of this act, this act does not limit the authority of the Environmental Management Commission to adopt rules to improve water quality and to limit nutrient loading from agricultural operations pursuant to Article 21 of Chapter 143 of the General Statutes.

SECTION 7. This act is effective retroactively to the date on which it is ratified. If the Environmental Management Commission adopts a temporary rule as provided in subsection (b) of Section 5 of this act, Sections 2 and 3 of this act expire when the temporary rule becomes effective.

4-24-01 Att# 4

HOUSE BILL 570:
Tar-Pamlico Agricultural Rule

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Allen
Date:	April 23, 2001	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute (H570-CSSB-8)		Tim Dodge, Research Assistant

SUMMARY: *The proposed committee substitute for House Bill 570 allows administrative rule 15A NCAC 2B .0256,to be implemented with the following changes:*

- *Modifies the membership of the Local Advisory Committees (LACs) to ensure greater representation of farmers;*
- *Delegates authority to the Commissioner of Agriculture and Consumer Services, the Director of the Division of Water Quality, and the Director of the Division of Soil and Water Conservation for appointing members to LACs;*
- *Establishes an exception for harvesting of trees established pursuant to a cost-share contract on land previously used for another agricultural operation;*
- *Modifies the threshold number of animals required for inclusion under the agricultural rule;*
- *Delays the requirements for implementation of a best management practice (BMP) for pasture-based production or management of livestock until standard BMPs are adopted by the Soil and Water Conservation Commission (SWCC);*
- *Delays the requirements for implementation of a best management practice for pasture-based production or management of livestock until the SWCC adopts a nutrient loading accounting methodology that includes credit for reductions in nutrient loading that have been achieved since January1, 1992; and*
- *Authorizes the Environmental Management Commission (EMC) to adopt temporary rules to implement provisions of the act.*

NOTE: ***The Environmental Review Commission's Tar-Pamlico Agricultural Rule Working Group has been meeting since January in order to resolve differences found in the Rule. The bill in its current form indicates the consensus results of the working group's efforts to date, but is not meant to imply there is complete agreement on these points. By allowing the bill to cross over to the Senate, discussions over the remaining differences can continue.***

BACKGROUND: The Tar-Pamlico Agricultural Rule (15A NCAC 2B .0255 and .0256) was approved by the EMC in October 2000 and was scheduled to become effective April 1, 2001. House Bill 570 and Senate Bill 483 stayed the effective date of the Agricultural Rule pursuant to G.S. 150B-21.3(b). A Working Group has been meeting since January 2001, including members from a variety of interest groups, in an attempt to reach a consensus on the Agricultural Rule.

BILL ANALYSIS: The proposed committee substitute for House Bill 570 incorporates the preliminary language developed in the Tar-Pamlico Agricultural Rule working group. By favorably reporting the bill in its current form and allowing it to cross over to the Senate, discussions seeking to resolve the remaining differences in the bill will continue.

The bill is effective retroactively to the date on which it is ratified. Sections 2 and 3 of the bill, which set out the modifications to the Agricultural Rule, will expire when the EMC incorporates these provisions into the Tar-Pam Agricultural Rule through temporary rulemaking.

4-24-01 ATT 5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1301

Short Title:	Extend Sunset LUST Land-Use Restrictions.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO DELAY THE SUNSET OF THE EXEMPTION OF CLEANUPS OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS FROM CERTAIN REQUIREMENTS RELATED TO LAND-USE RESTRICTIONS AND DEED RECORDATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2000-51 reads as rewritten:

"Section 4. Sections 1 and 2 of this act are effective retroactively to 1 October 1999. Sections 3 and 4 of this act are effective when this act becomes law. Section 1 of this act expires 1 September ~~2001.~~2002."

SECTION 2. This act becomes effective August 31, 2001.

4-24-01 AH #6

HOUSE BILL 1301:
Extend Sunset LUST Land-Use Restrictions.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Tim Dodge Research Assistant
Date:	April 19, 2001		
Version:	First Edition		

SUMMARY: ***House Bill 1301 would delay for one year the sunset of the exemption of cleanups of petroleum from leaking underground storage tanks from certain requirements related to land-use restrictions and deed recordation.***

The act would become effective August 31, 2001.

BACKGROUND: S.L. 2000-51 exempts sites contaminated by leaking petroleum underground storage tanks (USTs) and remediated to "risk-based" rather than "pristine" standards from the land use restrictions and deed recordation requirements imposed by S.L. 1999-198. The exemption applies retroactively to October 1, 1999, and expires September 1, 2001.

BILL ANALYSIS: House Bill 1301 would delay the sunset from September 1, 2001, to September 1, 2002.

The act would become effective August 31, 2001.

4-24-01 AH 7

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1308
PROPOSED COMMITTEE SUBSTITUTE H1308-PCS3413-RT-23

Short Title: Extend Low-Sulfur Gasoline Implementation. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE DATE BY WHICH ONLY LOW-SULFUR GASOLINE MAY BE SOLD IN THE STATE AND TO AUTHORIZE THE GOVERNOR TO TEMPORARILY WAIVE STATE LOW-SULFUR GASOLINE STANDARDS IN FAVOR OF FEDERAL LOW-SULFUR GASOLINE STANDARDS IF THE GOVERNOR FINDS THAT ENFORCEMENT OF THE STATE STANDARDS WOULD HAVE A SIGNIFICANT ADVERSE IMPACT ON THE SUPPLY OR PRICE OF GASOLINE IN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.2 of S.L. 1999-328 reads as rewritten:

"Section 2.2. Section 2.1 of this act becomes effective 1 January 2006.~~as provided in this section. No later than 1 July 2000, the Governor shall determine whether the United States Environmental Protection Agency has adopted, pursuant to the Notice of Proposed Rulemaking published on 13 May 1999 in the Federal Register, Volume 64, Number 92, Page 26003 et seq., regulations applicable to gasoline manufactured, sold, and offered for sale in this State that limit the sulfur content of gasoline to a concentration equal to or less than the concentration set out in Section 2.1 of this act. If the Governor so determines, the Governor shall issue an Executive Order setting out the date on which Section 2.1 of this act becomes effective, which shall be the date on which the federal regulation becomes effective in this State. Otherwise, Section 2.1 of this act becomes effective 1 January 2004. If the United States Environmental Protection Agency promulgates a regulation that imposes a limit on the concentration of sulfur in gasoline other than that set out in G.S. 119-26.2, as enacted by Section 2.1 of this act, it is the intention of the General Assembly to review the limit established in G.S. 119-26.2. In that event, the Environmental Review Commission shall review the limit on the concentration of sulfur in gasoline and report its findings and recommendations, if any, to the General Assembly.~~"

SECTION 2. G.S. 119-26.2 reads as rewritten:

"**§ 119-26.2. Sulfur content standards.**

(a) No person shall manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur greater than 30 parts per million except that a person may manufacture, sell, or offer for sale gasoline that contains a concentration of sulfur of not more than 80 parts per million if the average concentration of sulfur in the gasoline manufactured, sold, or offered for sale by that person is 30 parts per million or less. The average concentration of sulfur contained in gasoline shall be determined on the basis of a one-year period established by rule.

(b) The Gasoline and Oil Inspection Board shall adopt rules to implement this section.

(c) If the Governor finds that enforcement of the sulfur concentration limits set out in subsection (a) of this section will have a significant adverse impact on the supply of gasoline in the State, or on the average price of gasoline sold in the State in comparison to the price of gasoline sold in adjoining states, or both, during any period of time, the Governor may by Executive Order waive the requirements of subsection (a) of this section as provided in this subsection. A waiver under this subsection shall authorize the sale of gasoline that meets the gasoline sulfur control requirements adopted by the United States Environmental Protection Agency as set out in 65 Federal Register 6698 through 6847 (10 February 2000) and codified at 40 Code of Federal Regulations Part 80 (1 July 2001 Edition). The Governor may issue a waiver under this subsection for a maximum period of one year. The Governor may extend or renew a waiver upon a further finding that an extension or renewal is warranted under this subsection."

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

4-24-01 att #18

April 12, 2001

H 1308. EXTEND LOW-SULFUR GASOLINE IMPLEMENTATION. *TO EXTEND THE DATE BY WHICH ONLY LOW-SULFUR GASOLINE MAY BE SOLD IN THE STATE.* As title indicates.
Extends date to Jan. 1, 2006.
Intro. by Gibson.

Ref. to Environment	UNCODIFIED

4-24-01 Att 9

ROLL CALL VOTE

10 YES 8 NO = 18 (TOTAL)

HB# 1308
SB# ____

HOUSE STANDING COMMITTEE ON 2001-2002 Environment and Natural Resources

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Gibson, Co-Chair			
		McComas, Co-Chair			
✓		Warwick, Co-Chair			
✓		Cox, Vice Chair			
	✓	Underhill, Vice Chair			
	✓	Weiss, Vice Chair			
	✓	Allen			
✓		Bowie			
		Culp			
		Davis			
		Gray			
		Gulley			
	✓	Hackney			
✓		Hill			
	✓	Insko			
	✓	Luebke			
✓		McCombs			
✓		Miner			
✓		Mitchell			**Ex officio Members**
✓		Preston			Rep. Cunningham
	✓	Smith			Speaker Pro Tem Hackney
	✓	Tucker			Majority Leader Baddour
		Warner			Majority Whip Dedmon
✓		Weatherly			Majority Whip Earle

9-24-01 att # 10

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1312
PROPOSED COMMITTEE SUBSTITUTE H1312-PCS8198-RT-26

Short Title: Extend Swine Moratoria/Animal Waste Amends-5. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIA ON CONSTRUCTION OR EXPANSION OF SWINE FARMS, TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY FUNDING OPTIONS TO IMPROVE ANIMAL WASTE MANAGEMENT SYSTEMS, AND TO DIRECT THE DEPARTMENT OF COMMERCE TO DEVELOP A PLAN TO IDENTIFY AND DEVELOP MARKETS FOR BY-PRODUCTS OF ANIMAL WASTE MANAGEMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended by Section 2 of S.L. 1998-188 and Section 2.1 of S.L. 1999-329, reads as rewritten:

"(a1) There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are to allow counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999 General Assembly to receive and act on the findings and recommendations of those studies. Except as provided in subsection (b) of this section, the Environmental Management Commission shall not issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm for a period beginning on 1 March 1997 and ending on 1 July ~~2001.~~2003. The construction or expansion of a swine farm or animal waste management system for a swine farm is prohibited during the period of the moratorium regardless of the date on which a site evaluation for the swine farm is completed and regardless of whether the animal waste management system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North Carolina Administrative Code 2H.0217."

SECTION 2. Section 1.2 of S.L. 1997-458, as amended by Section 3 of S.L. 1998-188 and Section 2.2 of S.L. 1999-329, reads as rewritten:

"Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same meaning as in G.S. 106-802. As used in this section, 'animal waste management system' has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium for any new or expanding swine farm or lagoon for which a permit is required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars ($150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until 1 July ~~2001,~~2003, the Environmental Management Commission shall not issue a permit for an animal waste management system, as defined in G.S. 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not apply to the moratorium established under this section.

(b) In order to protect travel and tourism, effective 1 July ~~2001,~~2003, no animal waste management system shall be permitted except under an individual permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars ($150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103."

SECTION 3. The Legislative Research Commission may study ways to fund improvements in animal waste management systems. This study shall consider all of the following issues and any other issues the committee determines are relevant to its main charge:

(1) How to fund the implementation of environmentally superior animal waste management technology.

(2) How to fund the closure of inactive animal waste lagoons.

SECTION 4. The Department of Commerce shall, in consultation with the Department of Agriculture and Consumer Services, the Department of Transportation, and the North Carolina Utilities Commission, develop a plan to identify and develop markets for by-products of animal waste management systems. The Department of Commerce shall present the completed plan to the General Assembly and to the Environmental Review Commission no later than 1 May 2002.

SECTION 5. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 6. This act is effective when it becomes law.

4-24-01 att#11

HOUSE BILL 1312:
Extend Swine Moratoria/Animal Waste Amend-5.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
Date:	April 23, 2001	**Summary by:**	Tim Dodge Research Assistant
Version:	Proposed Committee Substitute (H1312-CSRT-26)		

SUMMARY: ***The proposed committee substitute for House Bill 1312 would extend the moratoria on swine farm and swine waste management system expansion or construction until July 1, 2003. The bill would also authorize the Legislative Research Commission to study ways to fund improvements in animal waste management systems and direct the Department of Commerce, in consultation with other agencies, to identify and develop markets for by-products of animal waste management systems.***

The act would become effective when it becomes law.

CURRENT LAW: Under existing law, the moratoria will end July 1, 2001.

BILL ANALYSIS:

Sections 1 and 2 would extend the statewide and Moore County moratoria on the issuance of a permit by the Environmental Management Commission (EMC) for the construction of a new swine farm or expansion of an existing swine farm from July 1, 2001, until July 1, 2003.

Section 3 would authorize the Legislative Research Commission to study funding mechanisms for the following issues relating to animal waste management systems:

1. Implementation of environmentally superior animal waste management technology.
2. Closure of inactive lagoons that present a threat to public health and the environment.

Section 4 directs the Department of Commerce (Department), in consultation with the Department of Agriculture and Consumer Services, the Department of Environment and Natural Resources, the Department of Transportation, and the North Carolina Utilities Commission, to develop a plan to identify and develop markets for by-products of animal waste management systems. The Department will present the completed plan to the General Assembly and the Environmental Review Commission by May 1, 2002.

EFFECTIVE DATE:

The act would become effective when it becomes law.

4-24-01 att# 12

12

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

1

HOUSE BILL 1215*

Short Title:	Extend Sunset/Demolition Debris Landfill.	(Public)
Sponsors:	Representative Hackney.	
Referred to:	Environment and Natural Resources.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND BY FIVE YEARS THE SUNSET REGARDING THE DISPOSAL OF DEMOLITION DEBRIS IN AN ON-SITE LANDFILL HAVING A DISPOSAL AREA OF ONE ACRE OR LESS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 502 of the 1995 Session Laws reads as rewritten:

"Sec. 4. This act is effective upon ratification. Sections 1 and 2 of this act and the second sentence of G.S. 47-28(a), as enacted by Section 2.1 of this act, expire on 30 June ~~2001~~2006. Section 3 of this act expires on 31 December 1996."

SECTION 2. This act becomes effective June 29, 2001.

4-24-01 att 13

HOUSE BILL 1215:
Extend Sunset/Demolition Debris Landfill

BILL ANALYSIS

Committee:	House Envir. & Nat. Res.	**Introduced by:**	Representative Hackney
Date:	April 24, 2001	**Summary by:**	Rick Zechini
Version:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1215 delays the repeal of G.S. 130A-301.2 from June 30, 2001 to June 30, 2006. G.S. 130A-301.2 provides that a person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from the Department of Environment and Natural Resources (DENR) if the disposal meets certain conditions.***

CURRENT LAW: G.S. 130A-301.2 provides that a person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from DENR if the disposal meets certain conditions. A person may dispose of demolition debris in accordance with G.S. 130A-301.2 only if the board of commissioners of the county in which the landfill is proposed to be located approves the landfill. If the landfill is to be located within a city or within the extraterritorial jurisdiction of a city, the board of commissioners shall consult the governing board of the city before approving the proposed landfill. The board of commissioners shall approve the landfill if the board finds that:

(1) The landfill is located at least one-quarter mile from any other landfill of any type.

(2) The perimeter of the landfill is at least 50 feet from the property boundary.

(3) The perimeter of the landfill is at least 500 feet from the nearest drinking water well.

(4) The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

(5) The landfill will comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill. A landfill created pursuant to G.S. 130A-301.2 shall be closed within 30 days after the demolition is completed or terminated and no building shall be located or constructed immediately above any part of the landfill. Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a notice that a landfill for the disposal of demolition debris has been located on the land. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of a survey plat with DENR and shall pay a filing fee of twenty-five dollars ($25.00) to DENR within 15 days after the notice is recorded. When the land, or any portion of the land, on which the landfill is located is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a landfill for the disposal of demolition debris.

BILL ANALYSIS: House Bill 1215 delays the repeal of G.S. 130A-301.2 from June 30, 2001 to June 30, 2006.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1009 A BILL TO BE ENTITLED AN ACT TO EXPAND AND MAKE CONSISTENT THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES SHALL ALLOW FOR RISK-BASED REMEDIAL ACTIONS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 570 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE AMENDMENTS TO THE ADMINISTRATIVE RULE ENTITLED "TAR-PAMLICO RIVER BASIN-NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: AGRICULTURAL NUTRIENT CONTROL STRATEGY."

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1301 A BILL TO BE ENTITLED AN ACT TO DELAY THE SUNSET OF THE EXEMPTION OF CLEANUPS OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS FROM CERTAIN REQUIREMENTS RELATED TO LAND-USE RESTRICTIONS AND DEED RECORDATION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1308 A BILL TO BE ENTITLED AN ACT TO EXTEND THE DATE BY WHICH ONLY LOW-SULFUR GASOLINE MAY BE SOLD IN THE STATE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1312 A BILL TO BE ENTITLED AN ACT TO EXTEND THE MORATORIA ON CONSTRUCTION OR EXPANSION OF SWINE FARMS, TO IMPROVE ANIMAL WASTE MANAGEMENT SYSTEM PERMITTING, TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY FUNDING OPTIONS TO IMPROVE ANIMAL WASTE MANAGEMENT SYSTEMS, AND TO DIRECT THE DEPARTMENT OF COMMERCE TO DEVELOP A PLAN TO IDENTIFY AND DEVELOP MARKETS FOR BY-PRODUCTS OF ANIMAL WASTE MANAGEMENT SYSTEMS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1215 A BILL TO BE ENTITLED AN ACT TO EXTEND BY FIVE YEARS THE SUNSET REGARDING THE DISPOSAL OF DEMOLITION DEBRIS IN AN ON-SITE LANDFILL HAVING A DISPOSAL AREA OF ONE ACRE OR LESS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

April 24, 2001
12:30 pm

1. **Call to Order – Representative McComas, Presiding**

2. **Bills to be considered:**

   HB 308 – ENVIRONMENTAL MANAGEMENT COMMISSION MEMBERSHIP
   -Representative Mitch Gillespie

   HB 1257 – STREAM IDENTIFICATION FOR BUFFER RULES
   -Representative Alice Underhill

   HB 1344 – DEVELOPMENTS OF REGIONAL IMPACT
   -Representative Joe Hackney

   HB 1007 – ENVIRONMENTAL TECHNICAL CORRECTIONS
   -Representative Nurham Warwick

3. **Adjourn**

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

April 24, 2001

The House Committee on Environment & Natural Resources met on Tuesday, April 24, 2001, in room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson, McComas, and Warwick, Vice-Chairmen Cox, Underhill, Weiss, and Representatives Allen, Bowie, Culp, Gray, Hackney, Hill, Insko, Luebke, McCombs, Miner, Preston, Tucker, Warner, and Weatherly.
Chair McComas called the meeting to order at 12:00. Action was taken on the following bills:

HB1007 – TAR-PAMLICO AGRICULTURAL RULE. (See attachments #1 and 1a) This bill is a technical correction bill. Staff counsel George Givens explained that there was a technical editor's note where the mistake the word "management" in the phrase "clean water management trust fund" was put in twice in one place and not in another. This bill will correct the mistake so that the statue will be correct without the need for an editor's note or a decision by the revision of the statutes. The thought is that the technical bill will cross over and a similar bill will come from the Senate and will be available for use as additional technical corrections are accumulated. Representative Hackney made a motion for a favorable report, seconded by Representative Hill, carried, and passed.

HB308 – ENVIRONMENTAL MANAGEMENT COMMISSION MEMBERSHIP. (See attachment #2) Representative Gillespie explained that HB308 stated that, in appointing members of the Environmental Management Commission the appointing authorities (which will be the Governor, Speaker of the House, and the President of the Senate) shall make every effort possible to make sure that there is fair geographical representation on this commission board. It doesn't say they have to, it just says that they have to attempt to do it. At this time, Representative Warwick presented a proposed amendment to the bill. The amendment would require that all county commissions in the state would appoint a staff person to coordinate this program. It would not require any additional staff or any additional money. The Environmental Management Commission and the Coastal Area Management group of people would be directed to inform each set of commissioners that they have a new rule going into effect. At that point in time, the commissioners would be given 60 days to respond in writing to each of those commissions. If the county commissioners objected to a rule, the Environmental Management Commission or the Coastal Area Management group would respond by incorporations into their rule the objections of the counties or put into effect for a one-year period of time, a field test of the rule. That would give ample opportunity for local county commissioners, local planners, or local municipality groups to see the rule in effect and what impact it might have. County commissioners report that they are so flooded with rules and regulations and rising costs of implementation that they have had to hire full time help just to track rules and regulations. This amendment is brought forth to help solve some problems rather than to create more problems. Robin Smith, Assistant Secretary with the Department of Environment and Natural Resources and Ed Reagan representing the North Carolina Association of County Commissioners spoke regarding the

amendment stating they see no unfunded mandate on the counties by the state. After vigorous debate, Representative Lubeke called for a roll-call vote. The clerk called the roll; there being a tie vote, the amendment was not approved and the committee went back to the bill (See attachment #3). Representative Gray moved for approval of the original bill. Moved, carried, passed.

At this time, Representative Warwick replaced Representative McComas as Chairman.

HB1257 – STREAM IDENTIFICATION FOR BUFFER RULES. Representative Underhill's bill. This bill is a committee substitute. Representative Underhill moved the adoption of Proposed Committee Substitute H1257-PCS3415RT22 for consideration. (See attachment #4 and 4a). This bill would amend the laws of North Carolina to Authorize the Division of Water Quality of the Department of Environment and Natural Resources to delegate to the Division of Forest Resources certain responsibilities related to the identification of streams in order to implement the stream buffer rules. Mr. Bob Slocum from the North Carolina Forestry Association reported they wholeheartedly supported this bill. Nat Munn with the Conservation Council of North Carolina speaking on behalf of the conservation community, reported having significant concerns about the bill and the way it would affect implementation of the buffer rules protecting water quality in eastern North Carolina. Richard Rogers, the Department of Environment and Natural Resources, reported the department supports the bill. The proposed committee substitute was voted on, moved by Representative Tucker and seconded by Representative McComas. The bill was passed.

HB1344 – DEVELOPMENTS OF REGIONAL IMPACT. (See attachments #5 and 5a) Representative Hackney said this bill would establish procedures to review proposed developments of regional impact (DRI). The review process includes application submittal, public review and comment, public hearings, and a review by the primary reviewing agency. A DRI may be approved, approved with conditions, or disapproved by the reviewing agency. Decisions must be published and issued in writing and acknowledgements must be made recognizing the concerns and inputs of any interested agency or entity. The bill also establishes procedures for amending approved DRIs, for enforcing violations of DRI agreements, and for appealing DRI decisions under the Administrative Procedures Act. After debate, Chairman Warwick and Representative Hackney agreed it was unfair to try to hear the bill in the time allotted and agreed to try to hear the bill before cross-over. At this time, interested individuals wishing to speak on the bill could be put on the agenda before taking a vote and announce it. There were no comments regarding this suggestion.

The meeting was adjourned at 12:52 pm.

Representative Nurham Warwick, Co- Chair

Representative Danny McComas, Co-Chair

Linda Uzzle, Committee Assistant

#1
4-24-01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1007*

Short Title:	Environmental Technical Corrections.	(Public)
Sponsors:	Representatives Gibson and Warwick (Primary Sponsors).	
Referred to:	Appropriations.	

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ENVIRONMENTAL STATUTES OF THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7.7.(c) of S.L. 2000-67 is rewritten to read:

"Section 7.7.(c) Effective July 1, 2002, G.S. 143-15.3B(a), as rewritten by subsection (b) of this section, reads as rewritten:

'(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~forty million dollars ($40,000,000)~~ seventy million dollars ($70,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~forty million dollars ($40,000,000).~~ seventy million dollars ($70,000,000).' "

SECTION 2. Section 7.7.(d) of S.L. 2000-67 is rewritten to read:

"Section 7.7.(d) Effective July 1, 2003, G.S. 143-15.3B(a), as rewritten by subsections (b) and (c) of this section, reads as rewritten:

'(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~seventy million dollars ($70,000,000)~~ one hundred million dollars ($100,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~seventy million dollars ($70,000,000).~~ one hundred million dollars ($100,000,000).' "

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

Technical correction

#1A
4-24-01

§ 143-15.3B. The Clean Water Management Trust Fund.

(a) **(Effective until July 1, 2001)** The Clean Water Management Trust Fund is established in G.S. 113-145.3. The State Controller shall reserve to the Clean Water Management Trust Fund six and one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund at the end of each fiscal year or thirty million dollars ($30,000,000), whichever is greater.

(a) **(Effective July 1, 2001 until July 1, 2002)** The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of forty million dollars ($40,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of forty million dollars ($40,000,000).

(a) **(Effective July 1, 2002 until July 1, 2003)** The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of seventy million dollars ($70,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of seventy million dollars ($70,000,000).

(a) **(Effective July 1, 2003)** The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of one hundred million dollars ($100,000,000) each calendar year to the Clean Water Management Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of one hundred million dollars ($100,000,000).

(b) The funds in the Clean Water Management Trust Fund shall be used only in accordance with Article 13A of Chapter 113 of the General Statutes. (1996, 2nd Ex. Sess., c. 18, s. 27.6(b); 1997-443, s. 7.9(a); 2000-67, ss. 7.7(b)-(d).)

Subsection (a) is set out four times. See notes. — The first version of subsection (a) set out above is effective until July 1, 2001. The second version of subsection (a) set out above is effective July 1, 2001 until July 1, 2002. The third version of subsection (a) set out above is effective July 1, 2002 until July 1, 2003. The fourth version of subsection (a) set out above is effective July 1, 2003.

Editor's Note. — Session Laws 2000-67, s. 1.1, provides: "This act shall be known as 'The Current Operations and Capital Improvements Appropriations Act of 2000'."

Session Laws 2000-67, s. 28.4, contains a severability clause.

The version of subsection (a) effective July 1, 2003, has been set out in the form above at the direction of the Revisor of Statutes. Session Laws 2000-67, s. 7.7(d) apparently inadvertently inserted an extra "Management" in that subsection.

Effect of Amendments. — Session Laws 2000-67, s. 7.7(b), effective July 1, 2001, deleted the second sentence "The State Controller shall reserve to the Clean Water Management Trust Fund six and one-half percent (6.5%) of any unreserved credit balance remaining in the General Fund at the end of each fiscal year or thirty million dollars ($30,000,000), whichever is greater" and added the present second sentence in subsection (a).

Session Laws 2000-67, s. 7.7(c), effective July 1, 2002, substituted "seventy million dollars ($70,000,000)" for "forty million dollars ($40,000,000)" in subsection (a).

Session Laws 2000-67, s. 7.7(d), effective July 1, 2003, in subsection (a), substituted "one hundred million dollars ($100,000,000)" for "seventy million dollars ($70,000,000)" and added "Management" after "Clean Water" in the second sentence.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
H.B. 1007 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ENVIRONMENTAL STATUTES OF THE STATE OF NORTH CAROLINA.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

4-24-01
#2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H **1**

HOUSE BILL 308

Short Title:	Environmental Mgmt. Commission Membership.	(Public)
Sponsors:	Representatives Gillespie; and Hilton.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 28, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FAIR GEOGRAPHIC REPRESENTATION IN APPOINTING MEMBERS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-282 is amended by adding a new subsection to read:

"(e) In appointing the members of the Commission, the appointing authorities shall make every effort to ensure fair geographic representation of the Commission."

SECTION 2. This act is effective when it becomes law and applies to appointments made on or after that date.

4-24-01
#3

ROLL CALL VOTE

9 YES + 9 NO = 18 (TOTAL)

HB# 308
SB# ____

HOUSE STANDING COMMITTEE ON 2001-2002 Environment and Natural Resources

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	Gibson, Co-Chair	___	___	
✓	___	McComas, Co-Chair	___	___	
✓	___	Warwick, Co-Chair	___	___	
___	___	Cox, Vice Chair	___	___	
___	✓	Underhill, Vice Chair	___	___	
___	✓	Weiss, Vice Chair	___	___	
___	✓	Allen	___	___	
✓	___	Bowie	___	___	
✓	___	Culp	___	___	
___	___	Davis	___	___	
___	✓	Gray	___	___	
___	___	Gulley	___	___	
___	✓	Hackney	___	___	
✓	___	Hill	___	___	
___	✓	Insko	___	___	
___	✓	Luebke	___	___	
___	✓	McCombs	___	___	
___	✓	Miner	___	___	
___	___	Mitchell			**Ex officio Members**
✓	___	Preston	___	___	Rep. Cunningham
___	___	Smith	___	___	Speaker Pro Tem Hackney
✓	___	Tucker	___	___	Majority Leader Baddour
✓	___	Warner	___	___	Majority Whip Dedmon
✓	___	Weatherly	___	___	Majority Whip Earle

#3
4-26

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 308

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

H308-ALH-5 [v.3]

Date _____ ,2001

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

Representative Warwick

moves to amend the bill on page 1, lines 10 and 11,
by rewriting those lines to read:

"**SECTION 2.** Part 1 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

'**§ 150B-21A. County must designate rule-making coordinator; duties of coordinator.**

(a) Each county must designate a rule-making coordinator. The coordinator shall report directly to the Chair of the County Commissioners. The county-rule making coordinator shall do the following:

(1) Screen and review all proposed rule actions by the Environmental Management Commission and the Coastal Resources Commission prior to publication in the North Carolina Register to determine whether (i) the county will be affected by any proposed rule action; or (ii) any local government units within the county will be affected by the proposed rule action.

(2) Notify the Chair of the county commissioners, the county manager, each city manger within the county and any other local official as appropriate of any proposed rule action by Environmental

Management Commission or Coastal Resources Commission that may affect the county or any local government unit within the county.

(b) The County rule-making coordinator must review the proposed rule action submitted to the coordinator within 30 days of its receipt.

(c) If the county or any local government unit within the county objects to the proposed rule action, then the appropriate local government official shall notify the coordinator of the objection. The coordinator shall notify the Environmental Management Commission or Coastal Resources Commission as appropriate of the objection, no later than 60 days after the receipt of the proposed rule-making action from the agency."

SECTION 3. Part 5 of Article 2A is amended by adding the following sections.

"**§ 150B-21.29. Review of rule by local government.**

(a) The Environmental Management Commission and the Coastal Resources Commission must submit a permanent rule or any amendment to a permanent rule adopted by it to the county rule-making coordinator before the rule can be included in the North Carolina Administrative Code. The review of the proposed rule-making action by the county rule-making coordinator and the appropriate local government officials must be completed within 60 days of the receipt by the county rule-making coordinator proposed rule-making action from the agency.

(b) If a local government unit objects to the proposed rule-making action, the local government unit shall notify the agency a written statement of the objection and the reason for the objection. If the local government wants a field test of the proposed rule-making action before it is considered by the Environmental Management Commission or Coastal Resources Commission as a permanent rule or amendment to the permanent rule, then that request shall be included in the written objection with a detailed proposal that describes the field test, any other information needed to implement the field test, and the reasons for requesting the field test.

(c) Upon receipt of the objection the Environmental Management Commission or Coastal Resources Commission, as appropriate, must take one of the following actions:

(1) Change the rule to satisfy the local government's objection and submit the revised rule to the Rules Review Commission.

(2) Agree to a field test of the rule for a period of time not to exceed one year from the starting date of the field test.

(d) When the Environmental Management Commission or Coastal Resources Commission changes a rule in response to an objection by a local government unit, the Environmental Management Commission or Coastal Resources Commission shall notify the Rules Review Commission and the Joint Legislative Administrative Procedure Oversight Committee.

(e) If the Environmental Management Commission or Coastal Resources Commission agree to a field test of the rule, then the rule remains under review until the test is completed.

(f) If, after testing the rule, no compromise can be reached regarding the rule, the rule shall be sent to the Rules Review Commission for consideration in compliance with Part 3 of this Article."

SECTION 4. G.S. 150-21(b) is amended by adding the following subdivisions:

"(7) Consult with the county rule-making coordinator of each county to determine whether the county or any local government unit within the county would be affected by any proposed rule action by the Environmental Management Commission or the Coastal Resources Commission.

(8) Provide the county rule-making coordinator of each county with copies of all fiscal notes required by G.S. 150B-21.4(b), prior to publication in the North Carolina Register of the proposed text of a

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 308

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

H308-ALH-5 [v.3]

permanent rule change by the Environmental Management Commission or the Coastal Resources Commission.'

SECTION 5. Section 1 of this act is effective when the act becomes law and applies to appointments made on or after that date. Sections 2 through 4 of this act are effective October 1, 2001, and apply to any permanent rulemaking initiated by the Environmental Management Commission or the Coastal Resources Commission on or after that date. Section 5 of this act is effective when the act becomes law."

SIGNED N. D. Warwick
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 24 April 2001 TABLED _____
10 to tie
9-9 tie
N. Warwick

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
H.B. 308 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR FAIR GEOGRAPHIC REPRESENTATION IN APPOINTING MEMBERS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

#4
4-24-01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1257
PROPOSED COMMITTEE SUBSTITUTE H1257-PCS3415-RT-22

Short Title: Stream Identification for Buffer Rules. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO DELEGATE TO THE DIVISION OF FOREST RESOURCES THE RESPONSIBILITY TO DETERMINE THE PRESENCE OF SURFACE WATERS THAT MAY BE AFFECTED BY SILVICULTURE ACTIVITIES FOR PURPOSES OF THE RIPARIAN BUFFER PROTECTION PROGRAM.

The General Assembly of North Carolina enacts:

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

"**§ 143-214.25. Riparian Buffer Protection Program: Delegation to the Division of Forest Resources.**

The Commission may delegate to the Division of Forest Resources of the Department the responsibility to determine the presence of surface waters that would be affected by any activity associated with silviculture and that would require the application of rules adopted by the Commission for the protection of riparian buffers. In exercising its responsibility pursuant to a delegation made under this section, the Division of Forest Resources shall use methods that have been approved by the Division of Water Quality of the Department. If the Commission determines that the Division of Forest Resources is failing to make proper determinations pursuant to a delegation under this section, the Commission shall rescind the delegation."

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

4/7
4-24-01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1257

Short Title:	Stream Identification for Buffer Rules.	(Public)
Sponsors:	Representative Underhill.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS OF NORTH CAROLINA TO AUTHORIZE THE DIVISION OF WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DELEGATE TO THE DIVISION OF FOREST RESOURCES CERTAIN RESPONSIBILITIES RELATED TO THE IDENTIFICATION OF STREAMS IN ORDER TO IMPLEMENT THE STREAM BUFFER RULES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended.

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

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for

H.B. 1257 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS OF NORTH CAROLINA TO AUTHORIZE THE DIVISION OF WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DELEGATE TO THE DIVISION OF FOREST RESOURCES CERTAIN RESPONSIBILITIES RELATED TO THE IDENTIFICATION OF STREAMS IN ORDER TO IMPLEMENT THE STREAM BUFFER RULES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

#5
4-24-01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1344

Short Title:	Developments of Regional Impact.	(Public)
Sponsors:	Representative Hackney.	
Referred to:	Environment and Natural Resources.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT REGULATING DEVELOPMENTS OF REGIONAL IMPACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new Article to read:

"Article 19A.

"Developments of Regional Impact.

"**§ 153A-399. Statement of purpose.**

The purpose of this Article is to ensure that, for developments of regional impact, regional and extrajurisdictional impacts and interest are identified and addressed by:

(1) Providing an intergovernmental review procedure that allows State, regional, and local agencies whose plans, programs, and policies affect or are affected by developments to participate in decision making with regard to those developments.

(2) Ensuring public participation in the process of reviewing development proposals.

(3) Requiring agencies responsible for approving such developments to make a record of their decision based on an analysis of the regional or extrajurisdictional impacts or consequences.

(4) Ensuring that developments with extrajurisdictional impacts be reviewed according to policies concerning urban sprawl; environmental quality; safety from impacts of natural hazards; balancing jobs and housing; housing affordability; and provision of infrastructure.

"**§ 153A-399.1. Definitions.**

The following definitions shall apply in this Article:

(1) Development. -- Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or

operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodlands, wetland, endangered species habitat, aquifer, or other resource area, including coastal construction or other activity.

(2) Development of regional impact (DRI). – Any development that, because of its character, magnitude, or location, would have substantial effect upon the health, safety, or welfare of more than one county or city.

(3) Development permit. – Any building permit, zoning permit, plat approval, rezoning, certification, variance, or other action having the effect of allowing development as defined in this section.

(4) Host local government. – The local government in which the land on which a proposed development of regional impact is located and that would have the authority to exercise final development approval if the proposed development were not a development of regional impact.

(5) Interested agency or entity. – Any State, regional, or local government or agency whose jurisdiction lies entirely or partially within the geographic area encompassed by the proposed development of regional impact and whose programs and policies would be affected by the proposed development.

(6) Primary reviewing agency. – The regional planning agency or host local government that has the authority under this Article to review a development of regional impact, hold public hearings on the proposed development, coordinate the involvement of other interested persons, agencies, or entities that are participants in the review, and issue a decision whether to approve, approve with conditions, or deny any application for a development of regional impact.

"**§ 153A-399.2. Standards and criteria applicable to DRIs.**

In adopting standards and criteria under this Article, the host local government shall include the following factors in its consideration:

(1) The impact of the proposed development on the environment and natural resources of the State or region, including, but not limited to, air, ground, surface water supply and quality, endangered or threatened species habitats, open space, agriculture, and aquaculture.

(2) The impact of the proposed development on the built environment of the State or region, including, but not limited to, historical, cultural, architectural, archaeological, and recreational resources.

(3) The impact of the proposed development on the existing capital facilities of affected local governments and special districts and the

extent to which new capital facilities will be required to serve the proposed development.

(4) The amount of vehicular and pedestrian traffic likely to be generated.

(5) The number of persons likely to be residents, employees, or otherwise present on the site.

(6) The size of the proposed development site.

(7) The size of all structures to be constructed on the site.

(8) The likelihood that the proposed development will stimulate additional development in the surrounding area.

(9) The unique qualities of the site.

(10) The likelihood that the proposed development will be affected by or will affect natural hazards.

(11) The extent to which the proposed development would create an additional demand for energy.

(12) Other factors of State, regional, or local concern.

"**§ 153A-399.3. Determination of DRI status.**

Using the standards and criteria established by the host local government pursuant to G.S. 153A-399.2, the host local government shall determine whether a proposed development is a development of regional impact (DRI) and will be subject to DRI review.

"**§ 153A-399.4. Submittal of DRI application.**

(a) After the host local government has determined that a proposed development is a development of regional impact, the developer shall file an application with the host local government for development approval as a development of regional impact. The DRI application shall be in addition to any other applications for development approval required by the host local government's own land development regulations.

(b) Upon receipt of an application for a proposed DRI, the local host government shall determine whether additional information is necessary to assess the impact of the proposed development and may request such information from the developer.

(c) When a DRI application is filed with a host local government, the host local government shall also send copies of the application to other interested agencies or entities.

(d) The host local government may request the assistance of the regional planning agency in its review of a DRI application.

(e) A developer who is required to file for a permit under State environmental protection laws may elect to undergo a joint application and review procedure with the host local government and the State.

"**§ 153A-399.5. Review and recommendation of interested agencies and entities.**

Any interested agency or entity may review the application for a proposed DRI using the same standards and criteria established in G.S. 153A-399.2 and may submit a written report to the primary reviewing agency containing its concerns and recommendations. Although this report shall be advisory only, it must be considered by the primary reviewing agency in its review of the DRI application and acknowledged in its final decision issued pursuant to G.S. 153A-399.7.

"**§ 153A-399.6. Notice and public hearings.**

(a) The primary reviewing agency shall hold a public hearing on the application for a DRI approval. The hearing shall be held at a public facility located within the boundaries of the host local government.

(b) At least 20 days before the date of the public hearing, the [primary reviewing agency] shall provide written notice of the proposed DRI by publication in a newspaper that circulates in the area proposed for development to all interested agencies or entities, and to any interested person who, in writing, requests to be provided notice of proposed DRIs.

(c) The notice of each public hearing shall:

(1) Contain a description of the total area and boundaries of the proposed DRI and a general statement of foreseeable impacts on environmental or natural resources, historic and archaeological resources, and/or major public facilities or public investments.

(2) Specify the officers or employees of the primary reviewing agency from whom additional information may be obtained and to whom written comments may be directed.

(3) Specify a time and place where a copy of the DRI application may be inspected before the public hearing.

(4) Specify the date, time, place, and method for presentation of views by interested persons at the public hearing.

(d) The primary viewing agency shall afford any interested person, agency, or entity the opportunity to submit written recommendations and comments on the proposed DRI, copies of which shall be kept on file and made available for public inspection.

(e) Public hearings shall be conducted in the following manner:

(1) The hearings shall be chaired by the chief executive officer of the primary reviewing agency or his or her designated representative.

(2) The hearing shall be on the record, and a transcribed record shall be kept of all comments made at the hearing. A transcribed copy of all comments shall be made available to all interested persons upon request and at actual cost.

(3) The form of the hearing(s) may be set by the primary reviewing agency, except that representatives of all opinions regarding the DRI application shall be given an opportunity to make spoken comments.

(4) Written comments on the DRI application shall also be received at the hearings and shall become part of the record.

(f) To the extent that it is practicable to do so, the chief executive officer of the primary reviewing agency may attempt to reconcile persons, agencies, or entities with opposing viewpoints through informal conflict resolution procedures.

"**§ 153A-399.7. Review of DRI application.**

(a) The primary reviewing agency shall review proposed DRIs in accordance with the following criteria:

(1) Whether the proposed DRI is consistent with this Article, regional comprehensive plan, plans of any interested agencies or entities, and comprehensive plan and land development regulations of the host local government.

(2) Whether the proposed DRI will have a favorable or adverse impact on:

a. The environmental, agricultural, historical, and/or cultural resources of the region and local government.

b. Air quality, water quality, erosion, flooding, and safety issues related to natural hazards.

c. The regional and local economy.

d. Existing public facilities, including, but not limited to, roads, sewers, sewage treatment plants, stormwater management facilities, water supply and treatment plants, and educational facilities, as well as those facilities that are planned for construction in the succeeding five years.

e. The ability of the people to find adequate housing that is reasonably accessible to places of employment.

f. The supply and distribution of low- and moderate-income housing for the region and local government.

g. Historical settlement patterns of the region and locality, including population, density, and development characteristics (e.g., urban, suburban, or rural).

h. Any area of critical State concern.

(3) Whether the natural environment, including the potential for natural hazards, would have an adverse effect on the proposed DRI.

(b) The primary reviewing agency shall also review and consider any report submitted to it by any other interested person, agency, or entity that contains concerns and recommendations on the impacts of the proposed development and consider possible mitigation alternatives.

"**§ 153A-399.8. Issuance of decision.**

(a) Within 30 days after the public hearing, the primary reviewing agency shall render a written decision containing findings and approving, approving with conditions, or denying the development permit for the proposed DRI. Such 30-day period may be extended by mutual agreement of the primary reviewing agency and the developer.

(b) In its decision to approve a development permit for a proposed DRI, the primary reviewing agency may specify conditions to be met by the developer for the purpose of minimizing any negative economic, social, and/or environmental impacts and may also require the developer to modify a project to specifically address the concerns and recommendations contained in reports received from other interested agencies and entities pursuant to G.S. 153A-399.5.

(c) The decision of the primary reviewing agency shall also acknowledge any concerns and recommendations contained in reports received from any interested agency or entity that were not incorporated in the primary reviewing agency's final decision.

(d) The primary reviewing agency shall not approve a DRI application that does not make adequate and timely provision for those public facilities needed to accommodate the impacts of the proposed development.

(e) The primary reviewing agency shall file its written decisions with the clerk of the host local government or secretary of the regional planning agency and shall provide copies to the developer.

(f) Within 14 days of rendering its decision, the primary reviewing agency shall publish a notice containing a summary of its decision in a newspaper that circulates in the area affected by the decision.

"**§ 153A-399.9. Amendments.**

Any proposed change to a previously approved DRI that, in the opinion of the primary reviewing agency creates, or has a likelihood of creating, an additional regional impact or a type of regional impact not previously considered and reviewed by the primary reviewing agency shall constitute substantial deviation from the approved DRI and shall subject the development to repeat the entire DRI approval process.

"**§ 153A-399.10. Enforcement.**

The primary reviewing agency may enforce any decision, condition, and/or restriction it may impose upon a DRI by recording a certificate of noncompliance with the register of deeds of the county or counties in which the development is located. The primary reviewing agency shall commence such other actions or proceedings as it may deem necessary to enforce its decisions, conditions, and/or restrictions.

"**§ 153A-399.11. Appeals.**

Appeals of decisions by the primary reviewing agency to designate a proposed development as a DRI or to approve, reject, or approve with conditions a development that has been designated as a DRI shall proceed according to the provisions of Chapter 150B of the General Statutes."

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

5A
4-24-01

HOUSE BILL 1344:
Developments of Regional Impact

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Hackney
		Summary by:	George Givens, Committee Counsel
Date:	April 23, 2001		
Version:	First Edition		Tim Dodge, Research Assistant

SUMMARY: ***House Bill 1344 would establish procedures to review proposed developments of regional impact (DRI). The review process includes application submittal, public review and comment, public hearings, and a review by the primary reviewing agency. A DRI may be approved, approved with conditions, or disapproved by the reviewing agency. Decisions must be published and issued in writing, and acknowledgements must be made recognizing the concerns and inputs of any interested agency or entity. The bill also establishes procedures for amending approved DRIs, for enforcing violations of DRI agreements, and for appealing DRI decisions under the Administrative Procedures Act. The bill becomes effective when it becomes law.***

CURRENT LAW: Article 19 of Chapter 153A allows counties and cities to develop regional planning commissions. Regional planning commissions may study and inventory regional goals, resources, and problems, as well as prepare and amend regional development plans.

BILL ANALYSIS: House Bill 1344 creates a framework for examining the effects of developments of regional impact (DRI). A DRI is defined as *"any development that because of its character, magnitude, or location, would have substantial effect upon the health, safety, or welfare of more than one county or city."* The bill lists twelve factors that must be considered by the host local government when determining whether a proposed development is a DRI. A review process is established for those projects that are determined to be DRIs.

The DRI review process includes: (1) the submission of an application for development approval (in addition to any other applications for development approval required); (2) distribution of the application to interested parties; (3) a written comment period; (4) public notice and public hearings; and (5) a review by the primary reviewing agency. The proposed DRI is evaluated to determine whether it will have any favorable or adverse social, economic, and/or environmental impacts, and if any mitigation alternatives are available.

Within 30 days after the public hearing, the primary reviewing agency is required to issue a written decision that approves, approves with conditions, or denies the development permit for the proposed DRI. The decision must be made public record and must contain acknowledgements of the concerns and recommendations expressed by any interested agency or entity that were not incorporated into the final decision.

Approved DRIs may be amended only if it does not create a substantial deviation from the approved DRI. The reviewing agency may enforce any decision, condition, or restriction it may impose upon a DRI by recording a certificate of noncompliance if necessary. In addition, decisions regarding DRIs can be appealed under the provisions of the Administrative Procedures Act.

The bill becomes effective when it becomes law.

VISITOR REGISTRATION SHEET

Gen. Res
Name of Committee

4/24/01
Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jerry Hollister	N.C. Pork Council
David Meredith	NC State Grange
Kelli Hudson	DuPont
Preston Howard	MCIC
Tony Adams	NC Outdoor Advertising Assoc.
Lynn Harris	Wilm. Regional Association of Realtors
Vance Meanor	"
Charlrean B. Mayson	" "
Jennifer D. Batson	Wilm Regional Association of Realtors
Charles H. Gavins Jr.	" "
John F. Teed LTC USA Ret	"
Jerry L. Smith	" "
Brenda Bozeman	" "
Danny Brock	" "
Faye Brock	" "
Madeline Batson	" "
Tim Milam	" "
Donna Girardot	" "
George Laney	" "
Paul Nelson	" "
Ross M. Smith	PCS Phosphate
Adell Bernardo	Wilm. Regional Assoc. of Realtors
Gloria M. Green	" "
Sofia Wells	" " " "
Paul Mayo	NCAEC
Beau Mills	NC Metro Coalition
Marlow Garth	NC DFR
George Everett	Duke Energy

VISITOR REGISTRATION SHEET

Env. Res. — 4-24-01
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
James Speed	Louisburg
Mike DeVaughn	✓
Martha Mobley	✓
Doug Caperan	Halifax
R. Paul Wilms	NCHBA
Doug Lassiter	NC Septic Tank Assoc.
[illegible]	NCOAA
[illegible]	"
Charles Case	Hunton & Williams
Zeb Alley	Alley Assoc.
Sue Ann Cox	NCACE
Michelle Cook	Weyerhaeuser
Kelli Kelly	DENR
Richard Hancock	MCIC
Theresa Costanza	Cap. Adv.
Nancy Thompson	MCIC
Kim Hibbard	NCLM
Natalie English	Charlotte Chamber
Crissy Carter	Bone & Associates

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

APRIL 24, 2001

The House Committee on Environment and Natural Resources met Tuesday, April 24, 2001, after session around Representative Danny McComas' desk, seat 109, on the Floor of the Chamber in the Legislative Building. Chairman Warwick presided. Members present were Chairs Warwick, Gibson and McComas, Vice Chairs Representatives Cox and Weiss. Committee members Representatives Allen, Smith, Hackney, Davis, Preston, Insko, Warren and Culp.

As a committee clerk was not in attendance, Representative Warwick dictated these minutes.

Representative Wright presented his bill, HB1268 – A BILL TO BE ENTITLED AN ACT TO REENACT THE LAW GOVERNING PERMITS FOR URBAN WATERFRONT DEVELOPMENT IN HISTORICALLY URBAN AREAS to the committee for consideration. Copies of the bill were available.

Discussion on the bill was held with a motion by Representative Culp to give a favorable report to HB1268, seconded by Representative Davis.

No further discussion was needed and Chair Warwick called for the vote. The motion was carried with a strong "yes" vote.

Chair Warwick adjourned the meeting.

Representative Nurham Warwick, Chair

Representative Pryor Gibson, Chair

Linda Uzzle, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

HOUSE BILL 1268

Short Title:	CAMA-Historically Urban Areas.	(Public)
Sponsors:	Representative Wright.	
Referred to:	Environment and Natural Resources.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO REENACT THE LAW GOVERNING PERMITS FOR URBAN WATERFRONT DEVELOPMENT IN HISTORICALLY URBAN AREAS.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 and 2 of S.L. 1997-337, as amended by Section 92.1(a) of S.L. 00-140, are reenacted.

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

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1268 A BILL TO BE ENTITLED AN ACT TO REENACT THE LAW GOVERNING PERMITS FOR URBAN WATERFRONT DEVELOPMENT IN HISTORICALLY URBAN AREAS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

May 1, 2001
12:00 noon

1. **Call to Order – Representative Warwick, Presiding**

2. **Bill to be considered:**

   HB 688 – TURFGRASS FERTILIZER ASSESSMENT
   Representative Gibson

3. **Adjourn**

MINUTES

HOUSE COMMITTEE ON
ENVIRONMENT & NATURAL RESOURCES

May 1, 2001

The House Committee on ENVIRONMENT & NATURAL RESOURCES met on Tuesday, May 1, 2001, in Room 643 of the Legislative Office Building at 12:00 Noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice Chairmen Cox, Underhill Weiss, and Representatives Allen, Bowie, Culp, Gray, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Tucker and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. A Visitors Sheet is attached and made a part of these minutes.

Cochairman McComas called the meeting to order at 12:00 Noon and asked Cochairman Gibson to present his bill to the committee.

Cochairmen Gibson moved to adopt the Proposed Committee Substitute for HB688 AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS ASSESSMENT (see attachments #1, and #2). The motion carried. Cochairman Gibson and George Givens then explained the bill (see attachment #3).

Cochairman McComas introduced the Commissioner of Agriculture Meg Scott Phipps to address the committee. Commissioner Phipps spoke in support of the bill and stated that it would help get more money to researchers. The Commissioner further stated that some changes may be necessary in light of the Governor's initiative to close loopholes; however, the Department of Agriculture is willing to work with them on it. Cochairman McComas thanked Commissioner Phipps for her comments.

Cochairman McComas introduced Mr. Johnny Wynne, Associate Dean and Director of the North Carolina Agricultural Research Service at NC State University. Mr. Wynne spoke to the committee in support of the bill and gave a slide show to explain the importance of the NC Turfgrass Industry, the needed research and extension and the need for additional funding (see attachment #4). Cochairman McComas thanked Mr. Wynne for his presentation and asked if anyone else had comments in the audience.

Mr. Jim Skillen, Manager of Formulators Issues, representing RISE was recognized. Mr. Skillen spoke in opposition to the bill as written. Mr. Skillen stated that the bill sets a precedent for other States to follow and is problematic for RISE. Mr. Skillen also stated that RISE contributes to research at NCSU as well as doing their own research.

Cochairman McComas recognized Mr. Howard Singletary, Executive Secretary and Treasurer representing the Plant Food Association of North Carolina, who spoke in favor of research, but in opposition to HB 688 due to the risk of putting North Carolina at a competitive disadvantage. Mr. Singletary further stated that they would be willing to pursue a compromise.

Cochairman McComas recognized Mr. Dick Carlton representing the Turfgrass Council of North Carolina. Mr. Carlton spoke in support of the bill and stated that there is a lot enthusiasm for the bill and had a group of supporters in the audience stand. Mr. Carlton further stated that this is a wonderful program at NC State University, and they had worked hard to come up this plan. Mr. Carlton also stressed that the Farmers of North Carolina will not be assessed.

Cochairman McComas thanked the speakers. Cochairman Gibson offered an amendment (see attachment #5) to include the North Carolina Agricultural and Technical State University on the Council and moved for its' adoption. The motion carried. Upon motion by Vice Chairman Cox the amendment was rolled into a proposed committee substitute and received a favorable report, unfavorable to the original bill and referred to the Committee on FINANCE (see attachment #6 and #7).

Cochairman McComas adjourned the meeting at 12:45 p. m.

Representative Daniel F. McComas
Cochairman (presiding)

Jayne Nelson Walton
Committee Assistant

5-1-01 Att # 1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 688

Short Title:	Turfgrass Fertilizer Assessment.	(Public)
Sponsors:	Representatives Gibson, Warwick, Weatherly (Primary Sponsors); Allen, Barbee, Barefoot, Bell, Bowie, Buchanan, Church, Coates, Cole, Cox, Creech, Culp, Culpepper, Decker, Dedmon, Dockham, Edwards, Fitch, Fox, Goodwin, Gray, Haire, Hiatt, Hill, Hilton, Holliman, Hurley, Johnson, Kiser, Lucas, McCombs, McLawhorn, McMahan, Miner, Morris, Oldham, Owens, Rayfield, Rogers, Saunders, Smith, Teague, Thompson, Tolson, Tucker, Wainwright, Walend, Walker, Warner, G. Wilson, Womble, and Yongue.	
Referred to:	Finance.	

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS ASSESSMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 70.

"Turfgrass Fertilizer Assessment.

"**§ 106-830. Findings and purpose.**

The General Assembly finds that turfgrass production and maintenance makes an important contribution to the State's economy and that it is appropriate for the State to provide a means whereby turfgrass fertilizer users may pay an assessment that is refundable upon request, in order to provide funds for turfgrass research and promotion.

"**§ 106-831. Definitions.**

The following definitions apply in this Article:

(1) 'Council' means the Turfgrass Council of North Carolina, Inc.

(2) 'Department' means the Department of Agriculture and Consumer Services.

(3) 'Turfgrass' means grassy areas that are maintained. Turfgrass includes lawns; golf courses; commercial, industrial, and institutional lawn areas; athletic fields; sod production fields; roadsides; and cemeteries.

(4) 'Turfgrass fertilizer' means commercial fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass or labeled for use on turfgrass. Turfgrass fertilizer also means bulk fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass.

"**§ 106-832. Turfgrass assessment; collection; penalties; audits.**

(a) Collection of Assessment. – An assessment in the amount of five dollars ($5.00) per ton shall be added to the purchase price of all turfgrass fertilizer sold in North Carolina. The Department shall notify all manufacturers of turfgrass fertilizer of the assessment under this section and shall provide forms to the manufacturers to be used to report the assessment under subsection (b) of this section.

(b) Duties of Manufacturers. – Each manufacturer of turfgrass fertilizer shall provide each wholesale purchaser of turfgrass fertilizer with an invoice that contains a statement that states the amount of the assessment collected on the purchase covered by the invoice, as follows: 'TURFGRASS RESEARCH ASSESSMENT.....(amount of assessment collected on the purchase covered by the invoice)'. No later than the fifteenth of each month, each manufacturer of turfgrass fertilizer shall report on the forms provided by the Department the tonnage of turfgrass fertilizer sold during the previous month and shall remit to the Department the assessments on turfgrass fertilizer sold during the previous month.

(c) Duties of Purchasers. – Persons who purchase turfgrass fertilizer on which the assessment was not paid within 30 days by the manufacturer shall report these purchases and pay the assessment to the Department.

(d) Penalty. – Any manufacturer of turfgrass fertilizer who fails to report and remit the assessment under subsection (b) of this section for the previous month's sales by the end of the month in which it is due shall pay a penalty of five percent (5%) of the unpaid assessment, plus an additional penalty of one percent (1%) of the unpaid assessment for each month that the assessment remains unpaid.

(e) Audits. – The Department may conduct audits and check the remittances paid by the manufacturers under this section in the same manner and at the same time as audits are made with regard to the inspection tax on commercial fertilizers under G.S. 106-671. If the audit reveals that a manufacturer of turfgrass fertilizer has willfully failed to remit assessments when due, the manufacturer shall pay the Department the reasonable costs of the audit.

(f) Action to Collect. – The Council may bring an action to collect unpaid assessments, penalties, and reasonable costs of any audit as provided in this section, against any manufacturer of turfgrass fertilizer who fails to pay the assessment and penalties due. If the Council prevails in the action brought, the manufacturer is liable for the cost of the action, including attorneys' fees.

"**§ 106-833. Use of funds.**

Uses of Assessments Collected. – The Department shall remit all assessments it collects under G.S. 106-832, less reasonable administrative costs not to exceed six percent (6%) of the revenue generated in the previous fiscal year, as follows:

(1) Seventy-five percent (75%) shall be transferred to the North Carolina Agricultural Foundation, Inc., to be used for research concerning turfgrass production and maintenance.

(2) Twenty-five percent (25%) shall be transferred to the Council to be used for promoting turfgrass and its uses.

"**§ 106-834. Turfgrass Funding Committee.**

(a) Turfgrass Funding Committee Established. – The Turfgrass Funding Committee is established. No moneys shall be disbursed from assessments collected under this Article unless approved by the Turfgrass Funding Committee. The Turfgrass Funding Committee shall consist of nine members as follows:

(1) Six members shall be members of the Council and shall be appointed by the Board of Directors of the Council.

(2) Three members shall be members of the faculty of the College of Agriculture and Life Sciences at North Carolina State University, shall be nominated by the Dean of that College, and shall be appointed by the Commissioner of Agriculture.

(b) Terms. – The terms of three of the members appointed by the Board of Directors of the Council shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of three of the members appointed by the Board of Directors of the Council shall expire on June 30 of years that are evenly divisible by three. The terms of the three members appointed by the faculty of the College of Agriculture and Life Sciences at North Carolina State University shall expire on June 30 of years that follow by one year years that are evenly divisible by three. Upon the expiration of a term, a member may continue to serve until a successor is appointed. After the terms of the initial appointments expire, the term of office of a member is three years.

(c) Chair. – The Board of Directors of the Council shall appoint one member to serve as Chair.

(d) Vacancies. – An appointment to fill a vacancy shall be for the unexpired balance of the term.

(e) Meetings. – The Turfgrass Funding Committee shall meet at least once each year and may meet more often if called by the Chair to meet.

(f) Quorum. – A majority of the Turfgrass Funding Committee is a quorum for the transaction of business.

(g) Annual Report. – The Turfgrass Funding Committee shall make a report to the Dean of the College of Agriculture and Life Sciences at North Carolina State University and the Commissioner of Agriculture regarding total receipts and disbursements of assessments collected for the previous year.

(h) Reimbursement of Expenses. – Turfgrass Funding Committee members may be reimbursed for necessary expenses, as determined by the Board of Directors of the Council.

"**§ 106-835. Refund of assessment.**

Any person who has purchased for use turfgrass fertilizer upon which the assessment has been paid has the right to receive a refund of the assessment by making demand in writing to the Department within 30 days of purchase of the turfgrass fertilizer. Such demand must be accompanied by proof of purchase of the fertilizer satisfactory to the Turfgrass Funding Committee."

SECTION 2. The Department of Agriculture and Consumer Services may adopt rules to implement this act.

SECTION 3. The initial appointments of the Turfgrass Funding Committee, created by G.S. 106-834, as enacted in Section 1 of this act, shall be appointed no later than October 1, 2001.

SECTION 4. G.S. 106-832(d), as enacted by Section 1 of this act, becomes effective July 1, 2002, and applies to unpaid assessments and resulting penalties under G.S. 106-832, as enacted in Section 1 of this act, that accrue on or after that date. The remainder of this act becomes effective July 1, 2001, and applies to turfgrass fertilizer sold on or after that date.

3-1-01 att #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 688
PROPOSED COMMITTEE SUBSTITUTE H688-PCS3440-RT-34

Short Title: Turfgrass Fertilizer Assessment. (Public)

Sponsors:

Referred to:

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS ASSESSMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 70.

"Turfgrass Fertilizer Assessment.

"**§ 106-830. Findings and purpose.**

The General Assembly finds that turfgrass production and maintenance makes an important contribution to the State's economy and that it is appropriate for the State to provide a means whereby turfgrass fertilizer users may pay an assessment that is refundable upon request in order to provide funds for turfgrass research and promotion.

"**§ 106-831. Definitions.**

The following definitions apply in this Article:

(1) 'Council' means the Turfgrass Council of North Carolina, Inc.

(2) 'Department' means the Department of Agriculture and Consumer Services.

(3) 'Turfgrass' means grassy areas that are maintained. Turfgrass includes lawns; golf courses; commercial, industrial, and institutional lawn areas; athletic fields; sod production fields; roadsides; and cemeteries.

(4) 'Turfgrass fertilizer' means commercial fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass or labeled for use on turfgrass. Turfgrass fertilizer also means bulk fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass.

"**§ 106-832. Turfgrass assessment; collection; penalties; audits.**

(a) Collection of Assessment. – Each manufacturer of turfgrass fertilizer shall add an assessment in the amount of five dollars ($5.00) per ton to the purchase price of all turfgrass fertilizer sold for use in North Carolina. This assessment shall not apply to any fertilizer that is used for an agricultural purpose, including production of row crops; production of hay, silage, or other animal feed; or to maintain any pasture used for grazing livestock. The Department shall notify all manufacturers of turfgrass fertilizer of the assessment under this section and shall provide forms to the manufacturers to be used to report the assessment under subsection (b) of this section.

(b) Duties of Manufacturers. – Each manufacturer of turfgrass fertilizer shall provide each purchaser of turfgrass fertilizer with an invoice that includes, as a separate item, the amount of the assessment collected on the purchase covered by the invoice as follows: 'TURFGRASS RESEARCH ASSESSMENT .....$ (amount of assessment)'. No later than the fifteenth of each month, each manufacturer of turfgrass fertilizer shall report on the forms provided by the Department the tonnage of turfgrass fertilizer sold during the previous month and shall remit to the Department the assessments on turfgrass fertilizer sold during the previous month.

(c) Duties of Purchasers. – A person who purchases turfgrass fertilizer on which the manufacturer did not pay the assessment shall report the purchase and pay the assessment to the Department within 30 days of the purchase.

(d) Penalty. – Any manufacturer of turfgrass fertilizer who fails to report and remit the assessment under subsection (b) of this section for the previous month's sales by the end of the month in which it is due shall pay a penalty of five percent (5%) of the unpaid assessment, plus an additional penalty of one percent (1%) of the unpaid assessment for each month that the assessment remains unpaid.

(e) Audits. – The Department may conduct audits and check the remittances paid by the manufacturers under this section in the same manner and at the same time as audits are made with regard to the inspection tax on commercial fertilizers under G.S. 106-671. If the audit reveals that a manufacturer of turfgrass fertilizer has willfully failed to remit assessments when due, the manufacturer shall pay the Department the reasonable costs of the audit.

(f) Action to Collect. – The Council may bring an action to collect unpaid assessments, penalties, and reasonable costs of any audit as provided in this section against any manufacturer of turfgrass fertilizer who fails to pay the assessment and penalties due. If the Council prevails in the action brought, the manufacturer is liable for the cost of the action, including attorneys' fees.

"**§ 106-833. Use of funds.**

The Department shall remit all assessments it collects under G.S. 106-832, less reasonable administrative costs not to exceed six percent (6%) of the revenue generated in the previous fiscal year, as follows:

(1) Seventy-five percent (75%) shall be transferred to the North Carolina Agricultural Foundation, Inc., to be used for research concerning

turfgrass production and maintenance, the impact of turfgrass fertilizer on the environment, and ways to reduce environmental impacts.

(2) Twenty-five percent (25%) shall be transferred to the Council to be used for promoting turfgrass and its uses and for educational activities related to turfgrass use and care, including the proper use of turfgrass fertilizer.

"**§ 106-834. Turfgrass Funding Committee.**

(a) Committee Established. – The Turfgrass Funding Committee is established. No moneys shall be disbursed from assessments collected under this Article unless approved by the Turfgrass Funding Committee. The Turfgrass Funding Committee shall consist of nine members as follows:

(1) Six members shall be members of the Council and shall be appointed by the Board of Directors of the Council. These six members shall hold positions designated as A, B, C, D, E, and F.

(2) Three members shall be members of the faculty of the College of Agriculture and Life Sciences at North Carolina State University, shall be nominated by the Dean of that College, and shall be appointed by the Commissioner of Agriculture. These three members shall hold positions designated as G, H, and I.

(b) Terms; Vacancies. – The term of office of members of the Committee is three years. The terms of members appointed to positions A, D, and G under subsection (a) of this section shall expire on 1 July of years that precede by one year those years that are evenly divisible by three. The terms of members appointed to positions B, E, and H under subsection (a) of this section shall expire on 1 July of those years that are evenly divisible by three. The terms of members appointed to positions C, F, and I under subsection (a) of this section shall expire on 1 July of years that follow by one year those years that are evenly divisible by three. A member of the Committee may be reappointed to an additional term. Upon the expiration of a term, a member may continue to serve until a successor is appointed. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(c) Chair. – The Board of Directors of the Council shall appoint one member to serve as Chair.

(d) Office May Be Held Concurrently With Others. – The office of member of the Turfgrass Funding Committee may be held concurrently with any other elected or appointed office, as authorized by Article VI, Section 9, of the Constitution of North Carolina.

(e) Meetings. – The Turfgrass Funding Committee shall meet at least once each year and may meet more often if called by the Chair to meet.

(f) Quorum. – A majority of the Turfgrass Funding Committee is a quorum for the transaction of business.

(g) Annual Report. – The Turfgrass Funding Committee shall make a report to the Dean of the College of Agriculture and Life Sciences at North Carolina State

University and the Commissioner of Agriculture regarding total receipts and disbursements of assessments collected for the previous year.

(h) Reimbursement of Expenses. – Turfgrass Funding Committee members may be reimbursed for necessary expenses, as determined by the Board of Directors of the Council.

"**§ 106-835. Refund of assessment.**

Any person who purchases turfgrass fertilizer upon which the assessment has been paid has the right to receive a refund of the assessment by making demand in writing to the Department within 30 days of purchase of the turfgrass fertilizer. A demand must be accompanied by proof of purchase of the turfgrass fertilizer satisfactory to the Turfgrass Funding Committee."

SECTION 2. The Department of Agriculture and Consumer Services may adopt rules to implement this act.

SECTION 3. The initial appointments to the Turfgrass Funding Committee, created by G.S. 106-834, as enacted in Section 1 of this act, shall be made no later than 1 October 2001. Notwithstanding G.S. 106-834(b), the initial appointments to positions A, D, and G shall expire 1 July 2003; the initial appointments to positions B, E, and F shall expire 1 July 2004; and the initial appointments to positions C, F, and I shall expire 1 July 2006.

SECTION 4. G.S. 106-832 and G.S. 106-833, as enacted by Section 1 of this act, become effective 1 January 2002, and apply to turfgrass fertilizer sold on or after that date. The remainder of this act becomes effective 1 July 2001.

5-1-01 AH # 3

HOUSE BILL 688:
Turfgrass Fertilizer Assessment

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Gibson, Warwick, and Weatherly
Date:	May 1, 2001	**Summary by:**	George Givens Committee Counsel
Version:	Proposed Committtee Substitute (H688-CSRT-34)		

SUMMARY: ***The proposed committee substitute for House Bill 688 would authorize an assessment on turfgrass fertilizer in the amount of five dollars ($5.00) per ton and establish the guidelines for collection and distribution of the collected assessments. The Department of Agriculture & Consumer Services would administer the program. The Department would remit all collected assessments, less reasonable administrative costs not to exceed six percent (6%) of the revenue generated in the previous year, as follows:***

- ***Seventy-five percent (75%) of the net proceeds would go to the North Carolina Agricultural Foundation, Inc., to be used for research concerning turfgrass production and maintenance, the impact of turfgrass on the environment, and ways to reduce environmental impacts.***
- ***Twenty-five percent (25%) of the net proceeds would be transferred to the Turfgrass Council of North Carolina, Inc., to be used for promoting turfgrass and its uses and for educational activities related to turfgrass use and care, including the proper use of turfgrass fertilizer.***

The bill would establish the nine–member Turfgrass Funding Committee, which would approve all disbursements from the assessments. The bill would also permit a refund of the fertilizer assessment by written request.

The act would become effective on July 1, 2001, except for Section 1 of the act, which would become effective on July 1, 2002.

CURRENT LAW: Under G.S. 106-671, an inspection fee of twenty-five cents (25¢) per ton is assessed on all commercial fertilizers other than packages of five pounds or less. On packages of five pounds or less, an annual registration fee of twenty-five dollars ($25.00) is assessed for each brand sold, distributed, or offered for sale. The purpose of the inspection fee is to defray the expense of inspections used for determining the value and quality of commercial fertilizers in the State. There are no specific criteria or exceptions for turfgrass fertilizers.

BILL ANALYSIS: House Bill 688 proposes to create a new Article 70 in Chapter 106 of the North Carolina General Statutes. The article would establish the Turfgrass Fertilizer Assessment, which would add an assessment of five dollars ($5.00) per ton to the purchase price of all turfgrass fertilizer sold for use in North Carolina. The assessment would not apply to fertilizer used for agricultural purposes or to maintain any pasture used for grazing livestock. Manufacturers of turfgrass fertilizer would be responsible for charging the assessment and for providing each purchaser of turfgrass fertilizer with an invoice that states the amount of the assessment collected on each purchase.

The Department of Agriculture and Consumer Resources (Department) would be responsible for administering the program, including creating the forms to be used by manufacturers to report the assessment, conducting audits to ensure compliance with the act, and the development of rules to implement the act. Manufacturers would report and submit their assessments to the Department on a monthly basis, and the Department would collect the assessments during each fiscal year of the program. At the end of the previous fiscal year, the Department would then be required to remit all collected assessments, less reasonable administrative costs not to exceed six percent (6%) of the revenue generated in the previous year, as follows:

- Seventy-five percent (75%) of the net proceeds would go to the North Carolina Agricultural Foundation, Inc., to be used for research concerning turfgrass production and maintenance, the impact of turfgrass on the environment, and ways to reduce environmental impacts.
- Twenty-five percent (25%) of the net proceeds would be transferred to the Turfgrass Council of North Carolina, Inc., to be used for promoting turfgrass and its uses and for educational activities related to turfgrass use and care, including the proper use of turfgrass fertilizer.

The bill would also establish the Turfgrass Funding Committee (Committee), which would be responsible for approving disbursements from the collected assessments. The Committee would consist of nine members serving staggered three-year terms. Six members of the Committee would be members of the Turfgrass Council of North Carolina, Inc., and would be appointed by the Board of Directors of the Council, while the other three members would be members of the faculty of the College of Agriculture and Life Sciences at North Carolina State University, nominated by the Dean of that College and appointed by the Commissioner of Agriculture. The rules, structure, and reporting requirements of the Committee are also established within the bill.

Lastly, House Bill 688 would also grant any person who purchased for use turfgrass fertilizer upon which the assessment has been paid the right to receive a refund of the assessment. The demand for refund would have to be made in writing to the Department within 30 days of purchase of the turfgrass fertilizer and must be accompanied by a satisfactory proof of purchase.

The act would become effective on July 1, 2001, except for Section 1 of the act, which would become effective on July 1, 2002.

BACKGROUND: According to the North Carolina Department of Agriculture & Consumer Services, there are over two million acres of turfgrass grown or maintained in North Carolina, with over 114,000 citizens employed in commercial turfgrass maintenance operations. Groups comprising the majority of this acreage include single-family dwellings (61%), roadsides (16%), parks (8%), and commercial properties (5%).

House Bill 688 is similar to legislation introduced in 1999 by Representative Redwine (House Bill 1284) and Senator Plyler (Senate Bill 1105).

3-1-01 ATT # 4

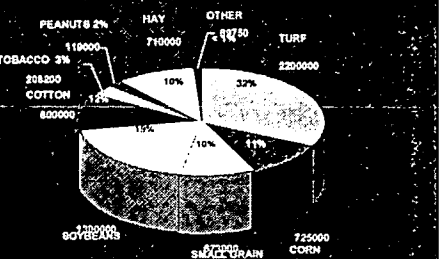
POINTS

- Importance of NC Turfgrass Industry
- Need for Research and Extension
- Need for Additional Funding

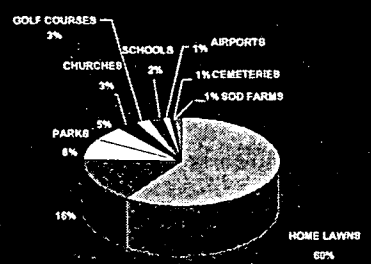
Importance of Turfgrass

- Environment
  - Soil Erosion and Runoff
- Quality of Life
- Economy
  - Annual maintenance cost nearly $1 billion
  - Replacement value of turf equipment greater than $3.5 billion
  - Tourism -- nearly 600 golf courses
  - Overall value estimated at $4.5 billion

Turf and Crop Acreage



Turfgrass Segments



Research & Education

- Water Quality - Perceived problems with nitrogen and pesticides
- Best Management Practices - Need alternative approaches for pest control
- Drought Tolerance - Need new cultivars with improved water use efficiency, better management of water
- Cost Control - Efficiency in use of turfgrass (profitability)

Need for Additional Funding

- Research is costly
- University research depends on outside funding
- Sources of funding for turf limited

Research Example

- Industry supports need for more research
- Costly
- Example -- water quality: Fate of Nitrogen on Golf Courses

Fate of Nitrogen in Turfgrass Systems

Phase I: Golf Course Fairways in the Neuse and Cape Fear River Basins

Departments of Crop and Soil Science
North Carolina State University

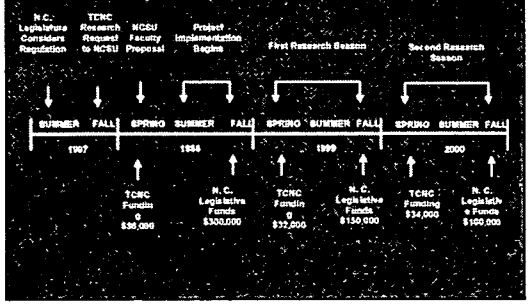
Faculty

D. Bowman
• Bruneau
K. Cassel
W. Gilliam
C.Peacock
T. Rufty
A. Wollum
F. Yelverton

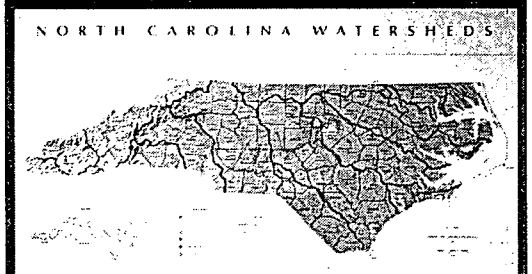
Disciplines

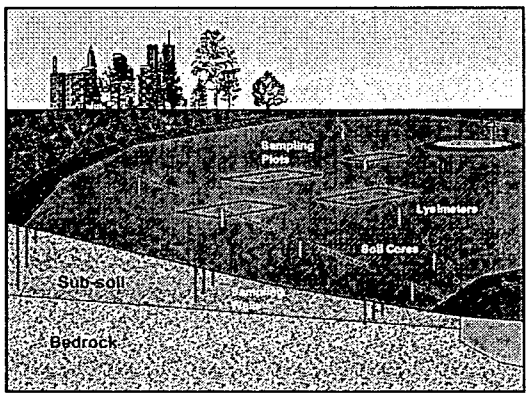
Environmental Biology
Hydrology
Soil Physics
Microbiology
Soil
Turfgrass Management

Project Funding

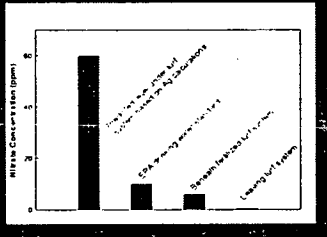


Research Locations



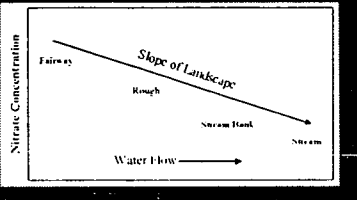


Nitrate Levels Under Turf are Surprisingly Low



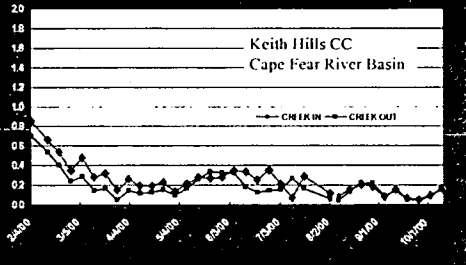
- Soil analyses and wells indicated low nitrate under fairways.
- Even lower amounts were present near streams.

Turfgrass Systems Act as a Buffer



- Evidence from all locations indicated that little if any nitrate is lost from turf systems.
- Turf appears to act as a riparian buffer removing nitrate from subsurface water flow.
- The buffer effect is similar to that required under the Neuse River regulations.

Stream Nitrate Concentrations 2000



- At all locations streams had higher nitrate levels entering golf courses than leaving golf courses.

Summary

- Turgrass Industry is Important
- There is a need for more Research and Education
- The needed research requires more funding

5-1-01 Aff #5

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 966 DATE 5/01/01

S. B. No. _____ Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Gibson
~~Sen.~~)

moves to amend the bill on page 3, lines 15 - 16

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"(2) Three members shall be selected from the faculty of the College of Agriculture and Life Sciences at North Carolina State University and North Carolina Agricultural and ~~Technical~~ State University, shall"

and on p. 4, line 1, by rewriting the line to read:

"University, North Carolina Agricultural and ~~Technical~~ State University, and the Commissioner of Agriculture regarding total receipts and".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

5-1-01 Att #6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 688
PROPOSED COMMITTEE SUBSTITUTE H688-PCS6271-RT-35

Short Title: Turfgrass Fertilizer Assessment. (Public)

Sponsors:

Referred to:

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS ASSESSMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 70.

"Turfgrass Fertilizer Assessment.

"**§ 106-830. Findings and purpose.**

The General Assembly finds that turfgrass production and maintenance makes an important contribution to the State's economy and that it is appropriate for the State to provide a means whereby turfgrass fertilizer users may pay an assessment that is refundable upon request in order to provide funds for turfgrass research and promotion.

"**§ 106-831. Definitions.**

The following definitions apply in this Article:

(1) 'Council' means the Turfgrass Council of North Carolina, Inc.

(2) 'Department' means the Department of Agriculture and Consumer Services.

(3) 'Turfgrass' means grassy areas that are maintained. Turfgrass includes lawns; golf courses; commercial, industrial, and institutional lawn areas; athletic fields; sod production fields; roadsides; and cemeteries.

(4) 'Turfgrass fertilizer' means commercial fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass or labeled for use on turfgrass. Turfgrass fertilizer also means bulk fertilizer, as defined in G.S. 106-657, that is dry and that is sold for use on turfgrass.

"**§ 106-832. Turfgrass assessment; collection; penalties; audits.**

(a) Collection of Assessment. – Each manufacturer of turfgrass fertilizer shall add an assessment in the amount of five dollars ($5.00) per ton to the purchase price of all turfgrass fertilizer sold for use in North Carolina. This assessment shall not apply to any fertilizer that is used for an agricultural purpose, including production of row crops; production of hay, silage, or other animal feed; or to maintain any pasture used for grazing livestock. The Department shall notify all manufacturers of turfgrass fertilizer of the assessment under this section and shall provide forms to the manufacturers to be used to report the assessment under subsection (b) of this section.

(b) Duties of Manufacturers. – Each manufacturer of turfgrass fertilizer shall provide each purchaser of turfgrass fertilizer with an invoice that includes, as a separate item, the amount of the assessment collected on the purchase covered by the invoice as follows: 'TURFGRASS RESEARCH ASSESSMENT .....$ (amount of assessment)'. No later than the fifteenth of each month, each manufacturer of turfgrass fertilizer shall report on the forms provided by the Department the tonnage of turfgrass fertilizer sold during the previous month and shall remit to the Department the assessments on turfgrass fertilizer sold during the previous month.

(c) Duties of Purchasers. – A person who purchases turfgrass fertilizer on which the manufacturer did not pay the assessment shall report the purchase and pay the assessment to the Department within 30 days of the purchase.

(d) Penalty. – Any manufacturer of turfgrass fertilizer who fails to report and remit the assessment under subsection (b) of this section for the previous month's sales by the end of the month in which it is due shall pay a penalty of five percent (5%) of the unpaid assessment, plus an additional penalty of one percent (1%) of the unpaid assessment for each month that the assessment remains unpaid.

(e) Audits. – The Department may conduct audits and check the remittances paid by the manufacturers under this section in the same manner and at the same time as audits are made with regard to the inspection tax on commercial fertilizers under G.S. 106-671. If the audit reveals that a manufacturer of turfgrass fertilizer has willfully failed to remit assessments when due, the manufacturer shall pay the Department the reasonable costs of the audit.

(f) Action to Collect. – The Council may bring an action to collect unpaid assessments, penalties, and reasonable costs of any audit as provided in this section against any manufacturer of turfgrass fertilizer who fails to pay the assessment and penalties due. If the Council prevails in the action brought, the manufacturer is liable for the cost of the action, including attorneys' fees.

"**§ 106-833. Use of funds.**

The Department shall remit all assessments it collects under G.S. 106-832, less reasonable administrative costs not to exceed six percent (6%) of the revenue generated in the previous fiscal year, as follows:

(1) Seventy-five percent (75%) shall be transferred to the North Carolina Agricultural Foundation, Inc., to be used for research concerning

turfgrass production and maintenance, the impact of turfgrass fertilizer on the environment, and ways to reduce environmental impacts.

(2) Twenty-five percent (25%) shall be transferred to the Council to be used for promoting turfgrass and its uses and for educational activities related to turfgrass use and care, including the proper use of turfgrass fertilizer.

"**§ 106-834. Turfgrass Funding Committee.**

(a) Committee Established. – The Turfgrass Funding Committee is established. No moneys shall be disbursed from assessments collected under this Article unless approved by the Turfgrass Funding Committee. The Turfgrass Funding Committee shall consist of nine members as follows:

(1) Six members shall be members of the Council and shall be appointed by the Board of Directors of the Council. These six members shall hold positions designated as A, B, C, D, E, and F.

(2) Three members shall be selected from the faculty of the College of Agriculture and Life Sciences at North Carolina State University and North Carolina Agricultural and Technical State University, shall be nominated by the Dean of that College, and shall be appointed by the Commissioner of Agriculture. These three members shall hold positions designated as G, H, and I.

(b) Terms; Vacancies. – The term of office of members of the Committee is three years. The terms of members appointed to positions A, D, and G under subsection (a) of this section shall expire on 1 July of years that precede by one year those years that are evenly divisible by three. The terms of members appointed to positions B, E, and H under subsection (a) of this section shall expire on 1 July of those years that are evenly divisible by three. The terms of members appointed to positions C, F, and I under subsection (a) of this section shall expire on 1 July of years that follow by one year those years that are evenly divisible by three. A member of the Committee may be reappointed to an additional term. Upon the expiration of a term, a member may continue to serve until a successor is appointed. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(c) Chair. – The Board of Directors of the Council shall appoint one member to serve as Chair.

(d) Office May Be Held Concurrently With Others. – The office of member of the Turfgrass Funding Committee may be held concurrently with any other elected or appointed office, as authorized by Article VI, Section 9, of the Constitution of North Carolina.

(e) Meetings. – The Turfgrass Funding Committee shall meet at least once each year and may meet more often if called by the Chair to meet.

(f) Quorum. – A majority of the Turfgrass Funding Committee is a quorum for the transaction of business.

(g) Annual Report. – The Turfgrass Funding Committee shall make a report to the Dean of the College of Agriculture and Life Sciences at North Carolina State University, North Carolina Agricultural and Technical State University, and the Commissioner of Agriculture regarding total receipts and disbursements of assessments collected for the previous year.

(h) Reimbursement of Expenses. – Turfgrass Funding Committee members may be reimbursed for necessary expenses, as determined by the Board of Directors of the Council.

"**§ 106-835. Refund of assessment.**

Any person who purchases turfgrass fertilizer upon which the assessment has been paid has the right to receive a refund of the assessment by making demand in writing to the Department within 30 days of purchase of the turfgrass fertilizer. A demand must be accompanied by proof of purchase of the turfgrass fertilizer satisfactory to the Turfgrass Funding Committee."

SECTION 2. The Department of Agriculture and Consumer Services may adopt rules to implement this act.

SECTION 3. The initial appointments to the Turfgrass Funding Committee, created by G.S. 106-834, as enacted in Section 1 of this act, shall be made no later than 1 October 2001. Notwithstanding G.S. 106-834(b), the initial appointments to positions A, D, and G shall expire 1 July 2003; the initial appointments to positions B, E, and F shall expire 1 July 2004; and the initial appointments to positions C, F, and I shall expire 1 July 2006.

SECTION 4. G.S. 106-832 and G.S. 106-833, as enacted by Section 1 of this act, become effective 1 January 2002, and apply to turfgrass fertilizer sold on or after that date. The remainder of this act becomes effective 1 July 2001.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 688 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE AN ASSESSMENT ON TURFGRASS FERTILIZER AND TO PROVIDE FOR THE COLLECTION, USE, AND REFUND OF THIS ASSESSMENT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

VISITOR REGISTRATION SHEET

Environment + Natural Resources 5-1-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NC Septic Tank Assoc
David Meredith	NC State Grange
Mac Phipps	Agriculture
Richard Wilson	NCWRA
Tim Minton	NC Home Builders Assn
Ross M. Smith	PCS Phosphate
Mark Catlin	TCNC
Liangcai Li	NCSU
Yongnei Chen	NCSU
Xi Chen	NCSU
Randy M. Bean	Tri-State Turf
J. H. Wilson	Tri-State Turf
Craig Hooks	River Ridge Golf Club
RODNEY MOSS	RIVER RIDGE GOLF CLUB
Keith Roberson	River Ridge Golf Club
Alfred Wooten	Quality Turf Inc
KEITH WARD	SOUTHERN SEEDS INC.
Jon Riggsbee	GrowinGreen inc
Jim A. Humphries	Southern Lawns G.S.O.
Tom Rufty	NCSU
Ken Russell	Syngenta, GSO, NC
DAVID JOHNSON	HIGH POINT COUNTRY CLUB
Kevin B. Redfern	Grandover Resort
Gary Stafford	Cardinal Golf & CC
Michael CLAFFEY	TCNC Wilmington NC
Ron Qu	NCSU
GENE MAPLES	TURFGRASS COUNCIL OF NC
Clark Wooten	Tri State Turf

Page Chris Graham (Wake, Jennifer Weiss)
Page Tom Brown (Wake, Sam Ellis)

VISITOR REGISTRATION SHEET

Environment & Natural Resources 5-1-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
MIKE WILLEY	AMBAVIS ENVIRONMENTAL SCIENCE
BOB WOODY	CAROLINA COUNTRY CLUB
Jerry Kallam	Halifax fertilizer - UAP
Russ Barnett	Dow AgroSciences
Bob Rogers	Governors Club
Craig Thompson	Chapel Hill Country Club
Charles Harris	Sandhill Turf Inc.
JIM SKILLEN	RISE 1156 15th ST. NW WASH. DC 20005
Howard Singletary	PFANC, Raleigh
ANDY BARNETTE	COASTAL CHEMICAL CORP GREENVILLE, N.C.
GEORGE SIMPSON	SDM NORTH AMERICA, BEAUFORT, NC
[illegible]	Rep. Insect (Intern)
WILLIAM Shirley	Student
Carol Johnson	Meredith college
Ramesh Patel	Consultant with PTP
[illegible]	MARRIOTT
Mike Rodden	RESEARCH TRIANGLE PARK
Jeff White	student at NCSU
Joyce Peters	PAESOC
WILLIAM B. PETERS	CAROLINA COUNTRY CLUB / NCSU
Lorene Coates	NC News, Dirt 35
Crissy P. Porter	Bone and Associates
[illegible]	NC Pork Council
Jim Ort	NC State Univ.
David McLeod	NCDA & CS
Michelle Alexander	LBA
Erin Gilbreth	LBA
Sam Lang	TCNC Fairway Green

VISITOR REGISTRATION SHEET

Environment & Natural Resources 5-1-01

Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Brumley	NCTC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

May 22, 2001
12:00 Noon

1. **Call to Order – Representative Gibson, Presiding**

2. **Bills to be considered:**

   S.J.R. 853 – STATE NATURE AND PRESERVE PROPERTIES
   Senator Horton

   SB 854 – STATE NATURE AND HISTORIC PRESERVE
   Senator Horton

   SB 299 – WORKERS COMP. FOR PICKUP FIREFIGHTERS
   Senator Robinson

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 22, 2001

MINUTES

The House Committee on Environment and Natural Resources met May 22, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Pryor Gibson and Nurham Warwick, Chairs, were present. Other members attending were Vice Chairs, Representative Jennifer Weiss, and Committee members Representatives Gordon Allen, Arlie Culp, Don Davis, Jim Gulley, Joe Hackney, Dewey Hill, Paul Luebke, Eugene McCombs, Frank Mitchell, Jean Preston, Ronnie Smith, and John Weatherly. A Visitor Registration list is attached and made part of these minutes.

Chair Gibson called the meeting to order at 12: 05 pm and said that the following two bills would be handled together. S.J.R. 853 creates the resolution to proceed with the second part in SR 854 that creates an infrastructure to increase our state nature and historical preserves.

S.J.R. 853 – State Nature and Preserve Properties and SB 854 – State Nature And Historic Preserve (Attachments 1 and 1A,B). Senator Horton explained that once land was placed into a state park or a historic site, it is not the intent to have a future General Assembly to sell it without a great deal of consideration. Once these lands are put into a preserve, it requires a 3/5 majority to remove them with the concurrence of the Council of State. S.J.R. 853 is the resolution and SB 854 codifies that resolution. There has been a suggestion that the process be contained in one bill; however, that is not the case yet. Representative Warner moved to approve the Proposed Committee Substitutes (Attachments 2 and 3) for both bills be adopted and put before the Committee. Passed. After a brief discussion, Counsel Rick Zechini said that the bills authorize property to be removed and added to the reserves with a 3/5 vote from each Chamber. Representative Gibson moved that the Proposed Committee Substitute for S.J.R. 853 and SB 854 receive favorable reports. Passed.

SB 299 – Workers' Comp. For Pickup Firefighters-AB (Attachments 4 and 4A) – Representative Mitchell handled the bill for its sponsor Senator Robinson. He explained that the bill permits the Department of Forestry to provide workman compensation for volunteer wild fire firefighters who are paid a token salary of $5.15 per hour.

Diane Beasley, Department of Forest Resources, said that it was a fine bill and the department has spent only $6,000 on workman's comp for these workers in the last 5 years. The Attorney General's office has signed off on the bill. Representative Davis instructed the staff to make technical changes to the bill and moved to give the PCS (Attachment 5) a favorable report. Passed.

Being no further business Representative Gibson adjourned the meeting at 12:32 pm.

Representative Pryor Gibson, Chair

Shirlyn MacPherson, Committee Assistant

5.22.01 ATT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE BILL 854

Short Title:	State Nature and Historic Preserve.	(Public)
Sponsors:	Senators Horton; Albertson, Allran, Ballantine, Basnight, Berger, Bingham, Carpenter, Carrington, Carter, Clodfelter, Cunningham, Dalton, Dannelly, Forrester, Garrou, Garwood, Hagan, Harris, Hartsell, Hoyle, Lucas, Martin of Guilford, Moore, Purcell, Rand, Reeves, Robinson, Rucho, Shaw of Cumberland, Shaw of Guilford, Thomas, Warren, Weinstein, and Wellons.	
Referred to:	Rules and Operations of the Senate.	

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO CODIFY THE JOINT RESOLUTION ACCEPTING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE; TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE; TO CODIFY THESE REMOVALS; AND TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM.

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

The General Assembly of North Carolina enacts:

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

(a) The portion of that certain tract or parcel at Bushy Lake State Natural Area in Beaver Dam Township, Cumberland County, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the Recombination Survey for the State of North Carolina by Lewis G. Paschal, Professional Land Surveyor, dated April 1989 and December 2000, and filed in the State Property Office.

(b) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, page 501, and

containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(c) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(d) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 265, page 306, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. G.S. 143-260.10 reads as rewritten:

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 6, 1999:~~ April 3, 2001: Baldhead Island State Natural Area, Bay Tree Lake State Park, Boones Cave State ~~Park,~~ Natural Area, Bullhead Mountain State Natural Area, ~~Bushy Lake State Natural Area,~~ Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, ~~Duke Power State Park,~~ Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, ~~Jockey's Ridge State Park,~~ Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Jefferson State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The

tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) Repealed by Session Laws 1999-268, s. 2.

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) Repealed by Session Laws 1999-268, s. 2.

(6) All land within the boundaries of Crowders Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(7) All lands owned in fee simple by the State at the New River Scenic River as of ~~April 6, 1999 with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.~~ April 3, 2001.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following ~~tract:~~ tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in

the State Property Office, containing approximately 72 ~~acres.~~ acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange Agreement for State of North Carolina and the United States of America", and filed in the State Property Office. The ~~tract~~ tracts excluded from the State Nature and Historic Preserve under this subdivision ~~is~~ are deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~January 1, 1999:~~ April 3, 2001: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

~~(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled "Boundaries of Gorges State Park" prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.~~

~~(11) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County", for TIP U-2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly~~

~~described in a Department of Transportation drawing entitled "Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County" for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office. These two tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.~~

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The tracts excluded from the State Nature and Historic Preserve

under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(14) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel at Bushy Lake State Natural Area in Beaver Dam Township, Cumberland County, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the Recombination Survey for the State of North Carolina by Lewis G. Paschal, Professional Land Surveyor, dated April 1989 and December 2000, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Bushy Lake State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(15) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 265, page 306, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office."

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

5.22.01 ATT 1A

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE JOINT RESOLUTION 853

Sponsors: Senators Horton; Hartsell, Jordan, and Soles.

Referred to: Rules and Operations of the Senate.

April 4, 2001

A JOINT RESOLUTION ACCEPTING PROPERTIES OWNED BY THE STATE OF NORTH CAROLINA FOR INCLUSION IN THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution accepting properties added to the State Parks System since the last dedication of lands on June 30, 1999, and designated in the petition for inclusion in the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: Boones Cave State Natural Area, Bullhead Mountain State Natural Area, Eno River State Park, Gorges State Park, Hammocks Beach State Park, Lake Norman State Park, Lumber River State Park, Medoc Mountain State Park, Mount Jefferson State Natural Area, Mount Mitchell State Park, Pettigrew State Park, Raven Rock State Park, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977, and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws.

(3) All land within the boundaries of Crowders Mountain State Park as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A., dated July 22, 1988, and filed in the State Property Office.

(4) All lands owned in fee simple by the State at the New River Scenic River as of April 3, 2001.

(5) All lands and waters within the boundaries of Stone Mountain State Park as of April 3, 2001, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981, and filed in the State Property Office, containing approximately 72 Acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange Agreement for State of North Carolina and the United States of America" and filed in the State Property Office.

(6) All lands and waters located within the boundaries of Hanging Rock State Park as of April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot-wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C." by Grinski Surveying Company, dated June 1985 and filed in the State Property Office.

(7) All lands and waters located within the boundaries of South Mountains State Park as of April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640.

(8) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel at Bushy Lake State Natural Area in Beaver Dam Township, Cumberland County, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the Recombination Survey for the State of North Carolina by Lewis G. Paschal, Professional Land Surveyor, dated April 1989 and December 2000 and filed in the State Property Office.

(9) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property

Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 265, page 306, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the register of deeds of the counties in which the dedicated properties named in Section 1 of this act are located.

SECTION 3. This resolution is effective upon ratification.

5-22-01 Att 1B

SJR 853 AND SB 854:
State Nature and Historic Preserve

BILL ANALYSIS

Committee:	House Environ. & Nat. Resources	**Introduced by:**	Senator Horton
Date:	May 22, 2001	**Summary by:**	Rick Zechini
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***Senate Joint Resolution 853 accepts State properties into the State Nature and Historic Preserve and Senate Bill 854 codifies the acceptance of these properties, removes tracts from the State Nature and Historic Preserve and the State Parks System, excepts a tract from acceptance into the State Nature and Historic Preserve and removes it from the State Parks System, and removes certain other tracts from the State Parks System.***

CURRENT LAW: Article XIV, Section 5 of the North Carolina Constitution establishes the State Nature and Historic Preserve (Preserve). The Preserve is intended to insure that lands and waters acquired and preserved by the State of North Carolina or its political subdivisions for park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. The Council of State may petition the General Assembly to adopt a resolution accepting State properties for inclusion in the Preserve. The General Assembly accepts the properties into the Preserve by a joint resolution adopted by a vote of three-fifths of the members of each house. A resolution accepting properties into the Preserve must also be codified in the General Statutes. A certified copy of every resolution accepting properties into the Preserve must be transmitted by the Secretary of State to the register of deeds in each county where any of the properties accepted are located for filing and indexing in the grantor index. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house.

BACKGROUND: The last time State properties were accepted into the Preserve was in 1999. Since that time over 7,800 acres have been added to various state parks and state natural areas.

BILL ANALYSIS: Senate Joint Resolution 853 accepts into the Preserve over 7,800 acres of land added to the State Parks System since the General Assembly last accepted properties into the Preserve. The resolution also directs the Secretary of State to forward a certified copy of the resolution to the register of deeds of the counties in which the properties are located.

Senate Bill 854 codifies the additions to the Preserve made by Senate Joint Resolution 853. The Bill also removes the following tracts from the Preserve:

- A .58-acre tract of Bushy Lake State Natural Area in Cumberland County. This tract will also be removed from the State Parks System. This tract will be exchanged with an adjacent landowner to resolve an encroachment issue and provide for better access to a section of the state natural area.
- Three easements for the establishment of drinking water wells by Dare County at Jockey's Ridge State Park.

The Bill excludes from inclusion in the Preserve, and removes from the State Parks System, a roughly 24-acre tract at Stone Mountain State Park in Alleghany County. This tract was acquired with the intent of exchanging it with the National Park Service to improve the boundaries of the state park and the Blue Ridge Parkway.

The Bill also provides that the following tracts of land already excluded from the Preserve are removed from the State Parks System:

- A 23-acre tract of land in William B. Umstead State Park in Wake County located on the north side of US Highway 70 across from the park's entrance.
- A 757 square foot tract at Crowders Mountain State Park in Gaston County. Neighboring landowners have encroached on this tract by establishing a driveway.

These tracts of land removed from the State Parks System must be either exchanged for other land for the expansion of the respective parks or sold and the proceeds of the sale used for the expansion of the respective parks.

The Bill also incorporates name changes made to two properties in the State Parks System.

In addition, Section 3 of the Bill amends Section 4 of S.L. 1999-268 to allow a vote at the next statewide primary election on amending the North Carolina Constitution to provide that properties may be accepted into the Preserve through the enactment of a bill alone.

EFFECTIVE DATE: Senate Joint Resolution 853 is effective upon ratification. Senate Bill 854 is effective when it becomes law.

5-22-01 AH-2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE JOINT RESOLUTION 853
PROPOSED HOUSE COMMITTEE SUBSTITUTE S853-PCS5678-SG-19

Sponsors:

Referred to:

April 4, 2001

A JOINT RESOLUTION ACCEPTING PROPERTIES OWNED BY THE STATE OF NORTH CAROLINA FOR INCLUSION IN THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution accepting properties added to the State Parks System since the last dedication of lands on June 30, 1999, and designated in the petition for inclusion in the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: Boone's Cave State Natural Area, Bullhead Mountain State Natural Area, Eno River State Park, Gorges State Park, Hammocks Beach State Park, Lake Norman State Park, Lumber River State Park, Medoc Mountain State Park, Mount Jefferson State Natural Area, Mount Mitchell State Park, Pettigrew State Park, Raven Rock State Park, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977, and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws.

(3) All land within the boundaries of Crowders Mountain State Park as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, Page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A., dated July 22, 1988, and filed in the State Property Office.

(4) All lands owned in fee simple by the State at the New River Scenic River as of April 3, 2001.

(5) All lands and waters within the boundaries of Stone Mountain State Park as of April 3, 2001, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981, and filed in the State Property Office, containing approximately 72 acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange Agreement for State of North Carolina & the United States of America" and filed in the State Property Office.

(6) All lands and waters located within the boundaries of Hanging Rock State Park as of April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot-wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C."

by Grinski Surveying Company, dated June 1985 and filed in the State Property Office.

(7) All lands and waters located within the boundaries of South Mountains State Park as of April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640.

(8) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the Recombination Survey for State of North Carolina by Lewis G. Paschal, Professional Land Surveyor, dated April 1989 and December 2000 and filed in the State Property Office.

(9) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in

Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the register of deeds of the counties in which the dedicated properties named in Section 1 of this act are located.

SECTION 3. This resolution is effective upon ratification.

5-22-01 AH#3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 854
PROPOSED HOUSE COMMITTEE SUBSTITUTE S854-PCS3477-RT-38

Short Title: State Nature and Historic Preserve. (Public)

Sponsors:

Referred to:

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO CODIFY THE JOINT RESOLUTION ACCEPTING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, TO CODIFY THESE REMOVALS, TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM, AND TO PROVIDE THAT A TECHNICAL AMENDMENT TO THE STATE CONSTITUTION RELATING TO ACCEPTANCE AND DEDICATION OF PROPERTY INTO THE STATE NATURE AND HISTORIC PRESERVE SHALL BE SUBMITTED TO A VOTE OF THE PEOPLE AT THE NEXT STATEWIDE PRIMARY ELECTION.

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

The General Assembly of North Carolina enacts:

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

(a) The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the survey prepared by Lewis G. Paschal, Professional Land Surveyor, entitled "Recombination Survey for State of North Carolina" dated April 1989 and December 2000, and filed in the State Property Office.

(b) The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the

survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(c) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(d) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. G.S. 143-260.10 reads as rewritten:

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 6, 1999:~~ April 3, 2001: Baldhead Island State Natural Area, Bay Tree Lake State Park, ~~Boones~~ Boone's Cave State ~~Park,~~ Natural Area, Bullhead Mountain State Natural Area, ~~Bushy Lake State Natural Area,~~ Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, ~~Duke Power State Park,~~ Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, ~~Jockey's Ridge State Park,~~ Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Jefferson State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic

Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) Repealed by Session Laws 1999-268, s. 2.

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) Repealed by Session Laws 1999-268, s. 2.

(6) All land within the boundaries of Crowders Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(7) All lands owned in fee simple by the State at the New River Scenic River as of ~~April 6, 1999 with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office.~~ April 3, 2001.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following ~~tract:~~ tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more

particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 ~~acres.~~ acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled 'Property Exchange Agreement for State of North Carolina & the United States of America', and filed in the State Property Office. The ~~tract~~ tracts excluded from the State Nature and Historic Preserve under this subdivision ~~is~~ are deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~January 1, 1999:~~ April 3, 2001: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

~~(10) All lands and waters within the boundaries of Gorges State Park as shown on the map entitled "Boundaries of Gorges State Park" prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.~~

~~(11) All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County", for TIP U-2102, Project~~

~~8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right-of-way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County" for TIP U-2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office. These two tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.~~

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, 'J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.', by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of ~~April 6, 1999,~~ April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled 'Survey for State of North Carolina', dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled 'Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road' prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State

Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(14) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the survey prepared by Lewis G. Paschal, Professional Land Surveyor, entitled 'Recombination Survey for State of North Carolina' dated April 1989 and December 2000, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Bushy Lake State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(15) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 13 Jockey's Ridge State Park' dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 14 Jockey's Ridge State Park' dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book

224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 15 Jockey's Ridge State Park' dated March 7, 2001, and filed in the State Property Office."

SECTION 3. Section 4 of S.L. 1999-268 reads as rewritten:

"Section 4. The amendment set out in Section 3 of this act shall be submitted to the qualified voters of the State at the next ~~election at which another amendment to the Constitution is submitted to the voters,~~ statewide primary election, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

'[ ] FOR [ ] AGAINST

Constitutional amendment making a technical correction to allow dedication and acceptance of property into the State Nature and Historic Preserve by the General Assembly by enactment of a bill rather than a joint resolution.' "

SECTION 4. This act is effective when it becomes law.

5-22-01 ATT 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S 2

SENATE BILL 299*
Second Edition Engrossed 4/4/01

Short Title:	Workers' Comp. for Pickup Firefighters-AB.	(Public)
Sponsors:	Senators Robinson; Albertson, Bingham, Carter, Harris, Martin of Pitt, Metcalf, Odom, Swindell, Thomas, Warren, Weinstein, and Wellons.	
Referred to:	Insurance and Consumer Protection.	

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PICKUP FIREFIGHTERS OF THE DIVISION OF FOREST RESOURCES, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ARE ELIGIBLE FOR COMPENSATION UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina national guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving

on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment, and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee as herein defined of a municipality, county, or of the State of North Carolina while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation specifically excluding such executive officer in such contract of insurance and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term employee shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when

performing duties in the course and scope of a State approved mission pursuant to Article 11 of Chapter 143B.

Employee shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

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

SECTION 1.1. G.S. 97-2(3) reads as rewritten:

'(3) Employer. – The term "employer" means the State and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment and the legal representative of a deceased person or the receiver or trustee of any person. The board of commissioners of each county of the State, for the purposes of this law, shall be considered as "employer" of all deputy sheriffs serving within such county, or persons serving or performing the duties of a deputy sheriff, whether such persons are appointed by the sheriff or by the board of commissioners and whether serving on a fee basis or salary basis. Each county is authorized to insure its compensation liability for deputy sheriffs to the same extent it is authorized to insure other compensation liability for employees thereof. For purposes of this Chapter, when an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources is engaged in emergency fire suppression activities for the Division of Forest Resources, that individual's employer is the Division of Forest Resources.'"

SECTION 2. G.S. 97-2(5) reads as rewritten:

"(5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to his employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 weeks and then the compensation may be increased in proportion to his expected earnings.

In case of disabling injury or death to a volunteer ~~fireman or~~fireman, member of an organized rescue ~~squad or~~squad, an authorized pickup firefighter, as defined in subdivision (2) of this section, of the Division of Forest Resources of the Department of Environment and Natural Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, a duly appointed and sworn member of an auxiliary police department organized pursuant to ~~G.S. 160A-282~~G.S. 160A-282, or senior members of the State Civil Air Patrol functioning under Article 11, Chapter 143B, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer ~~fireman or~~fireman, member of an organized rescue ~~squad or~~squad, an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, member of an auxiliary police ~~department~~ department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer fireman, member of an organized rescue ~~squad or~~squad, an authorized pickup firefighter of the Division of Forest Resources, of the Department of Environment and Natural Resources when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the State Civil Air Patrol shall be sixty-six and two thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29."

SECTION 3. This act is effective when it becomes law and applies to claims filed on or after that date.

5-22-01 Att 4A

SENATE BILL 299:
Workers' Comp. for Pickup Firefighters -AB

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Robinson
		Summary by:	Frank W. Folger Research Division
Date:	May 22, 2001		
Version:	Second Edition		

SUMMARY: ***Senate Bill 299 would allow pickup firefighters of the Division of Forest Resources within the Department of Environmental and Natural Resources (DENR) to be eligible for workers' compensation benefits.***

CURRENT LAW: Employees as defined by G.S. 97-2(2) are eligible to receive workers' compensation benefits under the Workers' Compensation Act in Chap. 97 of the General Statutes. The courts have determined that whether an employer-employee relationship exists is determined by applying ordinary common-law tests. These "pickup firefighters" are ordinarily not eligible for workers' compensation benefits resulting from their fire suppression work. Other emergency service persons are specifically entitled to benefits under the Act: volunteer firemen, members of organized rescue squads, members of auxiliary police departments, and senior members of the State Civil Air Patrol.

BILL ANALYSIS: Section 1. would add to the definition of "employee" under G.S. 97-2(2) an "authorized pickup firefighter" of the Division of Forest Resources of DENR while working during an emergency to put out fires. "Authorized pickup firefighter," is defined by the bill as a person having completed wildland firefighter fire suppression training who is available as needed by the Division for emergency firefighting. By this inclusion in the definition of "employee" under the Workers' Compensation Act, an authorized pickup firefighter would be eligible for benefits under the Act.

Section 1.1 stipulates that the Division of Forest Resources of DENR is identified as the "employer" of authorized pickup firefighters engaged in emergency fire suppression activities for the Division.

Section 2. would provide that if an authorized pickup firefighter died or suffered a disabling injury while working during an emergency to put out fires, benefits would be based on the average weekly wages from employment from which the firefighter's principal income was earned, but at a minimum would be 66⅔% of the maximum weekly benefits established by G.S. 97-29.

BACKGROUND: Apart from those listed above, specific persons deemed "employees" for purposes of the Act, include: members of the N.C. National Guard on ordered active duty, members of the N.C. State Defense Militia on ordered State active duty, deputy sheriffs and persons acting in the capacity of deputy sheriffs, and members of the State Civil Air Patrol.

For compensable claims, "employees" totally incapacitated ordinarily receive 2/3 of the average weekly wages resulting from the at-work accident for the period of incapacity and "employees" partially incapacitated receive 2/3 of the difference between pre-accident average weekly wages and post-accident average weekly wages for the period of incapacity up to 300 weeks. Benefits under the act also include payment of medical expenses for diagnosis and treatment of the accidental injuries. The act also makes special provisions for loss of various body parts, disfigurement and death.

EFFECTIVE DATE: Effective when it becomes law and applicable to claims filed on or after that date.

5-22-01 Att 5

March 2001

PROPOSED BILL

Workers Compensation/Forest Fires
Questions and Answers

1. **What does this law change do?**

   It adds Division of Forest Resources pick-up firefighters to the Workers Compensation Law in the same section as volunteer firefighters.

2. **What does this law change mean in simple terms?**

   If a Division of Forest Resources pick-up firefighter is disabled on a fire, workers compensation would be calculated based on their primary income; not on their temporary Division income only. Currently this is done for other emergency workers, but not DFR.

3. **Why is this change needed?**

   Division pick-up firefighters are entitled to the same security under workers compensation as other emergency services workers. It is also needed to encourage individuals, to assist DFR as temporary firefighters to ensure adequate manpower is available.

4. **What is the definition of "authorized pick-up firefighter?"**

   Person who has complete required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

5. **What other changes are needed in this law?**

   None

6. **What negative impacts will occur if this change does not take place?**

   The NC Division of Forest Resources is currently having problems securing pick-up firefighters needed to provide wildfire control. Current pick-up firefighters are afraid to continue this work because of the existing workers compensation law. With the current situation, a disability would leave them and their families without adequate financial support. Current unwillingness of individuals to work with DFR because of this situation is making adequate wildfire response more difficult, thus increasing the likelihood of unacceptable losses.

7. **Is additional funding required to implement this change?**

No

8. **Is there a maximum cap on Workers Compensation benefits?**

Yes, $620 per week (Maximum weekly benefits are established annually by the NC Industrial Commission.)

9. **How many pick-up firefighters does the Division employ each year?**

300 firefighters

10. **How many employees have been injured in the last ten years, filing workers comp?**

15 firefighters

11. **What is the average hourly rate these employees are paid?**

$5.15/hour for crew persons
$5.65/hour for crew leaders
(This rate is often much below their hourly rate in their regular occupation.)

ATT. #5
5·22·01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 299*
Second Edition Engrossed 4/4/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S299*-PCS2692-RT-39

Short Title: Workers' Comp. for Pickup Firefighters-AB. (Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PICKUP FIREFIGHTERS OF THE DIVISION OF FOREST RESOURCES, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ARE ELIGIBLE FOR COMPENSATION UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term 'employee' means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, ~~profession~~profession, or occupation of his employer, and as relating to those so employed by the State, the term 'employee' shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term 'employee' shall include all officers and employees thereof, including such as are elected by the people. The term 'employee' shall include members of the North Carolina national guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term 'employee' shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or

whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their ~~appointment,~~appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any ~~employee~~employee, as herein ~~defined~~defined, of a municipality, county, or of the State of North ~~Carolina~~Carolina, while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such ~~corporation~~corporation's specifically excluding such executive officer in such contract of ~~insurance~~insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State ~~University~~University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term ~~employee~~'employee' shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a ~~State-approved~~State-approved mission pursuant to Article 11 of Chapter ~~143B.~~143B of the General Statutes.

~~Employee~~'Employee' shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

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

SECTION 1.1. G.S. 97-2(3) reads as rewritten:

"(3) Employer. – The term 'employer' means the State and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any ~~employment~~employment, and the legal representative of a deceased person or the receiver or trustee of any person. The board of commissioners of each county of the State, for the purposes of this law, shall be considered as 'employer' of all deputy sheriffs serving within such county, or persons serving or performing the duties of a deputy sheriff, whether such persons are appointed by the sheriff or by the board of commissioners and whether serving on a fee basis or salary basis. Each county is authorized to insure its compensation liability for deputy sheriffs to the same extent it is authorized to insure other compensation liability for employees thereof. For purposes of this Chapter, when an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources is engaged in emergency fire

suppression activities for the Division of Forest Resources, that individual's employer is the Division of Forest Resources."

SECTION 2. G.S. 97-2(5) reads as rewritten:

"(5) Average Weekly Wages. – 'Average weekly wages' shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to his employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of ~~less~~fewer than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage ~~contract~~contract, they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor

without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 ~~weeks~~weeks, and then the compensation may be increased in proportion to his expected earnings.

In case of disabling injury or death to a volunteer ~~fireman or~~fireman; member of an organized rescue ~~squad or~~squad; an authorized pickup firefighter, as defined in subdivision (2) of this section, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources; a duly appointed and sworn member of an auxiliary police department organized pursuant to ~~G.S. 160A-282~~G.S. 160A-282; or senior members of the State Civil Air Patrol functioning under Article ~~11, Chapter 143B,~~11 of Chapter 143B of the General Statutes, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer ~~fireman or~~fireman, member of an organized rescue ~~squad or~~squad, authorized pickup firefighter of the Division of Forest Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, member of an auxiliary police ~~department~~ department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer fireman, member of an organized rescue ~~squad or~~squad, an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the State Civil Air Patrol shall be sixty-six and ~~two thirds~~two-thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29."

SECTION 3. This act is effective when it becomes law and applies to claims filed on or after that date.

VISITOR REGISTRATION SHEET

Environment & Natural Resources — May 22, 2001
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dianne Boadley	Forestry - DENR
John Cyrus	N.C. State Grange
[illegible]	DENR / DPR
Sue Regier	DENR / DPR
Carol Mikley	DENR / DPR
Nat Mead	CCNC
Matt Brooks	CCNC
[illegible]	Sierra Club
Tony Adams	NC Outdoor Advertising Assoc.
[illegible]	[illegible]
Britton McCabe	NC CoNet
Grady McMillin	N.C. CoNet.
Warren Wakeland	Wilmington-Cape Fear HBA
Steve Woodson	NC Farm Bureau
Mike Munson	DURHAM ACADEMY

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
S.J.R. 853 A JOINT RESOLUTION ACCEPTING PROPERTIES OWNED BY THE STATE OF NORTH CAROLINA FOR INCLUSION IN THE STATE NATURE AND HISTORIC PRESERVE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES**.

☐ Committee Substitute for
S.B. 299 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT PICKUP FIREFIGHTERS OF THE DIVISION OF FOREST RESOURCES, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ARE EDLIGIBLE FOR COMPENSATION UNDER THE WORKERS' COMPENSATION ACT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

Minutes

June 12, 2001

The ENVIRONMENT & NATURAL RESOURCES COMMITTEE met on Tuesday, June 12, 2001 at 12:09 in room 643 of the Legislative Office Building. The following members were present: Representatives Gibson (Cochair), McComas (Cochair), Warwick (Cochair), Cox (Vice Chair), Underhill (Vice Chair), Weiss (Vice Chair), Allen, Bowie, Culp, Davis, Gray, Gulley, Hackney, Hill, McCombs, Mitchell, Preston, Tucker and Warner. Cochairman McComas presided. A visitors' sheet is made a part of these minutes. House Pages in attendance were Kenny Anderson of Craven County and Courtney Barnes of Wake County.

Representative McComas called the meeting to order at 12:09 p.m. and introduced Senator Albertson to present **SB 1014 Strengthen Littering Laws** (see attachment #1). A motion was made by Representative Cox to adopt the Proposed Committee Substitute for SB1014. The motion carried. Senator Albertson presented the bill citing that he has had many complaints from constituents about the litter on our highways. He further stated that not only is litter an environmental problem, but it is also an economic problem. He spoke about the money that Texas spends on their 'Don't Mess With Texas' program and its' success.

Rick Zechini of the Research Staff gave an overview of the Committee Substitute (see attachments #2 and #3). Of particular note were Mr. Zechini's remarks concerning line 6 (a) in the bill. Mr. Zechini said we are striking the language on lines 6 and 12 of page 1 of the committee substitute "including but not limited to". This is a protocol that we follow in drafting bills. "Including" is read by the courts as not being a restrictive term. In other words, the courts, in reading "including" x, y, and z, do not interpret that language as saying only x, y, and z but read it as an example of what we are talking about but not restrictive of it. So we are not changing the definitions of "person or public or private property". We are just conforming the language to our drafting protocol.

At this point in the meeting, the floor was opened for questions concerning the bill. Several questions were asked concerning the different classifications of litter, and what types were exempt from this proposed law. Representative Gibson moved to amend the bill (see attachment #4). The floor was opened to questions regarding the amendment. Representative Gibson added that in some cases officers would be required to use common sense in issuing citations.

Ms. Ruth Sappie of the Department of Transportation was asked to address the committee regarding the issue of leakage from trucks hauling debris and aggregate. Ms. Sappie stated that the officers do not site for leakage at present. Lt. Daniel Moody of the Department of Transportation addressed the committee and reiterated that the officers do not cite for water, only hazardous materials. After more discussion defining water from precipitation, Representative Gibson moved to vote on the amendment. The motion carried.

Representative Davis was recognized for two questions. Representative Davis asked if signs would be erected to enforce the fines for littering and how much would this cost. Senator Albertson responded that he was not sure. Ms. Sappie was called upon to answer how much a sign cost, and she replied from $500 to $2000. Representative Davis then asked how many littering convictions are on the books. Senator Albertson responded he had that information in his office, but there have not been enough convictions to solve the problem. Representative Underhill asked about the poundage limit and would this exempt pick up trucks. Cochairman McComas responded that she could amend the bill at the next meeting because time was running short, and if signs are added to the bill it might have to go to APPROPRIATIONS.

Cochairman McComas adjourned the meeting at 12:50 p.m.

Representative Daniel F. McComas
Cochairman

Jayne Nelson Walton
Committee Assistant

6-12-01 Att 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 4

SENATE BILL 1014

Corrected Copy 4/9/01

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/16/01

Fourth Edition Engrossed 4/25/01

Short Title: Strengthen Littering Laws. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-399 reads as rewritten:

"**§ 14-399. Littering.**

(a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

(1) When ~~such~~ the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and ~~such~~ the person is authorized to use ~~such~~ the property for ~~such~~ this purpose; or

(2) Into a litter receptacle in ~~such~~ a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of ~~such~~ the private or public property or waters.

(a1) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall scatter, spill or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or

(2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed ~~such~~ the offense. This presumption, however, does not apply to a vehicle transporting ~~agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.~~ nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent ~~offense~~ violation of subsection (a) of this section within three years after the date of a prior offense violation is a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of an infraction punishable by a fine of not more than fifty dollars ($50.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) or (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if

feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(e) Any person who violates subsection (a) or (a1) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of subsection (a) of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) or (a1) of this section that is punishable as a felony, a court, in a civil action for ~~such~~ the damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(2) Repealed by Session Laws 1999-454, s. 1.

(2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of ~~such~~ the entity.

(3) "Law enforcement officer" means any ~~officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of~~

~~Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission.~~ law enforcement officer sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer. ~~officer; or wildlife protectors as defined in G.S. 113-128(9);~~

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. ~~"Litter"~~ While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other ~~such~~ similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49); G.S. 20-~~ 4.01(49). ~~and~~

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

SECTION 2. G.S. 20-116(g) reads as rewritten:

'(g) (1) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle is ~~so~~ constructed ~~or~~ and loaded ~~as~~ to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping ~~therefrom, except that~~ therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be ~~sprinkled~~ sprinkled, dumped, or spread on a roadway in cleaning or maintaining ~~such~~ the roadway.

(2) Trucks, trailers or other vehicles when loaded with rock, gravel, stone or ~~other~~ any other similar ~~substances which~~ substance that could fall, blow, leak, sift or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading ~~point, or if not so loaded, unless~~ point and the load shall be securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom. This subdivision does not apply to a vehicle licensed for 7,500 pounds or less gross vehicle weight.

(3) ~~Provided this~~ This section shall not be applicable to or in any manner restrict the transportation of seed cotton, of poultry or livestock or silage or other feed grain used in the feeding of poultry or livestock.'

SECTION 3. G.S. 115C-12 is amended by adding a new subdivison to read:

"(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard Course of Study. – The State Board of Education shall study ways to include the topic of litter prevention in the State's Standard Course of Study."

SECTION 4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read as follows:

"**§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way and maintenance of highway.**

The Department of Transportation shall coordinate the removal of debris, trash, and litter from highways and highway right-of-ways with the mowing of highway right-of-ways and the maintenance of highways. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right-of-way or the maintenance of a highway that the contracting party must coordinate the removal of debris, trash, and litter from the highway and highway right-of-way with the mowing of the highway right-of-way or the maintenance of the highway."

SECTION 5. G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined

portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.

(6a) Regulate the illegal disposal of solid waste, including littering, on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental officers.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste."

SECTION 6. G.S. 160A-185 reads as rewritten:

"**§ 160A-185. Emission of pollutants or contaminants.**

A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. A city may by ordinance regulate the illegal disposal of solid waste, including littering, on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental enforcement officers. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations."

SECTION 7. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-22.3. Littering notification and pledge.**

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 8. Article 4 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-33.3. Littering notification and pledge.**

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, that county board of elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 9. The existing text of G.S. 147-12 is designated as subsection (a) of that section. G.S. 147-12 is amended by adding a new subsection to read:

"(b) The Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 and August 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor by February 1 and August 1 of each year detailed information on the enforcement of the littering laws of the State, including the number of citations issued and arrests conducted pursuant to the littering laws of the State and the conviction rate associated with the specific offenses. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated biannual report on or before March 1 and September 1 of each year to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 10. The first reports required to be delivered by the Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due February 1, 2002. The first report required to be delivered by the Governor to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations

Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due March 1, 2002.

SECTION 11. Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-476.1. Community Service Work Program Report.**

The Department of Crime Control and Public Safety shall report to the Environmental Review Commission on or before September 1 of each year on the litter removal efforts of the Community Service Work Program. This report shall include the amount of litter removed and the number of community service hours committed to the removal of litter."

SECTION 12. The General Assembly of North Carolina acknowledges the establishment of North Carolina First in the Division of Travel and Tourism in the Department of Commerce and shall encourage and facilitate its litter prevention efforts.

SECTION 13. Sections 3, 5, 6, 9, 10, 11, 12, and 13 of this act are effective when it becomes law. The remaining sections of the act become effective December 1, 2001, and apply to offenses committed on or after this date.

6-12-01 Att 2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

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SENATE BILL 1014

Corrected Copy 4/9/01

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/16/01

Fourth Edition Engrossed 4/25/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1014-PCS6305-SG-21

Short Title: Strengthen Littering Laws. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-399 reads as rewritten:

"**§ 14-399. Littering.**

(a) No person, including ~~but not limited to,~~ any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by ~~him~~ the person within this State or in the waters of this State including~~, but not limited to,~~ any public highway, public park, lake, river, ocean, beach, campground, ~~forest land,~~ forestland, recreational area, trailer park, highway, road, street or alley except:

(1) When ~~such~~ the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and ~~such~~ the person is authorized to use ~~such~~ the property for ~~such~~ this purpose; or

(2) Into a litter receptacle in ~~such~~ a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of ~~such~~ the private or public property or waters.

(a1) No person, including any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall scatter, spill or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river,

ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

(1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or

(2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed ~~such~~ the offense. This presumption, however, does not apply to a vehicle transporting ~~agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.~~ nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent ~~offense~~ violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes within three years after the date of a prior ~~offense~~ violation is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than fifty dollars ($50.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a prior violation is an infraction punishable by a fine of not more than one hundred fifty dollars ($150.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this

subsection, the term "litter" shall not include nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

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(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred fifty dollars ($250.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(f) A court may enjoin a violation of this section.

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assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) of this section that is punishable as a felony, a court, in a civil action for ~~such~~ the damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(2) Repealed by Session Laws 1999-454, s. 1.

(2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of ~~such~~ the entity.

(3) "Law enforcement officer" means any ~~officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission.~~ law enforcement officer sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer. ~~officer; or wildlife protectors as defined in G.S. 113-128(9);~~

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. ~~"Litter"~~ While being used for or distributed in accordance with their intended

uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other ~~such~~ similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49);~~ G.S. 20-4.01(49). ~~and~~

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

SECTION 2. G.S. 20-116(g) reads as rewritten:

"(g) (1) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle is ~~so~~ constructed ~~or~~ and loaded ~~as~~ to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping ~~therefrom, except that~~ therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be ~~sprinkled~~ sprinkled, dumped, or spread on a roadway in cleaning or maintaining ~~such~~ the roadway.

(2) Trucks, trailers or other vehicles when loaded with rock, gravel, stone or ~~other~~ any other similar ~~substances which~~ substance that could fall, blow, leak, sift or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading ~~point, or if not so loaded, unless~~ point and the load shall be securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom. This subdivision does not apply to a vehicle licensed for 7,500 pounds or less gross vehicle weight.

(3) ~~Provided this~~ This section shall not be applicable to or in any manner restrict the transportation of seed cotton, of poultry or livestock or silage or other feed grain used in the feeding of poultry or livestock."

SECTION 3. G.S. 115C-12 is amended by adding a new subdivison to read:

"(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard Course of Study. – The State Board of Education shall study ways to include the topic of litter prevention in the State's Standard Course of Study."

SECTION 4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read as follows:

"**§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way and maintenance of highway.**

The Department of Transportation shall coordinate the removal of debris, trash, and litter from highways and highway right-of-ways with the mowing of highway right-of-ways and the maintenance of highways. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right-of-way or the maintenance of a highway that the contracting party must coordinate the removal of debris, trash, and litter from the highway and highway right-of-way with the mowing of the highway right-of-way or the maintenance of the highway."

SECTION 5. G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then

ownership of these materials is transferred to the county or its designee.

(6a) Regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental enforcement officers.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste."

SECTION 6. G.S. 160A-185 reads as rewritten:

"**§ 160A-185. Emission of pollutants or contaminants.**

A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. A city may by ordinance regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental enforcement officers. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations."

SECTION 7. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-22.3. Littering notification and pledge.**

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 8. Article 4 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-33.3. Littering notification and pledge.**

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, that county board of elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 9. The text of G.S. 147-12 is designated as subsection (a) of that section, and G.S. 147-12 is further amended by adding a new subsection to read:

"(b) The Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 and August 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The

Administrative Office of the Courts shall deliver to the Governor by February 1 and August 1 of each year detailed information on the enforcement of the littering laws of the State, including the number of citations issued and arrests conducted pursuant to the littering laws of the State and the conviction rate associated with the specific offenses. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated semiannual report on or before March 1 and September 1 of each year to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 10. The first reports required to be delivered by the Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due February 1, 2002. The first report required to be delivered by the Governor to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due March 1, 2002.

SECTION 11. Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-476.1. Community Service Work Program report.**

The Department of Crime Control and Public Safety shall report to the Environmental Review Commission on or before September 1 of each year on the litter removal efforts of the Community Service Work Program. This report shall include the amount of litter removed and the number of community service hours committed to the removal of litter."

SECTION 12. The General Assembly of North Carolina acknowledges the establishment of North Carolina First in the North Carolina Division of Tourism, Film and Sports Development in the Department of Commerce and shall encourage and facilitate its litter prevention efforts.

SECTION 13. G.S. 130A-309.14 is amended by adding new subsections to read:

"(k) The Department of Transportation shall provide and maintain recycling bins at each rest area located in this State on a highway in the Interstate Highway System or in the State highway system for the collection of all of the following recyclable materials for which recycling is feasible:

(1) Aluminum.
(2) Newspaper.
(3) Sorted office paper.
(4) Mixed office paper.

(5) Recyclable glass.
(6) Plastic bottles.

(l) As used in this section, the following definitions apply:

(1) Mixed office paper. – Nearly all waste paper generated in offices that is not sorted office paper and includes colored paper, fax paper, computer paper, junk mail, notepads, manila and bleached file folders, envelopes without plastic windows, magazines, and corrugated cardboard. Mixed office paper does not include glossy paper, tape, and envelopes with plastic windows.

(2) Sorted office paper. – Paper used in offices that is of a high quality for purposes of recycling and includes copier paper, computer paper, letterhead, ledger, white envelopes, and bond paper."

SECTION 14. G.S. 130A-309.14(a)(1) reads as rewritten:

"(1) Establish a program in cooperation with the Department and the Department of Administration, for the collection on each floor of each building occupied by a State agency of all of the following recyclable ~~aluminum and wastepaper~~ materials generated in State offices throughout the ~~State, including, at a minimum, high-grade office paper and corrugated paper.~~ State:

a. Aluminum.
b. Newspaper.
c. Sorted office paper.
d. Recyclable glass.
e. Plastic bottles."

SECTION 15. Sections 1 and 2 of this act become effective December 1, 2001, and apply to offenses committed on or after that date. Sections 3, 5, 6, 9, 10, 11, 12, and 15 of this act are effective when it becomes law. Sections 4, 7, and 8 of this act become effective December 1, 2001. Sections 13 and 14 of this act become effective January 1, 2002.

6-12-01 AH 3

SENATE BILL 1014: Strengthen Littering Laws

BILL ANALYSIS

Committee:	House Envir. and Nat. Resources	**Introduced by:**	Senator Albertson
Date:	June 12, 2001	**Summary by:**	Rick Zechini
Version:	Proposed Committee Substitute for the Fourth Edition		Committee Counsel

SUMMARY: **The Proposed Committee Substitute (PCS) for Senate Bill 1014:**

- **Establishes new littering offenses for unintentional littering,**
- **Clarifies who may enforce the littering statute,**
- **Amends the definition of litter in the littering statute,**
- **Requires that all vehicles loaded with aggregate, except those licensed for 7,500 pounds or less gross vehicle weight, must be covered by a tarp,**
- **Requires the Department of Transportation to coordinate the removal of debris, trash, and litter from the highway and the highway right-of-way with any mowing or maintenance,**
- **Provides explicit authority to counties and municipalities to adopt littering ordinances,**
- **Mandates that candidates be informed of the laws and rules applicable to campaign signs and that the candidates pledge to comply with these laws and rules,**
- **Provides that the Governor is responsible for submitting a semiannual report to various legislative entities on litter prevention, litter removal, and litter enforcement,**
- **Requires the Department of Crime Control and Public Safety to report to the Environmental Review Commission on its Community Service Work Program,**
- **Requires the Department of Transportation to provide and maintain recycling bins at highway rest stops when feasible, and**
- **Requires the Department of Administration to provide for the collection of recyclable materials on each floor of each building occupied by a State agency.**

BILL ANALYSIS: The PCS for Senate Bill 1014 does the following:

Section 1. Section 1 amends G.S. 14-399 to establish new littering offenses for unintentional littering. The offenses and penalties for intentional or reckless littering under existing law remain the same.

A person who, without acting intentionally or recklessly, litters in the amount of 15 pounds or less is guilty of an infraction punishable by a fine up to $50 and possible community service of between four and 12 hours. A second or subsequent violation within three years is an infraction punishable by a fine up to $150 and possible community service of between eight and 24 hours. For unintentional violations in the amount of 15 pounds or less, the term "litter" does not include nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

An unintentional violation in the amount of over 15 pounds up to 500 pounds is an infraction punishable by a fine of up to $150 and possible community service of between eight and 24 hours.

An unintentional violation involving over 500 pounds is an infraction punishable by a fine of up to $250 and possible community service of between 16 and 50 hours.

A drivers license point will only be assessed for intentional or reckless littering violations and only vehicles involved in the intentional or reckless disposal of over 500 pounds of litter are subject to seizure as contraband. Only intentional or reckless littering offenses subject the violator to treble damages and payment of the plaintiff's court costs and attorney's fees in a civil action if the littering violation resulted in the plaintiff suffering damages.

This section clarifies that all law enforcement officers sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers, have the duty of enforcing G.S. 14-399. County and municipal litter enforcement officers are also charged with enforcing G.S. 14-399. The North Carolina Criminal Justice Education and Training System, established by Chapter 17C, is responsible for training all law enforcement officers in the State except for Sheriffs. Sheriffs are trained by the Justice Officers' Standards Division within the Department of Justice, established by Chapter 17E. This section also adds language to the definition of "littering" to provide that political pamphlets, handbills, religious tracts, newspapers, and other similar materials are not considered "litter" only when they are being used for or distributed in accordance with their intended use.

Section 2. Section 2 amends G.S. 20-116(g) to provide that when a vehicle is loaded with aggregate the height of the load against all four walls shall not extend above a horizontal line six inches below the top of the vehicle when loaded and the load must be securely covered by a tarp or other covering. These requirements do not apply to a vehicle licensed for 7,500 pounds or less gross vehicle weight. This section also amends G.S. 20-116(g) to require that vehicles must be free from any holes, cracks, or openings through which any material may escape.

Section 3. Section 3 amends G.S. 115C-12 to direct the State Board of Education to study ways of including the topic of litter prevention in the State's Standard Course of Study.

Section 4. Section 4 creates a new section requiring the Department of Transportation to coordinate the removal of debris, trash, and litter from the highway and the highway right-of-way with any mowing of the highway right-of-way or maintenance of the highway.

Sections 5 and 6. Sections 5 and 6 provide explicit authority to counties and municipalities to adopt littering ordinances enforceable by civil penalties and other remedies. In addition, counties and municipalities may appoint environmental officers to enforce these ordinances.

Sections 7 and 8. Sections 7 and 8 create two new sections that require, at the time a candidacy is formally initiated with the State Board of Elections or a county board of elections, the respective board of elections to notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18. In addition, the respective board of elections shall require the candidate to sign a pledge to comply with these laws and rules. G.S. 136-32 and rules adopted pursuant to G.S. 136-18 prohibit the placement of campaign signs along highway right-of-ways. G.S. 14-156 provides that it is a class 2 misdemeanor to injure or obstruct a utility pole.

Sections 9 and 10. Section 9 provides that the Governor shall compile information from the Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts, and present a consolidated semiannual report to the

Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources. Section 10 requires the first semiannual report to be delivered to the respective legislative parties by March 1, 2002.

Section 11. Section 11 directs the Department of Crime Control and Public Safety to report to the Environmental Review Commission on or before 1 September of each year on the litter removal efforts of the Community Service Work Program, including the amount of litter removed and the number of community service hours committed to the removal of litter.

Section 12. Section 12 provides that the General Assembly of North Carolina acknowledges the establishment of North Carolina First in the Division of Travel and Tourism in the Department of Commerce and shall encourage and facilitate its litter prevention effort.

Section 13. Section 13 requires the Department of Transportation to provide and maintain recycling bins at highway rest stops for all of the following recyclable materials for which recycling is feasible:

- Aluminum
- Newspaper
- Sorted office paper
- Mixed office paper
- Recyclable glass
- Plastic bottles

Section 14. Section 14 requires the Department of Administration to expand its recycling program to provide for the collection of recyclables on each floor of a building occupied by a State agency and to add the mixed paper, newspaper, recyclable glass, and plastic bottles to those materials already required to be collected (aluminum and high grade office paper).

Section 15. Sections 1 and 2 become effective December 1, 2001, and apply to offenses committed on or after this date. Sections 3, 5, 6, 9, 10, 11, 12, and 15 are effective when it becomes law. Sections 4, 7, and 8 are effective December 1, 2001. Sections 13 and 14 are effective January 1, 2002.

6-12-01 AH 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-32 [v.2]

Date _____,2001

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

Representative

moves to amend the bill on page 5, lines 21 and 22, by inserting between the lines the following:

"For purposes of this subsection, load does not include water accumulated from precipitation.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

ENVIROMENT & NATURAL RESOURCES 6/12/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tony Adams	NC Outdoor Advertising Association
Andy Fulbright	Hunton & Williams
Mark Thompson	NMCIC
John Cyrus	N.C. State Grange
David Meredith	N.C. State Grange
Andy Romanet	NCLM
Kim Hibbard	NCLM
Ed Rego	N.C.A.C.C.
Crissy Porter	Bone & Associates
Laura H. DeVane	DENR
Lee-Ann Coe	NC Agribusiness Council
Dave Horne	Smith Anderson
Brian Starks	NC Small Grain Growers ASSN
Diane Warrender	Wake Cty. Keep America Beautiful
[illegible]	" " "
Reggie Howard	NCFC
[illegible]	NCFB
[illegible]	
Jim Wilson	Rep. Hackney's Office
Mac Bayley	NC Aggregates
Fred Allen	NC Aggregates Assn.
John Long	Martin Marietta Materials
Katherine Joyce	NC Assoc. of Electric Cooperatives
Grady McMillan	NC. Conservation Network.
M. H. Brody	CCNC
Elizabeth Ouzts	NCPIRG
David Knight	NC Sierra, NC Wildlife Fed
Heather Thompson	NCDOT

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ruth Sappie	NCDOT
Shannon Matthews	DOT | DMV
Lt. James A Woody	NC DMV ENFORCEMENT
Ned Mud	CCNR
Matt Osborne	AOC
Henry Hutaff	Coca Cola
GEORGE SUDDATH	PBV
Billy Gunnells	NCSDA
Ann Pharr Elks	Bladen County Schools
Tangania A. Cross	Bladen County Boundry Ed -
Linda Johnson-Baldwin	Bladen Co. Plain View Primary School

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES JUNE 14, 2001

The House Committee on Environment and Natural Resources met on Tuesday, June 14, 2001, in room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice-Chairmen Cox, Underhill, and Weiss, and Representatives Allen, Culp, Davis, Gulley, Hackney, Insko, McCombs, Preston, and Weatherly.

Chairman McComas called the meeting to order at 12:04 pm. Action was taken on the following bills:

SB 1014 – AN ACT TO STRENGTHEN THE LITTERING LAWS. (See attachments #1 and 1a) Representative Gibson, presenting the bill for Senator Albertson, stated there was an amendment involving mechanical systems. At this time George Givens reported there was a technical amendment to present first (see attachment #2). The amendment clarifies when the first report to the Environmental Review Commissions is due. The bill is to be amended on page 9, line 20, by inserting at the end of the line: "The first report required to be delivered by the Department of Crime Control and Public Safety to the Environmental Review Commission pursuant to G.S. 143B-476.1, as enacted by Section 11 of this act, shall be due September 1, 2001.". Representative Warwick moved for adoption of the amendment. Vote taken and the amendment passed.

Representative Davis brought forth an amendment to the bill which would require the placement of signs on the interstate system notifying motorists of the penalty for littering. The signs would include the maximum amount of the penalty. The Department of Transportation would determine the location of the signs and the distance between the signs (See attachment #3). Representative Warwick questioned the monetary amount of the fine for littering. Staff explained fines varied as to whether the littering was intentional or unintentional, the poundage of the violation, or if it was a second or subsequent offense. Representative Weatherly asked how many citations were issued per year for littering on all the highway system, not just the interstate. At this time Ruth Zappie, DOT Legislative Liaison was recognized by the Chair.

Ms. Zappie reported the highway patrol said that they issued 965 citations for littering in the last fiscal year. At this time, Representative Davis furnished a copy of the number of littering citations issued from 1997 to 2000 (See attachment #4).

Representative Gibson stated his support for Representative Davis' amendment but enlisted concern as to whether appropriations were involved. Ms. Zappie reassured the committee that the number of signs varied by division, with over 10,000 signs dealing

with littering on the state highway system, some of which contain graphics. Due to budget restraints and the number of requests for signs, the placement of the signs is at the discretion of the division engineer. Ms. Zappie informed the committee that DOT must also follow some general parameters set by the Federal Highway Administration on the signs that can be put on the interstate.

Representative Hackney asked staff to clarify whether the amendment would cause the bill to go to appropriations. George Givens of staff asked for clarification on that issue from Ms. Zappie, who assured the committee that additional signage would be paid for out of the existing budget, but did not know how much additional funding that would entail. As debate on the bill continued, Representatives Gibson and Warwick said they would support the amendment; however, Representative Warwick asked if the bill could be perfected to say the job can be done with currently available funds and the amendment was displaced while staff prepared the amendment. The committee went back to the original bill.

Representative Mitchell questioned page 9, section 13 of the bill, regarding recycling bins and the cost of operating them. Representative Gibson explained this area has been discussed in a separate bill in the Transportation Committee, passed unanimously, and is currently residing in State Government.

Chairman McComas introduced the following amendment to the bill : On page 2, line 32, by deleting "fifty dollars ($50.00)" and substituting "one hundred dollars ($100.00)".; on page 2, line 38, by deleting "one hundred fifty dollars ($150.00) and substituting "two hundred dollars ($200.00)".; on page 3, line 13, by deleting "one hundred fifty dollars ($150.00) and substituting "two hundred dollars ($200.00)".; and on page 3, line 32, by deleting "two hundred fifty dollars ($250.00)" and substituting "three hundred dollars ($300.00).". (See attachment #5) There were no questions and Representative Gibson moved for adoption. Amendment was voted on and adopted.

Representative Gibson offered another amendment to the bill which moved to amend the bill on page 2, between lines 8 and 9, by rewriting the lines to read: "This subsection does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.". (See attachment #6) After a short debate, hearing no questions, vote was taken, amendment adopted and the committee returned to Representative Davis' amendment.

Chairman McComas stated Representative Davis moved for adoption of his amendment (See attachment #7). Hearing no questions, vote was taken. Amendment adopted.

At this time Representative Davis offered another amendment, referred to as the Royal Amendment, for adoption (See attachment #8). Hearing no questions, vote was taken and amendment was adopted.

Committee returned to the original bill and Representative Gibson moved that the amendments that have been adopted be incorporated into a new PCS and that the PCS be given a favorable report, unfavorable to the original bill. Following a discussion regarding the tarping of vehicles, hearing no questions, a vote was taken and bill passed.

Representative Gibson presented SB 848, WATER QUALITY/LIVESTOCK MARKETS/ANIMAL OPERATIONS sponsored by Senator Kerr. Due to a restricted time frame, the bill sponsor agreed to displace the bill until the next meeting of the Environment and Natural Resources Committee.

There being no further business, the meeting adjourned at 12:30 pm.

Representative Daniel F. McComas
Co-Chairman

Linda Uzzle, Committee Assistant

#1
6-14-01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1014

Corrected Copy 4/9/01

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/16/01

Fourth Edition Engrossed 4/25/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1014-PCS6305-SG-21

Short Title: Strengthen Littering Laws. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-399 reads as rewritten:

"**§ 14-399. Littering.**

(a) No person, including ~~but not limited to,~~ any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by ~~him~~ the person within this State or in the waters of this State including~~, but not limited to,~~ any public highway, public park, lake, river, ocean, beach, campground, ~~forest land,~~ forestland, recreational area, trailer park, highway, road, street or alley except:

(1) When ~~such~~ the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and ~~such~~ the person is authorized to use ~~such~~ the property for ~~such~~ this purpose; or

(2) Into a litter receptacle in ~~such~~ a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of ~~such~~ the private or public property or waters.

(a1) No person, including any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall scatter, spill or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river,

ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

(1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or

(2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed ~~such~~ the offense. This presumption, however, does not apply to a vehicle transporting ~~agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.~~ nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent ~~offense~~ violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes within three years after the date of a prior ~~offense~~ violation is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than fifty dollars ($50.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a prior violation is an infraction punishable by a fine of not more than one hundred fifty dollars ($150.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this

subsection, the term "litter" shall not include nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(d1) Any person who violates subsection (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than one hundred fifty dollars ($150.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court shall order the violator to:

(1) Remove, or render harmless, the litter that he discarded in violation of this section;

(2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or

(3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred fifty dollars ($250.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(f) A court may enjoin a violation of this section.

(f1) If a violation of subsection (a) of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or

assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) of this section that is punishable as a felony, a court, in a civil action for ~~such~~ the damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars ($200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

(1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(2) Repealed by Session Laws 1999-454, s. 1.

(2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of ~~such~~ the entity.

(3) "Law enforcement officer" means any ~~officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission.~~ law enforcement officer sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer. ~~officer; or wildlife protectors as defined in G.S. 113-128(9);~~

(4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. ~~"Litter"~~ While being used for or distributed in accordance with their intended

uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other ~~such~~ similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

(5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49);~~ G.S. 20-4.01(49). ~~and~~

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

SECTION 2. G.S. 20-116(g) reads as rewritten:

"(g) (1) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle is ~~so~~ constructed ~~or~~ and loaded ~~as~~ to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping ~~therefrom, except that~~ therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be ~~sprinkled~~ sprinkled, dumped, or spread on a roadway in cleaning or maintaining ~~such~~ the roadway.

(2) Trucks, trailers or other vehicles when loaded with rock, gravel, stone or ~~other~~ any other similar ~~substances which~~ substance that could fall, blow, leak, sift or drop shall not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading ~~point, or if not so loaded, unless~~ point and the load shall be securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom. This subdivision does not apply to a vehicle licensed for 7,500 pounds or less gross vehicle weight.

(3) ~~Provided this~~ This section shall not be applicable to or in any manner restrict the transportation of seed cotton, of poultry or livestock or silage or other feed grain used in the feeding of poultry or livestock."

SECTION 3. G.S. 115C-12 is amended by adding a new subdivison to read:

"(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard Course of Study. – The State Board of Education shall study ways to include the topic of litter prevention in the State's Standard Course of Study."

SECTION 4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read as follows:

"**§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way and maintenance of highway.**

The Department of Transportation shall coordinate the removal of debris, trash, and litter from highways and highway right-of-ways with the mowing of highway right-of-ways and the maintenance of highways. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right-of-way or the maintenance of a highway that the contracting party must coordinate the removal of debris, trash, and litter from the highway and highway right-of-way with the mowing of the highway right-of-way or the maintenance of the highway."

SECTION 5. G.S. 153A-136 reads as rewritten:

"**§ 153A-136. Regulation of solid wastes.**

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

(1) Regulate the activities of persons, firms, and corporations, both public and private.

(2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.

(3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.

(4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.

(5) Require the source separation of materials prior to collection of solid waste for disposal.

(6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then

ownership of these materials is transferred to the county or its designee.

(6a) Regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental enforcement officers.

(7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

(1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).

(2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.

(3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.

(4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste."

SECTION 6. G.S. 160A-185 reads as rewritten:

"**§ 160A-185. Emission of pollutants or contaminants.**

A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. A city may by ordinance regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by specially appointed environmental enforcement officers. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations."

SECTION 7. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-22.3. Littering notification and pledge.**

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 8. Article 4 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-33.3. Littering notification and pledge.**

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, that county board of elections shall do both of the following:

(1) Notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

(2) Require that the candidate sign a pledge to comply with those statutes and rules. The State Board of Elections shall prepare a form for the pledge."

SECTION 9. The text of G.S. 147-12 is designated as subsection (a) of that section, and G.S. 147-12 is further amended by adding a new subsection to read:

"(b) The Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 and August 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The

Administrative Office of the Courts shall deliver to the Governor by February 1 and August 1 of each year detailed information on the enforcement of the littering laws of the State, including the number of citations issued and arrests conducted pursuant to the littering laws of the State and the conviction rate associated with the specific offenses. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated semiannual report on or before March 1 and September 1 of each year to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 10. The first reports required to be delivered by the Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due February 1, 2002. The first report required to be delivered by the Governor to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted by Section 9 of this act, shall be due March 1, 2002.

SECTION 11. Article 11 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-476.1. Community Service Work Program report.**

The Department of Crime Control and Public Safety shall report to the Environmental Review Commission on or before September 1 of each year on the litter removal efforts of the Community Service Work Program. This report shall include the amount of litter removed and the number of community service hours committed to the removal of litter."

SECTION 12. The General Assembly of North Carolina acknowledges the establishment of North Carolina First in the North Carolina Division of Tourism, Film and Sports Development in the Department of Commerce and shall encourage and facilitate its litter prevention efforts.

SECTION 13. G.S. 130A-309.14 is amended by adding new subsections to read:

"(k) The Department of Transportation shall provide and maintain recycling bins at each rest area located in this State on a highway in the Interstate Highway System or in the State highway system for the collection of all of the following recyclable materials for which recycling is feasible:

(1) Aluminum.
(2) Newspaper.
(3) Sorted office paper.
(4) Mixed office paper.

(5) Recyclable glass.
(6) Plastic bottles.

(l) As used in this section, the following definitions apply:

(1) Mixed office paper. – Nearly all waste paper generated in offices that is not sorted office paper and includes colored paper, fax paper, computer paper, junk mail, notepads, manila and bleached file folders, envelopes without plastic windows, magazines, and corrugated cardboard. Mixed office paper does not include glossy paper, tape, and envelopes with plastic windows.

(2) Sorted office paper. – Paper used in offices that is of a high quality for purposes of recycling and includes copier paper, computer paper, letterhead, ledger, white envelopes, and bond paper."

SECTION 14. G.S. 130A-309.14(a)(1) reads as rewritten:

"(1) Establish a program in cooperation with the Department and the Department of Administration, for the collection on each floor of each building occupied by a State agency of all of the following recyclable ~~aluminum and wastepaper~~ materials generated in State offices throughout the ~~State, including, at a minimum, high-grade office paper and corrugated paper.~~ State:

a. Aluminum.
b. Newspaper.
c. Sorted office paper.
d. Recyclable glass.
e. Plastic bottles."

SECTION 15. Sections 1 and 2 of this act become effective December 1, 2001, and apply to offenses committed on or after that date. Sections 3, 5, 6, 9, 10, 11, 12, and 15 of this act are effective when it becomes law. Sections 4, 7, and 8 of this act become effective December 1, 2001. Sections 13 and 14 of this act become effective January 1, 2002.

#1A
6-14-01

SENATE BILL 1014:
Strengthen Littering Laws

BILL ANALYSIS

Committee:	House Envir. and Nat. Resources	**Introduced by:**	Senator Albertson
Date:	June 14, 2001	**Summary by:**	Rick Zechini
Version:	Proposed Committee Substitute for the Fourth Edition		Committee Counsel

SUMMARY: **The Proposed Committee Substitute (PCS) for Senate Bill 1014:**

- **Establishes new littering offenses for unintentional littering,**
- **Clarifies who may enforce the littering statute,**
- **Amends the definition of litter in the littering statute,**
- **Requires that all vehicles loaded with aggregate, except those licensed for 7,500 pounds or less gross vehicle weight, must be covered by a tarp,**
- **Requires the Department of Transportation to coordinate the removal of debris, trash, and litter from the highway and the highway right-of-way with any mowing or maintenance,**
- **Provides explicit authority to counties and municipalities to adopt littering ordinances,**
- **Mandates that candidates be informed of the laws and rules applicable to campaign signs and that the candidates pledge to comply with these laws and rules,**
- **Provides that the Governor is responsible for submitting a semiannual report to various legislative entities on litter prevention, litter removal, and litter enforcement,**
- **Requires the Department of Crime Control and Public Safety to report to the Environmental Review Commission on its Community Service Work Program,**
- **Requires the Department of Transportation to provide and maintain recycling bins at highway rest stops when feasible, and**
- **Requires the Department of Administration to provide for the collection of recyclable materials on each floor of each building occupied by a State agency.**

BILL ANALYSIS: The PCS for Senate Bill 1014 does the following:

Section 1. Section 1 amends G.S. 14-399 to establish new littering offenses for unintentional littering. The offenses and penalties for intentional or reckless littering under existing law remain the same.

A person who, without acting intentionally or recklessly, litters in the amount of 15 pounds or less is guilty of an infraction punishable by a fine up to $50 and possible community service of between four and 12 hours. A second or subsequent violation within three years is an infraction punishable by a fine up to $150 and possible community service of between eight and 24 hours. For unintentional violations in the amount of 15 pounds or less, the term "litter" does not include nontoxic and biodegradable, agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

An unintentional violation in the amount of over 15 pounds up to 500 pounds is an infraction punishable by a fine of up to $150 and possible community service of between eight and 24 hours.

An unintentional violation involving over 500 pounds is an infraction punishable by a fine up to $250 and possible community service of between 16 and 50 hours.

A drivers license point will only be assessed for intentional or reckless littering violations and only vehicles involved in the intentional or reckless disposal of over 500 pounds of litter are subject to seizure as contraband. Only intentional or reckless littering offenses subject the violator to treble damages and payment of the plaintiff's court costs and attorney's fees in a civil action if the littering violation resulted in the plaintiff suffering damages.

This section clarifies that all law enforcement officers sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers, have the duty of enforcing G.S. 14-399. County and municipal litter enforcement officers are also charged with enforcing G.S. 14-399. The North Carolina Criminal Justice Education and Training System, established by Chapter 17C, is responsible for training all law enforcement officers in the State except for Sheriffs. Sheriffs are trained by the Justice Officers' Standards Division within the Department of Justice, established by Chapter 17E. This section also adds language to the definition of "littering" to provide that political pamphlets, handbills, religious tracts, newspapers, and other similar materials are not considered "litter" only when they are being used for or distributed in accordance with their intended use.

Section 2. Section 2 amends G.S. 20-116(g) to provide that when a vehicle is loaded with aggregate the height of the load against all four walls shall not extend above a horizontal line six inches below the top of the vehicle when loaded and the load must be securely covered by a tarp or other covering. These requirements do not apply to a vehicle licensed for 7,500 pounds or less gross vehicle weight. This section also amends G.S. 20-116(g) to require that vehicles must be free from any holes, cracks, or openings through which any material may escape.

Section 3. Section 3 amends G.S. 115C-12 to direct the State Board of Education to study ways of including the topic of litter prevention in the State's Standard Course of Study.

Section 4. Section 4 creates a new section requiring the Department of Transportation to coordinate the removal of debris, trash, and litter from the highway and the highway right-of-way with any mowing of the highway right-of-way or maintenance of the highway.

Sections 5 and 6. Sections 5 and 6 provide explicit authority to counties and municipalities to adopt littering ordinances enforceable by civil penalties and other remedies. In addition, counties and municipalities may appoint environmental officers to enforce these ordinances.

Sections 7 and 8. Sections 7 and 8 create two new sections that require, at the time a candidacy is formally initiated with the State Board of Elections or a county board of elections, the respective board of elections to notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18. In addition, the respective board of elections shall require the candidate to sign a pledge to comply with these laws and rules. G.S. 136-32 and rules adopted pursuant to G.S. 136-18 prohibit the placement of campaign signs along highway right-of-ways. G.S. 14-156 provides that it is a class 2 misdemeanor to injure or obstruct a utility pole.

Sections 9 and 10. Section 9 provides that the Governor shall compile information from the Division of Motor Vehicles of the Department of Transportation, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts, and present a consolidated semiannual report to the

Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources. Section 10 requires the first semiannual report to be delivered to the respective legislative parties by March 1, 2002.

Section 11. Section 11 directs the Department of Crime Control and Public Safety to report to the Environmental Review Commission on or before 1 September of each year on the litter removal efforts of the Community Service Work Program, including the amount of litter removed and the number of community service hours committed to the removal of litter.

Section 12. Section 12 provides that the General Assembly of North Carolina acknowledges the establishment of North Carolina First in the Division of Travel and Tourism in the Department of Commerce and shall encourage and facilitate its litter prevention effort.

Section 13. Section 13 requires the Department of Transportation to provide and maintain recycling bins at highway rest stops for all of the following recyclable materials for which recycling is feasible:

- Aluminum
- Newspaper
- Sorted office paper
- Mixed office paper
- Recyclable glass
- Plastic bottles

Section 14. Section 14 requires the Department of Administration to expand its recycling program to provide for the collection of recyclables on each floor of a building occupied by a State agency and to add the mixed paper, newspaper, recyclable glass, and plastic bottles to those materials already required to be collected (aluminum and high grade office paper).

Section 15. Sections 1 and 2 become effective December 1, 2001, and apply to offenses committed on or after this date. Sections 3, 5, 6, 9, 10, 11, 12, and 15 are effective when it becomes law. Sections 4, 7, and 8 are effective December 1, 2001. Sections 13 and 14 are effective January 1, 2002.

#1 6.12.01

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-32 [v.2]

Date _____ ,2001

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

Representative

moves to amend the bill on page 5, lines 21 and 22, by inserting between the lines the following:

"For purposes of this subsection, load does not include water accumulated from precipitation.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

12 June 2001

#2

6.14.01

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-39 [v.1]

Date _____,2001

Comm. Sub. [YES]
Amends Title [NO]
S1014-CSSG-21

Representative G. Nelson

moves to amend the bill on page 9, line 20, by inserting at the end of the line:

"The first report required to be delivered by the Department of Crime Control and Public Safety to the Environmental Review Commission pursuant to G.S. 143B-476.1, as enacted by Section 11 of this act, shall be due September 1, 2001.".

SIGNED GWB
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

14 June 2001

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

#3
6.14.01

6-14-01 passed

EDITION No. PCS6305

H. B. No. _____

S. B. No. 1014

COMMITTEE SUBSTITUTE _____

DATE 14 June 2001

Amendment No. _____
(to be filled in by Principal Clerk)

(Rep.)) Mc Comas
~~Sen.~~)

moves to amend the bill on page 2, line 32

( ) WHICH CHANGES THE TITLE

by deleting "fifty dollars ($50.00)." and substituting "one hundred dollars ($100.00)."; on page 2, line 38, by deleting "one hundred fifty dollars ($150.00)." and substituting "two hundred dollars ($200.00)."; on page 3 line 13, by deleting "one hundred fifty dollars ($150.00)." and substituting "two hundred dollars ($200.00)."; and on page 3, line 32, by deleting "two hundred fifty dollars ($250.00)." and substituting "three hundred dollars ($300.00)".

SIGNED _____

ADOPTED 14 June 200 FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

#4

6.14.01

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-29 [v.4]

Date _____ ,2001

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

Representative Gibson

moves to amend the bill on page 2, between lines 8 and 9, by rewriting the lines to read:

"This subsection does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 14 June 2001 FAILED _____ TABLED _____

6-14-01
DAVIS

#5

6.14.01

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-40 [v.2]

Date _____,2001

Comm. Sub. [YES]
Amends Title [NO]
S1014-CSSG-21

Representative Davis

moves to amend the bill on page 6, lines 9 and 10, by inserting the following new section:

"**SECTION 5.** Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read as follows:

'**§ 136-32.3. Litter enforcement signs.**

(a) The Department of Transportation shall place signs on the Interstate Highway System notifying motorists of the penalties for littering. The signs shall include the amount of the maximum penalty for littering. The Department of Transportation shall determine the locations of and distance between the signs.'"

by renumbering the remaining sections accordingly; and

on page 10, lines 25 through 29, by rewriting the lines to read:

"**SECTION 16.** Sections 1 and 2 of this act become effective December 1, 2001, and apply to offenses committed on or after that date. Sections 3, 4, 6, 7, 10, 11, 12, 13, and 16 of this act are effective when it becomes law. Sections 5, 8, and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1014

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

S1014-ASG-40 [v.2]

9 of this act become effective ~~December~~ 1, 2001. Sections 14 and 15 of this act become effective January 1, 2002.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

#5A
6-14-01

Littering Citations and Conviction Rates by Category
1997 - 2000

Citations = infractions
misdemeanor *

G.S. 20-116(g) Improper Loading/Covering Vehicle

Year	*Citations*	*Convictions*	*Conviction Rate*
1997	874	648	74.14%
1998	882	662	75.06%
1999	971	700	72.09%
2000	856	608	71.03%

G.S. 14-399(c) Misdemeanor Littering Less Than 15 lbs

Year	*Citations*	*Convictions*	*Conviction Rate*
1997	2945	1711	58.10%
1998	3057	1865	61.01%
1999	2661	1666	62.61%
2000	2974	1614	54.27%

G.S. 14-399(d) Misdemeanor Littering 15-500 lbs

Year	*Citations*	*Convictions*	*Conviction Rate*
1997	214	103	48.13%
1998	201	93	46.27%
1999	173	96	55.49%
2000	133	50	37.59%

G.S. 14-399(e) Felony Littering Hazardous Waste

Year	*Citations*	*Convictions*	*Conviction Rate*
1997	3	0	0.00%
1998	1	0	0.00%
1999	2	0	0.00%
2000	0	0	0.00%

G.S. 14-399(e) Felony Commercial Littering

Year	*Citations*	*Convictions*	*Conviction Rate*
1997	11	0	0.00%
1998	26	1	3.85%
1999	9	1	11.11%
2000	14	0	0.00%

Source: North Carolina Administrative Office of the Courts, Legal and Legislative Services Division

NCDMV Enforcement Plan of Action to Deter Littering on North Carolina's Highways

Unsecured Load Violations – Cvsa Inspections - $100. 00 Penalty

		Jan-Dec 1999	Jan-Dec 2000
392.9	driver load secure/failing to secure load	246	129
392.9A1	failing to secure cargo/393.100-393.106	279	46
392.9A2	failing to secure vehicle equipment	403	75
393.100	no or improper load securement	581	507
393.100E	improper securement of intermodal containers	49	22
393.102	improper securement system (tiedown assemblies)	347	254
393.104A	improper blocking and/or bracing-longitudinal	6	2
393.104B	improper blocking and/or bracing-lateral	13	10
TOTAL		1924	1045
CY JANUARY 1999 – DECEMBER 2000		2969	

Citation Reports – NC Administrative Offices of the Court FY 1995 - 1999

Agency - DMV -	Fiscal Y - 1995	GS 20-116 g	Improper Loading - Covering - 160
Agency - All Others	Fiscal Y - 1995	GS 20-116 g	Improper Loading - Covering - 693
Agency - DMV -	Fiscal Y - 1996	GS 20-116 g	Improper Loading - Covering - 135
Agency - All Others	Fiscal Y - 1996	GS 20-116 g	Improper Loading - Covering - 781
Agency - DMV -	Fiscal Y - 1997	GS 20-116 g	Improper Loading - Covering - 184
Agency - All Others	Fiscal Y - 1997	GS 20-116 g	Improper Loading - Covering - 789
Agency - DMV -	Fiscal Y - 1998	GS 20-116 g	Improper Loading - Covering - 265
Agency - All Others	Fiscal Y - 1998	GS 20-116 g	Improper Loading - Covering - 861
Agency - DMV -	Fiscal Y - 1999	GS 20-116 g	Improper Loading - Covering - 275
Agency - All Others	Fiscal Y - 1999	GS 20-116 g	Improper Loading - Covering - 1061

Total DMV Improper Loading - Covering Violations FY 1995 - 1999	1019
Total All Other Agency Improper Loading - Covering Violations FY 1995 - 1999	4185
Total Charges All Agencies - Improper Loading - Covering Violations FY 1995 - 1999	5204

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

#6
6-14-01

(Please type or use ballpoint pen)

perfecting #5

EDITION No. PCS6305

H. B. No. _____ DATE _____

S. B. No. S 1014 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Davis
) _____
~~Sen.~~)

1 moves to amend the bill on page 10 between lines 24 and 25
2 ( ) WHICH CHANGES THE TITLE
3 by inserting:
4
5 "Section 14.1. This act shall
6 not be construed to obligate the
7 General Assembly to appropriate any funds
8 to implement the provisions of this act.
9 Every agency to which this act
10 applies shall implement the provisions
11 of this act from funds otherwise
12 appropriated or available to the
13 agency." and
14
15 on page 10, line 28 by deleting
16 "13" and substituting
17 "13, 14.1".
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☒ Committee Substitute for
S.B. 1014 A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE LITTERING LAWS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

☒ **With a favorable report as to House committee substitute bill (#), unfavorable as to Senate committee substitute bill.**

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE BILL 848

Short Title:	Water Quality/Livestock Markets/Animal Ops.	(Public)
Sponsors:	Senator Kerr.	
Referred to:	Agriculture/Environment/Natural Resources.	

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO INCLUDE PUBLIC LIVESTOCK MARKETS WITHIN THE DEFINITION OF ANIMAL OPERATIONS FOR THE PURPOSE OF REGULATING THE ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE THESE MARKETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"**§ 143-215.10B. Definitions.**

As used in this Part:

(1) 'Animal operation' means any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. ~~Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the General Statutes shall not be considered animal operations for purposes of this Part.~~A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.

(2) 'Animal waste' means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.

(3) 'Animal waste management system' means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(4) 'Division' means the Division of Water Quality of the Department.

(5) 'Feedlot' means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in

which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

(6) 'Technical specialist' means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 2. This act becomes effective 1 July 2001.

#8A

SENATE BILL 848:
Water Quality/Livestock Markets/Animal Ops.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Kerr
		Summary by:	George Givens, Committee Counsel
Date:	June 12, 2001		Tim Dodge, Resarch Assistant
Version:	First Edition		

SUMMARY: ***Senate Bill 848 would include public livestock markets in the definition of animal operations, requiring the markets to comply with the waste management requirements applicable for animal operations.***

The act would become effective on July 1, 2001.

CURRENT LAW: G.S. 143-215.10B defines an animal operation as any agricultural farming activity involving:

- 250 or more swine;
- 100 or more confined cattle;
- 75 or more horses;
- 1,000 or more sheep; or
- 30,000 or more confined poultry with a liquid animal waste management system.

Part 1A of article 21 of this Chapter establishes permit, inspection, reporting, and fee requirements for animal operations, as well as requirements for the development of an animal waste management plan for each operation. Current law exempts livestock markets from these requirements.

BILL ANALYSIS: Senate Bill 848 seeks to include public livestock markets in the definition of an animal operation. Public livestock markets would then be directed to comply with the requirements in place for animal operations statewide. If markets are not included in the definition of an animal operation, then they are required to obtain a water quality permit from the Department of Environment and Natural Resources, which may involve more stringent regulatory requirements.

BACKGROUND: The North Carolina General Assembly enacted legislation in 1996 (Chapter 626 of the 1995 Session Laws) establishing waste management requirements for animal operations. Public livestock markets were exempted from the requirements of the Act, due to the short time animals are held at livestock markets and on the potential hardship the requirements might create for both markets and the small producers who sell at markets.

The act would become effective on July 1, 2001.

VISITOR REGISTRATION SHEET

Environment & Nat. Resources — 6/14/01
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Dan Hom	Smith Anderson
Preston Howard	MCIC
Ken Melton	Alley Associates, Inc.
Tim Minton	NC Home Builders Assn
Kim Hibbard	NCLM
Angie Harris	Maupin Taylor Ellis
Laura DeVane	DENR
Nancy Thompson	MCIC
Lucius Pullen	Attorney NCMA
Crissy Porter	Bonne & Associates
George Everett	Duke Energy
Natalie English	Charlotte Chamber
Drew Nelson	Rep. Hackney Office
Steve Woodson	NC Farm Bureau
Fred Allen	NC Aggregates Assn.
Mac Barley	NC Aggregates Assn.

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
John Lucas	Martin Marietta
Sandra Lucas	Martin Marietta
Butch Gunnells	NCSDA
Nat Mund	CCNC
Dale McKee	Scenic NC
Grady McCallie	N.C. Conservation
Benjamin Gabbs	NC Sierra Club
Matt Bay	CCNC
Paul Meyer	NCACC
Jerry Moody	NC DMV ENFORCEMENT
Sharon Matthews	DOT/DMV
BRUCE THOMPSON	PARKER, POE, ADAMS & BERNSTEIN, LLP
Heather Thompson	NCDOT
Ruth Sappie	NCDOT

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 10, 2001
12:00 noon

1. **Call to Order – Representative Warwick, Presiding**

2. **Bills to be considered:**
   SB 1098 – OUTDOOR ADVERTISING ALONG I-40
   Senator Miller

3. **Adjourn**

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

Minutes

July 10, 2001

The ENVIRONMENT & NATURAL RESOURCES COMMITTEE met on Tuesday, July 10, 2001 at 12:08 in Room 544 of the Legislative Office Building. The following members were present: Representatives Gibson (Cochair), McComas (Cochair), Warwick (Cochair), Cox (Vice Chair), Underhill (Vice Chair), Weiss (Vice Chair), Allen, Culp, Davis, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Preston, Smith, Tucker and Weatherly. Cochairman Warwick presided. A visitors' sheet is made a part of these minutes. The Honorary House Page in attendance was Charlie Archer of New Hanover County.

Cochairman Warwick called the meeting to order and explained that SB1098, Outdoor Advertising Along I-40 would be heard, and if time permitted it would be voted on (see attachment 1 and 2). After Representative Hackney stated that he had an amendment, Cochairman Warwick announced that no vote would be taken, but that the bill sponsor would present the bill, members could ask questions and the bill would be taken up again at the next meeting.

Cochairman Warwick introduced Senator Brad Miller to present the bill. Senator Miller spoke about the pros and cons that he had heard regarding the bill, and said "The arguments for and against this bill are not substantially different from the arguments you have heard in the last couple of sessions, when we imposed a moratorium on a stretch of I-40 from the Alamance County line to Wilmington and then again last year extended that moratorium for another year. The arguments for having a temporary ban and moratorium are not different from simply having a ban on new billboards. The argument for it is simply that they are unattractive. They detract from the scenic beauty of the State. This is a beautiful state. The beauty of the State is not just a selling point for us economically and tourism, this is something the citizens of this State enjoy, appreciate, value and would like to preserve. And this is what this bill would do. Let me discuss the arguments that I have heard against this bill. One is that the idea that billboards are ugly is a subjective judgement. Some people feel that billboards are just fine looking. Some people in fact, I think I have heard, descriptions that think billboards are breathtakingly beautiful. If that is the case, fine. Buy a piece of property and open a billboard gallery and invite the public to come see your billboards. But our view of billboards is involuntary. It is because we are on the road, and we do not wish to see them necessarily. They are right there where we want to look and they obscure the view we would like to

have of this State, of the forests, the fields and the natural beauty of this State. The second argument is local control, why should this be a statewide initiative, why should this body be deciding this instead of county commissioners and town councils. The argument for local control in this area asserted by this industry now is one that they have selectively advanced. The Congress provided years ago, I think in 1965 that any local government that removed billboards from interstate highways could do it only by paying the market price of a billboard. They could not amortize them, they could not allow the owners of the billboards to recoup their investment and then after a reasonable time take the billboards down, a method of removing billboards, regulating billboards, that the courts have uniformly regarded as a legitimate and constitutional way to accomplish that goal. As a practical matter, a decision to put up a billboard or to allow a billboard up on an interstate highway is a decision for future generations, it is a decision forever, because local government can never afford to pay the price to take one down. Once it is up it stays up. The value of billboards if Lamar were to sell one to Fairway on an interstate highway up to a couple hundred thousand or perhaps more, local government cannot afford to take down thousands of billboards. The industry in this State attempted to adopt a statewide provision that would prevent local government here in the General Assembly in 1995 that would have prevented the local government from amortizing billboards, from removing billboards allowing a reasonable time for owners of billboards to recoup their investment and then take them down. That bill stalled and failed ultimately in the Senate, but the industry supported that that clearly restricted local control. So they have rather selectively asserted local control when they thought they had the support here, they have been against local control. When they thought they had more power at the local level they have been for local control. A third argument, this is the one I find actually offensive, and that this is an elitist proposition. There are only a few people that find billboards unattractive. And most folks, the common folks in this State don't mind billboards. The assumption is the citizens of this State the regular folks that live in this State, are mouth breathers who are too busy wiping drool from the front of their shirt or wiping their nose with their sleeve to notice that this is a beautiful State, to appreciate that this is a beautiful State. And I adamantly disagree with that. I believe that average folks who work tables, who wait tables, who work in bills [*sic*], all kinds of folks know that this is a beautiful State, recognize that fact, appreciate it and want to preserve it. And with that argument in mind that Representative Hackney would offer the amendment that he will offer at a later meeting. And that is to allow a local opt out, to let local government, local county commissions remove themselves from this moratorium by referendum. Let the folks in the county decide if billboards are attractive, will they detract from the beauty of that county. Let the regular folks decide, everybody, the whole electorate, not the people that drive Lexuses, but the people that drive pickup trucks too. The people that drink the cheapest beer and the people that drink chardonnay or iced tea or whatever, the people that eat brie and the people that eat barbeque. Let them all vote. Let them decide whether they think billboards add to their community or billboards detract. Thank you, Mr. Chairman." Senator Miller also explained that existing billboards would be allowed to remain, and stressed the importance of moving quickly with the bill since last year's moratorium has run out.

Cochairman Warwick asked if the committee had any questions. Several questions were asked concerning repairs to the billboards and a distance requirement from the road. Vice Chairman Underhill asked how many billboards are on Highways 85, 95 and 77. Senator Miller responded he had the numbers by county, but not by highway. Vice Chairman Underhill followed up with why was only I-40 involved. Senator Miller responded that it is the most visible highway in the State.

Vice Chairman Cox made the statement that people should have the right to put a billboard on their property. Cochairman Warwick asked for the information on how much in tax dollars does the Billboard Industry produce. Cochairman McComas asked staff to provide a list of the other roads in the State that have billboard moratoriums and how these moratoriums were enacted.

Cochairman Warwick stated that time was running short and that at the next meeting Mr. Love and Mr. Ivey with the NC Department of Transportation, an Environmental Group and the Outdoor Advertisers would be allowed to address the committee.

Cochairman Warwick adjourned the meeting at 12:29 p.m.

Representative Nurham Warwick
Cochairman

Jayne Nelson Walton
Committee Assistant

ATT. #1
7.10.01

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S 2

SENATE BILL 1098
Judiciary II Committee Substitute Adopted 4/23/01

Short Title: Outdoor Advertising Along I-40. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON OUTDOOR ADVERTISING ALONG INTERSTATE HIGHWAY 40 AND TO REMOVE THE SUNSET.

The General Assembly of North Carolina enacts:

SECTION 1. The moratorium on the erection of outdoor advertising along a portion of Interstate Highway 40 imposed by S.L. 1999-436 and extended by S.L. 2000-101 is extended to include the entire portion of Interstate Highway 40 in North Carolina from the Tennessee state line to the municipal limits of the City of Wilmington and shall not expire.

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

ATT #2
7.10.01

SENATE BILL 1098:
Outdoor Advertising Along I-40.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Miller
		Summary by:	Tim Dodge Research Assistant
Date:	July 10, 2001		
Version:	Second Edition		

SUMMARY: ***Senate 1098 would extend the moratorium on the construction of new billboards to include the entire length of Interstate 40 from the Tennessee state line to Wilmington and would also make the moratorium permanent by deleting the sunset provision in S.L. 2000-101. The bill would become effective when it becomes law.***

CURRENT LAW: The previous moratorium prohibiting the construction of billboards on a portion of Interstate 40, established under S.L. 2000-101, expired on July 1, 2001. The moratorium included the length of Interstate 40 from the Orange-Alamance county line to the municipal limits of the City of Wilmington.

BILL ANALYSIS: Senate Bill 1098 establishes a permanent moratorium on new billboards on Interstate 40 by deleting the sunset provision in the previous moratorium and extending the moratorium from the Tennessee state line to the municipal limits of the City of Wilmington. The moratorium makes exceptions for the following sign types:

- Directional and other official signs and notices (G.S. 136-129(1)).
- Signs advertising the sale or lease of property upon which the sign is located (G.S. 136-129(2)).
- Signs advertising the activities conducted on the property upon which it is located (G.S. 136-129(3)).

BACKGROUND: S.L. 1999-436 directed the Joint Legislative Transportation Oversight Committee to study issues related to prohibiting the erection of advertising on the designated portion of Interstate 40. The bill also imposed a moratorium pending the committee's report to the General Assembly. In 2000, the Environmental Review Commission recommended extension of the moratorium by one year, from July 1, 2000, to July 1, 2001. This recommendation was enacted in S.L. 2000-101.

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES 7/10/01
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Carl Edwards	Eastern Outdoor Inc.
Tony Adams	NC outdoor Advertising Association
Brian Seebold	NC Small Grain Growers ASSN.
Brenda Grady	NCDOT
Lacy Love	NCDOT
Norman Beasley	NCOAA - Lamar Outdoor Advertising
DON PIERCE	NCOAA FAIRWAY OUTDOOR
Jean Doutt	NCOAA
Drew Nelson	Rep. Hackney's office
Sharon Koskzewa	Cap. Adv. Assoc.
PG	NCFB
Carole Lawer	EGTS
Paul Meyer	NCAEE
Kim Hibbard	NCLM
Beth Anne Murphey	NCPC

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	WCSR
Lu-Ann Cox	NC ABC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 17, 2001
12:00 noon

1. **Call to Order – Representative Warwick, Presiding**

2. **Bills to be considered:**

   SB 1098 - OUTDOOR ADVERTISING ALONG I-40
   Senator Miller

   HB 612 – DISAPPROVE NEUSE RIVER WATER QUALITY RE-CLASSIFICATION
   Representative Pope

   HB 848 – WATER QUALITY/LIVESTOCK MARKETS/ANIMAL OPS.
   Senator Kerr

   SB 783 – EXTEND SUNSET/DEMOLITION DEBRIS LANDFILL
   Senator Odom

   HB 617 – FREEZE CERTAIN HIGHWAY FUNDS
   Representative Luebke

3. **Adjourn**

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
July 17, 2001

The House Committee on Environment and Natural Resources met on Tuesday, July 14, 2001, in room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice-Chairmen Cox, Underhill, and Weiss, and Representatives Allen, Bowie, Culp, Davis, Gray, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Preston, Smith, Tucker, Warner, and Weatherly. Also present was Majority Whip Beverly Earle.

Chairman Warwick called the meeting to order at 12:03 pm. Action was taken on the following bills:

SB 1098 – OUTDOOR ADVERTISING ALONG I-40. (See attachments 1 and 2) Senator Brad Miller explained that this bill would extend the moratorium on billboards along I-40 so that it would no longer be a moratorium, but a ban on billboards along I-40. He said Representative Hackney had an amendment (See attachment 3) to this bill that would allow county governments to remove themselves from that ban by referendum, which is similar to the opt-out allowed in the original bill.

Staff member George Givens reported on Representative McComas' question that was carried over from the previous meeting regarding other portions of interstate highways in North Carolina that were subject to billboard bans. Mr. Givens said that this information is contained in a one-page handout that the staff distributed that lists various Session Laws dating back to 1987, and at the bottom lists local government restrictions on I-40 for advertising. (See attachment 4)

Ken Ivey, Acting State Traffic Engineer for NCDOT, explained criteria regarding how firms qualify for the signing along North Carolina interstates and freeway routes, Mr. Ivey stated the criteria provides that any business under the food, lodging, or gas criteria can qualify, but it is based on their location to the interstate and the other criteria set up for each particular facility. The criteria is not restricted to the major gas, food, and lodging businesses. If any business qualifies and meets the criteria, they are allowed to be placed on the signs; the fee is $225 per year, plus a $75 maintenance fee per panel.

Representative Insko asked where billboards are allowed, if there is a limitation on the distance from the road, and if so, how far from the road. At this point, Chairman Warwick asked DOT representative for a definition of a billboard, its size, etc.

David Allsbrook of NCDOT reported on the different spacing requirements for different billboards. On interstates, the billboards must be 500 feet apart and on roads where the

states govern outdoor advertising signs such as US routes and non-freeway type roads, 300 feet apart. When inside towns, spacing can go down to 100 feet. The signs are located off the highway rights of way and are advertising activities that are not taking place on that property but advertising things further down the line. The signs are limited to a size of 1200 square feet per sign. All interstate roads have fences that run on each side of the roadway and that fence represents the right-of-way line. The signs are governed within 660 feet behind that fence.

In answer to Representative Insko's question regarding removal of billboards, Mr. Allsbrook reported that the federal law of the Highway Beautification Act of 1965 requires that if they are removed the county, city or state would have to pay the full fair market value. They cannot amortize.

Chairman Warwick stated Representative Hackney's amendment would be entertained and that speakers would be heard before the amendment was discussed.

George Givens stated Representative Hackney's motion to amend the bill on page 1, between lines 9 and 10. Representative Hackney explained the amendment which would provide that a county could, by ordinance, after approval by the voters of the county in a referendum called by the county, provide that it allow billboards along I-40 in that county.

Ed Reagan, President of the North Carolina Association of County Commissioners, explained that there were a number of counties that have already banned or otherwise restricted outdoor advertising. This raised the question as to whether the amendment was needed or not, since there is no requirement of a local referendum to allow billboards under current law. Mr. Reagan stated this amendment allows for an opt-out of having a billboard moratorium in counties; therefore, it is substantially different from what the counties are currently doing.

Vigorous debate followed as to local control over billboard construction, private property rights, beauty of billboards versus the ridge law, and removal expense to the town, county or government.

At this point, Chairman Warwick asked four people on each side of the issue to speak to the committee. Those speaking in opposition of the billboard moratorium were Melvin "Skip" Austin from Greensboro, member of the Guilford County Board of Commissioners, President of North Carolina NAACP; Monique Faust of Wilmington, Battleship North Carolina; Leona Parrish, property owner from Johnston County; Tonya Harris, Selma Antique's Association, and Tony Adams, Adams Outdoor Advertising. Those in favor or the billboard moratorium were Dale McKeel, Executive Director of Scenic North Carolina; Myrick Howard of Preservation North Carolina; David Knight, North Carolina Sierra Club; Lois Nixon, Keep America Beautiful, Board member of Scenic North Carolina. Those speaking in favor of the moratorium sited cost prohibitive removal, less tax burden for sign companies, injury to North Carolina's heritage and cultural tourism, and blight on the beauty of the state, as well as the inability to "turn off"

the advertising of unsavory products. Those opposing the moratorium related to issues such as increased tax revenue from advertising necessities such as food and shelter (See attachment #5), fear of possible increase in advertising costs for present billboards, the comfort level fact for travelers seeking food, shelter, or gasoline, offers of much needed additional income to farm families, helps local economies as businesses are highly dependent on billboards, and lastly, there are fewer billboards now than in 1995.

Questions were centered around speculation about the future and what might happen, whether this bill in and of itself allowed each county along I-40 to have a referendum, and what was wrong with each county having a referendum.

Chairman Warwick asked staff to clarify the wording of the option to opt-in or opt-out of the billboard ban.

Mr. Givens stated that the way the amendment is worded, the Board of Commissioners would have to adopt an ordinance to opt-out of the billboard moratorium and in order for the opt-out to be effective, it would have to be approved by the voters in a referendum; therefore, it would be a two step process – an action by the Board of Commissioners to opt-out of the moratorium which would have the effect of allowing the billboards and that would depend upon the will of the voters.

Representative McComas called for a roll call vote on the bill and the amendment (See attachments 6 and 7). The amendment passed 13-11. Representative Tucker moved for an unfavorable report on the committee substitute as amended and Representative Luebke called for a roll call vote. The official count was a tie and the bill was still before the committee.

Representative Hackney moved that the bill be rolled into a committee substitute and be reported to the floor without prejudice and Representative McComas called for a roll call vote (See attachment 8). The vote tied 12-12; therefore, the bill may be heard again later in the session.

HB 612 – DISAPPROVE NEUSE RIVER WQ RECLASSIFICATION. (See attachment 9) George Givens of staff stated the bill was non-controversial and moved to adopt PCS7258RT-44 for consideration (See attachments 10 and 11). Representative Cox moved to adopt the committee substitute for consideration. Representative Pope summarized the bill stating House Bill 612 delays the effective date of administrative rule from April 1, 2001, to July 1, 2004. The rule reclassifies certain waters in the Neuse River Basin for water supply purposes. Raleigh and Wake Forest have agreed on the sale of water from Raleigh to Wake Forest for a limited time until a decision is made by Wake Forest, for or against, building an intake facility of their own. Representative Gibson moved for a favorable report. Following technical clarification regarding watershed classifications, Roger Knight, Attorney for the Town of Wake Forest and Representative Eddins assured the committee that Wake Forest and Raleigh are in joint agreement on the watershed issue. The town of Wake Forest has agreed on a five year supply contract on the price and at the end of three years, if Wake Forest wants to pursue the establishment

of an independent intake facility on their own rather than the regional approach, they have two more years on the contract with Raleigh to implement that. Representative Warwick seconded Representative Gibson's motion for a favorable report, vote taken and the bill passed.

HB 617 – FREEZE LOOP $-REDIRECT TO MAIN./PUB. TRANS. (See attachment 12) Representative Luebke's bill is an act to freeze the portion of the highway trust fund appropriated for outer loops and to redirect those funds to highway maintenance and public transportation. There were several speakers from different parts of the state. Even though the committee was not taking a vote, Representative Luebke stated serious attention should be given to this bill. Speakers included Rick Becker, Mayor of Mineral Springs in Union County; Marsh Smith, Attorney representing Friends of Forsyth, who presented a summary of Judge Bullock's memorandum and order issued following a lawsuit against NCDOT (See attachment 13). A power point presentation given by Jennifer Santhouse and Elizabeth Bullock of the Carolina Environment Program of UNC-Chapel Hill outlined the impact of ozone on our state (See attachment 14). Ms. Eva Ritchie, President of Citizens for Transportation Planning, from Hendersonville and Ms. Sue Ann Medford from Waynesville spoke against an increase in highway construction and for an increase in mass transit to help prevent further deterioration in air quality.

Chairman Warwick stated the committee would re-visit this issue at a later date.

The meeting was adjourned at 1:48 pm.

Representative Nurham Warwick
Chairman

Linda Uzzle
Committee Assistant

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES**.

☐ Committee Substitute for
H.B. 612 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF CERTAIN WATERS IN THE NEUSE RIVER BASIN BELOW FALLS LAKE DAM THAT WOULD HAVE THE EFFECT OF ALLOWING THE TOWN OF WAKE FOREST TO WITHDRAW ADDITIONAL WATER FROM THE NEUSE RIVER.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

VISITOR REGISTRATION SHEET

Environment & Natural Resources
Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lois Dixon	Wake Co. KAB - Scenic NC
[illegible]	D.C. Bolden Sons, Inc.
Myrick Howard	Preservation NC
Bobby Bryan	RRC
Dale McKeel	Scenic NC
Philip Prete	NC DENR
Sandra Lonce	Martin Marietta
Ed Regan	N.C.A.C.C.
Kim Hibbard	NCLM
Carol Lawler	EGWS
Sig Hutchinson	Triangle Greenways Council
John McHugh	Gov OFFICE
Catherine Lino	Gov office
David Knight	NC Sierra Club, NC Wildlife Fed
H. H. Webb	NCDA
Brenda Grady	NCDOT
John Hudson	NC Sierra Club
Benjamin Gabbe	NC Sierra Club
Fred Harrison	Beaufort NC
Nat Mal	CCBC
Drew Nelson	Rep. Hackney
Joann Walls	Pantego Farms, Inc.
Tommy Harrell	Angus Beef
Bean Mills	NC Metro Coalition
Sharon Matthews	DOT/DMV
PAUL Cobb	Mayor, City of Raleigh
Thomas McCORMICK	City of Raleigh
[illegible]	City of Raleigh Public Utilities Director

VISITOR REGISTRATION SHEET

Enviroment & Natural Resources
Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Moore	Eastern Outdoor
Donald J. Tedder	Signature Outdoor
Gail Edwards	Eastern Outdoor
Marty McLaughlin	Adams Outdoor
Amy Fullbright	Hunton & Williams
Dan Bibbon	Kennedy Covington
Margaret Westbrook	Kennedy Covington
Natalie English	Charlotte Chamber
Brian Francis	Mecklenburg County
Mary Carmilia	REBIC
Boyd Cauble	City of Charlotte
Norma Bona	Bona Assoc.
[illegible]	NCOAA
Michelle Cook	Weyerhaeuser
Don Powers	Fairway outdoor Raleigh
Mike Hinkle	A-1 Outdoor
Steve Chaney	Lewis Adv. - Rocky Mount
Bill Bradshaw	Capital Outdoor
Ken Ivey	NCDOT - Traffic Engineering
Ron King	NCDOT - Traffic Eng
Leona Patrick	Edwards out door
Tonia Harris	Town of Selma Antique Dealers Assoc
Skip Alston	NC Outdoor Advertising
Tony Adams	NC Outdoor Advertising Assoc.
Geri Dodge	NCOAA
Monique Faust	Battleship NORTH CAROLINA
Ross M. Smith	PCS Phosphate
Katie Mills	Intern

VISITOR REGISTRATION SHEET

Environment & Natural Resources
Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lynda Tippett	Secretary DOT
DAN DEVANE	N C DOT
Ken Melton	Alley Associates, Inc.
George Everett	Duke Energy
R. Paul Wiggins	NCHBA
Ed Regan	N.C.A.C.C.
Lee-Adam Coe	NCABC
PRESTON HOWARD	MCIC
Andrew Hainsworth	UNCA, JOG Intern, Rep Luebke
Fred Yates	NC NAACP
Molly Diggins	NC Sierra Club

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

June 19, 2001
1:00 pm

1. **Call to Order – Representative Gibson, Presiding**

2. **Presentation**

   AIR POLLUTION IMPROVEMENTS
   John W. Shipp, Jr. P.E., Chairman, General Manager
   Environmental Policy & Planning
   Tennessee Valley Authority

3. **Bills to be considered:**

   HJR 419 – STUDY TOURISM INDUSTRY
   Representative Warwick

   HB 418 – BEACH PRESERVATION & RESTORATION ACT
   (NO VOTE TO BE TAKEN)

   HB 848 – WATER QUALITY/LIVESTOCK MARKETS/ANIMAL OPS.
   Senator Kerr

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 19, 2001

MINUTES

The House Committee on Environment and Natural Resources met June 19, 2001, in Room 643 of the Legislative Office Building at 1:00 pm. Representatives Pryor Gibson, Danny McComas, and Nurham Warwick, Chairs, were present. Other members attending were Vice Chairs, Representatives Leslie Cox, Jennifer Weiss, Alice Underhill, and Committee members Representatives Arlie Culp, Don Davis, Jim Gulley, Joe Hackney, Verla Insko, Eugene McCombs, Frank Mitchell, Jean Preston, Ronnie Smith, Russell Tucker, Alex Warner, and John Weatherly.

Chair Gibson called the meeting to order at 1:10 pm and introduced John W. Shipp, Jr. P.E., Chairman, General Manager, Environmental Policy & Planning, Tennessee Valley Authority (TVA), who gave a audio-visual presentation explaining the TVA's history and their environmental policies and planning in regard to air quality improvements and the effects of their improvements to Tennessee and surrounding states (Attachment 1). He said that TVA knows and understands their smokestacks' impact on the air quality in North Carolina and western Tennessee. TVA is a wholesaler of electricity to 158 distributors (municipalities and rural electric cooperatives). He passed out a map showing all the coal burning power plants in the south (Attachment 2). TVA has reduced emissions by installing scrubbers and changing from high to low sulphur coal (see last page of Attachment 1) while providing an ever-increasing power demand. A question and answer discussion followed the presentation that covered costs to change to low sulphur-producing coal burning plants, technical aspects of the industry, environmental variables for pollution, and health concerns.

Chuck Wakefield, President, Progress Energy, and Matt Curran, North Carolina Environmental Communication Coalition, voiced their environmental concerns.

HJR 419 – Study Tourism Industry (Attachment 3). Representative Warwick said that travel and tourism in coastal, piedmont, and mountain areas in North Carolina is growing rapidly. The economic impact of tourism in the coastal and mountain areas has risen from $5 billion in 1986 to more than $10 billion in 1999 and North Carolina's population has grown by more than 1,000,000 since 1990 with projected growth of almost 500,000 over the next five years. The need to study the economic and environmental impact of the tourism industry is essential. North Carolina's travel and tourism has grown into a $12 billion industry—a major support industry. North Carolina invests a little less than $10 million per year in travel and tourism while Virginia invests nearly $20 million per year.

The following people supported Representative Warwick's efforts with this bill: Richard Clark, Heritage Tourism Manager, North Carolina Division of Tourism, Film and Sports Development; Jerry Hancock, North Carolina Travel and Tourism Coalition (Attachment 4); Jim Hobbs, North Carolina Hotel/Motel Association; and Sue Bullock, East/West Coalition.

Representative Underhill moved for a favorable report and is re-referred to the Committee on Rules, seconded by Representative Warwick. Passed. This bill will be put in the study bill at the end of Session.

HB 418 – Beach Preservation & Restoration Act (Attachments 5 and 6) Representative Warwick said that this bill came out the Study Commission of Beach Restoration. With the increase in travel and tourism in North Carolina, there is a need to establish a strong State policy that beach restoration and beach nourishment projects would be in the public interest. The bill would establish the North Carolina Beach Preservation and Restoration Commission, the Beach Preservation and Restoration Fund, and appropriate funds to the Beach Preservation and Restoration Fund. He said that there would not be a vote at this time, and the bill would be sent to the Committee on Appropriations. Speaking in favor of the bill were Ray Sturza, Commission member and NC Shore and Beach Association (Attachment 7); Joan Altman, May of Oak Island (Attachment 8); and Molly Diggins, State Director, Sierra Club. Robin Smith Asst. Secretary of Planning and Policy of DENR said that the Department would work with the new commission and look forward to the bill and clarifying roles between the two entities.

Being no further business Representative Gibson adjourned the meeting at 3:50 pm.

Representative Pryor Gibson, Chair

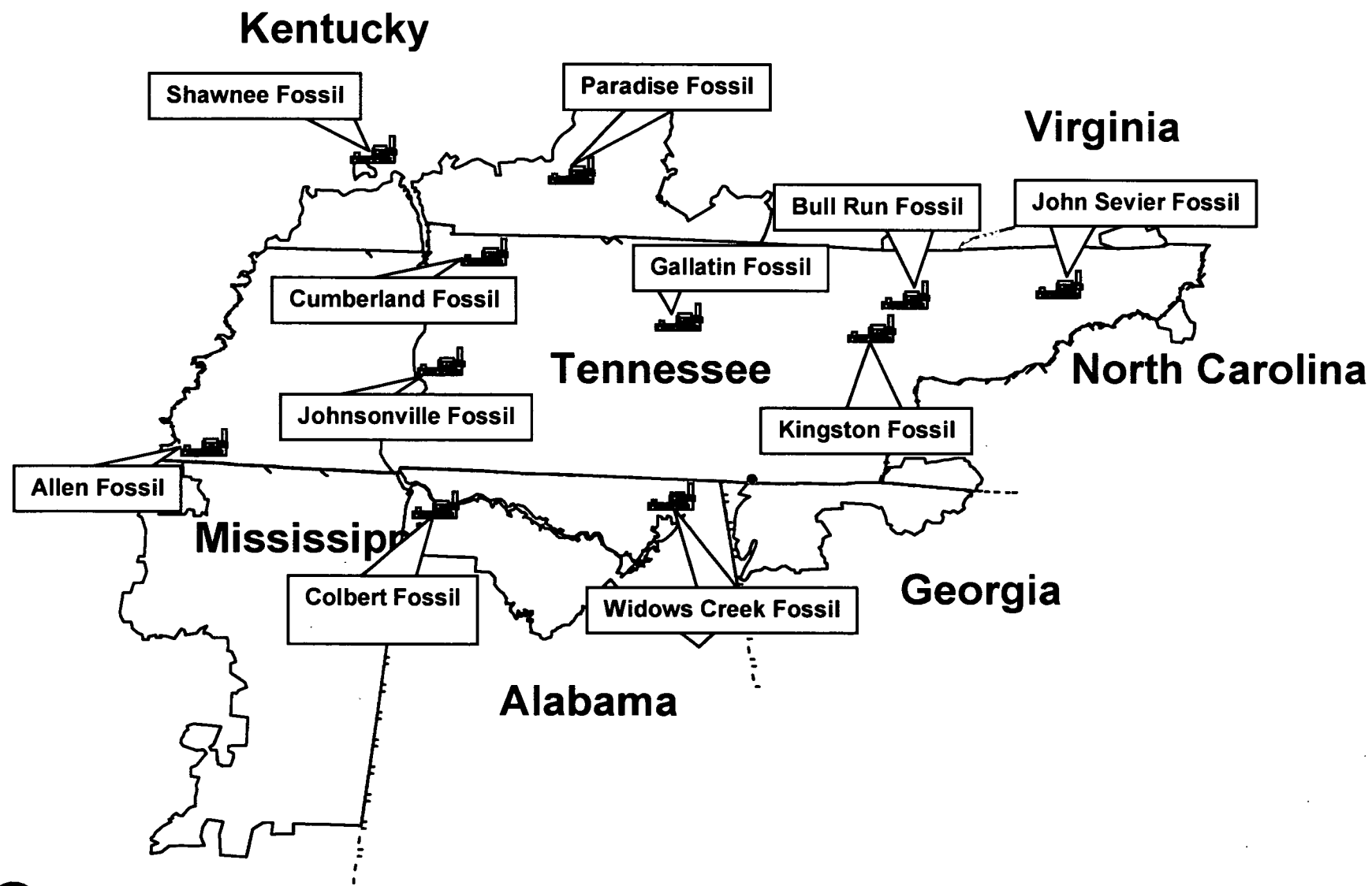
Shirlyn MacPherson, Committee Assistant

6-19-01 Att#1

Environmental Policy and Planning

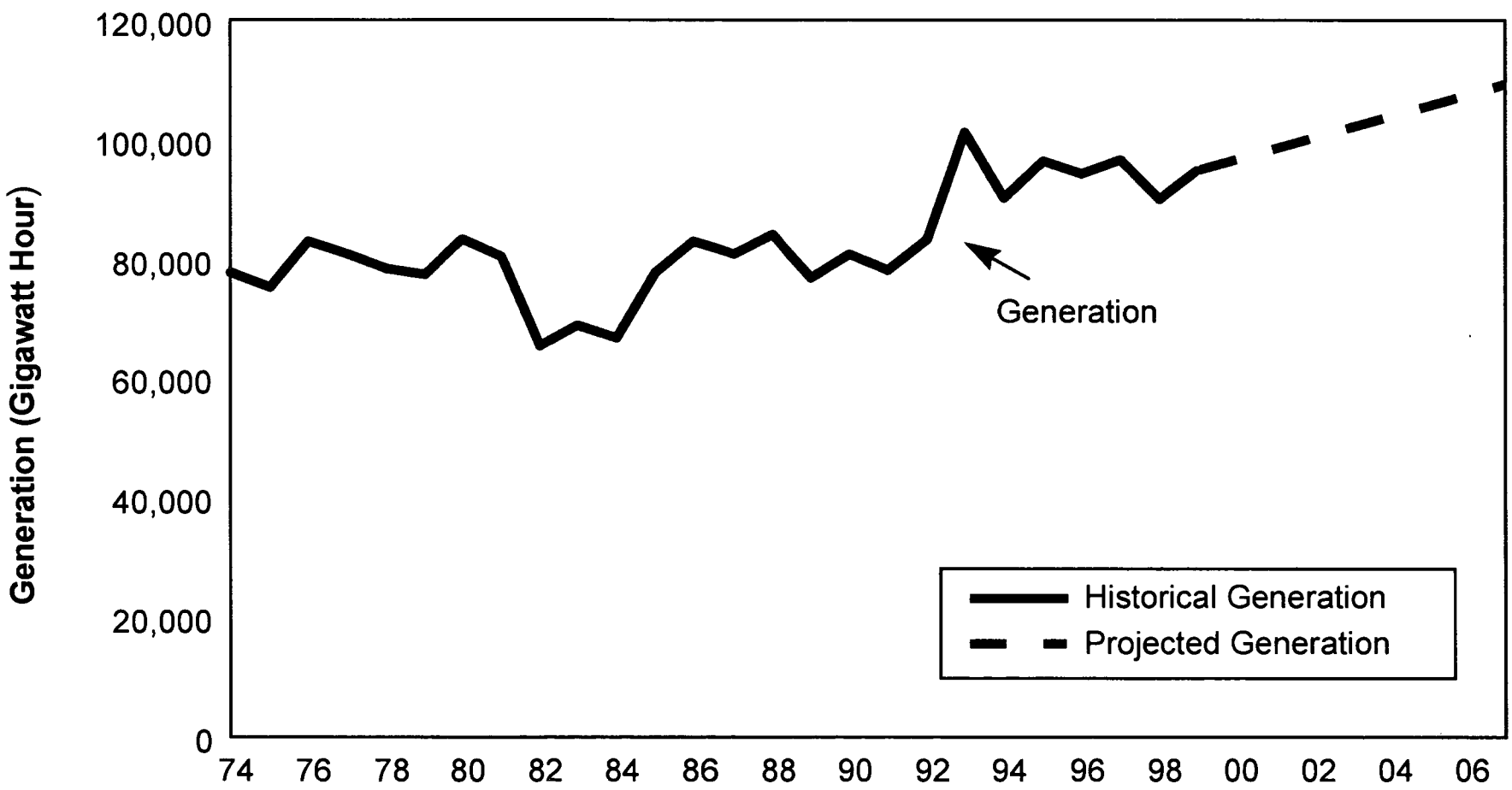
TVA Comments to Members of the North Carolina General Assembly

TVA


Kentucky
Shawnee Fossil
Paradise Fossil
Virginia
Bull Run Fossil
John Sevier Fossil
Gallatin Fossil
Cumberland Fossil
Tennessee
North Carolina
Johnsonville Fossil
Kingston Fossil
Allen Fossil
Mississipp
Colbert Fossil
Widows Creek Fossil
Georgia
Alabama

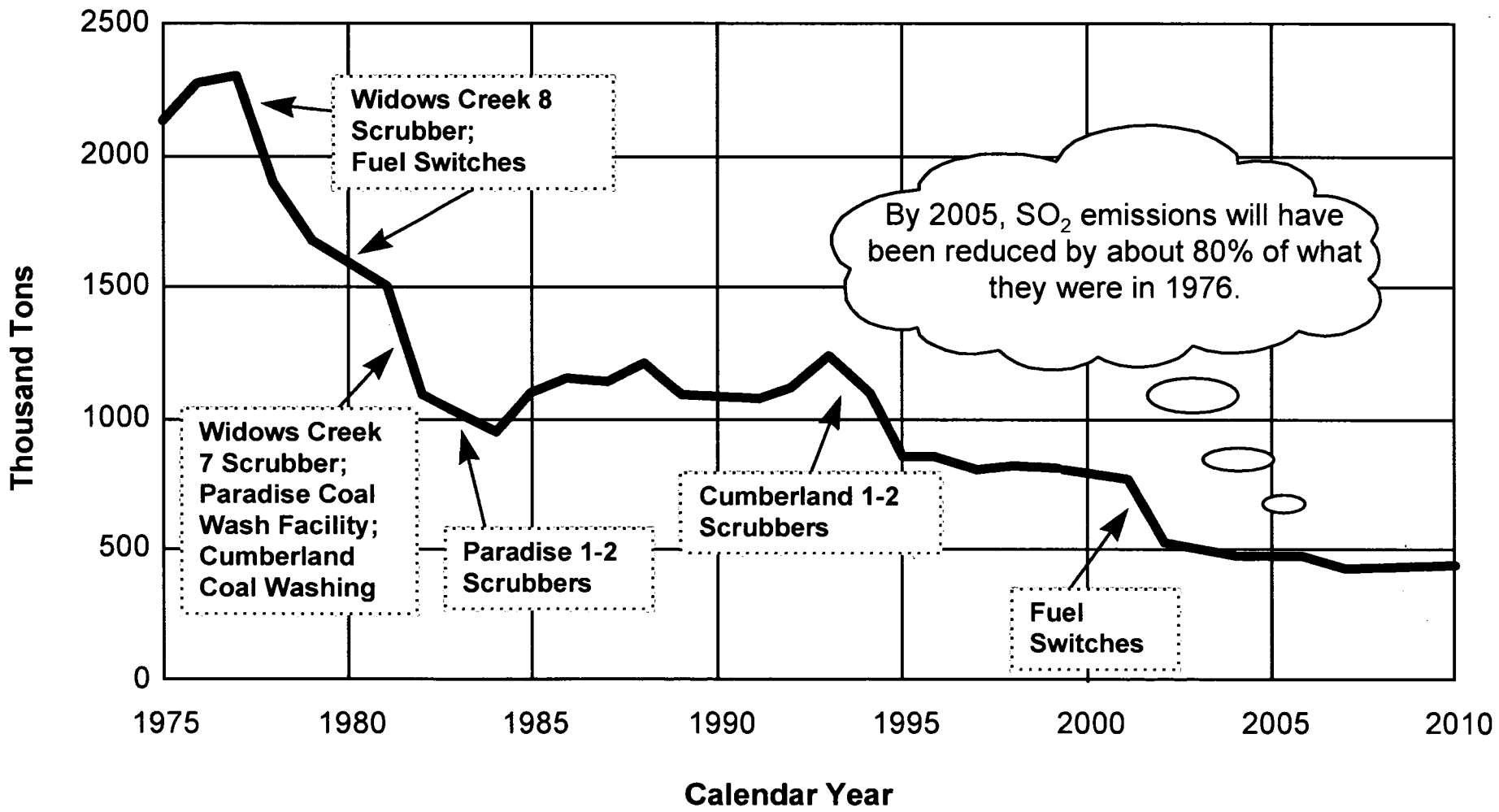
TVA Fossil Generation

Environmental Policy and Planning



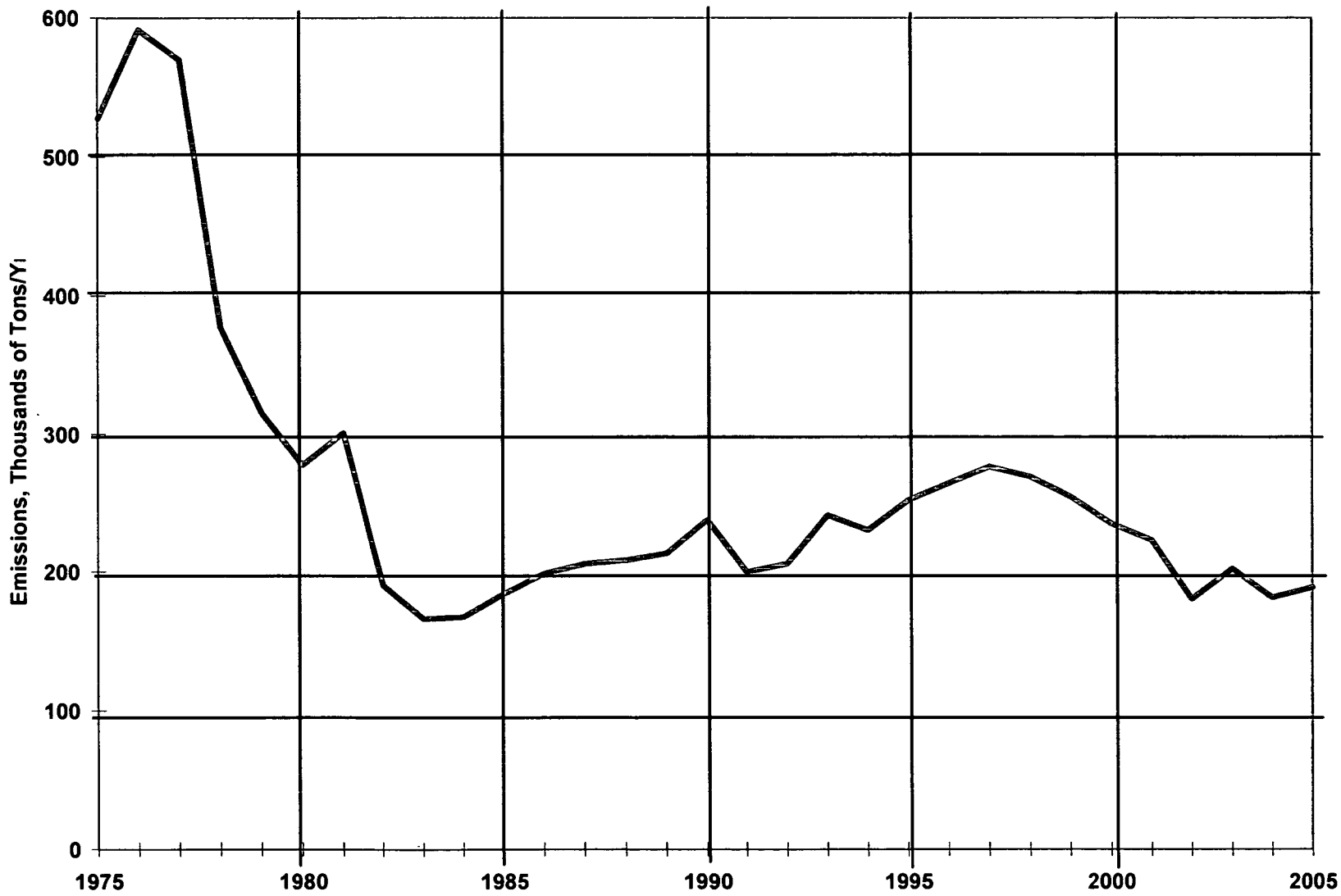
Environmental Policy and Planning

TVA Annual Sulfur Dioxide (SO_2) Emissions

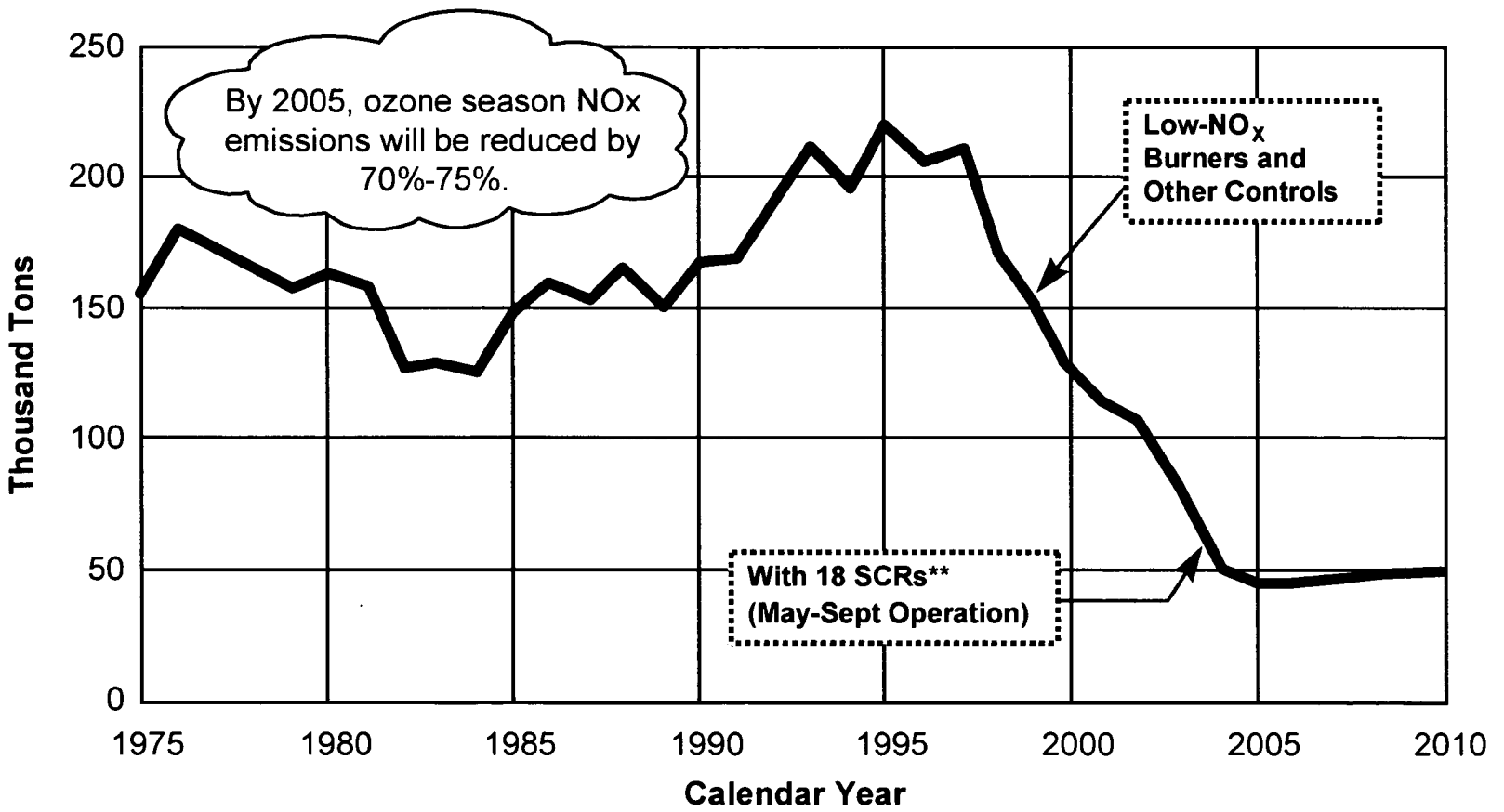


TVA Eastern Plants Annual SO2

Environmental Policy and Planning



TVA Ozone Season * Nitrogen Oxide (No_x) Emissions



* Ozone season: May 1 - September 30

** SCRs: Selective catalytic reduction units

SCR Schedule and NOx Emission Reductions

Environmental Policy and Planning

FACT SHEET

TVA AIR EMISSIONS REDUCTIONS

- TVA has spent more than $2.7 billion to reduce air emissions from its coal plants since 1976.
- Sulfur dioxide (SO2) emissions have been reduced by 68 percent since 1976 and will be reduced by a total of about 75 - 80 percent by 2005.
- TVA has installed six scrubbers at three plants and will continue with its fuel switching program to make the necessary SO2 reductions by 2005.
- Nitrogen oxide (NOx) emissions have been reduced by 46 percent since 1995 and TVA will reduce them by a total of 70 - 75 percent during the ozone season by 2005.
- TVA is adding 18 selective catalytic reduction systems that will reduce NOx from 25 coal-fired units. The first two SCRs are operating at Paradise Fossil Plant in Drakesboro, Kentucky. All additional SCR systems will be in place by 2005. TVA added low NOx burners, a system called overfire air or performed boiler optimization on its units to get to the 46 percent reduction.
- TVA operates a total of 11 coal-fired power plants with 59 units in Kentucky, Tennessee and Alabama.
- In 2000, 63 percent of TVA's generation came from its fossil plants.
- TVA's overall rates are about 15 percent below rates in the non-TVA service territory of North Carolina. Total retail rates are 5.45 cents in the TVA service territory and 6.44 cents in the non-TVA service territory.
- TVA's goal in operating its generating system continues to be low-cost, reliable electricity while protecting the health and safety of our employees, the public and the environment.

# # #

6-19-01 Att #2

Coal Fired Utility Plant Locations

Alabama
AL-1 Barry
AL-2 Charles R Lowman
AL-4 Colbert
AL-5 E C Gaston
AL-6 Gadsden
AL-7 GE Plastics Cogen
AL-8 Gorgas
AL-9 Greene County
AL-10 James H Miller
AL-14 Widows Creek

Georgia
GA-1 Arkwright
GA-3 Bowen
GA-4 Hammond
GA-5 Harlee Branch
GA-7 Jack McDonough
GA-8 Kraft
GA-9 McIntosh
GA-11 Mid-Georgia Cogen
GA-12 Mitchell
GA-13 Monroe
GA-16 Scherer
GA-17 Sowega
GA-18 Smarr
GA-19 Wansley
GA-20 Yates

Kentucky
[illegible] Big Sandy
[illegible] Cane Run
KT-3 Coleman
KT-4 Cooper
KT-5 D B Wilson
KT-6 Dale
KT-7 E W Brown
KT-8 East Bend
KT-9 Elmer Smith
KT-10 Ghent
KT-11 Green River
KT-12 H L Spurlock
KT-13 Henderson
KT-14 HMP&L Station
KT-15 JK Smith
KT-16 Mill Creek
KT-17 Paradise
KT-18 Pineville
KT-19 R D Green
KT-20 Robert Reid
KT-21 Shawnee
KT-22 Trimble County
KT-23 Tyrone

North Carolina
NC-1 Asheville
NC-2 Belews Creek
NC-3 Buck
NC-4 Cape Fear
NC-5 Cliffside
[illegible]6 Dan River
[illegible]7 G G Allen
[illegible]8 L V Sutton
NC-9 Lee
NC-11 Marshall
NC-12 Mayo
NC-13 Riverbend
NC-14 Roxboro
NC-15 W H Weathers

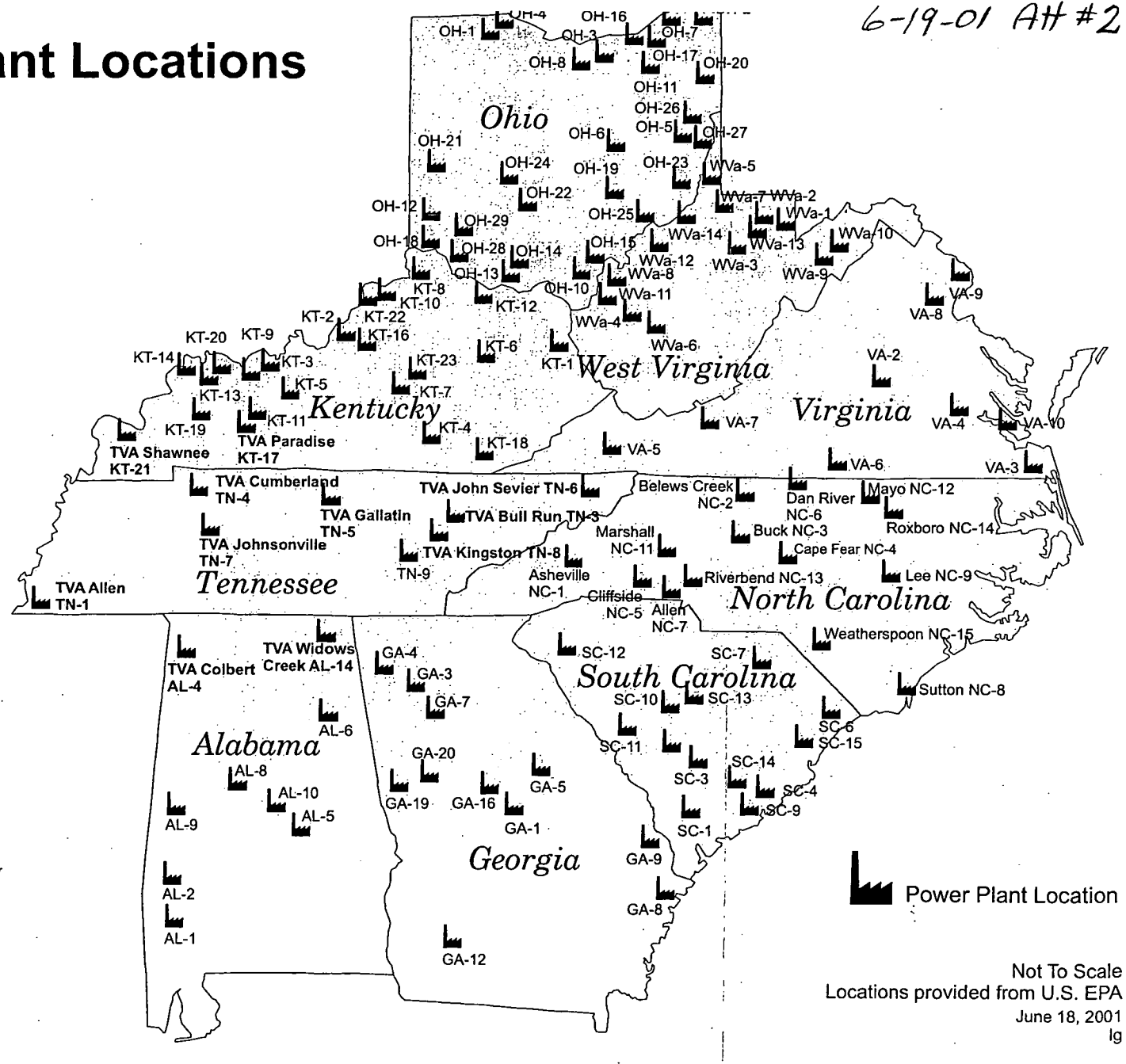
Ohio
OH-1 Acme
OH-2 Ashtabula
OH-3 Avon Lake
OH-4 Bay Shore
OH-5 Cardinal/Tidd
OH-6 Conesville
OH-7 Eastlake
OH-8 Edgewater
OH-10 Gen J M Gavin
OH-11 Gorge
OH-12 Hamilton
OH-13 J M Stuart
OH-14 Killen Station
OH-15 Kyger Creek
OH-16 Lake Road
OH-17 Lake Shore
OH-18 Miami Fort
OH-19 Muskingum River
OH-20 Niles
OH-21 O H Hutchings
OH-22 Picway
OH-23 R E Burger
OH-24 Refuse & Coal
OH-25 Richard Gorsuch
OH-26 Toronto
OH-27 W H Sammis
OH-28 W H Zimmer
OH-29 Walter C Beckjord

South Carolina
SC-1 Canadys Steam
SC-3 Cope Station
SC-4 Cross
SC-6 Dolphus M Graing
SC-7 H B Robinson
SC-9 Jefferies
SC-10 McMeekin
SC-11 Urquhart
SC-12 W S Lee
SC-13 Wateree
SC-14 Williams
SC-15 Winyah

Tennessee
TN-1 Allen
TN-2 Brownsville
TN-3 Bull Run
TN-4 Cumberland
TN-5 Gallatin
TN-6 John Sevier
TN-7 Johnsonville
TN-8 Kingston
TN-9 Watts Bar

Virginia
VA-2 Bremo Bluff
VA-3 Chesapeake
VA-4 Chesterfield
VA-5 Clinch River
VA-6 Clover
VA-7 Glen Lyn
VA-8 Possum Point
VA-9 Potomac River
VA-10 Yorktown

West Virginia
WVa-1 Albright
WVa-2 Fort Martin
WVa-3 Harrison
WVa-4 John E Amos
WVa-5 Kammer
WVa-6 Kanawha River
WVa-7 Mitchell
WVa-8 Mountaineer
WVa-9 Mt Storm
WVa-10 North Branch
WVa-11 Phil Sporn
WVa-12 Pleasants
WVa-13 Rivesville
WVa-14 Willow Island



Not To Scale
Locations provided from U.S. EPA
June 18, 2001
lg

6-19-01 AH #3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE JOINT RESOLUTION 419*

Sponsors:	Representatives Warwick, McComas, Rayfield, Redwine, Smith; Allen, Allred, Baddour, Barbee, Barefoot, Bonner, Bowie, Boyd-McIntyre, Brubaker, Cansler, Cox, Crawford, Culp, Cunningham, Davis, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Grady, Gulley, Haire, Harrington, Hensley, Hill, Hurley, Johnson, Justus, Luebke, McCombs, McLawhorn, Mitchell, Morris, Nesbitt, Nye, Owens, Preston, Rogers, Russell, Saunders, Setzer, Sexton, Sherrill, Sutton, Tolson, Tucker, Underhill, Wainwright, Warner, G. Wilson, Wright, and Yongue.
Referred to:	Rules, Calendar, and Operations of the House.

March 1, 2001

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY NORTH CAROLINA'S TOURISM INDUSTRY AND ITS ECONOMIC IMPACT STATEWIDE.

Whereas, the popularity of North Carolina's coast, piedmont, and mountains as recreational and tourism destinations, and as places to live and work has increased dramatically in recent years; and

Whereas, the State's vision for the twenty-first century is that it will continue to be a desirable place to live a productive, rewarding, and satisfying life in which each of its citizens will have a shared sense of place, stewardship, and values; and

Whereas, according to a recent study conducted by the Department of Environment and Natural Resources, the economic impact of tourism in the coastal and mountain areas has risen from $5 billion in 1986 to more than $10 billion in 1999; and

Whereas, the study also indicates that population data show that North Carolina's population has grown by more than 1,000,000 people since 1990 and projections indicate that the population will grow almost 500,000 over the next five years; and

Whereas, the State's natural resources are essential to the health and well-being of its citizens and communities, as well as an integral part of ongoing economic growth; and

Whereas, erosion, air pollution, and other deteriorating and polluting forces threaten North Carolina's precious natural resources; and

Whereas, it is in the public interest that an immediate statewide effort be made to identify and address the natural and manmade elements that threaten the State's vital natural resources and its economic well-being; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Legislative Research Commission may study issues relating to:

(1) The tourism industry in the coastal, piedmont, and mountainous regions of the State and the statewide economic impact of that industry.

(2) The threats posed to the coastal, piedmont, and mountainous regions by erosion, air pollution, and other natural and manmade elements that deteriorate, pollute, or otherwise detract from the natural beauty of those areas.

(3) The various options available to address those threats, the success of those options, the economic feasibility of those options, and the economic impact on the State if no action is taken regarding erosion, water and air pollution, and other deteriorating, polluting, and detracting forces.

(4) Any other issues relevant to this study.

SECTION 2. The Legislative Research Commission may make its recommendations and submit an interim report to the 2001 General Assembly, Regular Session 2002, and may make a final report to the 2003 General Assembly.

SECTION 3. This resolution is effective upon ratification.

6.19.01 ATT. # 4

Request for increased funding - NC Division of Tourism, Film and Sports Development
From: North Carolina Travel and Tourism Coalition

Main points:

- The NC tourism economy is huge:
  - $12 billion in sales this year
  - More than $1 billion in tax revenues
  - Almost 200,000 jobs
  - Annual payroll of $3.7 billion
- Tourism is a major component of every county's economy - see attached sheet.
- The industry has vast growth potential in all areas of the state.
- Expanding the industry, or just maintaining current regional market share, depends heavily on aggressive advertising and marketing by the state.
- The Division does not have sufficient funding to compete effectively with our regional competition - see attached sheet.
- Industry leaders studied the fiscal impact of the industry several years ago, and concluded that increased advertising and marketing would pay for itself many times over in increased state revenues. Gaining just 1.1% more of the Southeastern US market share, for example, would generate more than $1billion in increased annual sales and over $60 million in state tax revenues. The study was led by Steve Miller, CEO of Biltmore Estate.
- To compete effectively, to maintain and increase NC's market share, the Division's budget should be increased to at least $18 million per year, an increase that is not realistic this year.
- The Division's television ads are 10 years old and, for the first time in 10 years, there will be no television campaign promoting NC as a tourism destination because of insufficient funds.
- The Division has no money to continue either the Matching Grants program or the Rural Grants program, programs that encourage and assist local communities in the development of local tourism product.

How would the Division invest the requested $2 million increase? As follows, in priority order:

$1 million to increase advertising and marketing, to develop a new television campaign and to purchase television ads in carefully selected markets.

$500,000 to continue and expand the Matching Grants program.

$500,000 to continue and expand the Rural Grants program.

June 20, 2001

TOURISM AND THE NORTH CAROLINA ECONOMY (1999)

Annual sales generated	$11.4 billion
Annual tax revenues	1.04 billion
Annual payroll	3.609 billion
Employment	188,000

Annual sales, selected counties:

Brunswick	238 million
Buncombe	432 million
Carteret	203 million
Dare	481.8 million
Mecklenburg	$2.45 billion
Moore	257.5 million
New Hanover	294 million
Onslow	96 million
Pasquotank	34.4 million
Wake	1.87 billion

THE PROBLEM Increasing tourism requires aggressive marketing and promotion. NC invests less in promotion, is at a competitive disadvantage.

Current annual budget

NC Division of Tourism, Film and Sports Development) $10.1 million

NC's ranking among the states for tourism office funding

(NC is 10th in population) 23rd

Selected other state budgets, and ranking:

1st	Hawaii	$60 million
2nd	Illinois	55.5 million
3rd	Florida	54.3 million
7th	Virginia	19.2 million
9th	Louisiana	16.8 million
14th	South Carolina	13.5 million
16th	West Virginia	13 million
19th	Mississippi	12.7 million
20th	Tennessee	12 million
21st	Arkansas	11.4 million
23rd	**North Carolina**	**10.1 million**

GOALS: **To increase the Division's annual budget to *at least* $18 million to support an aggressive, accountable, economically successful marketing program.**

To use this investment to increase NC's national and regional market share.

EXPECTED RESULTS (based on *NC Tourism 2000* industry study):

To increase NC's regional (Southeastern) market share by at least 1.1%, which will increase annual NC sales by at least $1 billion, and state tax revenues by approximately $60 million. These are conservative estimates.

6-19-01 AH#5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

HOUSE BILL 418*

Short Title:	Beach Preservation & Restoration Act.	(Public)
Sponsors:	Representatives Warwick; Barefoot, Edwards, Hill, Justus, McComas, Owens, Preston, Rayfield, Redwine, Rogers, Smith, Tolson, Tucker, Underhill, Wainwright, and Wright.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 1, 2001

A BILL TO BE ENTITLED

AN ACT TO ACKNOWLEDGE STATE POLICY THAT BEACH PRESERVATION AND RESTORATION ARE IN THE PUBLIC INTEREST AND THAT WHERE ECONOMICALLY AND ENVIRONMENTALLY JUSTIFIED BEACH PRESERVATION AND RESTORATION CONSTITUTE A PUBLIC PURPOSE, TO ESTABLISH THE NORTH CAROLINA BEACH PRESERVATION AND RESTORATION COMMISSION, TO ESTABLISH THE BEACH PRESERVATION AND RESTORATION FUND, AND TO APPROPRIATE FUNDS TO THE BEACH PRESERVATION AND RESTORATION FUND.

The General Assembly of North Carolina enacts:

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

"Article 29.

"Beach Preservation and Restoration.

"**§ 113-420. Short title.**

This Article shall be known and may be cited as the North Carolina Beach Preservation and Restoration Act.

"**§ 113-421. Declaration of policy; purposes.**

It is the policy of the State, in accordance with Article XIV, Section 5 of the North Carolina Constitution, that the beaches of the State are to be preserved as a part of our common natural heritage. Preservation of the beach enhances the environment of the coastal areas and barrier islands of the State providing habitat for nesting sea turtles and supporting a variety of bird and animal life. Preservation of the beach enhances and supports the tourism industry in the State, in particular the local economies of the coastal region. Preservation of the beach provides significant protection from storm and hurricane damage to property and infrastructure, particularly from storm surge.

Preservation of the beach minimizes regulatory conflicts, loss of property value and local tax base, and ensures the long-term availability of public access to the beach. Therefore, in accordance with the policy and import of preserving the State's sandy beaches, the General Assembly declares that the beaches of the State, and the public's right to access the beaches, must be protected.

Furthermore, the General Assembly recognizes that the beaches of the State are part of a dynamic coastal system and are constantly subject to the reshaping forces of wind, waves, and sea level rise. These natural forces have caused, and will continue to cause, serious erosion of the beaches of the State resulting in a grave threat to public property, private property, public infrastructure, the regional economy, public access, and the public's health, safety, and welfare. The General Assembly therefore declares that, in order to preserve the public's interest in the beaches of the State, it is necessary to establish policies and programs that provide for the preservation and restoration of the State's beaches.

The General Assembly further finds that it is in the public interest for the State to make provision for beach preservation and restoration projects where such projects are found to be economically, environmentally, and socially justified, and when so justified, beach preservation and restoration projects constitute a public purpose. In particular, beach nourishment, the replacement of sand from another sand source onto the beach, has been determined by coastal geologists, coastal engineers, and coastal managers to provide a reasonable and practicable response to the degradation of the beach and the threatened loss of property, public infrastructure, and public access caused by severe erosion. Other measures include the disposal of beach quality sand and material from inlet management projects and navigation improvement projects on adjacent eroded beaches where such disposal may be accomplished in a cost-effective manner.

It is the purpose of the General Assembly in enacting this Article to establish a separate State agency to be known as the North Carolina Beach Preservation and Restoration Commission. The function, purpose, and duty of the Commission shall be to assist local governments with beach assessments and in the development and implementation of beach preservation and beach restoration projects, to coordinate the activities and resources of federal, State, and local governments in the project process, to administer the laws relating to beach preservation and restoration and to allocate available State funding to the end that there be a comprehensive, continuing, and economical program ensuring that the beaches of the State be preserved and restored.

"**§ 113-422. Definitions.**

The following definitions apply in this Article:

(1) Beach. -- Ocean beaches.

(2) Commission. -- North Carolina Beach Preservation and Restoration Commission established in G.S. 113-423.

(3) Fund. -- The Beach Preservation and Restoration Fund created in G.S. 113-430.

(4) Local Government Unit. -- A county, city, town, incorporated village, or consolidated city-county, as defined by G.S. 160B-2(1).

(5) Preservation. -- Activities that address the conflict between beach movement and structures or infrastructure through the acquisition of land, the relocation of endangered structures, or similar measures that allow for a natural beach that do not require shoreline stabilization measures.

(6) Public Beach Access. -- The term includes handicapped access, walk-overs to the beach, visitors facilities, parking, including off-site parking with public transportation from the off-site parking location to the beach, and public safety.

(7) Restoration. -- Activities that address the conflict between beach movement and structures and infrastructure through engineering functions such as beach nourishment or other innovative technologies to create a stabilized shoreline or engineered beach.

"**§ 113-423. North Carolina Beach Preservation and Restoration Commission established.**

The North Carolina Beach Preservation and Restoration Commission is established. The Commission shall be an independent agency, located within the Department of Environment and Natural Resources for administrative purposes only.

"**§ 113-424. Appointment and terms of Commission members; filling of vacancies; per diem.**

(a) Membership. -- The Commission shall be composed of nine members. Three members shall be appointed by the Governor, three by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and three by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Of the members appointed upon the recommendation of the Speaker of the House and upon the recommendation of the President Pro Tempore of the Senate, at least one of each shall be a member of the political party to which the largest minority of the members of the General Assembly belong.

The office of Commission member is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

(b) Qualifications for Membership. -- Of the nine members appointed to the Commission, four persons shall be knowledgeable in one of each of the areas listed in subdivisions (1) through (4) of this subsection. The remaining five persons shall be at-large members.

(1) Beach erosion control and management strategies.

(2) Coastal wildlife and fisheries habitats and resources.

(3) Environmental management.

(4) Travel and tourism economics.

(c) Per Diem and Travel Expenses. -- Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6 as the case may be, which shall be paid from the Beach Preservation and Restoration Fund.

(d) Initial Appointments and Terms of Office. -- Each appointing officer shall designate one of the officer's initial appointments to serve two-year terms, one to serve four-year terms, and one to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 2002.

All members appointed by the Governor serve at the pleasure of the Governor who appointed them, and they may be removed by that Governor at any time. A successor to the appointing Governor may remove a Commission member only for cause as provided in G.S. 143B-13. Members appointed by the General Assembly serve at the pleasure of that body and may be removed by law at any time. In the event that a Commission member is removed, the member appointed to replace the removed member shall serve only for the unexpired term of the removed member.

(e) Vacancies. -- If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. If a vacancy occurs, other than by the expiration of term, of a member appointed by the Governor, then the Governor shall appoint a new member in the original manner. Appointment of a member to fill a vacancy under this subsection shall be for the balance of the unexpired term of office.

The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance.

"**§ 113-425. Organization of the Commission; election of officers, Robert's Rules of Order.**

The Commission shall hold at least four meetings annually, with one in January and one in July. Five members of the Commission shall constitute a quorum for the transaction of business. Additional meetings may be held at any other times within the State as may be deemed necessary for the efficient transaction of the business of the Commission. The Commission may hold additional or special meetings at any time at the call of the chair or on call of any five members of the Commission. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Article,

At the first scheduled meeting of the Commission after January 1, 2002, and on July 1 of each odd-numbered year thereafter, the Commission shall select from among its membership a chair and a vice-chair who shall serve for terms of two years or until their successors are elected and qualified. The Secretary of Environment and Natural Resources or the Secretary's designee shall serve as secretary of the Commission.

The chair shall guide and coordinate the official actions and official activities of the Board in fulfilling its program responsibility for (i) the appointment and separation of the executive director of the Commission, (ii) organizing the personnel of the Commission, (iii) setting the statewide policy of the Commission, (iv) budgeting and planning the use of the Beach Preservation and Restoration Fund, subject to the approval of the General Assembly, (v) holding public hearings, and (vi) adopting rules as authorized by law.

The chair shall report to and advise the Governor on the official actions and work of the Commission and on all beach preservation and restoration matters that affect the interest of the people of the State.

Meetings of the Commission shall be conducted pursuant to Robert's Rules of Order.

"**§ 113-426. Location of offices.**

The Board of Public Buildings and Grounds shall provide the Commission with offices in the city of Raleigh, North Carolina.

"**§ 113-427. Executive Director; appointment, qualifications, and duties.**

The Commission, as soon as practicable after its organization, shall select and appoint a competent person as Executive Director of the North Carolina Beach Preservation and Restoration Commission. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Commission and shall serve as the chief administrative officer of the Commission. Subject to the approval of the Commission and the Director of the Budget, the Executive Director may employ professional, technical, and clerical personnel as deemed necessary.

The person selected as Executive Director shall have had training and experience in beach preservation and restoration. The salary of the Executive Director shall be fixed by the Commission, in an amount at least equal to the salary of the Director of the Division of Coastal Management. The Executive Director shall be allowed actual expenses incurred while on official duties away from resident headquarters. The salary and expenses of the Executive Director shall be paid from the North Carolina Beach Preservation and Restoration Fund established by G.S. 113-430 subject to the provisions of the Executive Budget Act. The term of office of the Executive Director shall be at the pleasure of the Commission.

"**§ 113-428. Powers and duties of Commission.**

The Commission shall have the following powers and duties under this Article:

(1) To prepare or cause to be prepared a study of the economic impact of the beaches on the economies of the beach counties, the coastal region, and on the State as a whole and the economic impact of beach restoration and beach nourishment projects on those economies.

(2) To compile, maintain, and update a compendium of alternative State and local government sources of funding for beach preservation and restoration activities.

(3) To develop a State plan and strategy for beach preservation and beach restoration as provided in G.S. 113-429.

(4) To administer the North Carolina Beach Preservation and Restoration Fund created pursuant to G.S. 113-430 and to accept for the Fund any gifts, grants, and donations made for the purposes of this Article.

(5) To provide local governments with technical assistance in evaluating beach access needs and erosion problems and in developing and implementing public beach access, beach preservation, and beach restoration plans.

(6) To coordinate the activities of State, federal, and local governments and private organizations in developing and implementing public beach access, beach preservation, and beach restoration projects.

(7) To enter into cooperative agreements pertaining to the preservation and restoration of the beaches of the State with federal, State, and other agencies, or governmental subdivisions.

(8) To review existing and proposed State laws and rules affecting public beach access, beach preservation, and beach restoration, and to evaluate whether any modifications of the laws and rules would be in the public interest.

(9) To review and evaluate changes in the federal laws and programs regarding beach preservation and beach restoration, and advances in available technology affecting beach preservation and beach restoration to determine whether the laws of the State and any implementing rules need modification as a result of the changes in federal law or advances in technology.

(10) To call on State agencies, local government units, and State educational institutions to provide the Commission with information necessary for it to fulfill its duties under this Article.

(11) To contract with public agencies or private persons or organizations for consulting and other services as necessary to implement this Article.

(12) To make reports including recommended legislation, to the General Assembly from time to time on any matter relating to the powers and duties of the Commission.

(13) To develop and adopt rules as necessary to implement the provisions of this Article.

"**§ 113-429. Beach preservation and management plan.**

(a) Plan. -- The Commission shall develop and implement a multiyear plan and strategy to preserve, restore, and manage the beaches of the State. The plan to be developed by the Commission shall do all of the following:

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

(2) Identify the erosion rate at each beach community and estimate the degree of vulnerability to storm and hurricane damage.

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

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

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

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

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

(8) Provide for geological assessments to locate suitable materials for beach nourishment.

(9) Consider the regional context of beach communities to determine the most cost-effective approach to beach preservation and beach restoration.

(10) Provide for and require adequate public beach access and project additional public access needs based on significant increases in the State's population and the increased use of public access.

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

(12) Include recommendations on obtaining the maximum available federal financial assistance for beach preservation and beach restoration.

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

(b) Initial Plan Date and Revised Plan Dates. -- The Commission shall submit the initial plan to the General Assembly by July 1, 2003. The Commission shall revise the plan every two years and shall submit the revised plan to the General Assembly no later than March 1 of each odd-numbered year. The Commission may issue a supplement to the plan in even-numbered years if significant new information becomes available.

"**§ 113-430. North Carolina Beach Preservation and Restoration Fund.**

(a) Fund Established. -- There is established the North Carolina Beach Preservation and Restoration Fund in the State Treasurer's Office that shall be used to provide grants to beach communities for public beach access, beach preservation, and beach restoration in accordance with this Article.

(b) No Grants for Local Government Portion of Nonfederal Cost-Share of Federally Funded Beach Nourishment Projects. -- Notwithstanding subsection (a) of this section, no grant shall be awarded or used for a local government unit's portion of the nonfederal cost-share of a federally funded beach nourishment project.

(c) Fund Earnings, Assets, and Balances. -- The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund

for the succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the North Carolina Beach Preservation and Restoration Commission.

(d) Eligibility for Grants. -- Any local government unit or other political subdivision of the State or a combination of the entities is eligible to apply for a grant from the Fund for the purpose of public beach access, beach preservation, or beach restoration.

(e) Grant Matching Requirement. -- The Commission shall establish matching requirements for grants awarded under this Article. The Commission shall require a match of up to ten percent (10%) of the amount of the grant awarded.

(f) Allocate Grant Funds. -- The Commission shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Article.

(g) Develop Grant Criteria. -- The Commission shall develop criteria for awarding grants under this Article. The criteria developed shall include the following:

(1) The significant preservation or restoration of the beaches in the State.

(2) The specific areas targeted as being in need of beach preservation or restoration, particularly beach nourishment.

(3) The geographic distribution of funds as appropriate.

(4) The significant recreational or economic value and uses of the area.

(5) The availability of public access.

(6) The application for a beach preservation or restoration project shall have complete planning and design work adequate to provide project specification, cost estimates, reviews of environmental impacts, and estimation of benefits. The Board may make grants to potential applicants of up to fifty percent (50%) of the cost of the necessary planning and design work to prepare applications.

(h) Private Contributions Are Tax Deductible. -- Private gifts, grants, and donations to the Fund are tax deductible as provided in Chapter 105 of the General Statutes.

(i) Develop Additional Guidelines. -- The Commission may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

"**§ 113-431. Jurisdictional questions.**

In the event of any questions arising between the Department of Environment and Natural Resources and the North Carolina Beach Preservation and Restoration Commission as to any duty or responsibility or authority imposed upon either of the bodies by law, or in case of any conflicting rules or administrative practices adopted by the bodies, such questions or matters shall be determined by the Governor and the Governor's determination shall be binding on each of the bodies."

SECTION 2. There is appropriated from the General Fund to the North Carolina Beach Preservation and Restoration Fund the sum of one million dollars ($1,000,000) for the 2001-2002 fiscal year and the sum of two million dollars ($2,000,000) for the 2002-2003 fiscal year to be used in accordance with G.S. 113-430. It is the intent of the General Assembly that funds be appropriated to the North Carolina

Beach Preservation and Restoration Fund on a continuing basis and that funds be appropriated as follows in each of the subsequent fiscal years:

Amount	Fiscal Year
$ 4,000,000	2003-2004
$ 8,000,000	2004-2005
$12,000,000	2005-2006 and each fiscal year thereafter.

SECTION 3. This act becomes effective July 1, 2001.

6-19-01 AH.6

HOUSE BILL 418:
Beach Preservation and Restoration Act

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Warwick
Date:	June 19, 2001	**Summary by:**	Tim Dodge, Research Assistant
Version:	First Edition		

SUMMARY: ***House Bill 418 would establish as policy of the State that beach restoration and beach nourishment projects are in the public interest. The bill would establish the North Carolina Beach Preservation and Restoration Commission, the Beach Preservation and Restoration Fund, and appropriate funds to the Beach Preservation and Restoration Fund.***

The bill would become effective July 1, 2001.

BACKGROUND:

S.L. 1999-395 created the Legislative Research Commission on Coastal Beach Movement, Beach Renourishment, and Storm Mitigation. House Bill 418 is one of the legislative recommendations proposed by the study commission.

BILL ANALYSIS:

Section 1 of the bill adds a new Article 29 to Chapter 113 of the General Statutes that would:

- State as a public policy that beach restoration and beach nourishment projects are in the public interest and constitute a public purpose where the projects are economically, environmentally, and socially justified.
- Define "preservation" as beach management measures that do not include shoreline stabilization measures, and define "restoration" as beach management measures that include engineering functions (such as beach nourishment) to create a stabilized shoreline.
- Establish the North Carolina Beach Preservation and Restoration Commission (Commission) as an independent agency located administratively under the Department of Environment and Natural Resources (DENR). The Commission would be composed of nine members: three appointed by the Governor, three appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and three appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. Commission organization and procedural methods are also identified. The Commission is also directed to select and appoint an executive director to serve as the chief administrative officer of the Commission.
- The duties of the Commission would include (i) serving as the lead agency regarding information, technical assessments, funding sources, and coordination of beach preservation and beach restoration issues and projects, (ii) preparing or having prepared a cost-benefit study and analysis of economics in beach counties, the coastal region, and the State as well as the impact of beach restoration and beach nourishment on those counties, (iii) developing a multiyear plan and

strategy for beach preservation, (iv) administering the North Carolina Beach Preservation and Beach Restoration Fund (Fund), and (v) accepting any private gifts to the Fund.

- Establish the North Carolina Beach Preservation Fund to be used to provide grants to beach communities for public beach access, beach preservation, and beach restoration. The Commission would establish criteria for awarding grants from the Fund.
- Provide that the Governor shall resolve any jurisdictional differences between DENR and the Commission.

Section 2 would appropriate funds to the North Carolina Beach Preservation and Restoration Fund based on the following schedule:

Fiscal Year	Amount
2001-2002	$1,000,000.00
2002-2003	$2,000,000.00
2003-2004	$4,000,000.00
2004-2005	$8,000,000.00
2005-2006 and each year after	$12,000,000.00

Section 3 would make the bill effective July 1, 2001.

ATT #7
6.19.01

- Members

- The conflict between the natural tendency of our barrier islands to move or migrate and the economic benifits that accrue to our state when we ~~establish~~ develop a tourist industry along the water's edge is clearly one of the most challenging issues facing our state.

- In an effort to further understand this issue and make recommendations that may help reduce this conflict we solicited

- Expert testimony from:

  coastal geologists
  coastal engineers
  regulatory agencies
  STATE of Florida
  local government officials
  intrest groups
  citizens
  economists

- We met in all three of the State's coastal regions to allow local residents to easily access the Committee

- It became clear that there is more then one opinion as to what may be the wisest means of addressing our Shoreline Management issues

- Most importantly I sought a body of recommendations that would break the "cycle of urgency & complacency" and focus permanent attention on this issue.

- Our report, and its respective legislation, seeks to ~~[illegible]~~ Move our State into a more pro-active stance on shoreline management issues versus the reliance on a regulatory program that up to this point has been the sole approach. It would also generate a body of technical information necessary to make informed decisions about shoreline management.

We also discovered a peripheral and similar need to address natural resources ~~needs~~ issues in Western North Carolina so important that although beyond the scope of our charge - we incorporated that concern in our report nevertheless.

I appreciate the opportunity to share these thoughts with you and encourage you to carefully review our report and look forward to answering any questions you may have.

- Conclusion - acknowledge the hard work of Emily Johnson, Barbara Riley, & Kathi Davis — Dec. 28th

ATT #7

Thank you for the opportunity to speak today. 6.19.01

I have served as mayor of a beach town for nearly 10 years, and it was an honor to serve on the LRC committee the issue of beach erosion is an almost constant worry and expense for many beachfront local governments; therefore, I am very pleased to see this committee consider beach preservation and restoration issues - especially in a year when you have many pressing concerns.

The work of the LRC committee and House Bill 418 is important ~~to oceanfront local governments~~ ~~for many reasons~~ because,

1. It clearly defines a state role and interest in beach preservation and restoration.
2. It provides for desperately needed technical and planning assistance to local governments attempting to deal with ocean erosion problems
3. ~~It levels the playing field for small local governments~~ It allows consideration and evaluation of a full range of responses to erosion, ~~broadening the debate beyond nourishment~~ including retreat and property purchase.
4. It provides an eventual avenue for coordinated, prioritized decisions on state funding for beach restoration and preservation actions.

The subject of beach preservation and restoration is complex and like many complex issues is often

reduced to inaccurate and biased statements such as "It is a waste of my money to pump sand on their beach." HB 418 recognizes the full complexity of the beach preservation and restoration issue and the need for the state to assume a more pro active role in decisions about the future of our public beaches.

Many of you are probably not aware that currently local governments alone makes the decision of whether or not to pursue a beach restoration project such as multi-million dollar nourishment. While I would argue that local government best understands the problems created by erosion, I would also argue that local government has ~~the~~ inadequate technical and financial resources to evaluate the erosion problem and ~~evaluate~~ then fully evaluate the range of responses to the erosion problem.

The beaches of North Carolina are a public treasure. When we talk about preserving and restoring our beaches we are talking about maintaining a resource we all own. This is not just about ~~property~~ the private property owner and it is not just about beachfront municipalities - It is about all of us.

The membership of the LRC committee reflected the complexity of the beach issues and we could not begin to agree on the specifics of how to solve ~~the problem~~ the problem of beach erosion

ability to deal with this problem from a
the State's ~~ability to be responsive and to~~
position of knowledge and help craft equitable, forward
~~customary responsibility and knowledge of the~~
looking
~~problem~~.

I ~~thank~~ appreciate your time and attention and look forward to answering any ~~questions~~ you may have.

how severe the problem is and, then who should pay how much if we choose to spend money on the problem. We could and did generally agree on the need to increase our knowledge about ~~the~~ beach erosion, the range of response and to improve the State's ability to help craft equitable forward-looking polices with regard to beach preservation and restoration.

I appreciate your time and attention, thank you again for the opportunity to be of service to the legislature and look forward to responding to any questions you may have.

VISITOR REGISTRATION SHEET

Environmental & Natural Resources 6/19/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Watt	NCRPC
Albert Eckel	CORNING
Chrissie Ingle	Intern
Brian Shekis	NC Sierra Club
Robin Gagnon	Emerald Isle / Clean Water Day
Greg Allen	NCCF / Clean Water Day
MARK BRINNESHOLTZ	EMERALD ISLE - CLEAN WATER
Elizabeth Ouzts	NCPIRG
Angie Harris	Maupin Taylor + Ellis
W. Travis Porter	" " " "
Nancy Bryant	NC Sierra Club, Voices + Choices & Central Carolinians
JORDAN HOLTAM	NC SIERRA CLUB
Wade Rudisill	Progress Energy
Chuck Wakefield	Progress Energy
Bob Hilliard	Public Staff - NCUC
Sharon Miller	CUCA
Dan Hartman	CWMTF
Anita Watkins	NC DENR
Dan Oakley	NCDENR
Robin Smith	"
George Everett	Duke Energy
Dan Whittle	NC Sierra Club
Walt Haas	NCWF
Brian Pike	NCWF
D Cameron	NCWF
Mike Evans	"
John Dove	NRF, New Bern
BRIAN SCABOLT	NC Small Grain Growers

VISITOR REGISTRATION SHEET

Environmental Committee — June 19, 2001
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Danielle Seneschal	Cape Fear Rivers Watch Wilmington, Cape Fear
DAVE PYLE	Cape Fear River Watch Wilmington NC.
Andy Coburn	Duke University, Durham, NC
Price Harrison	NC Coastal Resources Commission (Beaufort NC)
Rose M. SMITH	PCS PHOSPHATE
Richard S Justice	North Carolina Wildlife Federation
Charlie Burdick	" " " "
Katherine Joyce	NC Assn. of Electric Cooperatives
Jay Rouse	" " "
Andrew Hainsworth	UNCA, JOC Intern, Rep Luebke
Catherine Liao	Governor's office
Carol Lauder	EGIS
Jeffrey Worrall	EGIS
Nancy Hagwood	Butner NC
Jan Harris	BEAT 206 N. Shore Dr. Sunset Beach,
Bill Ross	DENR
Brock Nicholson	"
Matt Cullum	NCFCC
[illegible]	Moore Van Allen
Lauren Kolodij	NC Coastal Federation
Emily Farmer	Town of Emerald Isle, Shoreline Environmental Action
Christopher E. North	NC Wildlife Federation Charlotte, N.C.
KENNETH WYMAN	NEUSE RIVER FOUNDATION
CATHERINE WYMAN	Neuse River Foundation
Dale Weston	New River Foundation.
DEAN WHITWORTH	SIERRA CLUB - CHARLOTTE
Jona Almeida	Town of Emerald Isle
Phil Almeida	Town of Emerald Isle,

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE JOINT RESOLUTION 419*

Sponsors:	Representatives Warwick, McComas, Rayfield, Redwine, Smith; Allen, Allred, Baddour, Barbee, Barefoot, Bonner, Bowie, Boyd-McIntyre, Brubaker, Cansler, Cox, Crawford, Culp, Cunningham, Davis, Decker, Dedmon, Eddins, Edwards, Gibson, Goodwin, Grady, Gulley, Haire, Harrington, Hensley, Hill, Hurley, Johnson, Justus, Luebke, McCombs, McLawhorn, Mitchell, Morris, Nesbitt, Nye, Owens, Preston, Rogers, Russell, Saunders, Setzer, Sexton, Sherrill, Sutton, Tolson, Tucker, Underhill, Wainwright, Warner, G. Wilson, Wright, and Yongue.
Referred to:	Rules, Calendar, and Operations of the House.

March 1, 2001

A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY NORTH CAROLINA'S TOURISM INDUSTRY AND ITS ECONOMIC IMPACT STATEWIDE.

Whereas, the popularity of North Carolina's coast, piedmont, and mountains as recreational and tourism destinations, and as places to live and work has increased dramatically in recent years; and

Whereas, the State's vision for the twenty-first century is that it will continue to be a desirable place to live a productive, rewarding, and satisfying life in which each of its citizens will have a shared sense of place, stewardship, and values; and

Whereas, according to a recent study conducted by the Department of Environment and Natural Resources, the economic impact of tourism in the coastal and mountain areas has risen from $5 billion in 1986 to more than $10 billion in 1999; and

Whereas, the study also indicates that population data show that North Carolina's population has grown by more than 1,000,000 people since 1990 and projections indicate that the population will grow almost 500,000 over the next five years; and

Whereas, the State's natural resources are essential to the health and well-being of its citizens and communities, as well as an integral part of ongoing economic growth; and

Whereas, erosion, air pollution, and other deteriorating and polluting forces threaten North Carolina's precious natural resources; and

Whereas, it is in the public interest that an immediate statewide effort be made to identify and address the natural and manmade elements that threaten the State's vital natural resources and its economic well-being; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Legislative Research Commission may study issues relating to:

(1) The tourism industry in the coastal, piedmont, and mountainous regions of the State and the statewide economic impact of that industry.

(2) The threats posed to the coastal, piedmont, and mountainous regions by erosion, air pollution, and other natural and manmade elements that deteriorate, pollute, or otherwise detract from the natural beauty of those areas.

(3) The various options available to address those threats, the success of those options, the economic feasibility of those options, and the economic impact on the State if no action is taken regarding erosion, water and air pollution, and other deteriorating, polluting, and detracting forces.

(4) Any other issues relevant to this study.

SECTION 2. The Legislative Research Commission may make its recommendations and submit an interim report to the 2001 General Assembly, Regular Session 2002, and may make a final report to the 2003 General Assembly.

SECTION 3. This resolution is effective upon ratification.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 419 A JOINT RESOLUTION TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY NORTH CAROLINA'S TOURISM INDUSTRY AND ITS ECONOMIC IMPACT STATEWIDE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

VISITOR REGISTRATION SHEET

Environmental & Natural Resources 6-19-01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura DeVaul	DENR
Sam Kirby	NCDC
Joyce Peters	JP Assoc
[illegible]	WCSR
Doug Lassiter	NC Septic Tank Assoc.
Molly Diggins	NC Sierra Club
Henry Jordan	Attorney Raleigh
Tony Adams	NC Outdoor Advertising Assoc.
[illegible]	NCOAA
Michelle Cook	Weyerhaeuser
Preston Howard	MCIC
Ala-Briggs	Save our State
[illegible]	NCAEC
Terry Harkey	NCRC
Kim Hibbard	NCLM
Lucius Pullen	Attorney NCMA
Angela O'Cogaill	NC REAL Enterprises
Pat Kuntz	NRF New Bern NC
Tim Turner	UNCW
Elizabeth Pollock	Cape Fear River Watch Wilmington NC
Mary Ann Harrison	NRF/Concerned Citizen, New Bern
[illegible]	Capitol Tours
David Farrell	Hofler Caldwell & Farrell PA
Julie Campbell	NCCBI
Clarence Kuntz	NRF, NCCF, Sierra Club
Sandra Long	Martin Marietta
[illegible]	" "
Jennifer Joyner	Cape Fear River Watch

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lee-Ann Coe	NC AGRIBUSINESS Council

CALENDAR CORRECTION
1ST HOUR IS PRESENTATION ONLY BY THE TVA ON AIR POLLUTION IMPROVEMENTS

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ENVIRONMENT & NATURAL RESOURCES** will meet as follows:

DAY & DATE: **Tuesday, June 19, 2001**

TIME: **12:00 NOON to 2:00 PM**

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

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

AIR POLLUTION IMPROVEMENTS (related to HB 1015 Improve Air Quality/Electric Utilities)
Tennessee Valley Authority Representatives

HJR 419 – STUDY TOURISM INDUSTRY
Representative Warwick

HB 418 – BEACH PRESERVATION & RESTORATION ACT
(NO VOTE TO BE TAKEN)

Respectfully,

Representatives Gibson, McComas, Warwick
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at .

___Principal Clerk
___Reading Clerk - House Chamber

Shirlyn MacPherson, Linda Uzzle, Jayne Walton (Committee Assistants)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
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2001-2002 SESSION

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Tennessee Valley Authority Representatives

HJR 419 – STUDY TOURISM INDUSTRY
Representative Warwick

HB 418 – BEACH PRESERVATION & RESTORATION ACT
(NO VOTE TO BE TAKEN)

Respectfully,

Representatives Gibson, McComas, Warwick
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:30 pm, on June 14, 2001**.

___Principal Clerk
___Reading Clerk - House Chamber

Shirlyn MacPherson, Linda Uzzle, Jayne Walton (Committee Assistants)

Shirlyn MacPherson (Rep. Gibson)

From: Tim Dodge (Research)
Sent: Tuesday, June 19, 2001 9:30 AM
To: Shirlyn MacPherson (Rep. Gibson)
Subject: RE: A/V Needs

TVA Presenter Info:

John W. Shipp, Jr. P.E., CHMM
General Manager, Environmental Policy & Planning
Tenessee Valley Authority

There are two other people accompanying Mr. Shipp, but I believe he will be the only presenter.

-----Original Message-----
From: Shirlyn MacPherson (Rep. Gibson)
Sent: Tuesday, June 19, 2001 9:15 AM
To: Tim Dodge (Research)
Subject: RE: A/V Needs

Thanks. Do you have their names and titles for the agenda?

-----Original Message-----
From: Tim Dodge (Research)
Sent: Tuesday, June 19, 2001 9:13 AM
To: Shirlyn MacPherson (Rep. Gibson)
Subject: RE: A/V Needs

Shirlyn -

There will be a bill summary for H 418, and we may have a handout for the TVA presentation. The TVA personnel will also be bringing some handouts for their presentation. I'll try to have the summaries to 643 early so we can get them in the folders before the meeting starts. Tim

-----Original Message-----
From: Shirlyn MacPherson (Rep. Gibson)
Sent: Tuesday, June 19, 2001 9:03 AM
To: Tim Dodge (Research)
Subject: RE: A/V Needs

Tim: are there going to be handouts? I'm clerking the meeting today. S

-----Original Message-----
From: Tim Dodge (Research)
Sent: Monday, June 18, 2001 6:04 PM
To: Hurley Young (Receiving)
Cc: George Givens (Research); Shirlyn MacPherson (Rep. Gibson); Linda Uzzle (Rep. Warwick); Jayne Walton (Rep. McComas)
Subject: A/V Needs

Hurley:

Please provide the following audiovisual equipment for tomorrow's House Environment and Natural Resources Committee meeting:

- Overhead projector
- Screen

Location: 643 Legislative Office Building

Time: 12:00 noon - 2:00 pm

Thanks for your help!

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 24, 2001
12:00 noon

1. **Call to Order – Representative McComas, Presiding**

2. **Bills to be considered:**

   SB 783 – EXTEND SUNSET/DEMOLITION DEBRIS LANDFILL
   Senator Odom

   SB 848 – WATER QUALITY/ANIMAL MARKETS/LIVESTOCK OPS.
   Senator Kerr

   HB 1439 – UPPER CAPE FEAR RIVER WATER AUTHORITY
   Representative Miner

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 24, 2001

MINUTES

The House Committee on Environment and Natural Resources met July 24, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Pryor Gibson, Danny McComas, and Nurham Warwick, Chairs, were present. Other members attending were Vice Chairs, Representatives Leslie Cox, Jennifer Weiss, Alice Underhill, and Committee members Representatives Gordon Allen, Joanne Bowie, Arlie Culp, Don Davis, Jim Gulley, Dewey Hill, Verla Insko, Paul Luebke, Eugene McCombs, David Miner, Frank Mitchell, Jean Preston, Ronnie Smith, Russell Tucker, Alex Warner, and John Weatherly.

Chair McComas called the meeting to order at 12:07 pm.

SB 783 – Extend Sunset/Demolition Debris Landfill (Attachments 1and 2). Representative Pryor Gibson moved to adopt Proposed House Committee Substitute S783-PCS 6335-SG-30. Presenting the bill for Senator Odom, he said that it was the renewal of a bill passed previously which extends the sunset 26 months to provide that a person may dispose of demolition debris generated on land that a person owns in a landfill located on their land of one acre or less without a permit from DENR, if the disposal meets certain conditions. Representative Davis moved to give the PHCS a favorable report, unfavorable to the original bill. Passed.

SB 848 – Water Quality/Livestock Markets/Animal Ops (Attachment 3 and 4). Representative Pryor Gibson moved to adopt PCS S848-PCS6327-RT-53. Explaining the bill for Senator Kerr, Representative Gibson said that it addressed a provision that allows public livestock markets to choose to comply with the waste management requirements applicable for animal operations, or the requirements applicable under an individual non-discharge permit pertaining to small operations. Representative Smith moved for a favorable report at the proper time. The motion was accepted. Representative Gibson moved to consider this bill after Representative Miner's bill was heard. SB 848 was displaced for the time being.

HB 1439 – Water and Sewer Authorities (Attachment 5) Representative Miner moved to adopt PCS H1439-CSRT-56 [v.1]. Passed. He said the bill was the project of a Wake County task force from the Wake County Commissioners and governments that met for a year to study regional planning for future water and sewer needs for Wake County and surrounding areas. The bill provides for a voluntary authority, governed by a board, with each member having one vote rather than being determined by population. Over the last 10 years as Cary has grown into the 7th largest city in the state with 100,000 people, there has been a concern of interbasin transfers, from counties downstream. Cary has been taking water from Lake Jordan and not discharging it back into the Cape Fear River Basin (interbasin transfer). The members of the authority would build a plant that would take the water out of the Cape Fear River and return it to the river—the epitome of regionalism.

Representative Cox voiced a concern for water supplies in his District and downstream. This bill does not have any impact on Cary's interbasin transfer. Counsel George Givens said that the proposed authority might arrange for the discharge into the Cape Fear River, but does not allow any interbasin transfer. He also stated that the PCS increased the per diem amount from $2,000 to $4,000 in Section 2. Discussion ensued related to water supplies downstream from the Cary region. Representative Miner said that state law allows the formation of an authority, but the bill would mandate the composition of the board--one city/town, one vote, giving each equal representation.

Representative Smith moved for an unfavorable report for the original bill and favorable to the PCS and re-referred to Finance.

Bill Sutton, Town Manager of Apex, spoke in support of the bill for an authority and a structure to form a regional facility to meet future needs of area municipalities. James E. Caldwell, Executive Director of the Cape Fear River Assembly, in Fayetteville said working together regionally promotes smart growth.

Bruce Thompson, legal counsel for Cary, spoke in opposition to the bill. He said the representation is not proportional to the financial contributions Cary would make, and it is not proportional to the population.

Representative Davis put forth an amendment H1439-CSRT-5G [v.1] (Attachment 6). Following a short discussion, Representative Davis moved to adopt the amendment. Passed. Following considerable discussion, the bill was displaced in order to bring SB 848 back for Committee consideration.

Representative Gibson moved to put PCS S848-PCS6327-RT-53 before the Committee. He moved for a favorable report. Counsel Givens restated that the bill has to do with about 17 livestock markets, which allows them to operate under two available schemes and has no opposition.

Representative Smith's earlier motion was restated: He moved for an unfavorable report for the original bill and favorable to the Proposed Committee Substitute. Passed.

HB 1439 was brought back onto the floor. Counsel Givens restated the Representative Smith's earlier motion: to incorporate the amendment into the PCS and give the PCS a favorable report and re-refer the bill to Finance. Passed.

Being no further business Representative McComas adjourned the meeting at 1:16 pm.

Representative Danny McComas, Chair

Shirlyn MacPherson, Committee Assistant

7-24-01 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 783
PROPOSED HOUSE COMMITTEE SUBSTITUTE S783-PCS6335-SG-30

Short Title: Extend Sunset/Demolition Debris Landfill. (Public)

Sponsors:

Referred to:

April 3, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CHANGES TO THE LAW REGARDING THE DISPOSAL OF DEMOLITION DEBRIS IN AN ON-SITE LANDFILL HAVING A DISPOSAL AREA OF ONE ACRE OR LESS AND TO EXTEND THE SUNSET OF THIS LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-301.2 reads as rewritten:

"**§ 130A-301.2. Disposal of demolition debris in an on-site landfill having a disposal area of one acre or less.**

(a) A person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from the Department if the requirements of this section are met. A person may not dispose of demolition debris in a landfill to which this section applies unless the board of commissioners of the county in which the landfill is proposed to be located approves the landfill. If the landfill is to be located within a city or within the extraterritorial jurisdiction of a city, the board of commissioners shall consult the governing board of the city before approving the proposed landfill. The board of commissioners shall approve the landfill only if the board finds ~~that:~~that all of the following conditions have been met:

(1) The landfill is located at least one-quarter mile from any other landfill of any type.

(2) The perimeter of the landfill is at least 50 feet from the property boundary.

(3) The perimeter of the landfill is at least 500 feet from the nearest drinking water well.

(3a) The perimeter of the landfill is at least 50 feet from any stream or river.

(4) The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

(5) The landfill will comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

(b) Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

(c) The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

(d) No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

(e) Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a survey plat of the property that meets the requirements of G.S. 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the ~~Department~~ board of commissioners at the same time that the certified copy of the notice required by subsection (f) of this section is filed with the ~~Department.~~board of commissioners.

(f) Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a notice that a landfill for the disposal of demolition debris has been located on the land. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat required by subsection (e) of this section is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the General Statutes. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a

certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by subsection (e) of this section, with the ~~Department, and shall pay a filing fee of twenty-five dollars ($25.00) to the Department,~~ board of commissioners within 15 days after the notice is recorded.

(g) When the land, or any portion of the land, on which the landfill is located is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a landfill for the disposal of demolition debris. The statement shall include a reference to this section and to the book and page number where the notice required by subsection (f) of this section is recorded.

(h) The board of commissioners of the county in which a landfill to which this section applies is located shall ensure that the requirements of ~~subsections (a) through (d) of~~ this section are met. In addition, the board of commissioners shall forward to the Department copies of the documents filed with the board of commissioners by the owner or owners of record pursuant to subsections (e) and (f) of this section along with a certification that the requirements of this section have been met."

SECTION 2. Section 4 of Chapter 502 of the 1995 Session Laws reads as rewritten:

"Sec. 4. This act is effective upon ratification. Sections 1 and 2 of this act and the second sentence of G.S. 47-28(a), as enacted by Section 2.1 of this act, expire on ~~30 June 2001~~30 September 2003. Section 3 of this act expires on 31 December 1996."

SECTION 3. This act becomes effective 30 June 2001.

7-24-01 ATTH-2

SENATE BILL 783:
Extend Sunset/Demolition Debris Landfill

BILL ANALYSIS

Committee:	House Envir. and Nat. Res.	**Introduced by:**	Senator Odom
Date:	July 24, 2001	**Summary by:**	Rick Zechini
Version:	Proposed House Committee Substitute		Committee Counsel

SUMMARY: ***The Proposed House Committee Substitute for Senate Bill 783 delays the repeal of G.S. 130A-301.2 from June 30, 2001 to September 30, 2003, and makes certain changes to G.S. 130A-301.2. G.S. 130A-301.2 provides that a person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from the Department of Environment and Natural Resources (DENR) if the disposal meets certain conditions.***

BILL ANALYSIS: G.S. 130A-301.2 provides that a person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from DENR if the disposal meets certain conditions. A person may dispose of demolition debris in accordance with G.S. 130A-301.2 only if the board of commissioners of the county in which the landfill is proposed to be located approves the landfill. If the landfill is to be located within a city or within the extraterritorial jurisdiction of a city, the board of commissioners shall consult the governing board of the city before approving the proposed landfill. The PCS clarifies that the board of commissioners shall approve the landfill only if the board finds that:

(1) The landfill is located at least one-quarter mile from any other landfill of any type.

(2) The perimeter of the landfill is at least 50 feet from the property boundary.

(3) The perimeter of the landfill is at least 500 feet from the nearest drinking water well.

(4) The perimeter of the landfill is at least 50 feet from any stream or river. (This requirement is added by the PCS)

(5) The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

(6) The landfill will comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill. A landfill created pursuant to G.S. 130A-301.2 shall be closed within 30 days after the demolition is completed or terminated and no building shall be located or constructed immediately above any part of the landfill.

Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a notice that a landfill for the disposal of demolition debris has been located on the land and a survey plat of the property. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land.

The PCS requires the owner to file a certified copy of the notice showing the book and page number where recorded and a certified copy of the survey plat with the board of commissioners. The PCS also requires the board of commissioners to forward copies of these documents to DENR along with a certification that the requirements of G.S. 130A-301.2 have been met.

When the land, or any portion of the land, on which the landfill is located is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a landfill for the disposal of demolition debris.

Section 2 of the bill delays the repeal of G.S. 130A-301.2 from June 30, 2001 to September 30, 2003.

9-24-01 ATT 3

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 848
PROPOSED HOUSE COMMITTEE SUBSTITUTE S848-PCS6327-RT-53

Short Title: Water Quality/Livestock Markets/Animal Ops. (Public)

Sponsors:

Referred to:

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO INCLUDE PUBLIC LIVESTOCK MARKETS WITHIN THE DEFINITION OF ANIMAL OPERATIONS FOR THE PURPOSE OF REGULATING THE ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE THESE MARKETS AND TO PROVIDE THAT AN ANIMAL WASTE MANAGEMENT SYSTEM THAT SERVES A PUBLIC LIVESTOCK MARKET MAY BE PERMITTED EITHER AS AN ANIMAL OPERATION OR UNDER THE STATE'S GENERAL WATER QUALITY STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"**§ 143-215.10B. Definitions.**

As used in this Part:

(1) 'Animal operation' means any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. ~~Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the General Statutes shall not be considered animal operations for purposes of this Part.~~A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.

(2) 'Animal waste' means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.

(3) 'Animal waste management system' means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(4) 'Division' means the Division of Water Quality of the Department.

(5) 'Feedlot' means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

(6) 'Technical specialist' means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 2. G.S. 143-215.10C is amended by adding a new subsection to read:

"(i) A person who obtains an individual permit under G.S. 143-215.1 for an animal waste management system that serves a public livestock market shall not be required to obtain a permit under this Part and is not subject to the requirements of this Part."

SECTION 3. This act becomes effective 1 August 2001.

9-24-01 ATT # 4

SENATE BILL 848:
Water Quality/Livestock Markets/Animal Ops.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Kerr
Date:	July 17, 2001	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute (S848-PCS6327-RT-57)		Tim Dodge, Resarch Assistant

SUMMARY: ***Senate Bill 848 would include public livestock markets in the definition of animal operations, allowing public livestock markets to choose to comply with either (i) the waste management requirements applicable for animal operations, or (ii) the requirements applicable under an individual non-discharge permit. The bill would become effective August 1, 2001.***

CURRENT LAW: Part 1A of Article 21 of Chapter 143 of the General Statutes establishes permit, inspection, testing, reporting, and fee requirements for waste management systems at animal operations, as well as requirements for the development of an animal waste management plan for each operation. Public livestock markets are excluded from the definition of an "animal operation." Because of their exclusion, livestock markets are required to obtain individual non-discharge permits from the Department of Environment and Natural Resources (DENR), which may involve more stringent testing requirements and higher fees.

BILL ANALYSIS:

Section 1 would include public livestock markets in the definition of an animal operation. Public livestock markets would then be directed to comply with the requirements in place for animal operations statewide and to obtain a permit for their animal waste management system, rather than obtain an individual non-discharge permit from DENR. The fees and testing requirements for animal waste management permits are lower than under an individual non-discharge permit. Facilities operating under an animal waste management system permit, however, undergo yearly inspections by both the Division of Water Quality and the Division of Soil and Water Conservation.

Section 2 *(added in PCS)* would allow a person operating an animal waste management system that serves a public livestock market to obtain or continue operating under an individual non-discharge permit as provided in G.S. 143-215.1. Persons operating under the requirements of their non-discharge permit would not be required to comply with the requirements applicable to animal waste management systems.

Section 3 would make the bill effective August 1, 2001.

9-24-01 ATT # 5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1439
PROPOSED COMMITTEE SUBSTITUTE H1439-CSRT-56 [v.1]

7/24/2001 10:45:00 AM

Short Title: Water and Sewer Authorities. (Public)

Sponsors:

Referred to:

May 10, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CREATION OF WATER AND SEWER AUTHORITIES IN CERTAIN URBAN COUNTIES AND TO INCREASE THE MAXIMUM ANNUAL PER DIEM OF MEMBERS OF WATER AND SEWER AUTHORITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 162A of the General Statutes is amended by adding a new section to read:

"**§ 162A-3.2. Creation of authorities in certain urban counties.**

(a) Two or more units of local government, at least one of which has fifty-one percent (51%) or more of its land area within a county with a population of 500,000 or over according to the most recent decennial federal census, and whose wastewater discharge flows downstream solely within this State, may organize an authority only under this section. Except as modified by this section, the remainder of this Article applies to any authority organized under this section.

(b) Any authority organized under this section shall be governed by a board consisting of one member appointed by the governing board of each of the participating political subdivisions. Each member so appointed shall have one vote.

(c) An authority organized under this section may issue revenue bonds under G.S. 162A-6(6) and revenue refunding bonds under G.S. 162A-6(7); may collect rates, fees, and other charges as provided by G.S. 162A-6(9); and may make special assessments against benefited property as provided by G.S. 162A-6(14a)."

SECTION 2. G.S. 162A-5(c) reads as rewritten:

"(c) Each member of the authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this State and to discharge faithfully the duties of his office, and a record of each such oath shall be filed with the secretary of the authority.

(c1) The authority shall select one of its members as chairman and another as vice-chairman and shall also select a secretary and a treasurer who may but need not be

members of the authority. The offices of secretary and treasurer may be combined. The terms of office of the chairman, vice-chairman, secretary and treasurer shall be as provided in the bylaws of the authority.

(c2) A majority of the members of the authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the authority shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all of the duties of the authority. The members of the authority may be paid a per diem compensation set by the authority which per diem may not exceed the total amount of ~~two~~ four thousand dollars ~~($2,000)~~ ($4,000) annually, and shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties."

SECTION 3. This act is effective when it becomes law. For each water and sewer authority organized under Article 1 of Chapter 162A of the General Statutes, Section 2 of this act applies on the first day of the fiscal year of the authority that begins on or after the date this act becomes effective.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT 7-24-01 - AMH 6

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1439 DATE _____

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H1439 - CSRT - 5G [v.1]

Rep.) _____ DAVIS

Sen.)

moves to amend the bill on page 1, line 22

( ) WHICH CHANGES THE TITLE

by REWRITING that line to read:

"ASSESSMENTS AGAINST BENEFITED PROPERTY AS PROVIDED BY G.S. 162A-6(14a).

(d) ANY Authority organized under this SECTION shall ENSURE that ANY ~~WASTEWATER~~ WATER that IS WITHDRAWN from A RIVER BASIN, AS defined in G.S. 143-215.22G, by the Authority IS discharged INTO the ~~A~~ SAME RIVER BASIN."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 848
PROPOSED HOUSE COMMITTEE SUBSTITUTE S848-PCS6327-RT-53

Short Title: Water Quality/Livestock Markets/Animal Ops. (Public)

Sponsors:

Referred to:

April 4, 2001

A BILL TO BE ENTITLED

AN ACT TO INCLUDE PUBLIC LIVESTOCK MARKETS WITHIN THE DEFINITION OF ANIMAL OPERATIONS FOR THE PURPOSE OF REGULATING THE ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE THESE MARKETS AND TO PROVIDE THAT AN ANIMAL WASTE MANAGEMENT SYSTEM THAT SERVES A PUBLIC LIVESTOCK MARKET MAY BE PERMITTED EITHER AS AN ANIMAL OPERATION OR UNDER THE STATE'S GENERAL WATER QUALITY STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"**§ 143-215.10B. Definitions.**

As used in this Part:

(1) 'Animal operation' means any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. ~~Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the General Statutes shall not be considered animal operations for purposes of this Part.~~A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.

(2) 'Animal waste' means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.

(3) 'Animal waste management system' means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.

(4) 'Division' means the Division of Water Quality of the Department.

(5) 'Feedlot' means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

(6) 'Technical specialist' means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 2. G.S. 143-215.10C is amended by adding a new subsection to read:

"(i) A person who obtains an individual permit under G.S. 143-215.1 for an animal waste management system that serves a public livestock market shall not be required to obtain a permit under this Part and is not subject to the requirements of this Part."

SECTION 3. This act becomes effective 1 August 2001.

Shirlyn MacPherson (Rep. Gibson)

From: Susan Phillips (Rep. Miner)
Sent: Tuesday, July 24, 2001 10:57 AM
To: Shirlyn MacPherson (Rep. Gibson)
Subject: Attendees for July 24 Env and Nat Res Mtg

These are possible attendees. Some have confirmed, some are just interested parties. While I have been typing this, I have gotten calls from the Apex Chamber, so there will be lots of people there.

Thanks,

Susan

H 1439 Cape Fear Water Authority Interested Parties

Brent Barringer atty Cary Chamber
Koka Booth former mayor of Cary
David Cook, Wake Co. Manager
Herb Council, Wake Co. Commissioner
John Ellis, Fuquay-Varina Manager
Gene Truelove Fuquay-Varina Mayor
Jim Harrington
David Hodgkins Morrisville Manager
Gordon Cromwell Morrisville Mayor
Gerald Holleman former Holly Springs Mayor
Ernest Pearson Holly Springs Attorney
Randy Smith Developer Cary-Apex-Holly Spring area
Bill Sutton Apex Manager
arrish Womble Holly Springs Mayor
eith Weatherly Apex Mayor
Michael Weeks Wake Co. Commissioner
Ken Gardner Wake Co. Commissioner
Carl Dean Holly Springs manager

Everette Billingsly retired
Don Freeman Cape Fear River Assembly
Jim Caldwell Cape Fear River Assembly – Fayetteville – Exec. Dir.

Susan D. Phillips
Legislative Assistant
Rep. David Miner's office
Phone (919) 733-5861
Fax (919) 828-9897

VISITOR REGISTRATION SHEET

7/24/01

ENVIRONMENT & Natural Resources
Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Poyner Spruill LLP
Andrew Hainsworth	UNCA, IOG Intern, Rep Luebke
MIKE WILSON	TOWN OF APEX
BILL SUTTON	TOWN OF APEX
CARL DEAN	Town of Holly Springs
Gerald Holleman	Holly Springs
Ross M. Smith	PCS PHOSPHATE
RANDY SMITH	PARKTON DEV. Co.
Don d'Ambrosi	Elam, Todd, d'Ambrosi
Jessie Parker	B & H
Rog Bourne	
Jim Caldwell	Mid-Carolina COG
Gene Truelove	Mayor FUQUAY-VARINA.
JOHN ELLIS	TOWN OF FUQUAY-VARINA
Cat Kearns	President, Apex Chamber Commerce
SUSAN LaPRESTI	Ex. Dir, APEX CHAMBER of COMMERCE
Larry Jordan	Apex Chamber of Commerce
Mike Diggins	NC Sierra Club
Nat Ng	CCNC
Grady McCallie	NC. Conservation Network
Matt Brady	CCNC
Benjamin Gaddis	NC Sierra Club
Melissa Lenz	CWMTF
Vicki Nelson	Rep. Hastings's Office
BRUCE THOMPSON	PARKER POE ADAMS & BERNSTEIN
Jack Cozort	PPAB
W. Everett Billingsley	Executive Director Emeritus (retired)

VISITOR REGISTRATION SHEET

Environment + Natural Resources 7/24/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
PG	NCFB
Tony Adams	NCOAA
Kim Hibbard	NCLM
Kelli Kukuna	DuPont
Vince Thompson	MCIC
PRESTON HOWARD	MCFC
Michelle Cook	Weyerhaeuser
David Meredith	NC State Grange
Doug Lassiter	NCSTA
Steve Woodson	NC Farm Bureau
Bob Steelman	NC Forestry Assoc.
Durwood Langdon Jr	NS
Henry Jones	Attorney - Raleigh
Laura DeRico	DENR
K. Locklear	DENR
J Cole	NCABC
Pamela L Cashwell	Mayor - Holly Springs
Dan McKee	SCENIC NC, INC.
David Knight	NC Sierra, NC Wildlife Fed
DAN WHITTLE.	ENVIRONMENTAL DEFENSE
Amy Fullbright	Hunton & Wms.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 783 A BILL TO BE ENTITLED AN ACT TO EXTEND BY FIVE YEARS THE SUNSET REGARDING THE DISPOSAL OF DEMOLITION DEBRIS IN AN ON-SITE LANDFILL HAVING A DISPOSAL AREA OF ONE ACRE OR LESS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
S.B. 848 A BILL TO BE ENTITLED AN ACT TO INCLUDE PUBLIC LIVESTOCK MARKETS WITHIN THE DEFINITION OF ANIMAL OPERATIONS FOR THE PURPOSE OF REGULATING THE ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE THESE MARKETS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on
ENVIRONMENT AND NATURAL RESOURCES

☐ Committee Substitute for
H.B. 1439 A BILL TO BE ENTITLED AN ACT TO ALLOW CREATION OF THE UPPER CAPE FEAR WATER AUTHORITY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

August 14, 2001

1. Call to Order – Representative Daniel F. McComas, Presiding
2. Agenda Items

   HB 1121 Coastal Recreational Fishing License. – Rep. Gibson

3. Adjournment

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

August 14, 2001

The House Committee on ENVIRONMENT & NATURAL RESOURCES met on Tuesday, August 14, 2001, in Room 643 of the Legislative Office Building at 12:00 Noon. The following members were present: Cochairmen Gibson, McComas (presiding) and Warwick, Vice Chairmen Cox, Underhill, Weiss and Representatives Allen, Culp, Davis, Gulley, Hackney, Hill, Luebke, McCombs, Mitchell, Smith and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. Rob Mason and Evan Gearino were House Pages for the meeting. A Visitor's Sheet is attached and made a part of these minutes.

Representative McComas called the meeting to order at 12:05 p.m. and asked Representative Gibson to present his bill, **HB 1121 Coastal Recreational Fishing License.,** Representative Gibson asked Jeff Hudson of Counsel to explain the bill (see attachment 1,2 and 3). Representative McComas opened the floor for questions. Several questions were asked by the committee members regarding: definitions of fishing gear within the bill, the operating budget and lifetime license restrictions. Mr. Preston Pate, Director of the NC Marine Fisheries was recognized to clarify existing laws pertaining to the bill. Representative Davis asked how many funds were available to enforce this new law if enacted. Mr. Pate responded that 15% of the 17,000,000. Budget was allocated for law enforcement. Representative McComas asked if people who own property on the water would need to buy a license to fish. Mr. Hudson said a license would be necessary. Representative McComas commented that he had many complaints from boaters in New Hanover County about being pulled over by law enforcement numerous times during the same day. Mr. Pate said that the Marine Fisheries pull boats over to check for fish limits, and Wildlife Resources pulls boats for water safety, so some overlapping may occur. Representative McComas suggested to the members on the committee that are also on the APPROPRIATIONS Committee to look into combining the two law enforcement agencies to save money. Representative Warwick asked how many licenses were projected to be sold and how much revenue would this produce. Mr. Pate answered that the projected numbers were 1 million licenses and 8 million in revenue.

Representative McComas closed the floor to questions to allow the interested parties to address the committee.

Dr. Nick Blackerby, President of the Coastal Conservation Association spoke in support of the bill. Dr. Blackerby gave the remainder of his time to speak to Mr. Bill Brown, Chairman of Governmental Relations of the Coastal Conservation (see attachment 4). Mr. Brown spoke in support of the bill and told the committee that in the last four years it had become harder to catch fish because of the bad report card on fish measurements. Representative Smith asked Mr. Brown to leave a copy of the list of stressed fish for the committee.

Mr. Ron McPhearson, President of the Winston-Salem Saltwater Sport Fishing Club, was recognized to speak to the bill. Mr. McPhearson spoke in favor of the bill and explained the Coastal Recreational Fishing License Survey that he and others conducted (see attachment 5).

Mr. Renny Blanchette, a resident of Carteret County and owner of a marina at Indian Beach spoke in favor of the bill. Mr. Blanchette made five points to support the bill (see attachment 6).

Mr. Mac Currin, appointee to the Governor's Sport Fishing Industry to the Marine Fisheries Commission, spoke in support of the bill (see attachment 7).

Mr. Bill Hitchcock, a recreational fisherman, spoke out against the bill. Mr. Hitchcock told the committee that through blanket exemptions incorporated into the bill, it unfair and inequitable to all the people who use this resource (see attachment 8).

Mr. Jerry Schill, President of the North Carolina Fisheries Association, spoke against the bill. Mr. Schill said a saltwater fishing license would not solve the State's problem, and the entire amount of money collected would be spent within the bureaucracy of the special fund (see attachment 9).

Mr. David Knight, representing the North Carolina Wildlife Federation and the North Carolina Sierra Club, spoke in favor of the bill. Mr. Knight explained that North Carolina is the only state out of 20 coastal states that does not have a saltwater fishing license. Mr. Knight also stated that passage of the bill would insure the long-term protection for fish (see attachment 10).

Representative McComas thanked the speakers for their presentations. Representative Warwick asked staff to find out how many of the 2 million surveyed about the Recreational Fishing License live in the coastal counties, and what are the other causes, other than over-fishing, for fish decline.

Representative McComas adjourned the meeting at 12:57 p.m.

Representative Daniel F. McComas
Cochairman

Jayne Nelson Walton
Committee Assistant

8-14-01 ATT # 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1121

Short Title:	Coastal Recreational Fishing License.	(Public)
Sponsors:	Representatives Redwine, Gibson (Primary Sponsors); Alexander, Hackney, Hensley, Hurley, Luebke, McLawhorn, Russell, Underhill, Wainwright, and C. Wilson.	
Referred to:	Environment and Natural Resources, if favorable Finance.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources so that more fish will be available on a sustainable basis for commercial and recreational harvest; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

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

"Article 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any person to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. – A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. – It is unlawful for any person to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. – The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. – It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. – A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. – The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall

surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. – The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. – The Division shall issue the following CRFLs:

(1) Standard CRFL. – $15.00. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. – $5.00. This license is valid for a period of 10 days.

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than six years of age	$100.00
b.	Between six and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00

(4) Permanently Handicapped or Disabled Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(5) Disabled Veteran Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under

this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is one dollar ($1.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. – A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

(1) Is under 16 years of age.

(2) Is 65 years of age or older.

(3) Holds a SCFL or a RSCFL.

(g) If a state that requires a license to engage in recreational fishing by means of recreational gear recognizes through statute, rule, or reciprocal agreement the validity of a CRFL within its boundaries, North Carolina shall recognize the validity of a license to engage in recreational fishing by means of recreational gear held by a resident of that state.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. – Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. – The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. –

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. Sealife Enhancement Fund.**

(a) Definitions. – As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. – The Sealife Enhancement Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. – The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Law enforcement. – Not less than twenty percent (20%), but no more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies,

and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(4) Grants. – Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

(5) Administration. – Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. – Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. – The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. – The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers,

and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license."

SECTION 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. – A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

SECTION 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

SECTION 7. G.S. 113-169.4 is repealed.

SECTION 8. G.S. 113-172 is repealed.

SECTION 9. G.S. 113-173 is repealed.

SECTION 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

SECTION 11. The Division of Marine Fisheries may issue a Lifetime CRFL under G.S. 113-174.2(c)(4) without charge to a person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b).

SECTION 12. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 13. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 15. Sections 10, 10.1, 12, and 15 of this act are effective when this act becomes law. All other sections of this act become effective 1 March 2003. Section 11 of this act expires 31 December 2003.

8-14-01 ATT #2

HOUSE BILL 1121:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Redwine and Gibson
Date:	August 14, 2001	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	First Edition		

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission.
- CRFL means Coastal Recreational Fishing License.
- Division means the Division of Marine Fisheries.
- Recreational fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes.

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements.
- A CRFL does not authorize the license holder to sell fish taken under the license.
- Assignment or transfer of a CRFL is prohibited.
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary.
- A person engaging in recreational fishing must have a CRFL issued in the person's name available for inspection.
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address.
- A person may not hold a recreational fishing license as a North Carolina resident and hold a commercial or recreational fishing license as a resident of another state.
- A person isn't eligible to obtain a CRFL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the three years prior to the date of application.
- The Division may cancel a CRFL issued on the basis of false information.
- A CRFL holder must comply with the Division and Commission's sampling and survey programs.

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard and Ten-Day CRFL may be purchased from authorized license agents.

Types of CRFL's:

Standard CRFL	$15.00	One year duration
Ten-Day CRFL	$5.00	Ten day duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
Lifetime CRFL for holders of: **(Effective for 10 months -- See Section 11)*		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		One year duration
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$1.00/linear foot	One year duration

Exemptions: A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

- Is under 16 years of age.
- Is 65 years of age or older.
- Holds a Standard Commercial Fishing License or a Retired Standard Commercial Fishing License.

Reciprocity: North Carolina will recognize a recreational fishing license issued by another state, if that state recognizes a CRFL issued by North Carolina.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes.

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's. The Secretary of Environment and Natural Resources shall disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%.
- Law Enforcement: Not less than 20%, but no more than 25%.
- Marine Fisheries Research: Not less than 25%.
- Grants for coastal fishing programs and scholarships: Not more than 5%.
- Administration: Not more than 10%.
- Public Education and Information: Not less than 5%, but no more than 10%.

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL, to be appointed by the Governor.
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting).
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting).

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold.
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents.

Sections 2 through 10 make technical, clarifying, and conforming changes.

Section 11 authorizes the Division to issue a Lifetime CRFL without charge to any person who holds a Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman Combination License. This authorization is effective from March 1, 2003 through December 31, 2003.

Section 12 directs the Joint Legislative Commission on Seafood and Aquaculture to study the establishment of a unified license for recreational fishing in both inland and coastal fishing waters.

Section 13 authorizes every agency to which this act applies to adopt temporary rules until all rules necessary to implement the provisions of the act become effective.

Section 14 is a severability clause.

Section 15 provides that the licensing provisions of this act become effective March 1, 2003.

Att # 3
8/14/01

GRADY-WHITE

Statement Of

Douglas J. Hoffman
Facilities, Aviation, and Purchasing Manager
Grady-White Boats, Inc.
A Privately Owned and Operated Boat Company

To the House Environmental Committee
House Bill 1121
Coastal Recreational Fishing License

Grady-White is a family owned and operated manufacturer of 18' to 33' recreational family sports fishing boats that has been in business since 1958. I write not only on behalf of the 400 employees of Grady-White, but also the 10,000 direct employees of the other 75 boat builders in NC, the 10,000 employees of 450 marinas in NC, the employees of 75 boat yards, 75 marine construction businesses, 400 boat sales businesses, and the 2,500 small support businesses in NC that are directly affected by the quality of our marine resources.

In the mid 1990's, in response to rapidly declining fish stocks, the NC General Assembly halted the sale of commercial fishing licenses and formed the Moratorium Steering Committee (MSC) composed of commercial and recreational users of our marine resources. The MSC was charged with development of recommendations for improving marine fishery management in North Carolina.

In 1997, as a result of the MSC studies, the General Assembly passed the landmark Fisheries Reform Act. The legislation included many of the MSC recommendations including the development of Fishery Management Plans (FMP) for various species of fish. The MSC

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recommendations called for a Coastal Recreational Fishing License, but this was not acted upon due to disagreement on the terms of the license bill and the rush to pass the Fisheries Reform bill in the waning days of the legislative session.

The Coastal Recreational Fishing License is important to NC because it is a "means to an end." It is a way to fund the management and enhancement of our marine resources for present and future generations of recreational and/or commercial anglers. Commercial fishermen are already licensed and counted. The easiest way to collect data on the number of recreational fishermen is by requiring them to be licensed. The list of licensed anglers will give the DMF the tools needed to do scientifically valid studies in numerous areas. The amount of fishing pressure on a given species, success rates, gear types, economic impacts, and other information can be attained through the use of this data. It can be used to educate existing anglers on existing regulations concerning size and creel limits. It will also track out of state anglers that are a very large consumer of the marine resources in our state.

The funds generated by the CRFL will give the DMF much needed funding to carry out it's mandate of developing FMP's for all significant marine species. The current breakdown of spending is 25% for research, 25% for enforcement, 25% for habitat enhancement, 15% for grants and public education, and a maximum of 10% for administration will vastly enhance the DMF's ability to do the job they have to do. It is of great importance that the money generated by this license is kept in a separate fund and the oversight of the spending be controlled by the recreational anglers who generated the revenue. In a study done by NC State University some

years ago, the vast majority of anglers supported a CRFL if it was structured in the manner of H1121 with the funds being dedicated to the resource.

The economic impact of recreational fishing is absolutely huge in this state. I will not go into detail on this subject, rather I refer you to the attached study done by Herb Stanford, which details the economic impact of recreational fishing in just one eastern area that relies on fishing dollars heavily, Carteret County. A properly managed fishery resource could compound this economic impact for the betterment of all NC residents.

In closing, I would like to add that every other coastal state from Texas to Delaware already require licenses for people to fish in their coastal waters. Anglers in those states enjoy better fishing due to the reasons mentioned above and NC residents that fish in those states have to donate to their resource. Why shouldn't they donate to help our resource when they come here? Help us have better fishing. Help those of us that rely on a viable fishery resource for our livelihood. Pass H1121 in its entirety this summer.

RECREATIONAL FISHING – CARTERET COUNTY ECONOMIC ENGINE

Herb Stanford

CARTERET COUNTY (NC) – Recreational saltwater fishing may be just a popular pastime for lots of people, but it's big business in Carteret county.

Data provided by the NC Department of Marine Fisheries (NCDMF) show that, annually, recreational fishermen spend $70 million or more in Carteret County buying tackle and fishing supplies, paying for motels, and buying food and gas. These expenditures translate into almost 2000 jobs, putting over $25 million into local paychecks.

An additional $130 million in annual economic impact is generated by recreational boat builders, local tackle manufacturers, and Henry's, one of the largest tackle wholesalers in the country, all as shown by the 1997 Economic Census for the county. These businesses employ over 600 people with an annual payroll exceeding $12 million.

As indicated in the following table, recreational fishing ranks second, behind retail sales and ahead of general tourism, as a county economic engine.

Rank	Economic Engine	Total Sales, Receipts, or Shipments ($1000) 1997
1	Retail Sales	508,809
2	Recreational Fishing	198,965
3	Tourism	188,000
4	Manufacturing	136,530
5	Health Care	51,539
6	Wholesale Trade	33,273
7	Professional Services	30,818
8	Commercial Fishing (Harvesting)	26,960
9	Administrative Services and Waste Management	24,753
10	Other Services	20,037
11	Commercial Fishing (Processing/Wholesale)	17,516

Recreational fishing far outranks commercial fishing, which has a total annual county economic impact of less than $46 million.

Local retail businesses that *depend* on recreational fishing include:

> **Tackle and Marine Supply Shops:** There are 14 tackle shops and two marine supply dealers in Carteret county. Several dozen drug stores, supermarkets, discount and department stores, hardware stores, fishing piers, and mom-and-

pop general stores also sell fishing tackle, rods and reels, bait, and other fishing supplies.

Fishing Piers: Five fishing piers play host to hundreds of fishermen each year, particularly in the spring and fall.

Charter Boats and Fishing Guides: Three large "head boats" call Carteret county home. There are 40-50 sport fishing charter boats that offer both half-day and full-day offshore fishing trips out as far as the Gulf Stream. Ten or more local fishing guides offer inshore and nearshore fishing services.

Marinas: There are 19 marinas in the county who's business in almost wholly dependent on selling, docking, and servicing recreational fishing boats. The marinas had 1997 sales exceeding $11 million, with an annual payroll of $2 million.

Boat Dealers: There are 16 dealers in the county that sell recreational fishing boats ranging from small skiffs to large offshore sport fishing "yachts". Boat dealers in Carteret County had 1997 sales estimated at almost $30 million.

Manufacturing in the county related to recreational fishing includes:

Boat Builders: Carteret County is home to 9 boat builders, producing a wide range of recreational boats that are popular nationally.

Parker Marine Enterprises is, by far, the largest of these manufacturers. Parker builds fiberglass open- and cabin-type fishing boats ranging in size from 18-feet to 24-feet. With 125 employees, Parker turns out several hundred boats per year, with total sales estimated to exceed $5 million.

Jarrett Bay Boat Works builds only 2-5 boats per year, but they are the last word in large, fast sport fishing boats, costing up to $3 million each. Jarrett Bay is the centerpiece of Carteret County's Marine Industrial Park, home to Covington Diesel Services, Southern Skimmer Boat Co. (another boat builder), and Catepillar Marine. Jarrett Bay employs about 125 people.

Jones Brothers, Southern Skimmer, and Core Sound Marine build fiberglass skiffs and inshore boats designed to tackle sound and "thin water" in Carteret County.

Traditional wooden boat building is still alive at Alex Willis Boat Construction, East Bay Boat Works, Sleepy Creek Boat Works, and Masterworks. From skiffs to offshore sport fishing boats, these firms build boats, one at a time, the same way boats have been built Downeast for the last 150 years.

Overall, boat building in Carteret County employs over 250 people and produces and annual payroll exceeding $5 million.

Tackle Manufacturers: Fishing rods, lures, weights, rigs, planers, etc. for recreational fishermen are manufactured locally by Sea Striker and Star Fishing

Tackle. Sea Striker and Star have markets that cover the east coast from New York to Florida and these companies employ about 50 people

Tackle Wholesalers: Henry's Tackle, located on NC 24 west of Morehead City, is a major national supplier of saltwater fishing tackle and employs approximately 300 people. While Henry's does not publish annual sales information, their annual volume is estimated to exceed $80 million.

Carteret County attracts recreational saltwater fishermen because the fish are here. Inshore, the county has 500 square miles of sounds, rivers, and creeks that serve as nurseries for young game fish and home for adults...including red drum, speckled trout, flounder, and many other game fish. Offshore, Cape Lookout is a major turning point in the annual migrations of game fish, including bluefish, king mackerel, Spanish mackerel, and gray trout.

Until the late 1950's, commercial fishing was king in Carteret County. The surge of vacationers had not yet hit and recreational fishing was a minor part of the local economic picture. But, with increased income and leisure time, a vacation at the beach became the "in thing" by the late 1960's. These vacationers discovered saltwater fishing and no one has looked back since. Since there is no licensing information, the growth in the number of recreational fishermen cannot be accurately determined, but is estimated to have increased by several hundred percent since 1970.

Starting with the collapse of the menhaden fisheries in the late 1950's and continuing with general fish stock depletion and increased regulation, commercial fishing in Carteret County has been on a downhill slide and will never again be a major economic engine for the county. Currently, menhaden, which contributes about half the annual income from commercial fishing in the county, is under pressure due to new restrictions fostered by declining stocks and complaints by beach front property owners. (Beaufort Fisheries, the last menhaden fishing operation in North Carolina, may be forced to close if new fishing rules imposed in January are implemented.)

Expectations are that recreational fishing dollars spent in Carteret County will continue to increase due to growth of the Marine Industrial Park; expanded boat manufacturing at Parker, Jarrett Bay, and Southern Skimmer; and increased numbers of recreational fishermen and women attracted to the Crystal Coast's "fishy" environment. *Recreational fishing is truly a major economic engine for the county.*

ATTH 4
8/14/01

August 14, 2001

Thank Chairman, Distinguished Legislators, Ladies and Gentlemen,

I am Bill Brown, avid recreational fisherman, and automobile dealer.
I live and work in Greenville and have owned a second home in Carteret County for the past 15 years. I have seem a marked change in the ability to catch offshore during that time, a change for the worse. I started out primarily a king mackerel fisherman. 15 years ago is was not hard to catch fish, even in spite of your self, I am proof. But in the last 4 years for the first time I have started coming home "skunked" for the first time in my lifetime. Prior to my Carteret County experiences, I spent almost every weekend on the Pamlico River just past Bath. We witnessed a dramatic change in that river.

I am also past state chairman of the Coastal Conservation Association of North Carolina. We are an organization of almost 4,000 anglers from all walks of like and almost all types of fisheries who share a common interest in preserving and enhancing the marine resources in this state for present and future generations-i.e. our children and their children.

Our marine resources are a public trust resource managed by a very political process through the Marine Fisheries Dept. The Governor chooses its director. The Governor also chooses the members of the Marine Fisheries Commission. But, very important, the director is not responsible to the commission. More importantly, the funding for the operation of the department is determined by the legislature. This compares to the operation of the very successful Wildlife Resources Commission.
Its operations are funded by the user fees-hunting and fishing licenses- (aside-several members of this committee hold these licenses). Members of that commission, who are in turn appointed by the governor, choose the director. (I think). It is amazing how successful and little controversy there is with that operation.

According to the data I just received from the Marine Fisheries Dept., there are over 1.8 million recreational anglers who will fish in North Carolina water this year. This is a "SWAG" guess. This represents a tremendous growth in the angler population in the last couple of years. North Carolina is one of the 5 or 6 fastest growing states in the union. We will continue to see increased pressure on this renewable public trust resource.

We need to get a "handle" on how many people' use this very valuable public trust resource. According to information gathered from the web site of the Marine Fisheries Dept., **51%** or the species that are listed are classified as **"Concern or Overfished" for the year 2000.** That compares with **49% in the same categories for the year 1999.**

We have a lot of room for improvement to say the least. Remember, **"fishermen-who are tourist-go where the fish are".**

It is for these reasons that we "endorse" and ask for your approval of this bill to establish a "recreational saltwater fishing license" for the state of North Carolina. We need to enable the dept. of Marine Fisheries to manage this important resource. They lack the proper tools to do their job, i.e. how many and who are the persons who use the fishies of North Carolina. What species do they fish for, where do they fish, when do they fish, etc?

I understand from the news media that the state of North Carolina is in a budget crisis. That you have a revenue shortage. I revisited the "**Legislative Fiscal Note**" as prepared for HB 1434 in 1999. When you adjust the numbers of anglers to include the shore based anglers as this bill does; the revenue generated from this user fee is approximately **$8.8 million dollars.** I am not sure where you come from, but where I am from that is certainly a lot of money, especially in the shortage you are facing. I could be wrong and I am certainly no expert, but that is enough money to make the dept. of Marine Fisheries self funding when you count recreation, commercial, and federal funds available to the dept. Not to mention to provide a few additional jobs in Carteret County.

What do recreational angles say about the license? The overwhelming support the users fee when the funds are dedicated to the resource according to 2 recent studies.
The membership of CCA-NC overwhelming supports a recreational saltwater fishing license. The key here is the phrase when the funds are dedicated to the resource.
Most of our members also hold WFC hunting and fishing license. They have seemed the success that has occurred in these public trust resources and want and expect the same to happen with the fisheries resources. Ladies and gentlemen, if it gets better for the recreational angler, then it has to get better for the commercial fishermen also.
They are both coming out of the same waters!

In summary, I urge you to vote to support this very important bill.

1. We need to provide Marine Fisheries the tools to mange this important resource. You would not sent you son or daughter into a athletic contest with one are tied to his or her side and expect them to compete on an equal basis with the other competors? This is exactly what you are asking Marine Fisheries to do every day?
2. Recreational anglers (over 80% support) the user fee with the funds are dedicated to The resource.
3. There is a revenue shortage this year and probably for future years. This bill will Generate approximately **$8.8 million dollars in gross revenues the second year it is effect.**
4. Recreational anglers want and deserve a way to return something to the resource that They take from. The state of North Carolina requires and hunters and fishermen agree when it comes to hunting and fishing in fresh waters of our state. It has worked well for them; we are requesting the same rights as they have been granted.

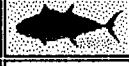
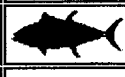
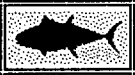
Thank You

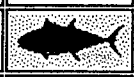
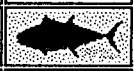
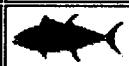
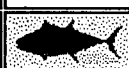
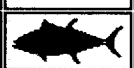
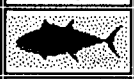
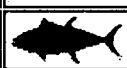
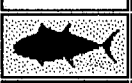
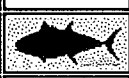
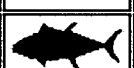
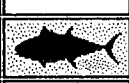
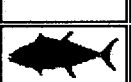
Bill Brown
Att. #3
8/14/01

North Carolina Department of Environment and Natural Resources

Division of Marine Fisheries

Stock status of important coastal fisheries in North Carolina, 2000
Click on a species name to get a more detailed report on its status.
Status definitions can be found here. **Glossary** of fisheries terms can be found here.
To view the **1999** Report go here To view the **1998** Report go here. To view the **1997** Report go here.

Species and Stock	Status					
	Viable	Recovering	Concern	Overfished	Unknown	Marine Fisheries Comments
Atlantic Croaker						Concern with lack of fish in sounds and uncontrolled catches in ocear however ocean fishery appears viable.
Atlantic Menhaden						Very high spawning stock; continued poor recruitment; reduced fishin effort.
Black Sea Bass						
N. of Hatteras						Overfished based on ASMFC assessment.
S. of Hatteras						South-Overfished based on SAFMC assessment; new size and bag limits should address concerns.
Bluefish						ASMFC/MAFMC plan developed.Biomass models infer reduced fishir mortality should result in stabilization of the stock.
Catfishes (A)						No current sampling program.
Dolphin						SAFMC plan to be adopted in fall 2000
American Eel						ASMFC plan in place. No directed sampling program.
Southern Flounder						Fishing pressure on stock is tremendous. Stock comprised primarily c young fish. NC FMP being developed..
Summer Flounder						Population consists of mostly young fish, but older fish are increasing Spawning stock biomass at record levels
Gag Grouper						Stock considered overfished by SAFMC. New size and bag limits sho address concern.
Kingfishes (A)						Growing ocean sinknet fishery south of Cape Hatteras, landings decli in 1999.
King Mackerel						The SSB and TAC continue to increase based on 1999 South Atlantic assessment. Concerns over mercury levels in larger fish.
Spanish Mackerel						The SSB and TAC continue to increase based on 1999 South Atlantic assessment.
Monkfish						FMP developed by NE/MAFMC - 10 year recovery period.
Striped Mullet						Increased effort. Landings declined in 1999. Fishery for spawning females a concern.
Red Drum						Low recruitment of juvenile stock to adult stock. NC FMP being developed.
Reef Fish (B)						Of the 73 species (including black sea bass) in the SAFMC unit, 17 ar considered overfished

River Herring (A)						
Albemarle Sound						Reduced number of age classes in harvest, low juvenile production, fewer number of repeat spawners.
Other Areas						No current sampling program.
Species and Stock	**Status**					
	Viable	Recovering	Concern	Overfished	Unknown	Marine Fisheries Comments
Scup						Stock size near record-low levels. Spawning stock biomass declining.
American Shad						No current sampling program.
Hickory Shad						Landings and abundance increasing.
Sharks						Increases in fishing pressure over the past eleven years prompted St and federal fishery management measures.
Dogfish Sharks						FMP developed for federal waters by MA/NEFMC - 5 year recovery period; ASMFC plan under development for state waters; ASMFC pla be developed for state waters
Spot						Fluctuating landings not unusual for short-lived species.
Spotted Seatrout						ASMFC plan developed. Stock status heavily dependent upon environmental conditions.
Striped Bass						
Albemarle-Roanoke						Viable
Atlantic Ocean						Viable
Other areas						No sampling program.
Atlantic Sturgeon						ASMFC is responsible for managing this species and considers the stocks to be depleted along the Atlantic coast. Landings have been lo since 1960.
Tautog						ASMFC coastal assessment based on data through 1995 determined tautog overfished and at low abundance throughout their range.
Weakfish						Strongly recovering under ASMFC FMP.
White Perch						No sampling program.
Hard Clam						Although landings data exist on clams, more data are required for sto status. North Carolina MFC FMP being developed.
Eastern Oyster						Category was shifted from "Overfished" because habitat disturbances water quality and disease play just as much of a role in status as overfishing.
Bay Scallop						Low landings and recruitment in Core Sound was caused by varying environmental conditions and heavy predation by rays.
Blue Crab						NC FMP developed and implemented. Studies ongoing to address research needs identified in FMP.
Shrimp(C)						Annual Stock. Abundances may be greatly affected by environmental conditions.
Totals 35	9	3	8	10	9	

(A) Catfishes includes 4 species, Sea Mullet includes 3 species, and there are two species of river herrings. **(B)**The reef fish group includes about 75 species, while there are more than 40 species of sharks. Within these groups, individual species range from healthy to depressed. The status indicated is for the group as a whole. **(C)**Shrimp consists of 3 species - brown, pink, and white.

North Carolina Division of Marine Fisheries

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Stock status of important coastal fisheries in North Carolina, 1999

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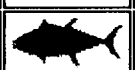
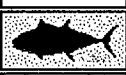
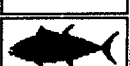
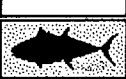
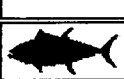
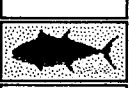
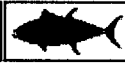
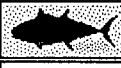
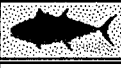
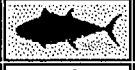
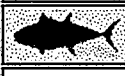
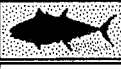
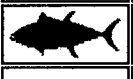
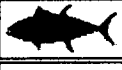
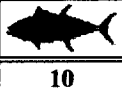
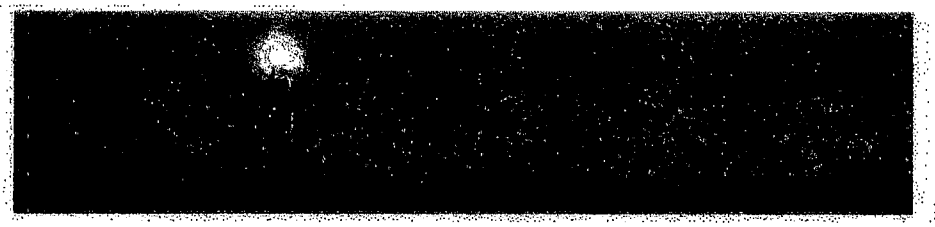
Species and Stock	Status					
	Viable	Recovering	Concern	Overfished	Unknown	Marine Fisheries Comments
Atlantic Croaker						Concern with lack of fish in sounds and uncontrolled catches in ocean, howev ocean fishery appears viable.
Atlantic Menhaden						Very high spawning stock; continued poor recruitment; reduced fishing effort.
Black Sea Bass						
N. of Hatteras						Overfished based on ASMFC assessment.
S. of Hatteras						South-Overfished based on SAFMC assessment; new size and bag limits shou address concerns.
Bluefish						ASMFC/MAFMC plan developed.Biomass models infer reduced fishing mortality should result in stabilization of the stock.
Catfishes (A)						No current sampling program.
Dolphin						SAFMC developing FMP.
American Eel						ASMFC developing FMP. No directed sampling program.
Southern Flounder						Fishing pressure on stock is tremendous. Stock comprised primarily of young fish. Fisheries are dependent on recruitment.
Summer Flounder						Population consists of mostly young fish, but older fish are increasing. Spawn stock biomass at record levels
Gag Grouper						Stock considered overfished by SAFMC. New size and bag limits should addr concern.
Kingfishes (A)						Growing ocean sinknet fishery south of Hatteras, recreational landings fairly stable.
King Mackerel						The SSB and TAC continue to increase based on 1999 South Atlantic assessm
Spanish Mackerel						The SSB and TAC continue to increase based on 1999 South Atlantic assessm
Monkfish						FMP developed by NE/MAFMC - 10 year recovery period.

Species and Stock	Status					
	Viable	Recovering	Concern	Overfished	Unknown	Marine Fisheries Comments
Striped Mullet						Landings trends have remained consistent over the long term although effort h increased.
Red Drum						Low recruitment of juvenile stock to adult stock. North Carolina MFC FMP b developed.
Reef Fish (B)						Of the 73 species (including black sea bass) in the SAFMC unit, 17 are consid overfished
River Herring (A)						
Albemarle Sound						Reduced number of age classes in harvest, low juvenile production, fewer nun of repeat spawners.
Other Areas						No current sampling program.
Scup						Stock size near record-low levels. Spawning stock biomass declining.
American Shad						No current sampling program.
Hickory Shad						Landings and abundance increasing.
Sharks						Increases in fishing pressure over the past eleven years prompted State and fe fishery management measures.
Dogfish Sharks						FMP developed for federal waters by MA/NEFMC - 5 year recovery period; ASMFC plan under development for state waters.
Spot						Fluctuating landings not unusual for short-lived species.
Spotted Seatrout						ASMFC plan developed. Stock status heavily dependent upon environmental conditions.
Striped Bass						
Albemarle-Roanoke						Viable
Atlantic Ocean						Viable
Other areas						No sampling program.
Atlantic Sturgeon						ASMFC is responsible for managing this species and considers the stocks to b depleted along the Atlantic coast. Landings have been low since 1960.
Tautog						ASMFC coastal assessment based on data through 1995 determined tautog overfished and at low abundance throughout their range.
Weakfish						Strongly recovering under ASMFC FMP.
White Perch						No sampling program.
Hard Clam						Although landings data exist on clams, more data are required for stock status North Carolina MFC FMP being developed.
Eastern Oyster						Long term decline recently intensified by parasitic mortalities. North Carolina MFC FMP being developed.
Bay Scallop						Annual Stock. Abundances may be greatly affected by environmental conditi
Blue Crab						North Carolina MFC FMP developed. Effort management strategies being developed by regional stakeholders
Shrimp(C)						Annual Stock. Abundances may be greatly affected by environmental conditi
Totals	10	3	6	11	9	

35 9 16



North Carolina Division of Marine Fisheries

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Stock status of important coastal fisheries in North Carolina, 1998

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Status definitions can be found here.

Glossary of fisheries terms can be found here.

To view the 1997 Report go here.

Species and Stock	Status					
	Viable	Stressed Recovering	Stressed Declining	Depressed	Unknown	Marine Fisheries Comments
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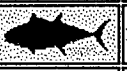
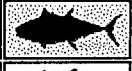
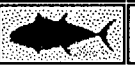
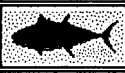
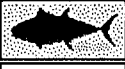
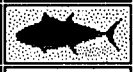
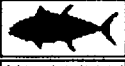
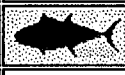
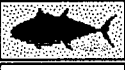
Atlantic Menhaden						Very high spawning stock; reduced fishing effort
Black Sea Bass						
N. of Hatteras						Overfished based on ASMFC assessment
S. of Hatteras						Overfished based on SAFMC assessment
Bluefish						Developing Amendment 1 to ASMFC Plan
Catfishes (A)						No current sampling programs
Southern Flounder						Catch per trip has increased rapidly. Pressure on fisheries is tremendous. No sign of decline. Effort caps are needed.
Summer Flounder						Population consists of mostly young fish, but older fish are increasing. Spawning stock biomass at record levels.
Kingfishes (A)						Growing ocean sinknet fishery south of Hatteras, recreational landings fairly stable.
King Mackerel						The SSB and TAC continues to increase based on the 1998 South Atlantic assessment.
Spanish Mackerel						The SSB and TAC continues to increase based on the 1998 South Atlantic assessment.
Striped Mullet						Catch trends have remained consistent over the long term although effort has increased.
Red Drum						Low recruitment of juvenile fish to the adult stock.
Reef Fish (B)						Of the 73 species (including black sea bass) in the SAFMC unit, 17 species are considered overfished.

River Herring (A)						
Albemarle Sound						Reduced number of age classes in harvest, low juvenile production, fewer number of repeat spawners.
Other Areas						No current sampling program.
Scup						Stock size near record-low levels. Spawning stock biomass declining.
American Shad						No current sampling program.
Hickory Shad						Landings and abundance increasing.
Sharks						Increases in fishing pressure over the past ten years have prompted State and federal fishery management measures.
Dogfish Sharks						Exponential increases in landings since 1991 and decreases in fish size are areas of concern.
Spot						Fluctuating landings not unusual for short-lived species.
Spotted Seatrout						Stock status heavily dependent upon environmental conditions.
Striped Bass						
Albemarle-Roanoke						Viable
Atlantic Ocean						Viable
Other areas						No sampling program.
Weakfish						Recovery underway under ASMFC Fishery Management Plan
White Perch						No sampling program.
Hard Clam						Although landings data exist on clams, more data are required for stock status.
Oyster						Long term decline recently intensified by parasitic mortalilites. Majority of state landings from southern sections.
Bay Scallop						Annual Stock
Blue Crab						DMF is currently preparing a FMP for the blue crab fishery. This plan must be adopted by the MFC on or before January 1, 1999.
Shrimp(C)						Annual Stock.
Totals	**10 (30.5)**	**4 (12%)**	**4 (12%)**	**5 (15%)**	**10 (30.5%)**	

28 9 4 3 5 8

(A) Catfishes includes 4 species, Sea Mullet includes 3 species, and there are two species of river herrings. (B)The reef fish group includes about 75 species, while there are more than 40 species of sharks. Within these groups, individual species range from healthy to depressed. The status indicated is for the group as a whole. (C)Shrimp consists of 3 species - brown, pink, and white.

8

ATT #5 8/14/01

Coastal Recreational Fishing License Survey

Final Report

William Clifford and Tom Hoban
North Carolina State University

John Whitehead
East Carolina University

Ron McPherson
Winston-Salem Saltwater Sport Fishing Club

with the assistance of

Jack Thigpen , UNC Sea Grant

Vernon Kelly, Coastal Carolina Community College

The research on which this report is based was financed by the UNC Sea Grant Program. Contents of the publication do not necessarily reflect the views and policies of the UNC Sea Grant Program and the mention of any trade names or commercial products does not constitute their endorsement by the North Carolina Government.

August, 1999

Executive Summary

The purpose of this study is to better understand the knowledge and attitudes of coastal recreational anglers relative to a range of issues affecting North Carolina fishery resources. Information was collected through a scientific survey of a random sample from each of the following groups:

- 100 saltwater sportfishing club members (interviewed by telephone);
- 200 commercial license holders who did not have endorsements to sell (interviewed by telephone); and
- 300 point-of-contact interviews with anglers along the coast (in-person).

Particular attention is paid to the evaluation of alternative management strategies, including a coastal recreational saltwater fishing license. The results will be used to develop strategic policy recommendations and practical action that can be taken to better protect the saltwater fisheries resources of the state. A determination is also being made of public support for and willingness to pay for the license.

All respondents had fished in saltwater during the previous 12 months in North Carolina or off its coast. The average number of days spent fishing in saltwater was 30. The average number of years respondents have been fishing along the coast was 27. The majority of respondents regularly read fishing or boating magazines, but only a small percentage belonged to conservation organizations. Fishing club members were more active in both of these activities than either license holders or point-of-contact anglers. Most respondents already had freshwater fishing licenses. The fishing gear used most often were rods and reels. Other results show that: the average number of trips was t

26 per year; the average catch is 10 fish; the average distance traveled to fish is about 99 miles; and average costs per trip is $229.00. These vary for each group.

Respondents from all groups expressed general satisfaction with saltwater fishing in North Carolina. However, over half of all respondents rated saltwater fishing along the coast as fair or poor. When asked to compare fishing today with five years ago, nearly half rated it as worse; and about a third rated it about the same. Few rated fishing today as better than in the past. Of those who thought fishing was worse, the reasons mentioned most often included: over-fishing by commercial fishermen, pollution of estuaries, and excessive netting.

There is clear support for a wide variety of alternatives for managing the saltwater recreational fishery in North Carolina's coastal area. A majority of individuals from the overall sample supported each of the following:

- more research (86%);
- increased monitoring of fishery conditions (85%);
- limits on minimum size of fish (84%);
- stronger laws to prevent loss of wetlands (83%);
- educational programs (79%);
- limits on number of fish (78%);
- public money to purchase land for buffer strips (73%);
- mandatory certification in catch and release techniques (65%);
- specific allocations and closure when quotas are met (62%);
- limits on times of the year (55%);
- limits on areas (51%);
- a saltwater fishing license (50%).

There is less support for the saltwater fishing license among license holders license holders (44%) and point-of-contact anglers (42%) than among club members (80%). However, support increased significantly among all groups when respondents were told about the conditions under which the money from the license would be used. Respondents were asked later in the interview if they would purchase the Coastal Recreational Fishing License (CRFL) at *"a cost of $15.00 if the money raised would go into a dedicated fund to improve coastal recreational fishing through habitat restoration, better enforcement, expanded research, and education. The license would also help the NC Division of Marine Fisheries get an accurate count of the number of recreational anglers."* Overall, **78 percent** of all respondents would purchase the annual CRFL under these conditions. In fact, when told that additional funding might be needed to fund improved fisheries management, 46 percent said they would be willing to pay more than $15.00 for the license. In addition, over a third (37%) of those who would not purchase the annual CRFL would purchase a one-week CRFL. Overall, **84 percent** would purchase an annual or one-week license.

The annual revenue generated from the CRFL fees will be about $11 million. A more rigorous analysis of the economic benefits of improved fishing was conducted using willingness to pay data. The maximum willingness to pay for the license is an estimate of the value of the increase in the quantity and quality of trips. Results indicate that the club sample would be willing to pay almost $100 more for the annual CRFL, license holders would pay $70 and point-of-contact anglers $47. A conservative estimate of the annual benefit from the CRFL derived from the willingness to pay analysis is that anglers wold be willing to pay $23 million for improved fishing.

In summary, there is clear support for the proposed CRFL, if the money raised is used as proposed by the Moratorium Steering Committee.

ACKNOWLEDGMENTS

We would like to thank a number of people for their assistance and valuable insight. The authors gratefully acknowledge help received from:

- David Griffith (East Carolina University)
- Larry Coble (Winston-Salem Saltwater Sport Fishing Club)
- Solo Diaby and Mike Street (Division of Marine Fisheries)
- Mike Orbach (Duke Marine Lab)
- Yevonne Brannon, Rick Shields, Art Anthony, Stephen Blackwelder, and Connelly Simmons (Center for Urban Affairs and Community Services, NCSU)
- All the anglers who participated in the study

IV. SUMMARY AND CONCLUSIONS

Most of the respondents are avid anglers. All reported fishing in the last 12 months, with fishing club members fishing 34 days on average, license holders 26 days and point-of-contact anglers, 30 day. The average number of years respondents have fished is 27. More time is spent fishing from a boat followed by the beach and piers.

While the respondents are avid anglers, most do not belong to either conservation organizations or fishing clubs. However, the majority do regularly read fishing or boating magazines and have freshwater fishing licenses. Very few have a commercial fishing license. The fishing gear used most often is rods and reels.

The majority of respondents rated fishing today in North Carolina coastal waters as fair or poor. This was the case for all sample subgroups. When asked to compare fishing with five years ago, over half reported that fishing is worse. Most of the blame is placed on over-fishing by commercial license holders, followed by pollution of estuarine waters.

Most anglers generally support a number of different alternatives for managing the saltwater recreational fishery in North Carolina including more research, increased monitoring of fishery conditions, limits on size and number of fish caught, stronger laws to protect wetlands, educational programs and a saltwater recreational fishing license. While a majority supported a license, it ranked lowest in priority. When respondents understand that money generated for a license will be used for fisheries management, the percentage supporting a license increases significantly. Also, club members were most supportive and point-of-contact anglers least supportive of these alternatives.

The number of fishing trips taken in the past twelve months is 26, with fishing club members taking 31 and the other two groups taking 25. In all cases, most trips are one-day trips. Most fish for "anything that is biting" but fishing club members and

members are most likely to feel this way. Interestingly, the majority of respondents have never attended a public hearing or contacted a government agency to voice concerns about fishing. However, nearly 70 percent of club members have done so. Most have never contributed money to a fishing cause. Among fishing club members, 86 percent have contributed money. Most respondents have some or a little trust or confidence that the government will effectively protect North Carolina's fishery. Not many have a lot of trust. This pattern is similar for each group.

There appears to be clear support for the CRFL when anglers understand that the money generated from the license will be used to manage the fishery. Furthermore, there appears to be positive attitudes about the impact of a license. There is strong sentiment that the license would help the fisheries in North Carolina, that recreational anglers need to pay to help manage the fishery and would provide better information for fisheries management. In addition to supporting a recreational license, anglers are supportive of other management alternatives as well, including research, monitoring fishery conditions, limits on size and number, mandatory certification in catch and release techniques, educational programs, stronger wetland laws and so on. A much greater commitment to education will be needed to build and maintain support for fisheries management programs.

4/14/01

Comments on H.B. 1121

- Page 3, lines 31-34 Should this section mention or match the proposed changes in the Violation Point system.

- Page 4 113-174.2 (c)
Out of state anglers should pay more than N.C. residents; KCGL charges a higher fee therefore why not CRFL

- Page 4 The exemption for 65 yr olds should include a free license for data collection purposes

- Page 8 lines 15-18 There are no terms shown also need to stagger terms

- Page 10 line 18 The DMF SHALL not may issue a CRFL ...

Ken McPherson
336 741-1320

I am here today representing the Coastal Conservation Association
I am presently the President of the Crystal Coast Chapter. CCA has 6 chapters
our chapter has members from Atlantic to Hubert and from Hoboken to Beaufort.

ATT #6
8/14/01

I AM RENNY BLANCHETTE, A CARTERET COUNTY RESIDENT AND AN OWNER OF A MARINA AT INDIAN BEACH.

IT IS A SMALL MARINA WITH ~~ROOM~~ Berths FOR 40 BOATS. 34 OF THE 40

LESSEES ARE RECREATIONAL FISHER-MEN& WOMEN.

HERE ARE 5 REASONS TO ENACT A COASTAL RECREATIONAL FISHING LICENSE. 1- NORTH CAROLINA FISH STOCKS ARE ON THE WHOLE,EXPERIENCING A DECLINE. FOR SOME SPECIES, THE DECLINE HAS BEEN SO SEVERE THAT RECOVERY TO FORMER LEVELS WILL TAKE YEARS OF CAREFUL MANAGEMENT. THE RECREATIONAL CATCH PER TRIP HAS BEEN IN DECLINE FOR MORE THAN A DECADE. WITH PRESENT TRENDS, IT WILL APPROACH ZERO IN APPROXIMATELY 36 YEARS.

2- MANAGEMENT WORKS:

REGULATIONS IN REGARD TO OVER-FISHING HAVE BEEN EFFECTIVE IN BRINGING BACK SOME SPECIES SUCH AS THE SOUTHERN FLOUNDER , AND THE DRUM

3-MANAGEMENT WOULD IMPROVE

A COASTAL RECREATIONAL FISHING LICENSE WILL ALLOW THE DIVISION OF MARINE FISHERIES TO accumulate DISSEMINATE MORE AND BETTER INFORMATION; AND THE BETTER INFORMATION FROM ANGLERS, THE LARGEST USER GROUP, WILL LEAD TO BETTER MANAGEMENT OF OUR STATE`S FISHERIES.

4-THE ANGLERS WANT IT

A VALID, OBJECTIVE POLL BY NC STATE UNIVERSITY FOUND THAT ALMOST 80% OF THE NORTH CAROLINA RECREATIONAL ANGLERS SUPPORT A COASTAL RECREATIONAL FISHING LICENSE, WITH THE REVENUES FROM THE LICENSE TO BE USED TO MANAGE AND ENHANCE OUR FISH RESOURSES. RECREATIONAL ANGLERS SHOULD HELP PAY FOR OUR STATE FISHERIES REGULATIONS AND CONSERVATION, AND HAVE A VOICE IN ITS MANAGEMENT.

5-THE STATE NEEDS THE MONEY

THROUGH A $15 ANNUAL LICENSE FEE, THE COASTAL RECREATIONAL FISHING LICENSE WILL PROVIDE 6 TO 8 MILLION DOLLARS PER YEAR. NEW DOLLARS TO PROVIDE THE RESEARCH, OVERSIGHT, RESOURCE PROTECTION AND ENFORCECEMENT THAT IS NEEDED AT A TIME WHEN OUR STATE GOVERNMENT FACES A SEVERE SHORTAGE OF FUNDS. THIS $15 ANNUAL LICENSE IS THE SAME AMOUNT THE STATE PRESENTLY CHARGES FOR A FRESH WATER LICENSE.

THERE IS NO LOGIC IN REQUIRING A LICENSE TO FISH IN FRESH WATER , BUT NOT IN SALT WATER.

THANK YOU

Mac Currin
ATT. #7
8/14/01

House Environment Committee-- August 14, 2001

Mac Currin
Marine Fisheries Commission

I serve as the Govenor's Sport Fishing Industry appointee to MFC. Twice in the past few years, the Marine Fisheries Commission has sent to you, resolutions supporting a Coastal Recreational Fishing License.
Today - I'm speaking ASA recreational angler a citizen of N.C.
In many ways, North Carolina is a leader in the area of Marine Fisheries Management. In many of the approaches, programs and laws that our Legislature, the DMF and the MFC have instituted, we are the model and envy of other coastal states-- our trip-ticket program, begun in 1994 is being modeled and implemented by a number of states-- our Fisheries Resource Grant Program also serves as an innovative model for other coastal states-- in 1997, our legislature passed the Fisheries Reform Act that signalled a new direction in our state's approach to fisheries and habitat management. That legislation marked NC as a progressive leader in those areas. The FRA established a means of managing fish and fish habitat through the requirement of state developed and implemented plans-- these hold the promise of sustainable marine resources far into the future. This Act partially restructured our licensing system. I say partially, because a key component of the recommendations that served as the basis for the FRA-- 2 years of work and 20 staewide public hearings-- was omitted from the final legislation.

That omission was the Coastal Recreational Fishing License and that missing component is what further separates NC from other coastal states. However, contrary to those innovative programs and laws I mentioned earlier, this difference is on the other end of the spectrum. NC is one of, if not the only coastal state, that DOES NOT have some form of a saltwater recreational fishing license in place. And to be frank with you, the fact that we do not have a recreational license, it is hurting our state and our ability to manage and enhance our marine resources as directed by the FRA..

It is hurting us by preventing the accurate collection and analysis of recreational anglers impacts on our resources. It is hampering the full implementation of of our Fishery and Coastal Habitat Protection Plans. And now, in the midst of the State's current budget woes, it is hampering the ability of the Division and the Commission to carry-out their mandates to serve as stewards of our state's marine resources.

Every poll, survey or study done in NC has found that a properly structured license has the support of a vast majority of North Carolina's anglers. Anglers want to be allowed to help fund resource enhancement, better enforcement and proper managment of our State's marine resources for all user groups. Studies from other states routinely show that a license has NO negative effect on coastal economies-- (some have even found a positive economic effect?).

In summary, I see so very many reasons to pass and implement a license and NO reasons to delay or not implement one.

I hope that our elected Representatives will listen to the anglers of our state, recognize the needs of our agencies responsible for stewardship of our resources and move this bill forward for the betterment of our state. THANK YOU.

Bill Hitchcock
Att # 8
8/14/01

The Recreational Saltwater Fishing License
It Is Not Fair and Equitable
And Here's Why!

In 1996, the Moratorium Steering Committee in its final recommendations to the General Assembly, set up a list of priorities for instituting a recreational saltwater fishing license.
They were 1) to count the fishermen. 2) To count the amount of fish being caught and 3) Resource enhancement.
Through blanket exemptions for piers and charter/head boats, House Bill 1121 does not accomplish these priorities. And, because of these exemptions it is not fair and equitable towards all the people who use the resource.

You can't get an accurate overall count if you exempt very key and very large user groups like pier fishermen and those who charter boats.
According to the NCDMF, last year 1,665,748 fishing trips were from a manmade structure (According to DMF, "The over whelming majority in this category are pier fishermen.), And 183, 219 trips were fished from a chartered boat.
All totaled together, over 1.8 million fishing trips were taken last year in North Carolina that would not be included, or exempt under HB 1121
This goes against the original intent of having a recreational saltwater fishing license, which was to count the fishermen and count the fish.
It is not fair and equitable.
The resource is supposed to be enhanced by the funds that are generated by this very user group that is being omitted.
So how do you compensate for this inaccurate count?
Surveys. Surveys will have to be performed to compensate for not counting all recreational saltwater fishermen. This will be the only way to determine the total number of fishermen and the total amount of fish caught.
Surveys invalidate the very need for a license for two reasons.

1) The top priority for the license is not being accomplished, which is to count. You are not "counting" but "surveying" the user group.

So therefore the license is not needed because

2) a very comprehensive survey is already being done by the NC Division of Marine Fisheries. Each year 20,000 people are surveyed on site (Piers, beaches, boat ramps, etc.) and an additional 20,000 people are telephone surveyed. Bringing the total of 40,000 people surveyed in North Carolina each and every year.

As an example, To show how comprehensive the DMF survey is, the Nielsen Television Rating system with their overnight ratings only survey's 5000 households across America.

5000 households across America determine what over a quarter of a billion people watch each and every night. DMF surveys 40,000 people for a state of just over 7.5 million.

Why do we need a license that will be dependant on surveying when one of the most comprehensive surveys there is, is already being done?

Monies to be raised by a license are intended for resource enhancement

According to the NC Department of Commerce, there were almost 11 million people who visited the coastal region of NC in 1999. The latest DMF statistics show that there were 1.8 million recreational saltwater fishermen last year.

Why should approximately 16% of the total coastal user group bare all of the expense for resource enhancement? The purpose of the license is to generate funds from the user group. Why are we omitting almost 85% of that very same user group that access, use and enjoy coastal North Carolina.

The recreational saltwater license is a bad idea because it does not accomplish what it was intended to do and it is not fair and equitable to all who utilize the coast of North Carolina.

ATTACH #9 8-14-01

COMMENTS BY JERRY SCHILL, PRESIDENT, NC FISHERIES ASSOCIATION
House Environment & Natural Resources Committee
August 14, 2001

Thank you Mr. Chairman and members of the Committee. I'm Jerry Schill with the North Carolina Fisheries Association. I'll keep my comments brief, but I do have to note that I believe you're addressing this issue because you missed me.

One issue that has not really been addressed by this Committee regarding the fishing license is a seat at the table. Some time ago, I was asked why we are not in favor of allowing recreational fishermen a seat at the table. Mr. Chairman, when one needs a LICENSE to exercise his first amendment rights of free speech in this great state, we're in deep trouble. Recreational fishermen already have a seat at the table. You already heard from Mac Currin who is one of 3 recreational fishing interests who serve on the Marine Fisheries Commission. Recreational interests also serve on the various advisory panels. Again, let's put this issue to rest. No one should need to buy a license to feel that they have a voice in this state.

Some folks have a real hard time understanding why commercial interests are opposed to the licensing of recreational fishermen. I've used this rhetorical question to answer that:

"What kind of business person would agree to infuse a bureaucratic regulatory agency with millions of dollars to regulate his way of life?" My answer: A really stupid one!

It makes no difference whether this license brings in 5 million, 10 million or 20 million dollars, the bureaucracy will spend it if it goes into a special fund! Throwing money at a problem does not necessarily solve it. That has been proven time and time again by government attempts at solving problems. This license provides that the proceeds of the license would go to a special fund and the entire amount would be spent within the bureaucracy.

One way to make this issue more palatable is to have the proceeds going into the General Fund, rather than a segregated fund. After all, the General Assembly has been given the responsibility of adopting the state budget and is in charge of the "purse". The legislature then, could decide how much the regulatory agency is going to receive and how it is spent.

We say that, Mr. Chairman, because we trust you.

Thank you.

ATTACH # 10 8-14-01

The NC Sierra Club and the NC Wildlife Federation have long supported a CRFL for NC. We supported the original package of fisheries reform that came out of the Moratorium Steering Committee in 1995. Five years after the Committee completed its work, NC fisheries are still in trouble--we read about flucuating fish stocks in the newspapers almost every week. The CRFL is the ONLY major piece of that package that hasn't been implemented and represents a huge gap in the state's plans for protecting NC fisheries.

The bottomline is that we DON'T know how many fish are being caught or what kinds are being caught--to develop sound & credible dishery management plans, we need this data. We need sound information, and a license will help supply this info. Rec. fishermen make up the bulk of fishing harvest occurring on the coast. The majority of Rec Fishermen support the license as does the largest organization taht represents rec. fishermen.

Of the 20 eastern coastal states, only NC doesn't require a license for a least some type of rec. slat water fishing. In NC, hunters & freshwater fishermen have been required to be licensed for decades and the funds generated have been a boon to those programs. This license will not hurt tourism either. In the end, a license will help w/ enhancement of our fisheries, which will create more fish, & more fish means more money for coastal NC.

The warning signs of trouble in our fisheries have been visible for years. We need to act now for the long-term protection of our fisheries. Thank you for you attention and support of the NC CRFL.

David Knight
Lobbyist--NC Sierra Club, NC Wildlife Federation

VISITOR REGISTRATION SHEET

Env.
Name of Committee

8-14
Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jerry SCHILL	NC Fisheries Assoc.
Alan Briggs	S.U.S.
Oak McKee	Scenic North Carolina
Kim Hibbard	NCLM
FRAN NOCAN	GRASSROOTS SCIENCE MUSEUMS
Ron McPherson	Winston-Salem Saltwater Sport Fishing Club
Judith McPherson	" " " " " "
Christopher Hollis	Hollis Bass
Ed Regan	N.C.A.C.C
Chris Elkins Ph.D	Univ of NC@Chapel Hill
George Everett	Duke Energy
Ross M. Smith	PCS PHOSPHATE
Bill Hitchcock	SELF
Moy Biswas	SELF
BILL MANDULAK	N.C. SALTWATER FISHING CLUB
Wm A. Lambeth III	CCA-NC
Austin Ragsdale	CCA-NC
Bo Nowell	CCA-NC, Raleigh Saltwater Sportfishing Club
Kendyle Stout	CCA-NC
Nick Blackburn	CCA-NC
Mark Mund	CCNC
Mel Broughton	self
Bo Bennett	self
David Devine	self
Lloyd WATKINS	CCA-NC - Wilmington, NC
Renny Blanchette	CCA-NC Crystal Coast Chapter
MELISSA SHAW	CW MTF
Henry M Lancaster III	LCA

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McMillan	N.C. Conservation Network
David Knight	NC Wildlife Fed, NC Sierra Club
Molly Diggins	NC Sierra Club
MAC CORRIN	NC MAR. FISH. COMM

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

August 21, 2001

1. Call to Order – Representative Daniel F. McComas, Presiding
2. Agenda Items

   HB 1121 Coastal Recreational Fishing License. – Rep. Gibson

3. Adjournment

Linda Uzzle (Rep. Warwick)

From: Shirlyn MacPherson (Rep. Gibson)
Sent: Thursday, August 16, 2001 10:42 AM
Subject: August 21, 2001 -Environment Committee Meeting

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ENVIRONMENT & NATURAL RESOURCES** will meet as follows:

DAY & DATE: **Tuesday, August 21, 2001**

TIME: **12:00 noon**

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

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

HB 1121 – COASTAL RECREATIONAL FISHING LICENSE
Representative Gibson

Respectfully,

Representatives Gibson, McComas, Warwick
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:00 am on August 16, 2001**.

___Principal Clerk
___Reading Clerk - House Chamber

Shirlyn MacPherson (Committee Assistant)

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

AUGUST 21, 2001

The House Committee on Environment and Natural Resources met August 21, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson and McComas, Vice-Chairmen Cox, Underhill, and Weiss, and Representatives Allen, Bowie Davis, Gray, Gulley, Hackney, Hill, Insko, Mitchell, Preston, Smith, Warner and Weatherly.

Chairman McComas called the meeting to order at 12:06 pm. Action was taken on the following bill:

HB1121 – COASTAL RECREATIONAL FISHING LICENSE. (See attachments #1 and 1a). This bill establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes. Representative Gibson presented the bill before the committee. Speakers in favor of the bill were Mr. Preston Pate, Director of Division of Marine Fisheries, Morehead City, North Carolina and Mr. Dough Hoffman, representative from Dough White Boats, Inc., Greenville, North Carolina. Those speaking in opposition to the bill were Mr. Terry Pratt, Commercial fisherman from Merry Hill, North Carolina, and Mr. Jerry Schill, North Carolina Fisheries Association. Arguments for the bill included a report on the management and status of the various fish species found in North Carolina waters (See attachment #2), the decline of which did not occur quickly and would not return quickly, but would take time and resources. Those in favor listed the Coastal Recreational Fishing License as a "means to an end" to fund the management and enhance marine resources for present and future generations, noting that commercial fishermen are presently licensed and counted, and also noted that recreational saltwater fishing is big business in some counties and not just a popular pastime, citing Carteret County (See attachment #3). Those opposed to the bill stated throwing money at the problem would not solve it, only fish management plans and time would work. Fish management plans require the public to be a part of the product, and most ordinary people see the saltwater recreational fishing license as another bureaucratic involvement and fear it is just a beginning of restrictions and control over landings and other public areas. Opponents also stated policing of the state's own agencies needed to be more closely monitored as they side-step rules. Habitat is said to be the primary answer to enhancing the fishing in North Carolina, and licensing is not seen as a way to improve fishing in North Carolina according to those opposing the bill.

Following a brief question and answer period, Representative Gibson reported that this bill has fewer exemptions that it had last year. Representative Preston noted it was not fair to exempt anyone. At this time Representative Gully moved for an amendment to the bill on page 5, lines 38 and 39, which refers to the Lifetime Resident and Lifetime Sportsman licenses (See attachment #4). Amendment was adopted.

Representative Underhill asked about record keeping on piers and commercial boats. Representative Gibson assured her that all commercial boats must keep a log, and that all license holders, charter boats, etc. have to comply with inspections. At this time, Representative Gibson moved for an amendment on page 5, lines 12 through 18, regarding the length of the fishing vessel (See attachment #5). Amendment was adopted. Representative Gibson also moved to amend the bill on page 7, lines 27 and 28; page 7, lines 35 through 37; page 7, line 38; page 8, lines 3, 6, and 9. This amendment reflects the new monetary percentage amounts that will be used for enforcement, management, and resource development (See attachment #6). The amendment was adopted.

At this point of discussion, several members stated they could not support the bill.

Representative Gibson moved to amend the bill on page 6, lines 8 through 17, and on page 10, lines 18 through 21. This amendment refers to commercial gear, gill nets, and a Lifetime CRFL (See attachment #7).

Representative Weiss moved to fold the amendments and incorporate them into a new PCS, unfavorable to the original bill, and re-refer to the Finance Committee. Seconded by Representative Gray.

Chair McComas called for a vote on the bill. Representative Davis asked for a roll call vote. The vote was taken with the outcome being 14 – 4 in favor of the bill (See attachment #8). The bill was then re-referred to the Finance Committee.

The meeting was adjourned at 12:57 pm.

Representative Daniel McComas
Chairman

Linda Uzzle
Committee Assistant

8-21-01 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1121

Short Title:	Coastal Recreational Fishing License.	(Public)
Sponsors:	Representatives Redwine, Gibson (Primary Sponsors); Alexander, Hackney, Hensley, Hurley, Luebke, McLawhorn, Russell, Underhill, Wainwright, and C. Wilson.	
Referred to:	Environment and Natural Resources, if favorable Finance.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources so that more fish will be available on a sustainable basis for commercial and recreational harvest; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; Now, therefore,

The General Assembly of North Carolina enacts:

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

"Article 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing licenses.**

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any person to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any person to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize a person who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. – A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. – It is unlawful for any person to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for a person to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. – The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. – It is unlawful for any person to hold any license issued under this Article to the person as a North Carolina resident if that person holds any commercial or recreational fishing license issued by another state to the person as a resident of that state.

(h) Limitations on Eligibility. – A person is not eligible to obtain a license under G.S. 113-174.3 if, at the time the person applies for the license, any other license or endorsement issued to the person under G.S. 113-174.3 or Article 14A of Chapter 113 of the General Statutes is suspended or revoked. A person is not eligible to obtain a license under G.S. 113-174.3 if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under G.S. 113-174.3 shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. – The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. A person in possession of a cancelled license shall

surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. – The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any person to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any person licensed under this section or fishing under a CRFL to possess fish in excess of recreational possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. – The Division shall issue the following CRFLs:

(1) Standard CRFL. – $15.00. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. – $5.00. This license is valid for a period of 10 days.

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than six years of age	$100.00
b.	Between six and 11 years of age	$150.00
c.	Between 11 and 17 years of age	$200.00
d.	Between 17 and 65 years of age	$250.00

(4) Permanently Handicapped or Disabled Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is permanently handicapped or disabled. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(5) Disabled Veteran Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled war veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under

this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all persons on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any person on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 18 feet or less in length	$1.50 per foot
(2)	Vessel of greater than 18 feet in length but less than 38 feet in length	$2.25 per foot
(3)	Vessel of 38 feet or greater in length	$4.50 per foot

(e) Ocean Fishing Pier Blanket CRFL. – A person who owns or operates an ocean fishing pier and who charges a fee to allow a person to engage in recreational fishing by means of recreational gear from the pier shall purchase an Ocean Fishing Pier Blanket CRFL. An applicant for an Ocean Fishing Pier Blanket CRFL shall disclose the names of all parties involved in the pier operation, including the owner of the property, the owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier. The Ocean Fishing Pier Blanket CRFL entitles all persons on the pier who do not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for an Ocean Fishing Pier Blanket CRFL is one dollar ($1.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier. Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-174.1(f).

(f) Exemptions. – A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

(1) Is under 16 years of age.
(2) Is 65 years of age or older.
(3) Holds a SCFL or a RSCFL.

(g) If a state that requires a license to engage in recreational fishing by means of recreational gear recognizes through statute, rule, or reciprocal agreement the validity of a CRFL within its boundaries, North Carolina shall recognize the validity of a license to engage in recreational fishing by means of recreational gear held by a resident of that state.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. – Except as provided in subsection (e) of this section, it is unlawful for any person to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Authorized Commercial Gear. – The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational fishing.

(c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. –

(1) A person who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) A person may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. Sealife Enhancement Fund.**

(a) Definitions. – As used in this section:

(1) 'Fund' means the Sealife Enhancement Fund.

(2) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Sealife Enhancement Fund Established. – The Sealife Enhancement Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Commission shall administer the Fund with the advice of the Sealife Enhancement Advisory Committee.

(c) Allocation of Moneys From the Fund. – The Secretary shall disburse moneys from the Fund only upon the written direction of the Commission. The Commission shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Law enforcement. – Not less than twenty percent (20%), but no more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(3) Marine fisheries research. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies,

and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(4) Grants. – Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

(5) Administration. – Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(6) Public education and information. – Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund, shall be used for public education and information.

(d) Sealife Enhancement Advisory Committee. – The Sealife Enhancement Advisory Committee shall advise the Commission on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven persons each of whom holds a CRFL at the time of appointment. A person appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. – The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by 30 September of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms and other documents, ledgers,

and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license."

SECTION 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 3. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 4. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 5. G.S. 113-168.1(g) reads as rewritten:

"(g) Limitations on Eligibility. – A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article or G.S. 113-174.3 is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license."

SECTION 6. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with G.S. ~~113-169.4.~~ 113-174.2(e). The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

SECTION 7. G.S. 113-169.4 is repealed.

SECTION 8. G.S. 113-172 is repealed.

SECTION 9. G.S. 113-173 is repealed.

SECTION 10. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear."

SECTION 11. The Division of Marine Fisheries may issue a Lifetime CRFL under G.S. 113-174.2(c)(4) without charge to a person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman Combination License under G.S. 113-270.1D(b).

SECTION 12. The Joint Legislative Commission on Seafood and Aquaculture shall study issues related to the establishment of a unified recreational fishing license for recreational fishing in both the inland and coastal fishing waters of the State. The Commission shall make specific findings as to whether a unified licensing system should be adopted for recreational fishing in the State and, if so, what that system should be and how it should be implemented. The Commission shall present its findings and recommendations, if any, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 13. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 14. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 15. Sections 10, 10.1, 12, and 15 of this act are effective when this act becomes law. All other sections of this act become effective 1 March 2003. Section 11 of this act expires 31 December 2003.

8-21-01 AM # 1A

HOUSE BILL 1121:
Coastal Recreational Fishing License

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Redwine and Gibson
Date:	August 21, 2001	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	First Edition		

Section 1 establishes a program for the licensing of coastal recreational fishing under a new Article 14B in Chapter 113 of the General Statutes.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission.
- CRFL means Coastal Recreational Fishing License.
- Division means the Division of Marine Fisheries.
- RCGL means Recreational Commercial Gear License.
- Recreational fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes.

G.S. 113-174.1 – General Provisions Governing Coastal Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements.
- A CRFL does not authorize the license holder to sell fish taken under the license.
- Assignment or transfer of a CRFL is prohibited.
- A CRFL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary.
- A person engaging in recreational fishing must have a CRFL issued in the person's name available for inspection.
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address.
- A person may not hold a recreational fishing license as a North Carolina resident and hold a commercial or recreational fishing license as a resident of another state.
- A person isn't eligible to obtain a RCGL if the person's recreational or commercial fishing license has been suspended or revoked or the person has been responsible for 4 or more violations of marine fisheries laws in the 3 years prior to the date of application.
- The Division may cancel a CRFL issued on the basis of false information.
- A CRFL holder must comply with the Division and Commission's sampling and survey programs.

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard and Ten-Day CRFL may be purchased from authorized license agents.

Types of CRFL's:

Standard CRFL	$15.00	One year duration
Ten-Day CRFL	$5.00	Ten day duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
Between 6 and 11 years of age	$150.00	
Between 11 and 17 years of age	$200.00	
Between 17 and 65 years of age	$250.00	
Lifetime CRFL for holders of: **(Effective for 10 months -- See Section 11)*		
Lifetime Resident Comp. Fishing License	No charge	Lifetime duration
Lifetime Sportsman Comb. License	No charge	Lifetime duration
Permanently Disabled Lifetime CRFL	No charge	Lifetime duration
Disabled Veteran Lifetime CRFL	No charge	Lifetime duration
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		One year duration
Vessel of 18 feet or less	$1.50/foot	
Vessel between 18 and 38 feet	$2.25/foot	
Vessel of 38 feet or more	$4.50/ foot	
Ocean Fishing Pier Blanket CRFL	$1.00/linear foot	One year duration

Exemptions: A person may engage in recreational fishing by means of recreational gear without holding a CRFL if the person:

- Is under 16 years of age.
- Is 65 years of age or older.
- Holds a Standard Commercial Fishing License or a Retired Standard Commercial Fishing License.

Reciprocity: North Carolina will recognize a recreational fishing license issued by another state, if that state recognizes a CRFL issued by North Carolina.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes.

G.S. 113-174.4. – Sealife Enhancement Fund

Establishes the Sealife Enhancement Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's. The Secretary of Environment and Natural Resources shall disburse moneys from the Fund only upon written direction from the Commission. The Commission shall use moneys from the Fund as follows:

- Resource and Habitat Enhancement: Not less than 25%.
- Law Enforcement: Not less than 20%, but no more than 25%.
- Marine Fisheries Research: Not less than 25%.
- Grants for coastal fishing programs and scholarships: Not more than 5%.
- Administration: Not more than 10%.
- Public Education and Information: Not less than 5%, but no more than 10%.

The Commission will be assisted by the Sealife Enhancement Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL, to be appointed by the Governor.
- The Director of the Division of Marine Fisheries or the Director's designee (*ex officio* and non-voting).
- The Chair of the Marine Fisheries Commission or the Chair's designee (*ex officio* and non-voting).

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold.
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents.

Sections 2 through 10 make technical, clarifying, and conforming changes.

Section 11 authorizes the Division to issue a Lifetime CRFL without charge to any person who holds a Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman Combination License. This authorization is effective from March 1, 2003 through December 31, 2003.

Section 12 directs the Joint Legislative Commission on Seafood and Aquaculture to study the establishment of a unified license for recreational fishing in both inland and coastal fishing waters.

Section 13 authorizes every agency to which this act applies to adopt temporary rules until all rules necessary to implement the provisions of the act become effective.

Section 14 is a severability clause.

Section 15 provides that the licensing provisions of this act become effective March 1, 2003.

8-21-01 ATT#2

North Carolina Department of Environment and Natural Resources

Division of Marine Fisheries

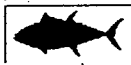
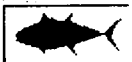
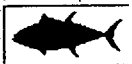
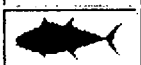
DMF Home | About DMF | Contact DMF | DMF Offices

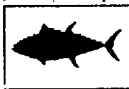
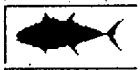
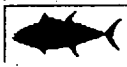
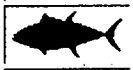
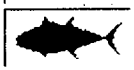
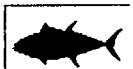
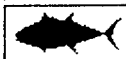
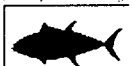
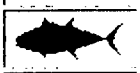
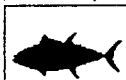
Stock status of important coastal fisheries in North Carolina, 2001

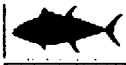
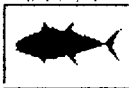
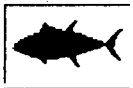
Click on a species name to get a more detailed report on its status.

Status definitions can be found here. **Glossary** of fisheries terms can be found here.

To view past reports follow these links **2000 Report** | **1999 Report** | **1998 Report** | **1997 Report**

Species and Stock	Status					
	Viable	Recovering	Concern	Overfished	Unknown	Marine Fisheries Comments
Bass, Black Sea						
N. of Hatteras						Overfished based on ASMFC assessment.
S. of Hatteras						Overfished based on SAFMC assessment; new size and bag limits should address concerns.
Bass, Striped						
Albemarle-Roanoke						NC FMP being developed to manage recovered stock
Atlantic Ocean						ASMFC developing Amendment 6 to manage recovered stock
Other areas						Stocks are much lower than historical levels. Despite stocking efforts, numbers of mature fish on the spawning grounds are relatively low.
Bluefish						ASMFC/MAFMC plan developed.Biomass models infer reduced fishing mortality should result in stabilization of the stock.
Catfishes (A)						No current sampling program due to budget and personnel constraints
Croaker, Atlantic						A recruitment driven stock where biomass and landings fluctuate in response to large year classess. The ocean fisheries appear viable and there has been a recent expansion of the length distribution from inside waters.
Dolphin/Wahoo						SAFMC plan to be approved and implemented in 2001
Drum, Red						Low recruitment of juvenile stock to adult stock. NC FMP finalized April 2001.
Eel, American						Much remains unknown about American eel life history and fisheries. Juvenile recruitment survey for North Carolina was initiated in 2000 as part of the ASMFC eel FMP.
Flounder, Southern						Stock appears viable, but is dependent on older fish escaping fishing mortality. Work is underway to validate the occurrence of escapement. Fishery Management Plan is being developed.

Species and Stock	Status					Marine Fisheries Comments
	Viable	Recovering	Concern	Overfished	Unknown	
Flounder, Summer						Dramatic improvements in age distribution, spawning stock biomass and fishing mortality have occurred since the early 1990's. The stock appears to be near viable status.
Grouper, Gag						Stock considered overfished by SAFMC. New size and bag limits should address concern.
Herring, River (A)						
Albemarle Sound						River Herring FMP approved by MFC February 2000. Reduced number of age classes in harvest, low juvenile production, fewer number of repeat spawners.
Other Areas						No current sampling program.
Kingfishes (A)						Growing ocean sinknet fishery south of Cape Hatteras, commercial landings declined slightly in 2000, recreational catch increased significantly.
Mackerel, King						The SSB and TAC continue to increase based on 1999 South Atlantic assessment.
Mackerel, Spanish						The SSB and TAC continue to increase based on 1999 South Atlantic assessment.
Menhaden, Atlantic						Very high spawning stock; continued poor recruitment; reduced fishing effort.
Monkfish						FMP developed by NE/MAFMC - 10 year recovery period.
Mullet, Striped						2000 landings were the largest reported since 1993. Trends of increasing effort and smaller size structure of the population are considerable cause for concern for this species.
Perch, White						No sampling programs due to budget and personnel constraints
Perch, Yellow						No sampling programs due to budget and personnel constraints
Reef Fish (B)						Of the 73 species (including black sea bass) in the SAFMC unit, 17 are considered overfished
Scup						Stock size near record-low levels. Spawning stock biomass declining.
Shad, American						ASMFC plan in place. DMF conducting fishery dependent and independent sampling.
Shad, Hickory						Landings and abundance increasing.
Sharks						Increases in fishing pressure over the past eleven years prompted State and federal fishery management measures.
Sharks, Dogfish						Harvest in state waters controlled by ASMFC emergency rule. FMP developed for federal waters by MA/NEFMC. ASMFC plan under development for state waters.

Spot						Fluctuating landings not unusual for short-lived species.
Spotted Seatrout						ASMFC plan developed. Stock status heavily dependent upon environmental conditions.
Sturgeon, Atlantic						ASMFC is responsible for managing this species and considers the stocks to be depleted along the Atlantic coast. Coast-wide prohibition on possession.
Tautog						Current ASMFC coastwide assessment considers tautog overfished. NC statewide assessment has not be conducted.
Weakfish						Viable based on all criteria. Record high spawning stock biomass, expanded age structure, and low fishing mortality.
Shellfish and Crustaceans						
Clam, Hard						Although landings data exist on clams, more data are required for stock status. NC FMP being developed.
Oyster, Eastern						Concern status due to high mortality from Dermo infections, evidence of increased oyster habitat loss, low catch-per-unit-effort, and reduced spatfall in the northern area.
Scallop, Bay						Low landings and recruitment in Core Sound was caused by varying environmental conditions and heavy predation by rays.
Crab, Blue						Statewide blue crab landings during 2000 were below landings in the late 1990's, most likely due to lingering impacts on habitat and water quality in the Pamlico Sound area from the 1999 hurricanes. Landings in the Albemarle area and Southern District were relatively normal compared to recent years.
Shrimp(C)						Annual Stock. Abundances may be greatly affected by environmental conditions.
Totals	**10**	**2**	**12**	**10**	**6**	

(A) Catfishes includes 4 species, Kingfishes (Sea Mullet) includes 3 species, and there are two species of river herrings. **(B)**The reef fish group includes about 75 species, while there are more than 40 species of sharks. Within these groups, individual species range from healthy to depressed. The status indicated is for the group as a whole. **(C)**Shrimp consists of 3 species - brown, pink, and white.

8-21-01 ATT #3

GRADY-WHITE

Statement Of

Douglas J. Hoffman
Facilities, Aviation, and Purchasing Manager
Grady-White Boats, Inc.
A Privately Owned and Operated Boat Company

To the House Environmental Committee
House Bill 1121
Coastal Recreational Fishing License

Grady-White is a family owned and operated manufacturer of 18' to 33' recreational family sports fishing boats that has been in business since 1958. I write not only on behalf of the 400 employees of Grady-White, but also the 10,000 direct employees of the other 75 boat builders in NC, the 10,000 employees of 450 marinas in NC, the employees of 75 boat yards, 75 marine construction businesses, 400 boat sales businesses, and the 2,500 small support businesses in NC that are directly affected by the quality of our marine resources.

In the mid 1990's, in response to rapidly declining fish stocks, the NC General Assembly halted the sale of commercial fishing licenses and formed the Moratorium Steering Committee (MSC) composed of commercial and recreational users of our marine resources. The MSC was charged with development of recommendations for improving marine fishery management in North Carolina.

In 1997, as a result of the MSC studies, the General Assembly passed the landmark Fisheries Reform Act. The legislation included many of the MSC recommendations including the development of Fishery Management Plans (FMP) for various species of fish. The MSC

GRADY-WHITE BOATS, INC.
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recommendations called for a Coastal Recreational Fishing License, but this was not acted upon due to disagreement on the terms of the license bill and the rush to pass the Fisheries Reform bill in the waning days of the legislative session.

The Coastal Recreational Fishing License is important to NC because it is a "means to an end." It is a way to fund the management and enhancement of our marine resources for present and future generations of recreational and/or commercial anglers. Commercial fishermen are already licensed and counted. The easiest way to collect data on the number of recreational fishermen is by requiring them to be licensed. The list of licensed anglers will give the DMF the tools needed to do scientifically valid studies in numerous areas. The amount of fishing pressure on a given species, success rates, gear types, economic impacts, and other information can be attained through the use of this data. It can be used to educate existing anglers on existing regulations concerning size and creel limits. It will also track out of state anglers that are a very large consumer of the marine resources in our state.

The funds generated by the CRFL will give the DMF much needed funding to carry out it's mandate of developing FMP's for all significant marine species. The current breakdown of spending is 25% for research, 25% for enforcement, 25% for habitat enhancement, 15% for grants and public education, and a maximum of 10% for administration will vastly enhance the DMF's ability to do the job they have to do. It is of great importance that the money generated by this license is kept in a separate fund and the oversight of the spending be controlled by the recreational anglers who generated the revenue. In a study done by NC State University some

years ago, the vast majority of anglers supported a CRFL if it was structured in the manner of H1121 with the funds being dedicated to the resource.

The economic impact of recreational fishing is absolutely huge in this state. I will not go into detail on this subject, rather I refer you to the attached study done by Herb Stanford, which details the economic impact of recreational fishing in just one eastern area that relies on fishing dollars heavily, Carteret County. A properly managed fishery resource could compound this economic impact for the betterment of all NC residents.

In closing, I would like to add that every other coastal state from Texas to Delaware already require licenses for people to fish in their coastal waters. Anglers in those states enjoy better fishing due to the reasons mentioned above and NC residents that fish in those states have to donate to their resource. Why shouldn't they donate to help our resource when they come here? Help us have better fishing. Help those of us that rely on a viable fishery resource for our livelihood. Pass H1121 in its entirety this summer.

RECREATIONAL FISHING – CARTERET COUNTY ECONOMIC ENGINE

Herb Stanford

CARTERET COUNTY (NC) – Recreational saltwater fishing may be just a popular pastime for lots of people, but it's big business in Carteret county.

Data provided by the NC Department of Marine Fisheries (NCDMF) show that, annually, recreational fishermen spend $70 million or more in Carteret County buying tackle and fishing supplies, paying for motels, and buying food and gas. These expenditures translate into almost 2000 jobs, putting over $25 million into local paychecks.

An additional $130 million in annual economic impact is generated by recreational boat builders, local tackle manufacturers, and Henry's, one of the largest tackle wholesalers in the country, all as shown by the 1997 Economic Census for the county. These businesses employ over 600 people with an annual payroll exceeding $12 million.

As indicated in the following table, recreational fishing ranks second, behind retail sales and ahead of general tourism, as a county economic engine.

Rank	Economic Engine	Total Sales, Receipts, or Shipments ($1000) 1997
1	Retail Sales	508,809
2	Recreational Fishing	198,965
3	Tourism	188,000
4	Manufacturing	136,530
5	Health Care	51,539
6	Wholesale Trade	33,273
7	Professional Services	30,818
8	Commercial Fishing (Harvesting)	26,960
9	Administrative Services and Waste Management	24,753
10	Other Services	20,037
11	Commercial Fishing (Processing/Wholesale)	17,516

Recreational fishing far outranks commercial fishing, which has a total annual county economic impact of less than $46 million.

Local retail businesses that *depend* on recreational fishing include:

Tackle and Marine Supply Shops: There are 14 tackle shops and two marine supply dealers in Carteret county. Several dozen drug stores, supermarkets, discount and department stores, hardware stores, fishing piers, and mom-and-

pop general stores also sell fishing tackle, rods and reels, bait, and other fishing supplies.

Fishing Piers: Five fishing piers play host to hundreds of fishermen each year, particularly in the spring and fall.

Charter Boats and Fishing Guides: Three large "head boats" call Carteret county home. There are 40-50 sport fishing charter boats that offer both half-day and full-day offshore fishing trips out as far as the Gulf Stream. Ten or more local fishing guides offer inshore and nearshore fishing services.

Marinas: There are 19 marinas in the county who's business in almost wholly dependent on selling, docking, and servicing recreational fishing boats. The marinas had 1997 sales exceeding $11 million, with an annual payroll of $2 million.

Boat Dealers: There are 16 dealers in the county that sell recreational fishing boats ranging from small skiffs to large offshore sport fishing "yachts". Boat dealers in Carteret County had 1997 sales estimated at almost $30 million.

Manufacturing in the county related to recreational fishing includes:

Boat Builders: Carteret County is home to 9 boat builders, producing a wide range of recreational boats that are popular nationally.

Parker Marine Enterprises is, by far, the largest of these manufacturers. Parker builds fiberglass open- and cabin-type fishing boats ranging in size from 18-feet to 24-feet. With 125 employees, Parker turns out several hundred boats per year, with total sales estimated to exceed $5 million.

Jarrett Bay Boat Works builds only 2-5 boats per year, but they are the last word in large, fast sport fishing boats, costing up to $3 million each. Jarrett Bay is the centerpiece of Carteret County's Marine Industrial Park, home to Covington Diesel Services, Southern Skimmer Boat Co. (another boat builder), and Catepillar Marine. Jarrett Bay employs about 125 people.

Jones Brothers, Southern Skimmer, and Core Sound Marine build fiberglass skiffs and inshore boats designed to tackle sound and "thin water" in Carteret County.

Traditional wooden boat building is still alive at Alex Willis Boat Construction, East Bay Boat Works, Sleepy Creek Boat Works, and Masterworks. From skiffs to offshore sport fishing boats, these firms build boats, one at a time, the same way boats have been built Downeast for the last 150 years.

Overall, boat building in Carteret County employs over 250 people and produces and annual payroll exceeding $5 million.

Tackle Manufacturers: Fishing rods, lures, weights, rigs, planers, etc. for recreational fishermen are manufactured locally by Sea Striker and Star Fishing

Tackle. Sea Striker and Star have markets that cover the east coast from New York to Florida and these companies employ about 50 people

Tackle Wholesalers: Henry's Tackle, located on NC 24 west of Morehead City, is a major national supplier of saltwater fishing tackle and employs approximately 300 people. While Henry's does not publish annual sales information, their annual volume is estimated to exceed $80 million.

Carteret County attracts recreational saltwater fishermen because the fish are here. Inshore, the county has 500 square miles of sounds, rivers, and creeks that serve as nurseries for young game fish and home for adults...including red drum, speckled trout, flounder, and many other game fish. Offshore, Cape Lookout is a major turning point in the annual migrations of game fish, including bluefish, king mackerel, Spanish mackerel, and gray trout.

Until the late 1950's, commercial fishing was king in Carteret County. The surge of vacationers had not yet hit and recreational fishing was a minor part of the local economic picture. But, with increased income and leisure time, a vacation at the beach became the "in thing" by the late 1960's. These vacationers discovered saltwater fishing and no one has looked back since. Since there is no licensing information, the growth in the number of recreational fishermen cannot be accurately determined, but is estimated to have increased by several hundred percent since 1970.

Starting with the collapse of the menhaden fisheries in the late 1950's and continuing with general fish stock depletion and increased regulation, commercial fishing in Carteret County has been on a downhill slide and will never again be a major economic engine for the county. Currently, menhaden, which contributes about half the annual income from commercial fishing in the county, is under pressure due to new restrictions fostered by declining stocks and complaints by beach front property owners. (Beaufort Fisheries, the last menhaden fishing operation in North Carolina, may be forced to close if new fishing rules imposed in January are implemented.)

Expectations are that recreational fishing dollars spent in Carteret County will continue to increase due to growth of the Marine Industrial Park; expanded boat manufacturing at Parker, Jarrett Bay, and Southern Skimmer; and increased numbers of recreational fishermen and women attracted to the Crystal Coast's "fishy" environment. *Recreational fishing is truly a major economic engine for the county.*

8-21-01 H#4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

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

H1121-ASB-51 [v.1]

Date 21 Aug 2001 ,2001

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

Representative Gulley

moves to amend the bill on page 5, lines 38 and 39,
by inserting between those lines:

"(4) Holds a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b).";

on page 10, lines 18 through 21,
by deleting those lines;

by renumbering the subsequent Sections accordingly; and

on page 10, line 44,
by deleting that line.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

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

H1121-ASB-51 [v.1]

SIGNED Jim Gulley
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 21 Aug 2001 FAILED _____ TABLED _____

8-21-01 Att 5

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H1121-ASB-53 [v.1]

Date 21 Aug ,2001

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

Representative Gibson

moves to amend the bill on page 5, lines 12 through 18,
by rewriting those lines to read:

"(1)	Vessel of 25 feet or less in length	$200.00
(2)	Vessel of greater than 25 feet in length" and	$400.00

on page 5, line 29,
by rewriting that line to read:

"four dollars ($4.00) per linear foot, to the nearest foot, that the pier extends into coastal".

Gibson

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

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

H1121-ASB-53 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

8-21-01 AH #6

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1121

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE 21 Aug 2001

Amendment No. 3
(to be filled in by Principal Clerk)

~~Rep.~~)
~~Sen.~~) Gibson

moves to amend the bill on page 7, lines 27 and 28

( ) WHICH CHANGES THE TITLE

by deleting "twenty-five percent (25%)" and substituting "thirty-five percent (35%)";

on page 7, line, 35 through 37, by deleting those lines;

on page 7, line 38, by rewriting that line to read:

"(2) Marine fisheries research. – Not less than thirty-five percent (35%) of";

and on page 8, line, 3, 6, and 9, by renumbering those subdivisions accordingly.

SIGNED _____

ADOPTED 21 Aug 2001 FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

8-21-01 Att #7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

AMENDMENT NO. 4
(to be filled in by
Principal Clerk)

H1121-ASB-52 [v.1]

Date 21 Aug ,2001

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

Representative Gibson

moves to amend the bill on page 6, lines 8 through 17, by rewriting those lines to read:

"(b) Authorized Commercial Gear. –

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational purposes.

(2) A person who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two persons who each hold a RCGL and who are fishing from a single vessel may use up to a

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1121

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

H1121-ASB-52 [v.1]

combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of persons aboard the vessel who hold a RCGL.";

on page 10, lines 18 through 21,
by rewriting those lines to read:

"**SECTION 11.** The Division of Marine Fisheries may issue a Lifetime CRFL under G.S. 113-174.2(c)(3) without charge to a person who holds either a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b)."; and

on page 10, lines 42 through 44,
by rewriting those lines to read:

"**SECTION 15.** Sections 10, 12, 13, 14, and 15 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2003. Section 11 of this act expires December 31, 2003.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 21 Aug 2001 FAILED _____ TABLED _____

8-21-01 Att. #9

ROLL CALL VOTE

14 YES 4 NO = _____(TOTAL) HB# 1121 SB# _____

HOUSE STANDING COMMITTEE ON 2001-2002 Environment and Natural Resources

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Gibson, Co-Chair			
✓		McComas, Co-Chair			
		Warwick, Co-Chair			
	✓	Cox, Vice Chair			
✓		Underhill, Vice Chair			
✓		Weiss, Vice Chair			
✓		Allen			
✓		Bowie			
		Culp			
	✓	Davis			
✓		Gray			
✓		Gulley			
✓		Hackney			
✓		Hill			
✓		Insko			
		Luebke			
		McCombs			
		Miner			
✓		Mitchell			**Ex officio Members**
	✓	Preston			Rep. Cunningham
	✓	Smith			Speaker Pro Tem Hackney
		Tucker			Majority Leader Baddour
✓		Warner			Majority Whip Dedmon
✓		Weatherly			Majority Whip Earle

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1121 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

2/15/01

VISITOR REGISTRATION SHEET

Environment & Nat Resources 8/21/01

Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Hollis	Hollis Group
Doug Lassiter	NCSTA
Preston Howard	NCJC
Jill-Ann Coe	NCABC
John Cyrus	N.C. State Grange
Richard Rogers	DENR
Laura DeVries	DENR
Preston Pate	DMF
Don Freeman	
Ed Regan	N.C.A.C.C.
Kim Hibbard	N.C.L.M
Paul Meyer	N.C.A.C.C.
W.T. Ross Jr.	MFC
MAC CURRIN	NC-MFC
Pricey Harrison	MFC Water Quality & Habitat Committee
Grady McLelin	NC Conservation Network
Heather Yandow	NC Conservation Network
Terry Pratt	1435 NC45N, Merry Hill, N.C. 27957
Jerry SCHILL	NC FISHERIES ASSOC.
FRAN NOCAN	GRASSROOTS SCIENCE MUSEUMS
Damon Tatem	ASMFC
Twila Nelson	Seafood + Aquaculture
Mel Broughton	(self) 2708 Pilfish Dr. Rd 21609
Bob Schulz	Self @ CCA NC
LLOYD WATKINS	CCA-NC-Wilmington, NC
Joel Arrington	Saltwater Sportsman magazine - Oriental, NC
Jack P. Heddle	CCA-N.C. New Bern, N.C 28563
HARRIS HUDDLE	CCA-NC NEW BERN, NC

VISITOR REGISTRATION SHEET

Environment & Natural Resources 8/21/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drew Willis	CCA-NC New Bern, N.C.
David Knight	NC Sierra, NC Wildlife Fed
Nat Mund	CCNC
Jesse Gosden	CCNC Raleigh NC
THOMAS F DAWSON	BEAUFORT CCA
MARK EVERANKS	BEAUFORT CCA
Kendyle Stout	Raleigh CCA NC
Walker Penny	member - Finfish Advisory Comm to MFCommission CCA-NC RALEIGH, NC
JOHN KNIGHT	CCA-NC RALEIGH, NC
Donald Willis Jr	CCA-NC New Bern
BILL MANDULAK	NC SALTWATER FISHING CLOB
J. Nicholas Blackerby	CCA-NC New Bern
Molly Diggins	NC Sierra
Bill Brown	CCA-NC Greenville, NC
Lawrence Davis	CCANC Raleigh NC
Renny Blanchette	CCA Crystal Coast Chapter - Morehead City NC
Jean Quillman	WCSR
Doug Hoffman	Grady White Boats INC
Austin Ragsdale	CCA-NC
Bryan Gillikin	MFC
John Cyrus	NC State Senate
Tony Adams	NC Outdoor Advertising Association
Nancy Thompson	NMCIC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

September 12, 2001

1. Call to Order – Representative Pryor Gibson, Presiding
2. Agenda Items

   SB 312 Amend Well Contractors Certification-AB – Senator Hoyle

3. Adjournment

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

September 12, 2001

MINUTES

The House Committee on Environment and Natural Resources met September 12, 2001, in Room 643 of the Legislative Office Building at 12:00 noon. Representatives Pryor Gibson, Danny McComas, and Nurham Warwick, Chairs, were present. Other members attending were Vice Chairs, Representatives Leslie Cox, Jennifer Weiss, Alice Underhill, and Committee members Representatives Arlie Culp, Don Davis, Jim Gulley, Eugene McCombs, Frank Mitchell, Jean Preston, Russell Tucker, Alex Warner, and John Weatherly.

Chair Gibson called the meeting to order at 12:08 pm.

SB 312 – Amend well Contractors Certification-AB (Attachment 1)- Representative Danny McComas, for Senator Hoyle, presented the bill. He moved to adopt the Proposed Committee Substitute S312-CSRT-67 (Attachment 2, 3); adopted. He explained that it was an agency bill that addresses issues of well-drilling, solid waste burning emissions, illegal caterers functioning without health department permits and not paying sales tax, and designating facilities located at the Asheboro Municipal Airport as the North Carolina Aviation Museum and North Carolina Aviation Hall of Fame. Representative McComas moved to amend the bill on page 5, line 11 by deleting the word "September" and substituting "March" (Attachment 4).

Chair Gibson further reiterated that the bill included Section 3 – the utility companies are installing air scrubbers that use ammonia as part of their SCR technology and have been thwarted because the rules involving ammonia issues are keeping them from being able to install that air scrubber technology.

Representative Hackney questioned the amendment and Section 4.4. Counsel Rick Zechini said that the EPA has provided guidelines directing the states to adopt rules regarding the emissions from small municipal waste incinerators (burning 250 tons or less per day) of municipal waste. There are state rules in place with respect to large municipal waste incinerators, i.e., those that burn above 250 tons a day. The portion (Section 4.4.) provides a time frame and temporary rule making an authority and "drop dead" compliance date. A discussion followed which clarified that this section pertains to only one state facility of this nature located in New Hanover County.

Dexter Matthews, Acting Director of Waste Management, DENR, stated that this was not a waste management issue, but an air quality issue. However, he said it would give them authority for temporary rule making which would be handled under the Division of Air Quality. He said the facility in New Hanover County was the only municipal solid waster incinerator in the state. Following this discussion, the amendment passed.

Counsel George Givens explained the origins of the bill that has to do with well contractors and their certification, thereof. It has gone through the House Ways and Means Committee and the bill was changed with Section 1.3.

Arthur Mouberry, Chief of the Ground Water Section, DENR, said that well contractors must be certified for construction, repair, renovations or abandonment of wells. During the actual construction, the certified contractor must be present. Other aspects of the well drilling process and contracting were discussed.

Mr. Givens explained Section 2, which had been requested by Representative Weatherly and the North Carolina Restaurant Association. The Division of Health and DENR support the bill. It exempts establishments operated by nonprofit corporations, tax-exempt organizations, or political committees which serve food or drink no more than once a month from the regulations of G.S. 130A-247. Questions arose as to events serving food as street festivals, churches, civic events, etc.

Susan Grayson, Head, Dairy and Food Protection Program, DENR, said that the exemptions are permitted as temporary food events. This exemption refers to those who operate in an unregulated manner. The Department supports this portion of the bill. Ms. Grayson said that this section would curtail unsafe food handlers, but exempts non-profit functions to continue to be unregulated. Representative Hackney asked if it was the will of the Committee to require anyone, for profit, one day in the month, to get a permit, and questioned if there was staff to enforce this regulation. Representative Warwick asked that this issue be studied further. Chair Gibson said, because time was short, that this section would be worked out and discussed at the next meeting. Representative Hackney also said the two sections dealing with museums need further study as well.

George Everett, Duke Energy, spoke on Section 3 of the bill. Duke Energy is in the process of installing equipment to reduce their NOX emissions. As part of that process, a statutory requirement in fertilizer regulations was discovered would apply to Duke Energy. Large quantities of ammonia are used to get rid of NOX emissions, which are regulated by the Clean Air Act, OSHA Chemical Safety Regulations. They are requesting a permit to install the equipment that will handle the ammonia. The previous regulations were intended to deal with fertilizer, not industrial applications. The Department of Agriculture agrees; the Statute was written about 40 years ago. The bill will be discussed further at the next meeting.

Representative Gibson adjourned the meeting at 1:00 pm.

Representative Pryor Gibson, Chair

Shirlyn MacPherson, Committee Assistant

9-12-01 Attach #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 312*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/01

House Committee Substitute Favorable 6/5/01

Short Title: Amend Well Contractors Certification-AB. (Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-98.4(a) reads as rewritten:

"(a) Certification Required. – No well contractor shall perform or offer to perform any well contractor activity without being certified under this Article. The Commission may specify the types of general construction activities or geophysical activities that are not directly related to locating, testing, or withdrawing groundwater; evaluating, testing, developing, draining, or recharging any groundwater reservoir or aquifer; or controlling, diverting, or otherwise causing the movement of water from or into any aquifer and are therefore not well construction activities."

SECTION 2. G.S. 87-98.7 reads as rewritten:

"**§ 87-98.7. Issuance and renewal of certificates; temporary ~~certification.~~certification; refusal to issue a certificate.**

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

(1) The certificate holder voluntarily surrenders the certificate to the Commission.

(2) The certificate is revoked or suspended by the Commission for cause.

(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee. A person who fails to renew a certificate within ~~three months~~30 days of the expiration of the certificate must reapply for certification under this Article.

(c) Temporary Certification. – A person may receive temporary certification to construct a well upon submission of an application to the Commission and subsequent approval in accordance with the criteria established by the Commission and upon payment of a temporary certification fee. A temporary certification shall be granted to the same person only once per calendar year and may not be valid for a period in excess of 45 consecutive days. To perform additional well contractor activity during that same calendar year, the person shall apply for certification under this Article.

(d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under any of the following circumstances:

(1) The applicant has not paid civil penalties assessed against the applicant under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles.

(2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.

(3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles."

SECTION 3. G.S. 87-94(a) reads as rewritten:

"(a) Any person who violates any provision of this Article, Article 7A of this Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be subject to a civil penalty of not more than ~~one hundred dollars ($100.00)~~one thousand dollars ($1,000) for each violation, as determined by the Secretary of Environment and Natural Resources. Each day of a continuing violation shall be considered a separate offense. No person shall be subject to a penalty who did not directly commit the violation or cause it to be committed."

SECTION 4. The Well Contractors Certification Commission may adopt temporary and permanent rules to implement the provisions of this act and to alter the minimum requirements of education, experience, and knowledge for certification of well contractors adopted by the Commission pursuant to G.S. 87-98.6. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well Contractors Certification Commission may adopt temporary rules as provided in this section until 1 April 2002. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name and address of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

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

9-12-01 Attach #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 312*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/01

House Committee Substitute Favorable 6/5/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S312-CSRT-67 [v.1]

9/12/2001 11:28:22 AM

Short Title: Amend Well Contractors Certification-AB. (Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO: (1) AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION ACT; (2) CLARIFY THE EXEMPTION OF CERTAIN ESTABLISHMENTS THAT PREPARE OR SERVE FOOD OR DRINK FROM REGULATION AS FOOD AND LODGING FACILITIES; (3) CLARIFY THAT THE REQUIREMENTS OF G.S. 106-660 APPLY ONLY TO INSTALLATIONS THAT HANDLE, STORE, DISTRIBUTE, OR APPLY ANHYDROUS AMMONIA FOR FERTILIZER USE; (4) REQUIRE THAT SOLID WASTE THAT IS TO BE INCINERATED IN CERTAIN INCINERATORS BE VISUALLY INSPECTED IN ORDER TO PREVENT THE INCINERATION OF WASTE THAT MAY NOT BE LAWFULLY INCINERATED; AND (5) DESIGNATE THE NORTH CAROLINA AVIATION MUSEUM AND THE NORTH CAROLINA AVIATION HALL OF FAME AT THE ASHEBORO MUNICIPAL AIRPORT.

The General Assembly of North Carolina enacts:

SECTION 1.1. G.S. 87-98.4(a) reads as rewritten:

"(a) Certification Required. – No well contractor shall perform <u>or offer to perform</u> any well contractor activity without being certified under this Article. The Commission may specify the types of general construction activities or geophysical activities that are not directly related to locating, testing, or withdrawing groundwater; evaluating, testing, developing, draining, or recharging any groundwater reservoir or aquifer; or controlling, diverting, or otherwise causing the movement of water from or into any aquifer and are therefore not well construction activities."

SECTION 1.2. G.S. 87-98.7 reads as rewritten:

"§ 87-98.7. Issuance and renewal of certificates; temporary ~~certification.~~certification; refusal to issue a certificate.

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

(1) The certificate holder voluntarily surrenders the certificate to the Commission.

(2) The certificate is revoked or suspended by the Commission for cause.

(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee. A person who fails to renew a certificate within ~~three months~~30 days of the expiration of the certificate must reapply for certification under this Article.

(c) Temporary Certification. – A person may receive temporary certification to construct a well upon submission of an application to the Commission and subsequent approval in accordance with the criteria established by the Commission and upon payment of a temporary certification fee. A temporary certification shall be granted to the same person only once per calendar year and may not be valid for a period in excess of 45 consecutive days. To perform additional well contractor activity during that same calendar year, the person shall apply for certification under this Article.

(d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under any of the following circumstances:

(1) The applicant has not paid civil penalties assessed against the applicant under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles.

(2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.

(3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles."

SECTION 1.3. G.S. 87-98.12 reads as rewritten:

"**§ 87-98.12. Continuing education ~~requirements.~~requirements; exemption.**

(a) In order to continue to be certified under this Article, a well contractor shall satisfactorily complete the number of hours of approved continuing education required by the Commission. The Commission shall establish the minimum number of hours of continuing education that shall be required to maintain certification, shall specify the scope of required continuing education courses, and shall approve continuing education courses.

(b) A well contractor who is 70 years of age or more; who has engaged in well contractor activity for more than 20 years; who has no record of having violated any provision of this Article, Article 7 of this Chapter, or order issued pursuant to or rule adopted under this Article or Article 7 of this Chapter in the previous 10 years; and who

meets all other requirements for certification under this Article is exempt from continuing education requirements adopted pursuant to this section."

SECTION 1.4. G.S. 87-94(a) reads as rewritten:

"(a) Any person who violates any provision of this Article, Article 7A of this Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be subject to a civil penalty of not more than ~~one hundred dollars ($100.00)~~one thousand dollars ($1,000) for each violation, as determined by the Secretary of Environment and Natural Resources. Each day of a continuing violation shall be considered a separate offense. No person shall be subject to a penalty who did not directly commit the violation or cause it to be committed."

SECTION 1.5. The Well Contractors Certification Commission may adopt temporary and permanent rules to implement the provisions of this act and to alter the minimum requirements of education, experience, and knowledge for certification of well contractors adopted by the Commission pursuant to G.S. 87-98.6. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well Contractors Certification Commission may adopt temporary rules as provided in this section until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name and address of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 2. G.S. 130A-250(7) reads as rewritten:

"**§ 130A-250. Exemptions.**

The following shall be exempt from this Part:

...

(7) Establishments (i) that are incorporated as nonprofit corporations in accordance with Chapter 55A of the General Statutes or (ii) that are exempt from federal income tax under the Internal Revenue Code, as defined in G.S. 105-228.90, or (iii) that are political committees as defined in G.S. 163-278.6(14) and 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. A nutrition program for the elderly that is administered by the Division of Aging of the Department of Health and Human Services and that prepares and serves food or drink on the premises where the program is located in connection with a fundraising event is exempt from this Part if food and drink are prepared and served no more frequently than one day each month.

...."

SECTION 3. G.S. 106-660(g) reads as rewritten:

"(g) Before any anhydrous ammonia installation that handles, stores, distributes, or applies anhydrous ammonia for fertilizer use shall be built in this State, a general layout of ~~such~~ the installation shall be submitted in duplicate and approved by the Commissioner. In order that ~~such a~~ the layout may be approved it must conform to the minimum standards and rules and regulations, relating to safe handling, storage, ~~distribution and/or~~ distribution, or application adopted by the Board of Agriculture. All storage tanks, transfer or transport containers, applicator containers, and attached equipment for fertilizer use shall conform to the minimum standards adopted by the Board of Agriculture. It shall be the duty of ~~the contractors referred to in G.S. 106-657(4)~~ a contractor, as defined in G.S. 106-657 to obtain, maintain and operate in accordance with the minimum standards and rules and regulations adopted by the Board of Agriculture, ~~any and all equipment which he~~ any equipment that the contractor may use in the application of anhydrous ammonia. It shall be the duty of the Commissioner to inspect and ascertain whether or not the provisions of this section are complied with."

SECTION 4.1. G.S. 130A-309.10(h) reads as rewritten:

"(h) The accidental or occasional disposal of small amounts of prohibited solid waste by landfill ~~or incineration~~ shall not be construed as a violation of subsection (f) ~~or (f1)~~ of this section."

SECTION 4.2. G.S. 130A-309.10 is amended by adding new subsections to read:

"(i) The accidental or occasional disposal of small amounts of prohibited solid waste by incineration shall not be construed as a violation of subsection (f1) of this section if the Department has approved a plan for the incinerator as provided in subsection (j) of this section.

(j) The Department may issue a permit pursuant to this Article for an incinerator that is subject to subsection (f1) of this section only if the applicant for the permit has a plan approved by the Department pursuant to this subsection. The applicant shall file the plan at the time of the application for the permit. The Department shall approve a plan only if it complies with the requirements of this subsection. The plan shall provide for the implementation of a program to prevent the incineration of the solid wastes listed in subsection (f1) of this section. The program shall include the random visual inspection prior to incineration of at least ten percent (10%) of the solid waste to be incinerated. The program shall also provide for the retention of the records of the random visual inspections and the training of personnel to recognize the solid wastes listed in subsection (f1) of this section. If a random visual inspection discovers solid wastes that may not be incinerated pursuant to subsection (f1) of this section, the program shall provide that the operator of the incinerator shall dispose of the solid wastes in accordance with applicable federal and State laws, regulations, and rules."

SECTION 4.3. If an incinerator that is subject to the new G.S. 130A-309.10(j) as enacted by Section 4.2 of this act has received a permit pursuant to this Article prior to the effective date of Section 4.2 of this act, then a plan that complies

with the requirements of G.S. 130A-309.10(j) shall be submitted to the Department for approval within 90 days after Section 4.2 of this act becomes effective. The Department shall review and either approve or disapprove a plan submitted pursuant to this section within 90 days of the day the plan is submitted. Upon approval by the Department, a plan submitted pursuant to this section shall be implemented within 60 days of the date of its approval.

SECTION 4.4. The Environmental Management Commission shall adopt temporary rules in accordance with 65 Federal Register No. 235 pp.76,378 through 76,405 (6 December 2000) by 1 March 2002. These rules shall include a compliance schedule that requires existing small municipal waste combustion units to achieve final compliance with the rules no later than 1 ~~September~~ March 2003. McComas Amend

SECTION 4.5. The Lower Cape Fear River Research and Education Program, located at and administered by the Center for Marine Science at the University of North Carolina at Wilmington, shall pursue and apply for funding to conduct water quality and sediment sampling for heavy metals and other contaminants in the Lower Cape Fear River.

SECTION 5.1. Chapter 145 of the General Statutes is amended by adding two new sections to read:

"**§ 145-18. The North Carolina Aviation Museum.**

The facilities formerly known as the Peddycord Foundation for Aircraft Conservation at the Asheboro Municipal Airport are designated as the official North Carolina Aviation Museum.

"**§ 145-19. The North Carolina Aviation Hall of Fame.**

The aviation hall of fame at the Asheboro Municipal Airport is designated as the official North Carolina Aviation Hall of Fame."

SECTION 5.2. Section 5.1 of this act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of that section.

SECTION 6. This act is effective when it becomes law. Section 1.3 of this act expires 1 September 2008.

9-12-01 Attach #3

SENATE BILL 312:
Amend Env. Laws/NC Aviation Museum.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Hoyle
		Summary by:	Tim Dodge Research Assistant for Environmental Issues
Date:	September 12, 2001		
Version:	Proposed Committee Substitute (S312-CSRT-67 [v.1])		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 312 would make the following changes to the Well Contractors Certification Act: 1) Require that a contractor offering to perform any well contractor activity be certified under this Article; 2) Shorten the time allowed for renewal of contractor certification from three months to 30 days following expiration of certification; 3) Prohibit the Well Contractors Certification Commission (Commission) from issuing a certificate to a contractor who has outstanding penalties, failed to comply with restoration requirements, or who has a history of significant noncompliance; 4) Exempt certain persons from continuing education requirements established by the Commission; 5) Increase the maximum penalty for violations from one hundred dollars ($100) per violation to one thousand dollars ($1,000); and 6) Authorize the Commission to adopt temporary and permanent rules to alter minimum education, experience, and knowledge requirements related to certification.***

The PCS would also:

- ***Exempt certain establishments from regulations for food and lodging facilities;***
- ***Exempt anhydrous ammonia installations built for non-fertilizer purposes from regulation by the Board of Agriculture;***
- ***Require the operators of incinerators subject to GS 130A-309.10(f1) to visually inspect all materials prior to incineration;***
- ***Direct the Environmental Management Commission (EMC) to adopt temporary rules to implement federal requirements for small municipal waste incinerators; and***
- ***Designate facilities located at the Asheboro Municipal Airport as the North Carolina Aviation Museum and the North Carolina Aviation Hall of Fame.***

The act would become effective when it becomes law.

BILL ANALYSIS: Senate Bill 312, recommended by the Department of Environment & Natural Resources (DENR), seeks to strengthen the implementation and enforcement of the Well Contractors Certification Act (Act). Additional provisions regarding various programs and facilities have been added in this PCS.

Section 1.1 would prohibit well contractors from offering to perform well contractor activities without being certified. This restriction would serve as a preventative measure to discourage non-certified contractors from offering their services, supplementing the current prohibition on performing well contractor services by non-certified contractors.

Section 1.2 shortens the permit renewal period to thirty days, and also establishes criteria under which the Commission shall not issue a certificate to a contractor. These circumstances include:

- The applicant has outstanding civil penalties resulting from violation of the Act or any rule adopted to implement the Act;
- The applicant has not conducted all restoration activities ordered by DENR related to a violation of the Act; and

- The applicant has a history of significant non-compliance with the Act or any rule adopted to implement the Act.

Section 1.3 exempts a well contractor from the continuing education requirements established by the Commission who: i) is at least 70 years of age, ii) has engaged in well contractor activity for more than 20 years, iii) who has no record of violations of the Well Construction Act in the previous 10 years, and iv) meets all other requirements for certifications,

Section 1.4 increases the maximum penalty per violation from one hundred dollars ($100) to one thousand dollars ($1,000). According to personnel with the Groundwater Section of the Division of Water Quality of DENR, the small amount of the current fine was not deterring some contractors (certified and non-certified) from operating in violation of the Well Construction Act. The risk of facing larger fines may dissuade some contractors from violating the Well Construction Act.

Section 1.5 authorizes the Commission to adopt temporary and permanent rules to implement the PCS and to alter minimum education, experience, and knowledge requirements related to certification.

Section 2 exempts establishments operated by nonprofit corporations, tax-exempt organizations, or political committees that serve food or drink no more frequently than once a month from the regulations for food and lodging establishments under G.S. 130A-247. Specifically, catered elderly nutrition programs operated by the Department of Health and Human Services in connection with a fundraising event are exempt.

Section 3 exempts installations constructed for the use of anhydrous ammonia for purposes other than fertilizer are exempt from review and oversight by the Commissioner of Agriculture and the Board of Agriculture. Anhydrous ammonia is utilized for industrial purposes, including for use in air emissions reduction technologies at coal-fired electrical generating units in the State.

Section 4.1 and 4.2 stipulate that an incinerator subject to G.S. 130A-309.10(f1) may receive a permit to operate only if DENR approves a plan that guarantees compliance with G.S. 130A-309.10(f1). Under current law, G.S. 130A-309.10(f1) provides that antifreeze, aluminum cans, white goods, and lead-acid batteries cannot be incinerated in an incinerator that is not solely owned and operated by the generator of the solid waste. The plan must be submitted at the time of an application for a permit and must require the random visual inspection of materials to be incinerated in the incinerator, as well as training and record keeping requirements. DENR shall not issue a permit unless it determines that the plan ensures compliance with 130A-309.10(f1).

Section 4.3 provides that the operator of an incinerator that is subject to the new requirements set out in Section 4.2 of the bill but that has already been issued a permit shall submit a plan within ninety (90) days after the bill becomes effective. DENR shall review and either approve or deny the plan within ninety (90) days of the day the plan is submitted. A plan submitted pursuant to this section shall be implemented within sixty (60) days of the date of its approval.

Section 4.4 requires the EMC to adopt temporary rules in accordance with 65 Federal Register No. 235 pp.76,378 through 76,405 (6 December 2000) by March 1, 2002. These rules shall include a compliance schedule that requires existing small municipal waste combustion units to achieve final compliance with the rules no later than September 1, 2003. These rules will regulate the emissions of small municipal waste incinerators.

Section 4.5 directs the Lower Cape Fear River Research and Education program to pursue and apply for funding to conduct water quality and sediment sampling for heavy metals and other contaminants in the Lower Cape Fear River.

Section 5 would designate the Peddycord Foundation for Aircraft Conservation, located at the Asheboro Municipal Airport, as the official North Carolina Aviation Museum. The PCS would also designate the aviation hall of fame located at the Asheboro Municipal Airport as the official North Carolina Aviation Hall of Fame.

The bill would become effective when it becomes law. Section 1.3 of the bill would expire 1 September 2008.

9-12-01 Attach. 4

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS-G7[v.1]

H. B. No. _____ DATE 9/12/01

S. B. No. 312 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) McComas
) ~~Sen.)~~

1 moves to amend the bill on page 5, line 11
2 ( ) WHICH CHANGES THE TITLE
3 by replacing "SEPTEMBER" WITH "MARCH".
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SIGNED _____

ADOPTED 12 Sept 2001 FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

Environment And Natural Resources 9/12/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCRA
Sexton Grayson	DENR
Arthur Mouberry	DENR DWQ Groundwater
David McLeod	NCDA (CS)
David Smith	"
Mike Carey	McDonald & Mayo, PLLC
Dexter Matthews	ENR Waste Management
Susan Coward	NCLA
Kim Hibbard	NCLM
Gwenda McLellan	NC. CoNA.
BRUCE THOMPSON	PARKER, POE, ADAMS & BERNSTEIN
David Knight	NC Serta
Nat Mund	CCNC
Susan Valaani	Nationwide
Zeb ALLEY	Alley Associates
John Bowdish	Alley Associates
Ken McHon	Alley Associates, INC.
ELLIS HANKINS	NCLM
Tim Mann	NC Home Builders Assn
R. Paul Wiles	NCHBA
Margaret Woodrow	Kennedy Covington
R. Rogers	DENR
Lacing Puffen	Attorney
Becky Street	DPAC
Chris Hollis	Rep Dibbon Staff
Nancy Thompson	NCIC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

September 18, 2001

1. Call to Order – Representative Pryor Gibson, Presiding
2. Agenda Items

   SB 312 Amend Well Contractors Certification-AB – Senator Hoyle

3. Adjournment

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

September 18, 2001

The House Committee on ENVIRONMENT & NATURAL RESOURCES met on Tuesday, September 18, 2001 in Room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson (presiding), McComas and Warwick, Vice Chairmen Cox and Underhill, and Representatives Bowie, Culp, Davis, Gulley, Insko, McCombs, Mitchell, Smith and Weatherly. George Givens, Jeff Hudson, and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative Gibson called the meeting to order at 12:08 p.m. and asked Representative McComas to present **HB 312 Amend Well Contractors Certification-AB.** A Proposed Committee Substitute was adopted (see attachment #1). Representative Gibson asked George Givens to explain the differences between the two bills. Mr. Givens stated that the main differences were the deletion of the Aviation Museum and that the only incinerator to be tested would be the one in New Hanover County. Mr. Givens was then asked to go through the bill in its' entirety (see attachment #2).

The Chair then asked the committee if everyone was satisfied with Section 2 of the bill on well drilling. Representative Smith asked what was that section changing. Mr. Givens responded that it requires the well driller to stay on site during the drilling, but not during set up and clean up. Mr. Arthur Mouberry of DENR-DWQ-Groundwater addressed the committee and was in agreement with Mr. Givens statements.

The Chair addressed Section 2 pertaining to Duke Energy and the process of installing equipment to handle the anhydrous ammonia that they use to reduce NOX emissions. Representative Gibson further explained that section 2 of this bill aids in updating the statutes from five years ago regarding he definition of anhydrous ammonia installation.

Mr. Zechini explained Section 3 of the bill that applied to the Incinerator in New Hanover County. Mr. Zechini stated that this bill would apply to New Hanover County only and would adopt temporary rules and testing for solid waste disposal and for testing of the Lower Cape Fear River. Representative Warwick asked why medical waste was exempted. Mr. Givens answered that medical waste is already regulated.

The Chair asked Mr. Givens to explain Section 4 that related to caterers and sanitation regulations. Mr. Givens stated that this section would narrow the exemption for the sale of food by caterers without a license and would put them under the sanitation laws of the State. Several people from the Department of Natural Resources addressed the committee and answered questions pertaining to present regulations and sited specific cases when outbreaks of listeria and salmonella from unsanitary food conditions had caused safety hazards in North Carolina communities. Representative Weatherly stated that the request for this has come from the County Health Departments so they can keep up with illegal caterers in their communities. Representative Weatherly also stated that these illegal caterers are not paying sales tax.

Susan Grayson of DENR, John Hendron of HCEHSA, T. Jerry Williams of the Restaurant Association and Ray Hudnell of the Wilson County Health Department spoke in support of Section 4. Representative Warwick asked what this law would change and if training would be required to obtain a permit. Representative Warwick asked what the cost would be to the caterer to make these changes. Ms. Grayson responded that it would require caterers to obtain temporary food stand permits, add wash stations, to have the ability to heat water and have inspections by the local health department. Ms. Grayson added that the cost would be a couple of hundred dollars to the caterer and that no training would be necessary to obtain a permit.

Representative Underhill moved to give the **House Proposed Committee Substitute SB312, Amend Environment/Health Laws** a favorable report, unfavorable to the original bill. The motion carried.

Representative Gibson adjourned the meeting at 1:05 p.m.

Representative Pryor Gibson
Chairman

Jayne Nelson Walton
Committee Assistant

9/18/01 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 312*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/01

House Committee Substitute Favorable 6/5/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S312-CSRT-67 [v.9]

9/18/2001 11:25:35 AM

Short Title: Amend Environmental/Health Laws. (Public)

Sponsors:

Referred to:

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO: (1) AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION ACT; (2) CLARIFY THAT THE REQUIREMENTS OF G.S. 106-660 APPLY ONLY TO INSTALLATIONS THAT HANDLE, STORE, DISTRIBUTE, OR APPLY ANHYDROUS AMMONIA FOR FERTILIZER USE; (3) REQUIRE THAT SOLID WASTE THAT IS TO BE INCINERATED IN CERTAIN INCINERATORS BE VISUALLY INSPECTED IN ORDER TO PREVENT THE INCINERATION OF WASTE THAT MAY NOT BE LAWFULLY INCINERATED; AND (4) AMEND THE EXEMPTION OF CERTAIN ESTABLISHMENTS THAT PREPARE OR SERVE FOOD OR DRINK FROM REGULATION AS FOOD AND LODGING FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1.1. G.S. 87-98.4(a) reads as rewritten:

"(a) Certification Required. – No well contractor shall perform or offer to perform any well contractor activity without being certified under this Article. The Commission may specify the types of general construction activities or geophysical activities that are not directly related to locating, testing, or withdrawing groundwater; evaluating, testing, developing, draining, or recharging any groundwater reservoir or aquifer; or controlling, diverting, or otherwise causing the movement of water from or into any aquifer and are therefore not well construction activities."

SECTION 1.2. G.S. 87-98.7 reads as rewritten:

"§ **87-98.7. Issuance and renewal of certificates; temporary ~~certification.~~certification; refusal to issue a certificate.**

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

(1) The certificate holder voluntarily surrenders the certificate to the Commission.

(2) The certificate is revoked or suspended by the Commission for cause.

(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee. A person who fails to renew a certificate within ~~three months~~30 days of the expiration of the certificate must reapply for certification under this Article.

(c) Temporary Certification. – A person may receive temporary certification to construct a well upon submission of an application to the Commission and subsequent approval in accordance with the criteria established by the Commission and upon payment of a temporary certification fee. A temporary certification shall be granted to the same person only once per calendar year and may not be valid for a period in excess of 45 consecutive days. To perform additional well contractor activity during that same calendar year, the person shall apply for certification under this Article.

(d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under any of the following circumstances:

(1) The applicant has not paid civil penalties assessed against the applicant under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles.

(2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.

(3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles."

SECTION 1.3. G.S. 87-98.12 reads as rewritten:

"**§ 87-98.12. Continuing education ~~requirements.~~requirements; exemption.**

(a) In order to continue to be certified under this Article, a well contractor shall satisfactorily complete the number of hours of approved continuing education required by the Commission. The Commission shall establish the minimum number of hours of continuing education that shall be required to maintain certification, shall specify the scope of required continuing education courses, and shall approve continuing education courses.

(b) A well contractor who is 70 years of age or more; who has engaged in well contractor activity for more than 20 years; who has no record of having violated any provision of this Article, Article 7 of this Chapter, or order issued pursuant to or rule adopted under this Article or Article 7 of this Chapter in the previous 10 years; and who meets all other requirements for certification under this Article is exempt from continuing education requirements adopted pursuant to this section."

SECTION 1.4. G.S. 87-94(a) reads as rewritten:

"(a) Any person who violates any provision of this Article, Article 7A of this Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be subject to a civil penalty of not more than ~~one hundred dollars ($100.00)~~one thousand dollars ($1,000) for each violation, as determined by the Secretary of Environment and Natural Resources. Each day of a continuing violation shall be considered a separate offense. No person shall be subject to a penalty who did not directly commit the violation or cause it to be committed."

SECTION 1.5. The Well Contractors Certification Commission may adopt temporary and permanent rules to implement the provisions of Sections 1.1 through 1.4 of this act and to alter the minimum requirements of education, experience, and knowledge for certification of well contractors adopted by the Commission pursuant to G.S. 87-98.6. Sections 1.1 through 1.4 of this act constitute a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well Contractors Certification Commission may adopt temporary rules as provided in this section until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name and address of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 2. G.S. 106-660(g) reads as rewritten:

"(g) Before any anhydrous ammonia installation that handles, stores, distributes, or applies anhydrous ammonia for fertilizer use shall be built in this State, a general layout of ~~such~~ the installation shall be submitted in duplicate and approved by the Commissioner. In order that ~~such a~~ the layout may be approved it must conform to the minimum standards and rules and regulations, relating to safe handling, storage, ~~distribution and/or~~ distribution, or application adopted by the Board of Agriculture. All storage tanks, transfer or transport containers, applicator containers, and attached equipment for fertilizer use shall conform to the minimum standards adopted by the Board of Agriculture. It shall be the duty of ~~the contractors referred to in G.S. 106-657(4)~~ a contractor, as defined in G.S. 106-657 to obtain, maintain and operate in accordance with the minimum standards and rules and regulations adopted by the Board of Agriculture, ~~any and all equipment which he~~ any equipment that the contractor may use in the application of anhydrous ammonia. It shall be the duty of the Commissioner to inspect and ascertain whether or not the provisions of this section are complied with."

SECTION 3.1. G.S. 130A-309.10(h) reads as rewritten:

"(h) The accidental or occasional disposal of small amounts of prohibited solid waste by landfill ~~or incineration~~ shall not be construed as a violation of subsection (f) ~~or (f1)~~ of this section."

SECTION 3.2. G.S. 130A-309.10 is amended by adding new subsections to read:

"(i) The accidental or occasional disposal of small amounts of prohibited solid waste by incineration shall not be construed as a violation of subsection (f1) of this section if the Department has approved a plan for the incinerator as provided in subsection (j) of this section or if the incinerator is exempt from subsection (j) of this section.

(j) The Department may issue a permit pursuant to this Article for an incinerator that is subject to subsection (f1) of this section only if the applicant for the permit has a plan approved by the Department pursuant to this subsection. The applicant shall file the plan at the time of the application for the permit. The Department shall approve a plan only if it complies with the requirements of this subsection. The plan shall provide for the implementation of a program to prevent the incineration of the solid waste listed in subsection (f1) of this section. The program shall include the random visual inspection prior to incineration of at least ten percent (10%) of the solid waste to be incinerated. The program shall also provide for the retention of the records of the random visual inspections and the training of personnel to recognize the solid waste listed in subsection (f1) of this section. If a random visual inspection discovers solid waste that may not be incinerated pursuant to subsection (f1) of this section, the program shall provide that the operator of the incinerator shall dispose of the solid waste in accordance with applicable federal and State laws, regulations, and rules. This subsection does not apply to an incinerator that disposes only of medical waste."

SECTION 3.3. If an incinerator that is subject to the new G.S. 130A-309.10(j) as enacted by Section 3.2 of this act has received a permit pursuant to this Article prior to the effective date of Section 3.2 of this act, then a plan that complies with the requirements of G.S. 130A-309.10(j) shall be submitted to the Department for approval within 90 days after Section 3.2 of this act becomes effective. The Department shall review and either approve or disapprove a plan submitted pursuant to this section within 90 days of the day the plan is submitted. Upon approval by the Department, a plan submitted pursuant to this section shall be implemented within 60 days of the date of its approval.

SECTION 3.4. The Environmental Management Commission shall adopt temporary rules in accordance with 65 Federal Register No. 235 pp. 76,378 through 76,405 (6 December 2000) by 1 March 2002. These rules shall include a compliance schedule that requires existing small municipal waste combustion units to achieve final compliance with the rules no later than 1 March 2003.

SECTION 3.5. The Lower Cape Fear River Research and Education Program, located at and administered by the Center for Marine Science at the University of North Carolina at Wilmington, shall pursue and apply for funding to conduct water quality and sediment sampling for heavy metals and other contaminants in the Lower Cape Fear River.

SECTION 4. G.S. 130A-250(7) reads as rewritten:

"**§ 130A-250. Exemptions.**

The following shall be exempt from this Part:

...

(7) Establishments (i) that are incorporated as nonprofit corporations in accordance with Chapter 55A of the General Statutes or (ii) that are exempt from federal income tax under the Internal Revenue Code, as defined in G.S. 105-228.90, or (iii) that are political committees as defined in G.S. 163-278.6(14) and 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. A nutrition program for the elderly that is administered by the Division of Aging of the Department of Health and Human Services and that prepares and serves food or drink on the premises where the program is located in connection with a fundraising event is exempt from this Part if food and drink are prepared and served no more frequently than one day each month.

...."

SECTION 5. This act is effective when it becomes law. Section 1.3 of this act expires 1 September 2008.

9/18/01 ATT # 2

SENATE BILL 312:
Amend Environmental / Health Laws.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Hoyle
Date:	September 18, 2001	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (S312-CSRT-67 [v.9])		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 312 would make the following changes to the Well Contractors Certification Act: 1) Require that a contractor offering to perform any well contractor activity be certified under this Article; 2) Shorten the time allowed for renewal of contractor certification from three months to 30 days following expiration of certification; 3) Prohibit the Well Contractors Certification Commission (Commission) from issuing a certificate to a contractor who has outstanding penalties, failed to comply with restoration requirements, or who has a history of significant noncompliance; 4) Exempt certain persons from continuing education requirements established by the Commission; 5) Increase the maximum penalty for violations from one hundred dollars ($100) per violation to one thousand dollars ($1,000)per violation; and 6) Authorize the Commission to adopt temporary and permanent rules to alter minimum education, experience, and knowledge requirements related to certification.***

The PCS would also:

- ***Exempt anhydrous ammonia installations built for non-fertilizer purposes from regulation by the Board of Agriculture;***
- ***Require the operators of incinerators subject to GS 130A-309.10(f1) to visually inspect all materials prior to incineration;***
- ***Direct the Environmental Management Commission (EMC) to adopt temporary rules to implement federal requirements for small municipal waste incinerators; and***
- ***Exempt certain establishments from regulations for food and lodging facilities.***

The bill would become effective when it becomes law.

BILL ANALYSIS: Senate Bill 312, recommended by the Department of Environment & Natural Resources (DENR), seeks to strengthen the implementation and enforcement of the Well Contractors Certification Act (Act). Additional provisions regarding various programs and facilities have been added in this PCS.

Section 1.1 prohibits well contractors from offering to perform well contractor activities without being certified. This restriction would serve as a preventative measure to discourage non-certified contractors from offering their services, supplementing the current prohibition on performing well contractor services by non-certified contractors.

Section 1.2 shortens the permit renewal period to thirty days, and also establishes criteria under which the Commission shall not issue a certificate to a contractor. These circumstances include:

- The applicant has outstanding civil penalties resulting from violation of the Act or any rule adopted to implement the Act;
- The applicant has not conducted all restoration activities ordered by DENR related to a violation of the Act; and
- The applicant has a history of significant non-compliance with the Act or any rule adopted to implement the Act.

Section 1.3 exempts a well contractor from the continuing education requirements established by the Commission who: i) is at least 70 years of age, ii) has engaged in well contractor activity for more than 20 years, iii) who has no record of violations of the Well Construction Act in the previous 10 years, and iv) meets all other requirements for certifications,

Section 1.4 increases the maximum penalty per violation from one hundred dollars ($100) to one thousand dollars ($1,000). According to personnel with the Groundwater Section of the Division of Water Quality of DENR, the small amount of the current fine was not deterring some contractors (certified and non-certified) from operating in violation of the Well Construction Act. The risk of facing larger fines may dissuade some contractors from violating the Well Construction Act.

Section 1.5 authorizes the Commission to adopt temporary and permanent rules to implement the PCS and to alter minimum education, experience, and knowledge requirements related to certification.

Section 2 exempts installations constructed for the use of anhydrous ammonia for purposes other than fertilizer are exempt from review and oversight by the Commissioner of Agriculture and the Board of Agriculture. Anhydrous ammonia is utilized for industrial purposes, including for use in air emissions reduction technologies at coal-fired electrical generating units in the State.

Section 3.1 and 3.2 stipulate that an incinerator not solely owned or operated by the generator of the solid waste may receive a permit to operate only if DENR approves a plan to prevent the incineration of wasted listed in G.S. 130A-309.10(f1), which include antifreeze, aluminum cans, white goods, and lead-acid batteries. The plan must be submitted at the time of an application for a permit and must require the random visual inspection of materials to be incinerated in the incinerator, as well as training and record keeping requirements. Incinerators that dispose only medical waste are exempted from these subsections.

Section 3.3 provides that the operator of an incinerator that is subject to the new requirements set out in Section 4.2 of the bill but that has already been issued a permit shall submit a plan within ninety (90) days after the bill becomes effective. DENR shall review and either approve or deny the plan within ninety (90) days of the day the plan is submitted. A plan submitted pursuant to this section shall be implemented within sixty (60) days of the date of its approval.

Section 3.4 requires the EMC to adopt temporary rules in accordance with 65 Federal Register No. 235 pp.76,378 through 76,405 (6 December 2000) by 1 March 2002. These rules shall include a compliance schedule that requires existing small municipal waste combustion units to achieve final compliance with the rules no later than 1 March 2003. These rules will regulate the emissions of small municipal waste incinerators.

Section 3.5 directs the Lower Cape Fear River Research and Education program to pursue and apply for funding to conduct water quality and sediment sampling for heavy metals and other contaminants in the Lower Cape Fear River.

Section 4 narrows the exemption for establishments that serve food or drink no more frequently than once a month to include only establishments operated by nonprofit corporations, tax-exempt organizations, or political committees from the regulations for food and lodging establishments under G.S. 130A-247. Specifically, catered elderly nutrition programs operated by the Department of Health and Human Services in connection with a fundraising event are exempt.

The bill would become effective when it becomes law. Section 1.3 of the bill would expire 1 September 2008.

VISITOR REGISTRATION SHEET

House Envir. / Natural Resources 9/18/01

Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
George Everett	Duke Energy
David McLeod	NCDA + CS
Ken Melton	Allen Associates, Inc.
Andy Sabol	Dept. of Revenue
Arthur Mouberry	DENR - DWQ - Groundwater
John Hendren	NCEHSA
Doyle Mathews	Waste Management - ENR
Jim Coffey	" "
[illegible]	NCRA
Susan Grayson	DENR
Linda Small	DEH
Ray Hubbell	Wilson Co. Health Dept.
Susan Conard	NCRA
B. Rogers	DENR
Dan Mikul	Scenic North Carolina, Inc.
Laura DeVun	DENR
Steve Woodson	NCFB
David Meredith	NC State Grange
[illegible]	N.C. State Grange
Mike Carr	McDonald & Meyer, PLLC
[illegible]	NC Council
Preston Howard	NCFC
Kim Hibbard	NCLM
Doug Assiter	NCSTA
Ryland Wilson	NCHBA
Hal Miller	NCACCT
David Knight	NCSierra

VISITOR REGISTRATION SHEET

HOUSE ENVIR / NATURAL RESOURCES 9/18/11

Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tony Adams	NC Outdoor Advertising Association
Leslie Campbell	NCCBI
Nancy Thompson	MCIC
Chris Wilkins	Rep Gibson Staff
Amy Lo Bain	NCMS
Jessica Potter	Bond Attorneys
Ken Alan Cole	NCABC

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

October 18, 2001

1. Call to Order – Representative Warwick, Presiding

2. Agenda Items

   SB 920 – Environment Technical Corrections – Senator Albertson
   SB 1037 – No Air Permit Require Until Facility Operational - Senator Hoyle
   HB 1300 – Clarify Petroleum Cleanup Requirements - Gibson

3. Adjournment

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
October 18, 2001

The House Committee on Environment and Natural Resources met on Thursday, October 18, 2001, in room 643 of the Legislative Office Building at 12:00 noon. The following members were present: Cochairmen Gibson, McComas and Warwick, Vice-Chairmen Underhill and Weiss, and Representatives Allen, Bowie, Culp, Davis, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Smith, Tucker, Warner, and Weatherly.

Chairman Warwick called the meeting to order at 12:04 pm. Action was taken on the following bills:

SB 920 - ENVIRONMENT TECHNICAL CORRECTIONS. (See attachments 1 and 2) Representative Gibson presented the bill for Senator Charles Albertson. Representative Allen moved to adopt the Proposed Committee Substitute for consideration and Chairman Warwick seconded. Staff Counsel, George Givens, explained that this bill absolves the Hazardous Waste Management Commission that was defunded in the 1991-92 biennium and has not functioned since then. The remainder of the technical corrections deals with conforming to matters such as grammar, punctuation, gender neutrality and bringing certain statutes up to the current drafting standards. Chairman Warwick called for a vote for a favorable report and bill passed.

At this time Chairman Warwick turned the meeting over the Chairman Gibson.

HB 1300 – CLARIFY PETROLEUM CLEANUP REQUIREMENTS. (See attachments 3 and 4) The purpose of this bill is to change the title in an effort to have the Proposed Committee Substitute referred to a study commission. After disposition of the petroleum bill the title will be Study Alternative Energy Sources. Staff Counsel, George Givens, stated that HB 1300 was one of several bills introduced on each side to deal with various aspects of the leaking petroleum underground storage tank clean-up program. Representative Smith stated he believed the Deregulation Study Commission was already doing this and that it will almost be a duplication of what their commission bill is doing. Representative Warwick stated the need for having a House side bill in the same place as the Senate side bill. Following vigorous debate, Representative Weiss stated her desire to have the representative groups' composition changed to include more people in the area of alternative fuel sources and biomass. Representative Bowie expressed concern over the size of the study group in terms of it becoming too big and unwieldy. Representative Weiss moved to amend the bill by adding two more members from the environmental community and adding four more members who have expertise in alternative energy. Chairman Gibson called for ayes and no's and the amendment was adopted. (See attachment 5) Representative Tucker moved for a favorable report and the bill be

referred to rules. After calling for ayes and no's, the bill passed with a favorable report to be referred to rules.

There being no further business, the meeting adjourned at 12:44 pm.

Representative Nurham Warwick
Co-Chairman

Representative Pryor Gibson
Co-Chairman

Linda Uzzle, Committee Assistant

10-18-01 ATT # 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 1

SENATE BILL 920*

Short Title:	Environmental Technical Corrections.	(Public)
Sponsors:	Senator Albertson.	
Referred to:	Agriculture/Environment/Natural Resources.	

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE ENVIRONMENTAL STATUTES OF THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7.7.(c) of S.L. 2000-67 is rewritten to read:

"Section 7.7.(c) Effective July 1, 2002, G.S. 143-15.3B(a), as rewritten by subsection (b) of this section, reads as rewritten:

'(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~forty million dollars ($40,000,000)~~ seventy million dollars ($70,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~forty million dollars ($40,000,000).~~ seventy million dollars ($70,000,000).' "

SECTION 2. Section 7.7.(d) of S.L. 2000-67 is rewritten to read:

"Section 7.7.(d) Effective July 1, 2003, G.S. 143-15.3B(a), as rewritten by subsections (b) and (c) of this section, reads as rewritten:

'(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of ~~seventy million dollars ($70,000,000)~~ one hundred million dollars ($100,000,000) each calendar year to the Clean Water Management Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of ~~seventy million dollars ($70,000,000).~~ one hundred million dollars ($100,000,000).' "

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

10-18-01 ATT #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 920*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S920-PCS9356-RT-77

Short Title: Environmental Technical Corrections. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE STATUTES AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, PUBLIC HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130B of the General Statutes is repealed.

SECTION 2. G.S. 104E-7(b) reads as rewritten:

"(b) No license for a low-level radioactive waste facility ~~which~~ that would accept low-level radioactive waste from the public, or from another person for a fee, shall be issued other than for a facility ~~to be operated pursuant to Chapter 104G of the General Statutes.~~authorized by the General Assembly."

SECTION 3. G.S. 104E-9(a)(9) reads as rewritten:

"(9) To enter upon any lands and structures upon lands to make surveys, borings, soundings, and examinations as may be necessary to determine the suitability of a site for a low-level radioactive waste facility or low-level radioactive disposal facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to such land or structures caused by such activities. ~~This authority shall also apply to the North Carolina Low-Level Radioactive Waste Management Authority.~~"

SECTION 4. G.S. 104E-18(c) is repealed.

SECTION 5. G.S. 104E-19(a) reads as rewritten:

"(a) In order to meet the anticipated costs of administering the educational and training programs in G.S. 104E-11(c), of enforcing and carrying out the inspection provisions in G.S. 104E-7(a)(7) and ~~104E-11(a),~~G.S. 104E-11(a), and of administering

the licensing program in G.S. 104E-10.3, ~~and of licensing low-level radioactive waste facilities operated pursuant to Chapter 104G of the General Statutes,~~ the Department is authorized to charge and collect such reasonable fees as it may by rule ~~or regulation~~ establish."

SECTION 6. G.S. 104E-27 reads as rewritten:

"**§ 104E-27. Volume reduction required.**

(a) The Commission shall develop and adopt rules ~~which~~ that require generators of low-level radioactive waste to implement best management practices, including prevention, minimization, reduction, segregation, and hold-for-decay ~~storage, as a condition of access to the low-level radioactive waste disposal facility.~~storage.

~~(b) No license for access to the disposal facility operated pursuant to Chapter 104G of the General Statutes shall be issued unless the Commission certifies to the Low-Level Radioactive Waste Management Authority that the generator is reducing waste volume to the extent technologically and economically feasible.~~

(c) The Department shall periodically review the State's comprehensive low-level radioactive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; and minimize the amount of low-level radioactive waste ~~which~~ that must be disposed of."

SECTION 7. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...

~~(18) The North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes.~~

~~(19) The North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes.~~

...."

SECTION 8. G.S. 105-275, as amended by S.L. 2001-84 and S.L. 2001-427, reads as rewritten:

"**§ 105-275. Property classified and excluded from the tax base.**

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

~~(36) Real and personal property belonging to the North Carolina Low-Level Radioactive Waste Management Authority created under Chapter 104G of the General Statutes.~~

(37) Poultry and livestock and feed used in the production of poultry and livestock.

~~(38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes.~~

...."

SECTION 9. The caption of Article 1 of Subchapter I of Chapter 113 of the General Statutes reads as rewritten:

"Powers and Duties of Department of ~~Environment, Health,~~ Environment and Natural Resources Generally."

SECTION 10. G.S. 113-145.5(g) reads as rewritten:

"(g) Meeting Facilities. – The Secretary of ~~the Department of~~ Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair."

SECTION 11. G.S. 113-145.8 reads as rewritten:

"§ 113-145.8. Clean Water Management Trust Fund: Advisory Council.

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

(1) Commissioner of Agriculture.

(2) Chair of the Wildlife Resources Commission.

(3) Secretary of ~~the Department of~~ Environment and Natural Resources.

(4) Secretary of the Department of Commerce."

SECTION 12. G.S. 120-70.33(2), 120-70.33(4), 120-70.43(c)(8), and 120-70.43(c)(9) are repealed.

SECTION 13. G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

~~(54) The North Carolina Low-Level Radioactive Waste Management Authority, as established by G.S. 104G-5.~~

(55) Repealed by Session Laws 1998-217, s. 45.

~~(56) The North Carolina Hazardous Waste Management Commission, as established by G.S. 130B-6.~~

...."

SECTION 14. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the Governor;
(2) Three appointed by the President Pro Tempore of the Senate;
(3) Three appointed by the Speaker of the House;
(4) The chairman of the House Agriculture Committee;
(5) The chairman of the Senate Agriculture Committee;
(6) The Commissioner of Agriculture or ~~his~~ the Commissioner's designee;
(7) A member of the Board of Agriculture designated by the chairman of the Board of Agriculture;
(8) The President of the North Carolina Farm Bureau Federation, Inc., or ~~his~~ the President's designee;
(9) The Master of the North Carolina State Grange or ~~his~~ the Master's designee;
(10) The Secretary of ~~the Department of~~ Environment and Natural Resources or ~~his~~ the Secretary's designee; and
(11) The President of the North Carolina Forestry Association, Inc., or ~~his~~ the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively."

SECTION 15. G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

~~(12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).~~

~~(13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).~~

...."

SECTION 16. G.S. 104E-6.2 reads as rewritten:

"**§ 104E-6.2. Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of low-level radioactive waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances (including~~ ordinances, including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land ~~use),~~ use, any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility ~~which~~ that the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed ~~which:~~that:

(1) Prohibit the transportation, treatment, storage, or disposal of low-level radioactive waste within any county, city, or other political ~~subdivision;~~subdivision.

(2) Prohibit the siting of a low-level radioactive waste facility within any county, city, or other political ~~subdivision;~~subdivision.

(3) Place any restriction or condition not placed by this Chapter ~~or Chapter 104G of the General Statutes~~ upon the transportation, treatment, storage, or disposal of low-level radioactive waste, or upon the siting of a low-level radioactive waste facility within any county, city, or other political ~~subdivision; or~~subdivision.

(4) In any manner are in conflict or inconsistent with the provisions of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter.

(a1) No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this Chapter ~~or Chapter 104G of the General Statutes~~ unless it expressly provides for such by specific references to the appropriate section of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, municipal, or other local ~~ordinance(s),~~ ordinance, the operator of the proposed facility ~~or the North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (hereinafter "the Authority")~~ may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what

extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. ~~Such~~ The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested ~~such~~ notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address ~~which~~ that appears on the mailing list maintained by the Secretary, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the Secretary for ~~its~~ the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The Secretary shall determine whether or to what extent to preempt local ~~ordinance(s)~~ordinances so as to allow ~~for~~ the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if ~~it~~ the Secretary makes all five of the following findings:

(1) That there is a local ordinance ~~which~~ that would prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste ~~facility;~~facility.

(2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected low-level radioactive waste management needs of this State or to comply with the terms of any interstate agreement for the management of low-level radioactive waste to which the State is a party and therefore serves the interests of the citizens of the State as a ~~whole;~~whole.

(3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ~~ordinance(s);~~ ordinance.

(4) That local citizens and elected officials have had adequate opportunity to participate in the siting ~~process; and~~process.

(5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator ~~or the Authority~~ has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~any~~ applicable local ~~ordinance(s).~~ordinances.

(d1) If the Secretary does not make all five findings set out above, the Secretary shall not preempt the challenged local ~~ordinance(s).~~ordinance. The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action ~~shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section,~~ files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of ~~such~~ the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions;

(2) In excess of the statutory authority or jurisdiction of the agency;

(3) Made upon unlawful procedure;

(4) Affected by other error of law;

(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or

(6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for ~~such~~ the reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply."

SECTION 17. G.S. 130A-293 reads as rewritten:

"**§ 130A-293. Local ordinances prohibiting hazardous waste facilities invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances (including~~ordinances, including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land ~~use),~~use, any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility ~~which~~ that the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this ~~Chapter or Chapter 130B of the General Statutes.~~Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed ~~which:~~that:

(1) Prohibit the transportation, treatment, storage, or disposal of hazardous waste within any county, city, or other political ~~subdivision;~~subdivision.

(2) Prohibit the siting of a hazardous waste facility within any county, city, or other political ~~subdivision;~~subdivision.

(3) Place any restriction or condition not placed by Article 9 of Chapter 130A ~~or Chapter 130B~~ of the General Statutes upon the transportation, treatment, storage, or disposal of hazardous waste, or upon the siting of a hazardous waste facility within any county, city, or other political ~~subdivision; or~~subdivision.

(4) In any manner are in conflict or inconsistent with the provisions of Article 9 of Chapter 130A ~~or Chapter 130B~~ of the General Statutes.

(a1) No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of Article 9 of Chapter 130A ~~or Chapter 130B~~ of the General Statutes unless it expressly provides for such by specific references to the appropriate section of this Part. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ~~ordinance(s),~~ordinance, the operator of the proposed facility ~~or the North Carolina Hazardous Waste Management Commission established pursuant to Chapter 130B of the General Statutes (hereinafter "the Commission")~~ may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. ~~Such~~ The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

(1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and

(2) First class mail to persons who have requested ~~such~~ notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address ~~which~~ that appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the Secretary for ~~its~~ the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The Secretary shall determine whether or to what extent to preempt local ~~ordinance(s)~~ ordinances so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if ~~it~~ the Secretary makes all five of the following findings:

(1) That there is a local ordinance ~~which~~ that would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste ~~facility:~~facility.

(2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interests of the citizens of the State as a ~~whole;~~whole.

(3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ~~ordinance(s);~~ordinance.

(4) That local citizens and elected officials have had adequate opportunity to participate in the siting ~~process; and~~process.

(5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator ~~or the Commission~~ has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~any~~ applicable local ~~ordinance(s).~~ordinances.

(d1) If the Secretary does not make all five findings set out above, the Secretary shall not preempt the challenged local ~~ordinance(s).~~ordinance. The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action ~~shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section,~~ files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of ~~such~~ the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional provisions; ~~or~~

(2) In excess of the statutory authority or jurisdiction of the agency; ~~or~~

(3) Made upon unlawful procedure; ~~or~~

(4) Affected by other error of law; ~~or~~

(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or

(6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for ~~such~~ the reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

(g) Repealed by Session Laws 1989, c. 168, s. 13."

SECTION 18. G.S. 130A-4(d) reads as rewritten:

"(d) When requested by the Secretary of ~~the Department of~~ Environment and Natural Resources, a local health department shall enforce the rules of the Commission under the supervision of the Department of Environment and Natural Resources. The

local health department shall utilize local staff authorized by the Department of Environment and Natural Resources to enforce the specific rules."

SECTION 19. G.S. 130A-17(b) reads as rewritten:

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

SECTION 20. G.S. 130A-18(b) reads as rewritten:

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

SECTION 21. G.S. 130A-22(d) reads as rewritten:

"(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary and the Secretary of ~~the Department of~~ Environment and Natural Resources shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage."

SECTION 22. G.S. 130A-294(a), as amended by S.L. 2001-357, reads as rewritten:

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

...

(4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the ~~Commission for Health Services,~~ Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges ~~which~~ that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the

provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans ~~which~~ that will be required for the applicant to obtain a permit.

...."

SECTION 23. G.S. 130A-294(h) reads as rewritten:

"(h) Rules adopted by the Commission shall be subject to the following requirements:

...

~~(5) No hazardous waste disposal facility operated pursuant to Chapter 130B of the General Statutes shall be located within 25 miles of a polychlorinated biphenyl landfill facility.~~

...."

SECTION 24. G.S. 130A-294(r) reads as rewritten:

"(r) The Commission ~~for Health Services~~ shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates ~~which~~ that localities may apply to waste management facilities in their jurisdiction."

SECTION 25. G.S. 130A-294(s) reads as rewritten:

"(s) The Department is authorized to enter upon any lands and structures upon lands to make surveys, borings, soundings. and examinations as may be necessary to determine the suitability of a site for a hazardous waste facility or hazardous waste disposal facility. The Department shall give 30 ~~days'~~ days notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to ~~such land~~ land or structures caused by ~~such~~ these activities. ~~This authority shall also apply to the North Carolina Hazardous Waste Management Commission.~~"

SECTION 26. Effective 1 July 2003, G.S. 143-15.3B(a) reads as rewritten:

"(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of one hundred million dollars ($100,000,000) each calendar year to the Clean Water Management

~~Management~~ Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of one hundred million dollars ($100,000,000)."

SECTION 27. G.S. 143-215.3A(b1) reads as rewritten:

"(b1) The I & M Air Pollution Control Account is established as a nonreverting account within the Department. Fees transferred to the Division of Air Quality of the Department pursuant to ~~G.S. 20-183.7(c)(2)~~G.S. 20-183.7(c) shall be credited to the I & M Air Pollution Control Account and shall be applied to the costs of developing and implementing an air pollution control program for mobile sources."

SECTION 28. G.S. 143-215.22I(j) reads as rewritten:

"(j) In the case of water supply problems caused by drought, a pollution incident, temporary failure of a water plant, or any other temporary condition in which the public health requires a transfer of water, the Secretary of ~~the Department of~~ Environment and Natural Resources may grant approval for a temporary transfer. Prior to approving a temporary transfer, the Secretary ~~of the Department of Environment and Natural Resources~~ shall consult with those parties listed in G.S. 143-215.22I(d)(3) that are likely to be affected by the proposed transfer. However, the Secretary ~~of the Department of Environment and Natural Resources~~ shall not be required to satisfy the public notice requirements of this section or make written findings of fact and conclusions in approving a temporary transfer under this subsection. If the Secretary ~~of the Department of Environment and Natural Resources~~ approves a temporary transfer under this subsection, the Secretary shall specify conditions to protect other water users. A temporary transfer shall not exceed six months in duration, but the approval may be renewed for a period of six months by the Secretary ~~of the Department of Environment and Natural Resources~~ based on demonstrated need as set forth in this subsection."

SECTION 29. G.S. 143-215.22J(b) reads as rewritten:

"(b) The Council shall have eight members, including the Secretary of ~~the Department of~~ Environment and Natural Resources, who shall chair the Council, and the Dean of the ~~School~~ College of Agriculture and Life Sciences of North Carolina State University. The members of the Council shall elect a vice-chair from among the Council membership. The Chair of the Council shall solicit three recommendations from the scientific community including private scientists representing industrial and environmental concerns, as well as the academic community for each of the six appointees and shall select members from among those recommendations. Members shall have the following qualifications:

(1) One member with expertise and training in water quality;
(2) One member with expertise and training in coastal or marine fisheries;
(3) One member with expertise and training in resource economics;
(4) One member with expertise and training in physical modeling;
(5) One member with expertise and training in wetlands; and
(6) One member with expertise and training in the social sciences.

The members shall be appointed for staggered two-year terms and may be reappointed for subsequent terms. Members shall serve at the pleasure of the Secretary."

SECTION 30. G.S. 143B-279.7(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of ~~Environmental Management,~~Water Quality, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environment and Natural Resources shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

(1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.

(2) Responding to fish kills within 24 hours.

(3) Investigating and collecting data relating to fish kill events.

(4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties."

SECTION 31. G.S. 143B-279.7(b) reads as rewritten:

"(b) The Secretary of ~~the Department of~~ Environment and Natural Resources shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

(1) Providing adequate training for fish kill investigators.

(2) Taking immediate action to protect public health and the environment.

(3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill."

SECTION 32. G.S. 143B-289.52(f) reads as rewritten:

"(f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of ~~Environment, Health,~~Environment and Natural Resources."

SECTION 33. G.S. 143B-318(a) reads as rewritten:

"(a) The Air Quality Compliance Advisory Panel of the Department of Environment and Natural Resources shall consist of two members who are not owners or representatives of owners of small business stationary sources, appointed by the Governor to represent the general public: two members appointed one each by the Speaker and the minority leader of the House of Representatives, and who are owners, or who represent owners, of small business stationary sources; two members appointed one each by the President Pro Tempore and the minority leader of the Senate, who are owners, or who represent owners, of small business stationary sources; and one member appointed by the Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 34. G.S. 150B-1(d), as amended by S.L. 2001-299, S.L. 2001-395, and S.L. 2001-424, reads as rewritten:

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

(1) The Commission.

(2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.

~~(3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.~~

(4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.

(5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.

(7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.

(8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan.

(9) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program.

(10) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program."

SECTION 35. G.S. 150B-1(e), as amended by S.L. 2001-192, reads as rewritten:

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

(1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).

(2) Repealed by Session Laws 1993, c. 501, s. 29.

~~(3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.~~

~~(4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.~~

(5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.

(6) The Department of Revenue.

(7) The Department of Correction.

(8) The Department of Transportation, except as provided in G.S. 136-29.

(9) The Occupational Safety and Health Review Board.

(10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7.

(12) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan with respect to disputes involving the performance, terms, or conditions of a contract between the Plan and an entity under contract with the Plan."

SECTION 36. G.S. 159-81(3), as amended by S.L. 2001-414, reads as rewritten:

"(3) 'Revenue bond project' means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the revenue-producing utility or public service enterprise facilities or systems listed in this subdivision, to be financed through the issuance of revenue bonds, thereby providing funds to pay the costs of the undertaking or to reimburse funds loaned or advanced by or on the behalf of either the State or a municipality to pay the costs of the undertaking.

A revenue bond project shall be (i) owned or leased as lessee by the issuing unit or (ii) owned by one or more of the municipalities participating in an undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes. If the revenue bond project is owned by one or more municipalities as provided in (ii) of this subdivision, any one or more of the participating municipalities may each be an issuing unit consistent with their agreement to establish a joint undertaking. In addition, any joint agency established by participating municipalities pursuant to Part 1 of Article 20 of

Chapter 160A of the General Statutes may be an issuing unit without owning the revenue bond project or leasing it as lessee.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with the undertaking; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which ~~such~~ the structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project.

The following facilities or systems may be revenue bond projects under this subdivision:

a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.

c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.

d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.

e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.

f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.

g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.

h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.

i. Hospitals and other health-related facilities.
j. Public auditoriums, gymnasiums, stadiums, and convention centers.
k. Recreational facilities.
~~l. In addition to the foregoing, in the case of the State of North Carolina, low-level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.~~
m. Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to provide employment opportunities for citizens of the municipality.
n. Facilities for the use of any agency or agencies of the government of the United States of America.
o. Structural and natural stormwater and drainage systems of all types."

SECTION 37. G.S. 159-81(4) reads as rewritten:

"(4) 'Revenues' include all moneys received by the State or a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the State or a municipality) moneys received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the State or a municipality, as the case may be, pertaining to the project. ~~'Revenues' also include all moneys received by, or on behalf of, the North Carolina Low-Level Radioactive Waste Management Authority in connection with its financing of a low-level radioactive waste facility and all money received by, or on behalf of, the North Carolina Hazardous Waste Management Commission in connection with its financing of a hazardous waste facility.~~"

SECTION 38. G.S. 159-83(a)(5) reads as rewritten:

"(5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or a municipality may be

created in any manner. ~~Notwithstanding the foregoing, the North Carolina Low-Level Radioactive Waste Management Authority may create an encumbrance, mortgage, or other pledge of real property of the Authority in connection with its financing of a low-level radioactive waste facility and the North Carolina Hazardous Waste Management Commission may create an encumbrance, mortgage, or other pledge of real property of the Commission in connection with its financing of a hazardous waste facility.~~"

SECTION 39. G.S. 159-83(e), 159-85(d), 159-88(d), 159-94(b), and 159-96(c) are repealed.

SECTION 40. Except as otherwise provided in this act, this act is effective when it becomes law.

10-18-01 ATT. #3

SENATE BILL 920:
Environmental Technical Corrections.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Albertson
Date:	October 17, 2001	**Summary by:**	Tim Dodge, Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (S920-PCS9356-RT-77)		

SUMMARY: ***Senate Bill 920 makes the following technical changes and corrections to environmental statutes:***

- ***Repeals Chapter 130B of the General Statutes, which created the North Carolina Hazardous Waste Management Commission, and deletes statutory references to the Commission.***
- ***Deletes statutory references to the Southeast Interstate Low-Level Radioactive Waste Management Compact (Compact) and the North Carolina Low-Level Radioactive Waste Management Authority (Authority).***
- ***Corrects agency names and references.***
- ***Makes other clarifying and conforming changes.***

The bill would become effective when it becomes law, with the exception of Section 26, which would become effective 1 July 2003.

BILL ANALYSIS: Senate Bill 920 makes the following changes to the North Carolina General Statutes:

Eliminates the North Carolina Hazardous Waste Management Commission.

Section 1 of the bill repeals Chapter 130B of the General Statutes, which created the North Carolina Hazardous Waste Management Commission (Commission) in 1989. The purpose of the Commission was to provide for the siting, construction, and operation of hazardous waste facilities in North Carolina. The General Assembly eliminated funding for the Commission in 1992, and the terms of all the Commission members expired in 1995.

Eliminates references to the Commission, Compact, and Authority.

The Southeast Interstate Low-Level Radioactive Waste Management Compact was repealed by Session Law 1999-357 (s.2), effective 22 July 1999. The Low-Level Radioactive Waste Management Authority was repealed by Session Law 1999-357 (s.4), effective 1 July 2000. Both the Authority and the Compact were eliminated without making conforming changes to the General Statutes.

Section 2 modifies G.S. 104E-7(b) by eliminating the reference to the Authority and returning the right to authorize a low-level radioactive waste facility to the General Assembly.

Sections 3-8, 12, 13, 15-17, 21, 23, 25, and 34-39 remove statutory references to the Commission, Compact, and the Authority, as well as other technical changes.

Other conforming and clarifying changes

Sections 22 and 24 modify portions of Article 9 of Chapter 130A of the General Statutes to maintain consistency when referring to the Commission for Health Services.

Section 26 corrects G.S. 143-15.3B(a) by deleting the word "Management" where it was inadvertently duplicated.

Section 27 makes a technical correction to the citation for fee amounts for the motor vehicle safety and emissions inspection program.

Section 30 replaces the reference to the now-defunct Division of Environmental Management with its successor agency, the Division of Water Quality, as one of the agencies of DENR that is directed to develop scientific protocols to respond to fish kill events in the State.

Sections 9-11, 14, 18-21, 28, 29, and 31-33 make clarifying changes in references to the Secretary of Environment and Natural Resources and the Department of Environment and Natural Resources, as well as other technical changes.

The bill would become effective when it becomes law, with the exception of Section 26, which would become effective 1 July 2003, as directed by S.L. 2000-67.

10-18-01 ATT #4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1300

Short Title:	Clarify Petroleum Cleanup Requirements.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE CIRCUMSTANCES IN WHICH LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN THE OFFICE OF THE REGISTER OF DEEDS ARE REQUIRED IN CONNECTION WITH THE CLEANUP OF A RELEASE FROM A PETROLEUM UNDERGROUND STORAGE TANK IN ORDER TO PROTECT THE ENVIRONMENT AND PUBLIC HEALTH, TO ENSURE ENFORCEABILITY OF RESTRICTIONS, AND TO PROVIDE NOTICE TO SUBSEQUENT OWNERS OF THE PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.9 reads as rewritten:

"**§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.**

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet current standards, ~~as defined in G.S. 130A-310.31,~~ the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of

groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner, operator, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

(b) ~~Subsection (a) of this section shall not apply to a~~ A risk-based remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General ~~Statutes.~~Statutes that will not require that the site meet current standards plan must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except that any restriction on the current or future use of real property shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of an underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This section shall not be construed to require any person to record any restriction on the current or future use of real property other than the real property described in this subsection. The definitions set out in G.S. 143-215.94A apply to this subsection.

(c) This section does not alter any right, duty, obligation, or liability of any owner, operator, or other responsible party under any other provision of law.

(d) As used in this section:

(1) 'Current standards' means generally applicable standards, guidance, or established methods governing the contaminants that are established by statute or adopted, published, or implemented by the Environmental Management Commission, the Commission for Health Services, or the Department. Cleanup or remediation of real property to current standards means that the property is restored to a condition such that the property and any use that is made of the property does not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than that posed by use of the property prior to its having been contaminated.

(2) 'Risk-based', when used in connection with cleanup, remediation, or similar terms, means cleanup or remediation of contamination of real property to a level that, although not in compliance with current standards, does not pose a significant danger or risk to public health, the environment, or users of the real property so long as the property remains in the condition and is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable are based."

SECTION 2. G.S. 143B-279.10 reads as rewritten:

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

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

(1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.

(2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.

(3) Any restriction approved by the Department on the current or future use of the site.

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

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

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

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

(f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated or remediated to current standards, as defined in ~~G.S. 130A-310.31.~~G.S. 143B-279.9. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated, or that the contamination has been remediated to current standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.

(g) This section does not apply to the cleanup pursuant to a risk-based remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 3. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-279.10. Recordation of residual petroleum from an underground storage tank.**

(a) The definitions set out in G.S. 143-215.94B apply to this section. This section applies only to the cleanup pursuant to a risk-based remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF RESIDUAL PETROLEUM'. The Notice shall include a legal description of (i) the real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of an underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats. The Notice shall identify the location of any residual petroleum known to exist on the property at the time the Notice is prepared and any restrictions

on the current or future use of the property approved by the Department. If the real property to which this section applies is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded.

(c) After the Department approves and certifies the Notice, the owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall file the certified copy of the Notice in the register of deeds office in the county or counties in which the real property is located before the property is conveyed, within 15 days after the Department notifies the owner, operator, or other responsible party that no further action is required under the remedial action plan, or within one year after the Department approves the notice, whichever first occurs.

(d) The register of deeds shall record the certified copy of the Notice and index it in the grantor index under the names of the owners of the real property.

(e) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(f) When real property to which this section is applicable is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that residual petroleum exists on the property and a reference by book and page to the recordation of the Notice.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to current standards, as defined in G.S. 143B-279.9. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to current standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the real property as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry."

SECTION 4. G.S. 143-215.94B(b) is amended by adding a new subdivision to read:

"(7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Commercial Fund is responsible for the payment of costs under subdivisions (1) through (4) of this subsection."

SECTION 5. G.S. 143-215.94B(d) is amended by adding a new subdivision to read:

"(7) Costs incurred as a result of the cleanup of environmental damage to more stringent standards than those required by the Department."

SECTION 6. G.S. 143-215.94D(b1) is amended by adding a new subdivision to read:

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

SECTION 7. G.S. 143-215.94D(d) is amended by adding a new subdivision to read:

"(7) Costs incurred as a result of the cleanup of environmental damage to more stringent standards than those required by the Department."

SECTION 8. G.S. 143-215.94B is amended by adding a new subsection to read:

"(b4) The Commercial Fund shall not pay any claim made after 1 October 2001 for compensation to third parties pursuant to subdivision (5) of subsection (b) of this section unless the owner, operator, or other party responsible for the discharge or release has complied with the requirements of G.S. 143B-279.9 and G.S. 143B-279.11."

SECTION 9. G.S. 143-215.94D is amended by adding a new subsection to read:

"(b4) The Commercial Fund shall not pay any claim made after 1 October 2001 for compensation to third parties pursuant to subdivision (5) of subsection (b) of this section unless the owner, operator, or other party responsible for the discharge or release has complied with the requirements of G.S. 143B-279.9 and G.S. 143B-279.11."

SECTION 10. This act becomes effective 1 October 2001 and applies to any cleanup of a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes unless the Department of Environment and Natural Resources has issued a notice that no further action is required prior to 1 October 2001.

10-18-01 ATT #5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1300
PROPOSED COMMITTEE SUBSTITUTE H1300-PCS9362-RT-79

Short Title: Study Alternative Energy Sources. (Public)

Sponsors:

Referred to:

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE STUDY COMMISSION ON ALTERNATIVE ENERGY SOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. The Study Commission on Alternative Energy Sources is created. The Commission shall consist of 20 voting members as follows:

(1) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

(2) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives.

(3) The Chief Executive Officer of the North Carolina Association of Electric Cooperatives, Inc., or the Chief Executive Officer's designee.

(4) The Chief Executive Officer of Duke Energy Corporation or the Chief Executive Officer's designee.

(5) The Chief Executive Officer of Progress Energy or the Chief Executive Officer's designee.

(6) The Chief Executive Officer of Dominion North Carolina Power or the Chief Executive Officer's designee.

(7) Two residential consumers of electricity, one to be appointed by the President Pro Tempore of the Senate and one to be appointed by the Speaker of the House of Representatives.

(8) Two industrial or commercial consumers of electricity, one to be appointed by the President Pro Tempore of the Senate and one to be appointed by the Speaker of the House of Representatives.

(9) Two representatives of the environmental community, one to be appointed by the President Pro Tempore of the Senate and one to be appointed by the Speaker of the House of Representatives.

(10) Four persons representing agricultural interests, two to be appointed by the President Pro Tempore of the Senate and two to be appointed by the Speaker of the House of Representatives.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair from the General Assembly membership serving on the Commission. The Commission shall meet upon the call of the cochairs. A majority of the Commission shall constitute a quorum for the transaction of business.

SECTION 2. The Commission shall examine the availability and use of alternative energy sources in North Carolina, including the use of biomass resources. The Commission shall gather data and other information as may be necessary to accomplish the purposes of the Commission and shall work cooperatively with other boards, commissions, and entities, taking advantage of their resources and activities for the provision of useful information and insight. In the course of its study, the Commission may seek input and advice from the Utilities Commission, the Department of Environment and Natural Resources, the Department of Agriculture and Consumer Services, the Attorney General, the Public Staff of the Utilities Commission, and the Energy Policy Council of the Department of Administration. The Commission may also review alternative energy activities conducted in other states and may solicit the participation of appropriate federal agencies and foreign governments.

In the course of its study and in making its recommendations, the Commission may consider the following subjects:

(1) Methods to encourage the use of alternative energy sources, such as tax incentives, alternative energy portfolio standards, system benefit programs, and product offerings to retail electricity customers.

(2) Barriers to distribution and market entry for alternative energy generators.

(3) Federal and State regulatory jurisdiction with respect to electric utilities, including potential conflicts and ways to address those conflicts.

(4) Environmental benefits and impacts associated with alternative energy generation.

(5) Assurance of fairness and equity among all electricity customer classes and electric power providers.

(6) Potential benefits to rural areas of the State and to agricultural economic development.

(7) Sources of funds that could be used to encourage the use of alternative energy sources.

(8) Other relevant and appropriate subjects, as determined by the Commission.

SECTION 3. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through

the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.

(3) All other Commission members at the rate established in G.S. 138-5.

SECTION 4. The Commission may report its findings and recommendations, if any, to the 2002 Regular Session of the 2001 General Assembly. The Commission shall report its findings and recommendations, if any, to the 2003 General Assembly. Upon filing its report to the 2003 General Assembly, the Commission shall terminate.

SECTION 5. Of the funds appropriated to the General Assembly, the Legislative Services Commission may allocate up to twenty-five thousand dollars ($25,000) for the 2001-2002 fiscal year and up to twenty-five thousand dollars ($25,000) for the 2002-2003 fiscal year for the expenses of the Commission.

SECTION 6. This act is effective when it becomes law.

#6

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 1350 DATE 10/18/01

~~S. B. No.~~ Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE

Rep.) Weiss
~~Sen.~~)

moves to amend the bill on page 1, line 6

( ) WHICH CHANGES THE TITLE

by ~~changing~~ deleting the term "20" And replacing it w/ "26", and

on page 2, blt lines 3 and 4, by inserting the following

"~~(11)~~ Four persons w/ expertise in alternative energy sources, ~~two~~ to be appointed by the Pres. Pro Tempore of the Senate + ~~two~~ to be appointed by the Speaker of the House of Representatives."

and on page 1, line ~~25~~ 25-26, by rewriting the lines to read:

"(9) Four representatives of the environmental community, ~~two~~ to be appointed by the President Pro Tempore of the Senate ~~as~~ to be",

SIGNED Jennifer Weiss

ADOPTED ✓ 18 Oct 2001 FAILED TABLED

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES 10/18/01
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	CCNC
Elizabeth Ouzts	NCPIRG
Molly Diggins	NC Sierra Club
Dale Mikyl	SCENIC NC, INC.
[illegible]	CCNC
Alan Foster	NCDA&CS
David Barnes	Pigman + Sprinkle LLP
[illegible] Barber	CAPA
Cam Cook	BPMHL
Angie McMillan	TNC
Andy Romont	NCLM
Jerry Hardesty	NC Pork Council
Lucius PULLEN	ATTORNEY
John Bowdish	Alley Associates
Michelle Cook	Weyerhaeuser
Bill Scoggin	Kennedy Covington
[illegible]	NCOAA
Tony Adams	NCOAA
Ken Melton	Alley Associates, INC
[illegible]	Bone & Associates
[illegible]	NCABC
[illegible]	YMCIC
[illegible]	Progress Energy
[illegible]	[illegible]

2002

HOUSE ENVIRONMENT & NATURAL RESOURCES

MINUTES

2001-2002

HOUSE COMMITTEE ON

ENVIRONMENT & NATURAL RESOURCES

Cochairs

Representative Pryor Gibson
Representative Daniel F. McComas
Representative Nurham Warwick

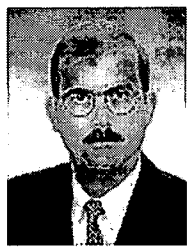
Committee Assistants

Shirlyn MacPhearson
Jayne Nelson
Linda Uzzle

NORTH CAROLINA GENERAL ASSEMBLY

ENVIRONMENT AND NATURAL RESOURCES
2001 – 2002 SESSION

Rep. Gibson
Chair



Rep. McComas
Chair

Rep. Warwick
Chair

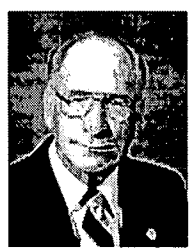
Rep. Cox
Vice-Chair

Rep. Underhill
Vice-Chair

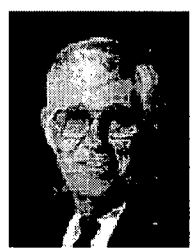
Rep. Weiss
Vice-Chair

Rep. Allen

Rep. Bowie



Rep. Culp



Rep. Davis

Rep. Gray

Rep. Gulley

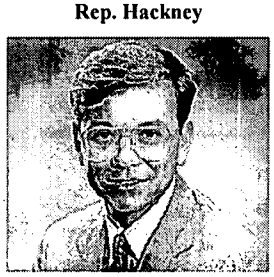
Rep. Hackney

Rep. Hill

Rep. Insko

Rep. Luebke

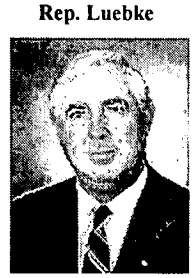
Rep. McCombs



Rep. Miner

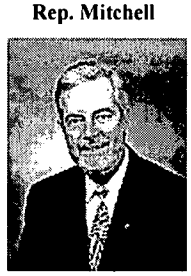
Rep. Mitchell

Rep. Preston

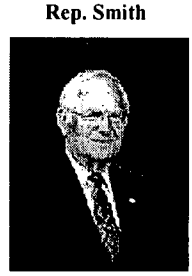


Rep. Smith

Rep. Tucker



Rep. Warner



Rep. Weatherly

ATTENDANCE

House Committee on Environment & Natural Resources

2002

DATES	6/12	6/18	6/25	7/9	7/23	7/30	7/31	8/14	8/27	9/25					
GIBSON, Pryor **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
McCOMAS, Daniel **CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
WARWICK, Nurham **CHAIR**	✓	✓	✓	✓		✓	✓								
COX, Leslie **VICE-CHAIR**	✓		✓	✓	✓	✓	✓	✓	✓						
UNDERHILL, Alice **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓							
WEISS, Jennifer **VICE-CHAIR**	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
ALLEN, Gordon	✓	✓	✓		✓	✓	✓	✓		✓					
BOWIE, Joanne	✓	✓		✓	✓	✓	✓		✓						
CULP, Arlie	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
DAVIS, Don			✓	✓	✓	✓	✓		✓						
GRAY, Lyons	✓				✓		✓								
GULLEY, Jim	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
HACKNEY, Joe	✓	✓	✓	✓	✓	✓	✓	✓	✓						
HILL, Dewey		✓	✓	✓	✓	✓	✓		✓	✓					
INSKO, Verla	✓		✓	✓	✓	✓	✓	✓	✓	✓					
LUEBKE, Paul	✓	✓	✓	✓	✓	✓	✓	✓							
MCCOMBS, Eugene	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
MINER, David				✓	✓										
MITCHELL, Frank	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
PRESTON, Jean	✓	✓	✓	✓	✓	✓	✓			✓					
SMITH, Ronnie	✓	✓					✓	✓	✓						
TUCKER, Russell			✓			✓		✓							
WARNER, Alex	✓	✓			✓	✓		✓	✓						
WEATHERLY, John	✓	✓		✓	✓	✓	✓	✓	✓	✓					

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

June 12, 2002

12:00 noon

1. **Call to Order – Representative Gibson, Presiding**

2. **Briefing on environmental portion of SB 1078-improve air quality/electric utilities**

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 12, 2002

MINUTES

The House Committee on Environment and Natural Resources met June 12, 2002, in Room 643 of the Legislative Office Building at 12:00 noon. Pryor Gibson, Danny McComas, and Nurham Warwick, Chairs, were present. Other members attending were Vice Chairs, Leslie Cox, Jennifer Weiss, Alice Underhill, and Committee members Gordon Allen, Joanne Bowie, Arlie Culp, Lyons Gray, Jim Gulley, Joe Hackney, Verla Insko, Paul Luebke, Eugene McCombs, Frank Mitchell, Jean Preston, Ronnie Smith, Alex Warner, and John Weatherly. A Visitor Registration is attached and made part of these minutes.

Chair Gibson called the meeting to order at 12:09 pm. He announced that Committee members had expressed an interest in SB 1078 (Attachment 1) which would be on the House Floor today. Bill sponsors Senators Stephen Metcalf and Martin Nesbitt briefed the Committee.

Senator Metcalf said that there were two issues which led to this bill: 1) the deteriorating quality of the air in North Carolina which is causing higher instances of health problems, and 2) the two sources of dirty air—mobile sources (automobiles) and the 14 coal fired power plants in North Carolina. The bill does three things: 1) sets a standard and a timetable to reduce pollutants 75% over the next 10-12 years, 2) a cost recovery mechanism for power plants, and 3) calls for the Governor the stated intent of the General Assembly, to use all measures, including litigation, to require other states to meet the same standards as North Carolina, particularly the TVA. It gives North Carolina the legal right to sue.

Rep. Nesbitt said that this bill is a product of lengthy and comprehensive negotiations and is a revolutionary piece of legislation. It is a consensus piece of legislation by every interested group. It is a change in doing business. The utilities are working with the State and will be allowed to recover the full cost of the changes. The people support the bill even if it costs more for power.

Secretary William Ross, DENR, said he was proud that North Carolina would be a national leader with this multi-pollutant strategy. It is well drafted, has a broad base of support, and urged the House to move ahead with the bill.

Allen Hirsch, the Governor's Policy Director, said that the bill would result in substantially better cleaner air and better health for all now and in the future. Duke and CP&L will enter into a contract with the Governor and will assign credits to the State,

which will be held by the State and will not be disposed of without action of the General Assembly.

Chief Counsel George Givens explained the fine points of the bill (Attachment 2 and 3) to include Emissions Limitations, Enforcement Provisions, Cost Recovery, and Other air Quality Information. It will take 11 years to implement a 70% reduction of emissions and pollutants.

A short discussion ensued which pointed out that the rate structure freeze would not raise rates for 5 years to retail customers (but does affect electricities companies); the cost would be $2.3 billion.

Chair Gibson adjourned the meeting at 12:56 pm.

Pryor Gibson, Chair

Shirlyn MacPherson, Committee Assistant

6-12-02 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 1078

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/18/01

House Committee Substitute Favorable 6/11/02

Short Title: Improve Air Quality/Electric Utilities. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING LIMITS ON THE EMISSION OF CERTAIN POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF ACHIEVING COMPLIANCE WITH THOSE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from certain coal-fired generating units.**

(a) As used in this section:

(1) 'Coal-fired generating unit' means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2) 'Investor-owned public utility' means an investor-owned public utility, as defined in G.S. 62-3.

(b) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 75,000 tons of oxides of nitrogen (NOx) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 35,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 31,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2009.

(c) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 75,000 tons or less of oxides of nitrogen (NOx) in calendar year 2000 shall not collectively emit from the coal-fired generating units that it owns or operates more than 25,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.

(d) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 225,000 tons of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 150,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 80,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(f) Each investor-owned public utility to which this section applies may determine how it will achieve the collective emissions limitations imposed by this section. Compliance with the emissions limitations set out in this section does not alter the obligation of any person to comply with any other federal or State law, regulation, or rule related to air quality or visibility. This subsection shall not be construed to limit the authority of the Commission to impose specific limitations on the emission of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from an individual coal-fired generating unit owned or operated by an investor-owned public utility.

(g) A coal-fired generating unit that is subject to the collective emissions limitations set out in this section on 1 July 2002 shall remain subject to the collective emissions limitations whether or not it thereafter continues to be owned or operated by an investor-owned public utility.

(h) The Commission shall require that any permit or modified permit issued for a coal-fired generating unit that is subject to this section include conditions that provide for testing, monitoring, record keeping, and reporting adequate to assure compliance with the requirements of this section.

(i) The Governor may enter into an agreement with an investor-owned public utility under which the investor-owned public utility voluntarily agrees to transfer to the State any emissions allowances acquired or that may be acquired by the investor-owned public utility pursuant to 42 U.S.C. §§ 7651-7651o, as implemented by 40 Code of Federal Regulations §§ 73.1 through 73.90 (1 July 2001 Edition); 42 U.S.C.

7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July 2001 Edition), related federal regulations, and the associated State Implementation Plan; 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July 2001 Edition) and related federal regulations; or any similar program established under federal law that result from compliance with the emissions limitations set out in this section. An agreement entered into pursuant to this subsection shall be binding and shall be enforceable by specific performance. If the Governor enters into an agreement that provides for the transfer of emissions allowances to the State, the Governor shall file verified copies of the agreement with the Attorney General, the Secretary of State, the State Treasurer, the Secretary of Environment and Natural Resources, and the Utilities Commission. The State Treasurer shall hold all emissions allowances that are transferred to the State as provided in this subsection in trust for the people of this State and shall sell, trade, transfer, or otherwise dispose of the emissions allowances only as the General Assembly shall provide by law.

(j) An investor-owned public utility that is subject to the emissions limitations set out in this section shall submit to the Utilities Commission and to the Department on or before 1 April of each year a verified statement pursuant to subsection (i) of G.S. 62-133.6."

SECTION 2. G.S. 143-215.108 reads as rewritten:

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

(a) ~~After the effective date applicable to any air quality or emission control standards established pursuant to G.S. 143-215.107 and except~~ Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities which contravene or will be likely to contravene ~~such~~ standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D ~~until or~~ unless ~~such~~ that person ~~shall have applied for and shall have received~~ has obtained from the Commission a permit therefor and ~~shall have~~ has complied with ~~such conditions, if any, as are prescribed by such~~ any conditions of this permit:

(1) Establish or operate any air contaminant source;

(2) Build, erect, use or operate any equipment which may result in the emission of air contaminants or which is likely to cause air pollution;

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be emitted;

(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.

(a1) The Commission may by rule establish procedures that meet the requirements of section 502(b)(10) of Title V (42 U.S.C. § 7661a(b)(10)) and 40 Code of Federal Regulations § 70.4(b)(12) (1 July 1993 Edition) to allow a permittee to make changes within a permitted facility without requiring a revision of the permit.

(a2) The Commission may adopt rules that provide for a minor modification of a permit. At a minimum, rules that provide for a minor modification of a permit shall

meet the requirements of 40 Code of Federal Regulations § 70.7(e)(2) (1 July 1993 Edition). If the Commission adopts rules that provide for a minor modification of a permit, a permittee shall not make a change in the permitted facility while the application for the minor modification is under review unless the change is authorized under the rules adopted by the Commission.

(b) The Commission shall act upon all applications for permits so as to effectuate the ~~purpose~~ purposes of this ~~section,~~ Article by reducing existing air pollution and preventing, so far as reasonably possible, any increased pollution of the air from any additional or enlarged sources.

(c) The Commission shall have the power:

(1) To grant and renew a permit with ~~such~~ any conditions attached ~~as~~ that the Commission believes necessary to achieve the purposes of this ~~section~~ Article or the requirements of the Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency;

...."

SECTION 3. G.S. 143-215.107(a)(8) reads as rewritten:

"(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO2) allowances and ~~nitrogen~~ oxides of nitrogen (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency."

SECTION 4. G.S. 143-215.114A(a) reads as rewritten:

"(a) A civil penalty of not more than ten thousand dollars ($10,000) may be assessed by the Secretary against any person who:

(1) Violates any classification, standard or limitation established pursuant to ~~G.S. 143-215.107;~~G.S. 143-215.107.

(2) Is required but fails to apply for or to secure a permit required by G.S. 143-215.108 or who violates or fails to act in accordance with the terms, conditions, or requirements of such ~~permit;~~permit.

(3) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to ~~G.S. 143-215.110;~~G.S. 143-215.110.

(4) Fails to file, submit, or make available, as the case may be, any documents, data or reports required by this Article or Parts 1 or 7 of Article 21 of this ~~Chapter;~~Chapter.

(5) Violates a rule of the Commission or a local governing body implementing this Article or Parts 1 or 7 of ~~Article 21;~~Article 21.

(6) Violates the offenses set out in G.S. 143-215.114B.

(7) Violates the emissions limitations set out in G.S. 143-215.107D."

SECTION 5. G.S. 143-215-114A is amended by adding a new subsection to read:

"(b1) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) per day for a violation of the emissions limitations set out in G.S.

143-215.107D as provided in this subsection. If at the end of any calendar year, an investor-owned public utility has violated an emissions limitation set out in G.S. 143-215.107D, the violation shall be considered to be continuous from the day that the collective emissions first exceeded the emissions limitation set out in G.S. 143-215.107D through the end of the calendar year and the Secretary may assess a separate civil penalty for each day."

SECTION 6. G.S. 143-215.114B(f) reads as rewritten:

"(f) Any person who negligently violates any classification, standard or limitation established pursuant to ~~G.S. 143-215.107;~~ G.S. 143-215.107 or by G.S. 143-215.107D any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or of a special order or other appropriate document issued pursuant to G.S. 143-215.110 or any rule of the Commission implementing any of the said section, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars ($200,000) for each period of 30 days during which a violation continues."

SECTION 7. G.S. 143-215.114B(g) reads as rewritten:

"(g) Any person who knowingly and willfully violates any classification, standard, or limitation established in the rules of the Commission pursuant to ~~G.S. 143-215.107 or~~ G.S. 143-215.107; the emissions limitations set out in G.S. 143-215.107D; any term, condition, or requirement of a permit issued pursuant to ~~G.S. 143-215.108~~ G.S. 143-215.108; or of a special order or other appropriate document issued pursuant to G.S. 143-215.110, shall be guilty of a Class H felony, which may include a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars ($500,000) for each period of 30 days during which a violation continues. For the purposes of this subsection, the phrase "knowingly and willfully" shall mean intentionally and consciously as the courts of this State, according to the principles of common law, interpret the phrase in the light of reason and experience."

SECTION 8. G.S. 143-215.114B(h)(1) reads as rewritten:

"(1) Any person who knowingly violates any classification, standard, or limitation established in the rules of the Commission pursuant to ~~G.S. 143-215.107 or~~ G.S. 143-215.107; the emissions limitations set out in G.S. 143-215.107D; any term, condition, or requirement of a permit issued pursuant to ~~G.S. 143-215.108~~ G.S. 143-215.108; or of a special order or other appropriate document issued pursuant to G.S. 143-215.110 and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury shall be guilty of a Class C felony, which may include a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, provided that this fine shall not exceed a cumulative total of one million dollars ($1,000,000) for each period of 30 days during which a violation continues."

SECTION 9. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.6. Environmental compliance costs recovery.**

(a) As used in this section:

(1) 'Coal-fired generating unit' means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2) 'Environmental compliance costs' means only those capital costs incurred by an investor-owned public utility to comply with the emissions limitations set out in G.S. 143-215.107D that exceed the costs required to comply with 42 U.S.C. § 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July 2001 Edition), related federal regulations, and the associated State or Federal Implementation Plan, or with 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July 2001 Edition) and related federal regulations. The term 'environmental compliance costs' does not include:

a. Costs required to comply with a final order or judgment rendered by a state or federal court under which an investor-owned public utility is found liable for a failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

b. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve compliance with the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with a settlement agreement, consent decree, or similar resolution of litigation arising from any alleged failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

c. Any criminal or civil fine or penalty, including court costs imposed or assessed for a violation by an investor-owned public utility of any federal or state law, rule, or regulation for the protection of the environment or public health.

d. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with any limitation on emissions of oxides of nitrogen (NOx) or sulfur dioxide (SO2) that are imposed on an individual coal-fired generating unit by the Environmental Management Commission or the Department of Environment and Natural Resources to address any nonattainment of an air quality standard in any area of the State.

(3) 'Investor-owned public utility' means an investor-owned public utility, as defined in G.S. 62-3.

(b) The investor-owned public utilities shall be allowed to accelerate the cost recovery of their estimated environmental compliance costs over a seven-year period, beginning 1 January 2003 and ending 31 December 2009. For purposes of this subsection, an investor-owned public utility subject to the provisions of subsections (b) and (d) of G.S. 143-215.107D shall amortize environmental compliance costs in the amount of one billion five hundred million dollars ($1,500,000,000) and an investor-owned public utility subject to the provisions of subsections (c) and (e) of G.S. 143-215.107D shall amortize environmental compliance costs in the amount of eight hundred thirteen million dollars ($813,000,000). During the rate freeze period established in subsection (e) of this section, the investor-owned public utilities shall, at a minimum, recover through amortization seventy percent (70%) of the environmental compliance costs set out in this subsection. The maximum amount for each investor-owned public utility's annual accelerated cost recovery during the rate freeze period shall not exceed one hundred fifty percent (150%) of the annual levelized environmental compliance costs set out in this subsection. The amounts to be amortized pursuant to this subsection are estimates of the environmental compliance costs that may be adjusted as provided in this section. The General Assembly makes no judgment as to whether the actual environmental compliance costs will be greater than, less than, or equal to these estimated amounts. These estimated amounts do not define or limit the scope of the expenditures that may be necessary to comply with the emissions limitations set out in G.S. 143-215.107D.

(c) The investor-owned public utilities shall file their compliance plans, including initial cost estimates, with the Commission and the Department of Environment and Natural Resources not later than 10 days after the date on which this section becomes effective. The Commission shall consult with the Secretary of Environment and Natural Resources and shall consider the advice of the Secretary as to whether an investor-owned public utility's proposed compliance plan is adequate to achieve the emissions limitations set out in G.S. 143-215.107D.

(d) Subject to the provisions of subsection (f) of this section, the Commission shall hold a hearing to review the environmental compliance costs set out in subsection (b) of this section. The Commission may modify and revise those costs as necessary to ensure that they are just, reasonable, and prudent based on the most recent cost information available and determine the annual cost recovery amounts that each investor-owned public utility shall be required to record and recover during calendar years 2008 and 2009. In making its decisions pursuant to this subsection, the Commission shall consult with the Secretary of Environment and Natural Resources to receive advice as to whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D. The Commission shall issue an order pursuant to this subsection no later than 31 December 2007.

(e) Notwithstanding G.S. 62-130(d) and G.S. 62-136(a), the base rates of the investor-owned public utilities shall remain unchanged from the date on which this

section becomes effective through 31 December 2007. The Commission may, however, consistent with the public interest:

(1) Allow adjustments to base rates, or deferral of costs or revenues, due to one or more of the following conditions occurring during the rate freeze period:

a. Governmental action resulting in significant cost reductions or requiring major expenditures including, but not limited to, the cost of compliance with any law, regulation, or rule for the protection of the environment or public health, other than environmental compliance costs.

b. Major expenditures to restore or replace property damaged or destroyed by force majeure.

c. A severe threat to the financial stability of the investor-owned public utility resulting from other extraordinary causes beyond the reasonable control of the investor-owned public utility.

d. The investor-owned public utility persistently earns a return substantially in excess of the rate of return established and found reasonable by the Commission in the investor-owned public utility's last general rate case.

(2) Approve any reduction in a rate or rates applicable to a customer or class of customers during the rate freeze period, if requested to do so by an investor-owned public utility that is subject to the emissions limitations set out in G.S. 143-215.107D.

(f) In any general rate case initiated to adjust base rates effective on or after 1 January 2008, the investor-owned public utility shall be allowed to recover its actual environmental compliance costs in accordance with Article 7 of this Chapter less the cumulative amount of accelerated cost recovery recorded pursuant to subsection (b) of this section.

(g) Consistent with the public interest, the Commission is authorized to approve proposals submitted by an investor-owned public utility to implement optional, market-based rates and services, provided the proposal does not increase base rates during the period of time referred to in subsection (e) of this section.

(h) Nothing in this section shall prohibit the Commission from taking any actions otherwise appropriate to enforce investor-owned public utility compliance with applicable statutes or Commission rules or to order any appropriate remedy for such noncompliance allowed by law.

(i) An investor-owned public utility that is subject to the emissions limitations set out in G.S. 143-215.107D shall submit to the Commission and to the Department of Environment and Natural Resources on or before 1 April of each year a verified statement that contains all of the following:

(1) A detailed report on the investor-owned public utility's plans for meeting the emissions limitations set out in G.S. 143-215.107D.

(2) The actual environmental compliance costs incurred by the investor-owned public utility in the previous calendar year, including a

description of the construction undertaken and completed during that year.

(3) The amount of the investor-owned public utility's environmental compliance costs amortized in the previous calendar year.

(4) An estimate of the investor-owned public utility's environmental compliance costs and the basis for any revisions of those estimates when compared to the estimates submitted during the previous year.

(5) A description of all permits required in order to comply with the provisions of G.S. 143-215.107D for which the investor-owned public utility has applied and the status of those permits or permit applications.

(6) A description of the construction related to compliance with the provisions of G.S. 143-215.107D that is anticipated during the following year.

(7) A description of the applications for permits required in order to comply with the provisions of G.S. 143-215.107D that are anticipated during the following year.

(8) The results of equipment testing related to compliance with G.S. 143-215.107D.

(9) The number of tons of oxides of nitrogen (NOx) and sulfur dioxide (SO2) emitted during the previous calendar year from the coal-fired generating units that are subject to the emissions limitations set out in G.S. 143-215.107D.

(10) The emissions allowances described in G.S. 143-215.107D(i) that are acquired by the investor-owned public utility that result from compliance with the emissions limitations set out in G.S. 143-215.107D.

(11) Any other information requested by the Commission or the Department of Environment and Natural Resources.

(j) The Secretary shall review the information submitted pursuant to subsection (i) of this section and determine whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D and shall advise the Commission as to the Secretary's findings and recommendations.

(k) Any information, advice, findings, recommendations, or determinations provided by the Secretary pursuant to this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that Chapter."

SECTION 10. It is the intent of the General Assembly that the State use all available resources and means, including negotiation, participation in interstate compacts and multistate and interagency agreements, petitions pursuant to 42 U.S.C. § 7426, and litigation to induce other states and entities, including the Tennessee Valley Authority, to achieve reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) comparable to those required by G.S. 143-215.107D, as enacted by

Section 1 of this act, on a comparable schedule. The State shall give particular attention to those states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage.

SECTION 11. The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission annually beginning 1 September 2005.

SECTION 12. The General Assembly anticipates that measures implemented to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) required by G.S. 143-215.107D, as enacted by Section 1 of this act, will also result in significant reductions in the emissions of mercury from coal-fired generating units. The Division of Air Quality of the Department of Environment and Natural Resources shall study issues related to monitoring emissions of mercury and the development and implementation of standards and plans to implement programs to control emissions of mercury from coal-fired generating units. The Division shall evaluate available control technologies and shall estimate the benefits and costs of alternative strategies to reduce emissions of mercury. The Division shall annually report its interim findings and recommendations to the Environmental Management Commission and the Environmental Review Commission beginning 1 September 2003. The Division shall report its final findings and recommendations to the Environmental Management Commission and the Environmental Review Commission no later than 1 September 2005. The costs of implementing any air quality standards and plans to reduce the emission of mercury from coal-fired generating units below the standards in effect on the date this act becomes effective, except to the extent that the emission of mercury is reduced as a result of the reductions in the emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

SECTION 13. The Division of Air Quality of the Department of Environment and Natural Resources shall study issues related to the development and implementation of standards and plans to implement programs to control emissions of

carbon dioxide (CO2) from coal-fired generating units and other stationary sources of air pollution. The Division shall evaluate available control technologies and shall estimate the benefits and costs of alternative strategies to reduce emissions of carbon dioxide (CO2). The Division shall annually report its interim findings and recommendations to the Environmental Management Commission and the Environmental Review Commission beginning 1 September 2003. The Division shall report its final findings and recommendations to the Environmental Management Commission and the Environmental Review Commission no later than 1 September 2005. The costs of implementing any air quality standards and plans to reduce the emission of carbon dioxide (CO2) from coal-fired generating units below the standards in effect on the date this act becomes effective, except to the extent that the emission of carbon dioxide (CO2) is reduced as a result of the reductions in the emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

SECTION 14. On or before 1 June of each year, the Department of Environment and Natural Resources and the Utilities Commission shall report on the implementation of this act to the Environmental Review Commission and the Joint Legislative Utility Review Committee. The first report required by this section shall be submitted no later than 1 June 2003.

SECTION 15. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 16. This act is effective when it becomes law except that G.S. 143-215.107D(i), as enacted by Section 1 of this act, is effective retroactively to 1 June 2002.

6-12-02 ATT # 2

SENATE BILL 1078:
Improve Air Quality/Electric Utilities

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Metcalf
Date:	June 12, 2002	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	Third Edition		Frank Folger, Staff Attorney

SUMMARY: ***Senate Bill 1078, Third Edition, establishes limits on emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from large-scale, coal-fired generating units owned or operated by investor-owned public utilities in the State. The bill also provides a timetable for complying with the emissions limitations as well as a mechanism by which the investor-owned public utilities would amortize their estimated environmental compliance costs over seven (7) years with a rate freeze for the first five (5) years.***

BILL ANALYSIS:

EMISSIONS LIMITATIONS

Section 1 establishes annual limits on the collective emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from coal-fired generating units that are located in North Carolina, have an individual generation capacity of 25 or more megawatts of electricity, and are owned or operated by investor-owned public utilities.

The following tables outline the annual limits on the collective emissions that will be required of the coal-fired generating units owned and operated by the two investor-owned public utilities subject to the emissions limitations, Duke Energy and Progress Energy. (The total emissions limitations outlined below are the same as those found in the First and Second Editions of Senate Bill 1078.)

Duke Energy

Pollutant	2000 Emissions	2007 Emissions	2009 Emissions	2013 Emissions
Oxides of Nitrogen (NOx)	More than 75,000 tons	No more than 35,000 tons	No more than 31,000 tons	No more than 31,000 tons
Sulfur Dioxide (SO2)	More than 225,000 tons	Not Specified	No more than 150,000 tons	No more than 80,000 tons

Progress Energy

Pollutant	2000 Emissions	2007 Emissions	2009 Emissions	2013 Emissions
Oxides of Nitrogen (NOx)	75,000 tons or less	No more than 25,000 tons	No more than 25,000 tons	No more than 25,000 tons
Sulfur Dioxide (SO2)	225,000 tons or less	Not specified	No more than 100,000 tons	No more than 50,000 tons

Section 1 also provides that:

- Duke Energy and Progress Energy may determine how to comply with the emissions limitations. They must also comply with other State and federal air quality laws, including any specific limitations on emissions of NOx and SO2 from individual coal-fired generating units adopted by the Environmental Management Commission (EMC).
- A coal-fired generating unit that is subject to the emissions limitations as of July 1, 2002 shall remain subject to the limitations regardless of any future transfer of ownership or operation.
- The EMC shall require testing, monitoring, record keeping, and reporting adequate to assure compliance with the emissions limitations.
- The Governor may enter into an agreement with Duke Energy or Progress Energy under which either of the utilities may transfer to the State any emissions allowances acquired as a result of complying with the emission limitations. Such agreement shall be filed with the Attorney General, the Secretary of State, the State Treasurer, the Secretary of Environment and Natural Resources (Secretary), and the Utilities Commission (Commission). The State Treasurer will hold the emissions allowances in trust for the people of the State and may transfer them only as authorized by the General Assembly. (Effective retroactively to June 1, 2002)
- Duke Energy and Progress Energy shall report to the Commission and the Department of Environment and Natural Resources (Department) on or before April 1 of each year on plans and activities necessary to comply with the emissions limitations.

Sections 2 and 3 make technical and conforming changes.

ENFORCEMENT PROVISIONS

Sections 4 and 5 add violations of the emissions limitations to the list of air quality violations for which the Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000). These sections also provide that a violation of an emissions limitation is considered to be continuous from the day the emissions limitation was first exceeded through the end of the calendar year and the Secretary may assess a separate civil penalty for each day.

Section 6 adds negligent violation of the emissions limitations to the list of air quality violations for which a person may be found guilty of a Class 2 misdemeanor. A person found guilty under this provision may also be subject to a fine not to exceed fifteen thousand dollars ($15,000) per day of violation, which may not exceed a cumulative total of two hundred thousand dollars ($200,000) for each 30-day period of continuing violation.

Section 7 adds knowing and willful violation of the emissions limitations to the list of air quality violations for which a person may be found guilty of a Class H felony. A person found guilty under this provision may also be subject to a fine not to exceed one hundred thousand dollars ($100,000) per day of violation, which may not exceed a cumulative total of five hundred thousand dollars ($500,000) for each 30-day period of continuing violation.

Section 8 adds knowing violation of the emissions limitations that places another person in imminent danger of death or serious bodily injury to the list of air quality violations for which a person may be found guilty of a Class C felony. A person found guilty under this provision may also be subject to a fine not to exceed two hundred fifty thousand dollars ($250,000) per day of violation, which may not exceed a cumulative total of one million dollars ($1,000,000) for each 30-day period of continuing violation.

COST RECOVERY

Section 9 provides for cost recovery of expenditures incurred by the investor-owned public utilities in meeting the emissions limits in the act, with the following key provisions:

- It allows the investor-owned public utilities to accelerate their recovery of estimated environmental compliance costs over 7 years. Duke Energy must amortize $1.5 billion and Progress Energy must amortize $813 million. Environmental compliance costs are those capital costs incurred to comply with the emissions limitations that exceed the costs required to comply with federal air quality laws. Environmental compliance costs do not include:
  - Costs required to comply with a state or federal court order or judgment under which an investor-owned public utility is found liable for failure to comply with state or federal environmental law.
  - The net increase in costs, above those proposed by an investor-owned public utility to comply with the emissions limitations, that are necessary to comply with a settlement agreement, consent decree, or similar resolution of litigation arising from any alleged failure to comply with state or federal environmental law.
  - Any criminal or civil penalty, including court costs, imposed on an investor-owned public utility for violation of state or federal environmental law.
  - The net increase in costs, above those proposed by an investor-owned public utility to comply with the emissions limitations, that are necessary to comply with any limitation on emissions of NOx of SO2 that is imposed on an individual coal-fired generating unit by the EMC or the Department to address nonattainment of air quality standards.
- It establishes a rate freeze period through December 31, 2007. During this period, Duke Energy and Progress Energy must each amortize 70% or more of their environmental compliance costs. During the freeze, the Commission may allow adjustment of base rates or deferral of costs or revenues, upon the happening of one or more of the following:
  - Governmental action leading to significantly reduced costs or major expenditures for the investor-owned public utility (other than those in the act).
  - Major expenditures incurred in restoring or replacing investor-owned public utility property damaged by force majeure.
  - Severe threat to an investor-owned public utility's financial stability resulting from extraordinary causes beyond the utility's control.
  - Investor-owned public utility earnings persistently and substantially exceeding the established rate of return for the utility.
- Not later than 10 days after this act becomes effective, the investor-owned public utilities must submit a compliance plan, including initial cost estimates, to the Commission and the Department. The Commission will consult with the Secretary as to whether the proposed compliance plans are adequate to achieve the emissions limitations.
- The Commission shall hold a hearing to review the environmental compliance costs of each investor-owned public utility; revise and modify them to ensure they are just, reasonable, and prudent based on the most recent information available; and determine the annual cost recovery amounts for each investor-owned public utility in 2008 and 2009. The Commission will consult with the Secretary as to whether the actual and proposed activities of the investor-owned public utilities are adequate to achieve the emissions limitations. The Commission will issue an order based on its review and determination no later than December 31, 2007.

- In any general rate case initiated to adjust base rates effective after January 1, 2008, an investor-owned public utility can recover the costs it has actually expended to comply with the emissions limits less the total amount of accelerated cost recovery it recorded.
- Upon request by an investor-owned public utility, the Commission may approve lower rates for a customer or class of customers and may also approve optional market-based rates and services that do not increase base rates.
- The Commission may exercise any appropriate enforcement actions or order remedies for noncompliance.
- Duke Energy and Progress Energy shall report to the Commission and the Department on or before April 1 of each year on plans and activities necessary to comply with the emissions limitations. The Secretary may review the information submitted in this report as to whether the actual and proposed activities of the investor-owned public utilities are adequate to achieve the emissions limitations.

OTHER AIR QUALITY ACTIVITIES, STUDIES, AND REPORTS

Section 10 provides that it is the intent of the General Assembly to use all available resources and means to induce other states and entities to achieve emissions reductions comparable to those required by this act.

Section 11 directs the EMC to study the desirability and feasibility of obtaining reductions in emissions of NOx and SO2 beyond those required by this act. The EMC will report its findings and recommendations to the General Assembly and the Environmental Review Commission (ERC) annually beginning September 1, 2005.

Section 12 directs the Division of Air Quality of the Department (DAQ) to study issues related to monitoring and controlling emissions of mercury from coal-fired generating units. DAQ will annually report its interim findings and recommendations to the EMC and the ERC beginning September 1, 2003 and will report its final findings and recommendations to the EMC and the ERC no later than September 1, 2005. Any costs of complying with future limits on emissions of mercury not associated with this act will not be recoverable as environmental compliance costs under this act.

Section 13 directs DAQ to study issues related to monitoring and controlling emissions of carbon dioxide (CO2) from coal-fired generating units and other stationary sources. DAQ will annually report its interim findings and recommendations to the EMC and the ERC beginning September 1, 2003 and will report its final findings and recommendations to the EMC and the ERC no later than September 1, 2005. Any costs of complying with future limits on emissions of CO2 not associated with this act will not be recoverable as environmental compliance costs under this act.

Section 14 requires the Department and the Commission to report on or before June 1 of each year to the ERC and the Joint Legislative Utility Review Commission on implementation of this act.

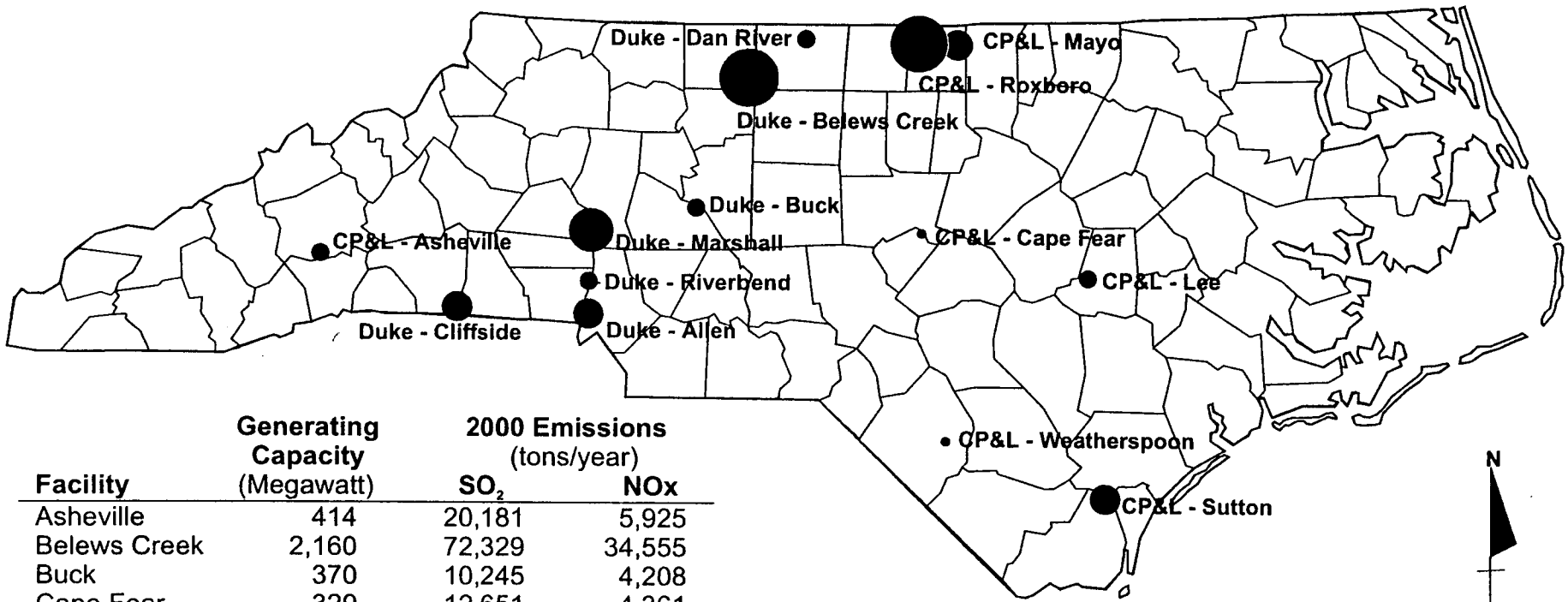
MISCELLANEOUS PROVISIONS

Section 15 provides that if any portion of this act is found to be unconstitutional or invalid, the other portions of this act remains valid.

Section 16 provides that, except as otherwise provided, the act is effective when it becomes law.

George F. Givens, Committee Counsel, and Steve Rose, Principal Legislative Analyst, contributed to the preparation of this summary.

North Carolina Coal-Fired Electrical Generating Facilities Subject to SB 1078



Facility	Generating Capacity (Megawatt)	2000 Emissions (tons/year) SO_2	NOx
Asheville	414	20,181	5,925
Belews Creek	2,160	72,329	34,555
Buck	370	10,245	4,208
Cape Fear	329	12,651	4,361
Cliffside	781	29,139	9,437
Dan River	290	5,833	2,574
Allen	1,155	34,059	13,054
Sutton	673	22,548	6,358
Lee	402	16,853	5,841
Marshall	1,996	79,041	27,074
Mayo	736	29,512	9,965
Riverbend	466	17,462	5,488
Roxboro	2,558	96,913	28,513
Weatherspoon	166	6,625	2,889

Data Reported per Title IV of Federal Clean Air Act

Unit Capacity (Megawatt)

- 0 - 250
- 250 - 500
- 500 - 1,000
- 1,000 - 2,000
- 2,000 - 2,600

June 10, 2002

6-12-02 ATT 3

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1078 Third Edition

SHORT TITLE: Improve Air Quality/Electric Utilities

SPONSOR(S): Senator Metcalf, *et al*

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES					
EXPENDITURES	No Estimate Available (See Assumptions and Methodology)				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

EFFECTIVE DATE: When it becomes law, except that G.S. 143-215.107D(i), as enacted by Section 1, is effective retroactively to June 1, 2002.

BILL SUMMARY: Senate Bill 1078 establishes limits on emissions of nitrogen and sulfur dioxide from large-scale coal-fired generating units owned or operated by investor-owned public utilities in the State. The bill also provides a mechanism for complying with the emissions limitations as well as a mechanism by which the investor-owned public utilities would amortize their estimated environmental compliance costs over seven years with a rate freeze for the first five years. Duke Energy must amortize $1.5 billion and Progress Energy must amortize $813 million. At least 70% of these amounts must be amortized during the rate freeze period with a maximum of 150% of the levelized amount in any one year. Before the end of the rate freeze period in 2007, the Utilities Commission may review the environmental compliance costs of each utility and determine annual recovery costs for 2008 and 2009. In later rate cases each utility can recover its actual costs less the amounts recovered earlier. The bill provides that the Governor may enter into an agreement with an investor-owned public utility under which the utility voluntarily agrees to transfer to the State certain emissions allowances that it may acquire as a result of complying with the bill. The bill requires the Environmental Management Commission to study and report on the desirability and feasibility of requiring emissions reductions beyond those required in the bill. The bill requires the Division of Air Quality of the Department of Natural Resources to study issues related to monitoring and controlling emissions of mercury from coal-fired generating units. The bill also requires the Division of Air Quality to study issues related to the control of carbon dioxide from coal-fired generating units and other stationary sources of air pollution.

ASSUMPTIONS AND METHODOLOGY: If SB 1078 becomes law, the basic rates paid by the State and other customers of Duke Energy and Progress Energy will be frozen through December 31, 2007, which is beyond the five-year period covered by this fiscal analysis. However, Duke Energy and Progress Energy will be investing an estimated $2.3 billion dollars in emission control equipment and much of these costs will be added to the utilities' cost of service during this period. Therefore, without the bill the utilities' costs would be lower and, other factors being equal, some or all of these lower costs presumably could be passed on to utility customers through the mechanism of general rate cases. However, because general rate cases consider all aspects of a utility's costs, the amount and timing of any reduction, and how it would be divided among customer classes, is entirely speculative and no estimate is available as to what savings might accrue to the State or other utility customers if SB 1078 were not passed.

The costs attributable to customers as a result of these investments can be roughly estimated. SB 1078 specifies how the utilities will amortize the expected costs of pollution control equipment over the next five years. Duke will be amortizing at least 70% of $1.5 billion over five years, or $210 million per year. According to the Public Staff, this is equivalent to approximately 0.4 cents per kilowatt-hour for North Carolina retail sales. Progress Energy will be amortizing at least 70% of $813 million over five years, or $114 million per year. This is equivalent to 0.3 cents per kilowatt-hour for North Carolina retail sales. The average for the two companies would be 0.35 cents per kilowatt-hour. With customers such as the State paying approximately 6 cents per kilowatt-hour for service (depending on their utility and usage pattern), the cost of implementing these emission reductions would be about 6% (0.35 cents per kilowatt-hour divided by 6 cents per kilowatt-hour). This cost is temporary, until it is fully amortized.

According to the Office of State Controller, the State paid approximately $123 million for electricity in FY2000-01. Not all of this was to Duke or Progress Energy, however, as many State facilities are served by municipal power systems, Electric Membership Corporations, or Dominion Resources. The total paid to Duke and Progress Energy is not known but it is assumed here that the State is paying Duke and Progress Energy about $100 million per year in total. The State's "share" of the costs of the investment is then 6% of $100 million, or roughly $6 million per year for five years. The remaining costs would then be recovered under procedures specified in the bill.

Other Impacts

Local governments served by Duke Energy and Progress Energy will also have their rates frozen and will also forego any potential rate decreases. No estimate is available for this potential impact.

The Department of Natural Resources believes that the studies required by the bill can be completed with existing resources and staff.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bob Weiss Bob Weiss

APPROVED BY: James D. Johnson

James D. Johnson

DATE: June 11, 2002

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES — 6/12/02

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Brown	Capitol Group
George Ludden	PBV
Butch Bunnells	NCSDA
Tracy Dixon	Rep Baddour
Pricy Harrison	Rep NC
Brock Nicholson	DENR-DAQ
Hawley Truax	Gov.'s Office
Dan Oakley	DENR
John Mobley	GOV OFFICE
Shana Graham	GA
Brownie Newman	WNC Alliance

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Maria Nicholl	WNC Alliance
Sara Rains	Rep. Luebke
Lisa Marie Walter	Connect
Coleman Mehta	Rep. Gibson
Abigail Youngkin	Rep. Insko
Mary Katherine Hackney	Rep. Hackney
Betsy Davis	CCNC
Steve Wall	CCNC
Elizabeth Ouzts	NCPIRG
David Knight	Sierra Club, Wildlife Fed
Joe Gagnon	NC Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brian Bugby	NC Connect
Marion Smith	Health Group Coalition
Brock Winstead	NC Sierra Club
Eric Cochran	NC Sierra Club
Robin Smith	DENR
Sharon Matthews	DOT - DMV
Katie Hunt	NC Stakwatch
Lisa Pierce	Duke Energy
Ashley Huffstetler	The Capitol Group
Chuck Wakild	Progress Energy
Laura DeVivo	DENR
[illegible]	M+VA

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES
Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	CA
Omid Nasab	Hunton & Williams
Angie McMillan	The Nature Conservancy
Bob Gillam	Public Staff - NCUC
Alan Francis	Meck County
Brett Stohs	NC Public Interest Research Group (PIRG)
George Everett	Duke Energy
Amy Fullbright	Hunton & Williams
Joyce Peters	NCAssoc of Electric Cities
Leslie Bevacqua	NCCBA
Alice Garland	Electricities

VISITOR REGISTRATION SHEET

ENVIRONMENT & NATURAL RESOURCES

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Preston Howard	MCEC
Katherine Joyce	Electric Cooperatives
Pam Mega	NCACC
Ken Melton	Alley Associates, Inc.
Lu-Ann Coe	NCPA
Jerry Hobbs	NC Pork Co.

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

June 18, 2002

12:00 noon

1. **Call to Order – Representative Warwick, Presiding**

2. **HB 1545 – Natural Areas Added to State Parks System**
   HB 1557 – Extend Core Sound Moratorium/Marine Fisheries Studies
   HB 1579 – No Airboats on Lake Tillery
   HB 1584 - Hazard Mitigation Plan Compliance Deadline

3. **Adjourn**

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

Minutes

June 18, 2002

The House ENVIRONMENT & NATURAL RESOURCES COMMITTEE met on Tuesday, June 18, 2002 at 12:00 noon in room 643 of the Legislative Office Building. The following members were in attendance: Co-Chairmen Gibson, McComas and Warwick (presiding), Representatives Underhill (Vice-Chair), Weiss (Vice-Chair), Allen, Bowie, Culp, Gulley, Hackney, Hill, Luebke, McCombs, Mitchell, Preston, Smith, Warner and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes..

Representative Warwick called the meeting to order at 12:07 p.m. and said four bills would be heard (see attached agenda).

Representative McComas presented the first bill, **HB 1584 Hazard Mitigation Plan Compliance Deadline.** (see attachment #1). A Proposed Committee Substitute for HB1584 was adopted by the committee (see attachment #2). Representative McComas asked George Givens to explain the bill, and why it is necessary (see attachment #3). Mr. Givens said that in an earlier bill last session, the date of compliance for incinerators in North Carolina had been moved up from 2004 to 2003, and that due to budget constraints, that date change is making it difficult for counties to comply, and also the 2003 date is one year before federal regulations require compliance. Rick Zechini further explained that the only incinerator in North Carolina is located in New Hanover County. Robin Smith of the Department of Natural Resources said the department had no objections. Representative Hill moved for a favorable report for the Proposed Committee Substitute and unfavorable to the original bill. The motion carried.

Representative Baker presented **HB 1545 Natural Areas Added to State Parks System.** (see attachment #4). Representative Baker explained the bill and added that there is a mistake in the bill analysis that the alder flycatcher is rare bird not a plant (see attachment #5). Maps of the area were provided (see attachments 6,7&8). Representative Baker explained the importance of this particular piece of property and that this bill would give the State permission to purchase it when funds are available in addition to grants already obtained. Phil McKnelly of the Department of Natural Resources was recognized to explain how the land would be used for trails, school groups and study groups. Representative Gulley asked if hunting would be allowed and McKnelly replied that it is usual policy of the Department of Natural Resources to prohibit hunting in parks. Representative Gulley followed up by saying he would oppose the bill. Representative

Smith moved to give the bill a favorable report and Representative Gibson seconded the motion. The motion carried.

Representative Gibson presented **HB 1557 Extend Core Sound Mor./Marine Fish. Studies.** for Representative Wainwright (see attachment #9). Jeff Hudson explained that the bill extends the moratorium on issuing new shellfish cultivation leases in Core Sound, and also directs the Joint Legislative Commission on Seafood and Aquaculture to conduct various marine fisheries studies (see attachment #10). Representative Underhill moved to give the bill a favorable report and Representative Smith seconded the motion. The motion carried.

Representative Gibson presented **HB 1579 No Airboats on Lake Tillery.** (see attachment #11) A Proposed Committee Substitute was adopted by the committee (see attachment #12). Representative Gibson explained that noise from airboats had become a problem on Lake Tillery. Rick Zechini explained that the changes to the bill would allow Stanly and Montgomery counties to opt out of coverage of the act (see attachment #13). Representative Culp moved to give the Proposed Committee Substitute a favorable report and an unfavorable report to the original bill. The motion carried.

Representative Warwick thanked everyone and adjourned the meeting at 12:50 p.m.

Representative Nurham Warwick
Co-Chairman

Jayne A. Nelson
Committee Assistant

6/18/02 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1584

Short Title:	Hazard Mitigation Plan Compliance Deadline.	(Public)
Sponsors:	Representative McComas.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO MAKE THE STATE DEADLINE FOR APPROVAL OF HAZARD MITIGATION PLANS CONSISTENT WITH THE FEDERAL DEADLINE FOR APPROVAL OF THESE PLANS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-6.01(b)(2) reads as rewritten:

"(2) Public assistance. – State disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster area on the following terms and conditions:

a. Eligible entities shall meet the following qualifications:

1. The eligible entity suffers a minimum of ten thousand dollars ($10,000) in uninsurable losses;
2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one-half percent (0.5%) of the annual operating budget;
3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after ~~August 1, 2002,~~November 1, 2003, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and
4. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.

b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.

c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:

1. Debris clearance.
2. Emergency protective measures.
3. Roads and bridges.
4. Crisis counseling.
5. Assistance with public transportation needs."

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

6/18/02 ATT #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1584
PROPOSED COMMITTEE SUBSTITUTE H1584-PCS4244-SG-45

Short Title: Extend Certain Compliance Deadlines. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO MAKE THE STATE DEADLINE FOR APPROVAL OF HAZARD MITIGATION PLANS CONSISTENT WITH THE FEDERAL DEADLINE FOR APPROVAL OF THESE PLANS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO EXTEND THE DATE BY WHICH CERTAIN SMALL MUNICIPAL WASTE COMBUSTION UNITS MUST ACHIEVE COMPLIANCE WITH CERTAIN REQUIREMENTS RELATED TO THE EMISSION OF AIR POLLUTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-6.01(b)(2) reads as rewritten:

"(2) Public assistance. – State disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster area on the following terms and conditions:

a. Eligible entities shall meet the following qualifications:

1. The eligible entity suffers a minimum of ten thousand dollars ($10,000) in uninsurable losses;
2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one-half percent (0.5%) of the annual operating budget;
3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after ~~August 1, 2002,~~November 1, 2003, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and
4. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.

6/18/02 ATT #3.

HOUSE BILL 1584:
Extend Certain Compliance Deadlines

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative McComas
Date:	June 18, 2002	**Summary by:**	Rick Zechini Committee Counsel
Version:	Proposed Committee Substitute		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1584 extends the date by which local governments must have approved hazard mitigation plans in order to receive public assistance after a Type I disaster from August 1, 2002, to November 1, 2003, which is the date by which local governments must have approved hazard mitigation plans to receive Hazard Mitigation Grant Program project grants under federal law. The Proposed Committee Substitute also directs the Environmental Management Commission to amend rules applicable to air emissions from existing small municipal waste combustion units to change the final compliance deadline from March 1, 2003, to December 1, 2004.***

BILL ANALYSIS:

Section 1. Hazard Mitigation Plans

G.S. 166A-6.01(b)(2)a.3. provides that a local government must have an approved hazard mitigation plan to receive public assistance for a Type I disaster proclaimed after August 1, 2002. A hazard mitigation plan includes an assessment of the local government's vulnerability to natural hazards, the local government's strategy for reducing potential losses from these hazards, and a schedule to monitor, evaluate, and update the plan. A Type I disaster involves a local disaster event.[1] Public assistance is available for Type I disasters in the form of grants for debris clearance, emergency protective measures, roads and bridges, crisis counseling, and assistance with public transportation needs. As stated above, in order to qualify for public assistance a local government, among other things,[2] must have an approved hazard mitigation plan in place for states of disaster proclaimed after August 1, 2002.

Federal law requires local governments to have approved hazard mitigation plans to receive Hazard Mitigation Grant Program project grants for disasters declared after November 1, 2003. The Hazard Mitigation Grant Program is administered by the Federal Emergency Management Agency and provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the program is to reduce the loss of life and property due to natural

[1] In 2001 the General Assembly enacted S.L. 2001-214 (Senate Bill 300), which classifies disasters as Type I, Type II, or Type III depending upon the severity of the damage caused by the disaster. S.L. 2001-214 also provides State disaster assistance for individuals and local governments that varies based upon the severity of the disaster. A Type I disaster occurs when a local state of emergency has been declared, the preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Assistance Loan Program or the State infrastructure criteria set out in G.S. 166A-6A(b)(2)a., and the President of the United States has not made a major disaster declaration under the Stafford Act for the event.

[2] To be eligible for public assistance for a Type I disaster a local government must also have a minimum of $10,000 in uninsurable losses, the uninsurable losses must equal or exceed 0.5% of the annual operating budget, and for state of disasters proclaimed after August 1, 2002, the local government must be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage. In addition, local governments are required to provide non-State matching funds, not to exceed 25% of the eligible costs of the public assistance grant.

disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster.

Section 1 of the Proposed Committee Substitute for House Bill 1584 extends the date by which local governments must have approved hazard mitigation plans in order to receive public assistance after a Type I disaster from August 1, 2002, to November 1, 2003.

Section 2. Municipal Waste Incinerator Rules

On December 6, 2000, the federal Environmental Protection Agency (EPA) promulgated guidelines containing emission limits for certain pollutants emitted from existing small municipal solid waste combustion units. The term existing small municipal solid waste combustion unit (small MSW incinerator) refers to a municipal solid waste incinerator constructed on or before August 30, 1999 that has a capacity to incinerate 35 to 250 tons of municipal solid waste per day. The only two existing small MSW incinerators in the State are located at the New Hanover County Waste-To-Energy Conversion Facility (WASTEC). The federal guidelines do not directly regulate small MSW incinerators, but instead require States to develop rules to limit air emissions as provided by the guidelines. The State rules must require small MSW incinerators to achieve final compliance or cease operation by December 6, 2005, or three years after the EPA approves the State rules, whichever is earlier. Section 3.4 of S.L. 2001-440 directed the Environmental Management Commission (EMC) to adopt rules with a final compliance deadline of March 1, 2003, and the EMC has done so. Section 2 of the Proposed Committee Substitute directs the EMC to amend the rules to change the final compliance deadline from March 1, 2003, to December 1, 2004.

6/18/02 - ATT #4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1545*

Short Title:	Natural Areas Added to State Parks System.	(Public)
Sponsors:	Representatives Baker and Gibson.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF ELK KNOB STATE NATURAL AREA AND BEECH CREEK BOG STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State, its open lands and places of beauty;

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants;

Whereas, Elk Knob in Watauga County is a component of a nationally significant ecosystem with many rare species and natural communities, and has been found to possess biological, geological, and scenic resources of statewide significance; and

Whereas, Beech Creek Bog in Watauga County is an excellent example of a Southern Appalachian Bog which is a very rare natural community type in North Carolina, and the bog has been found to possess biological resources of statewide significance; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Elk Knob State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

SECTION 2. The General Assembly authorizes the Department of Environment and Natural Resources to add Beech Creek Bog State Natural Area to the State Parks System as provided in G.S. 113-44.14(b).

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

6/18/02 ATT # 5

HOUSE BILL 1545:
Natural Areas Added to State Parks System

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representatives Baker and Gibson
Date:	June 18, 2002	**Summary by:**	Rick Zechini
Version:	First Edition		Committee Counsel

SUMMARY: ***House Bill 1545 authorizes the Department of Environment and Natural Resources to add Elk Knob State Natural Area and Beech Creek Bog State Natural Area to the State Parks System. The bill was recommended by the Environmental Review Commission.***

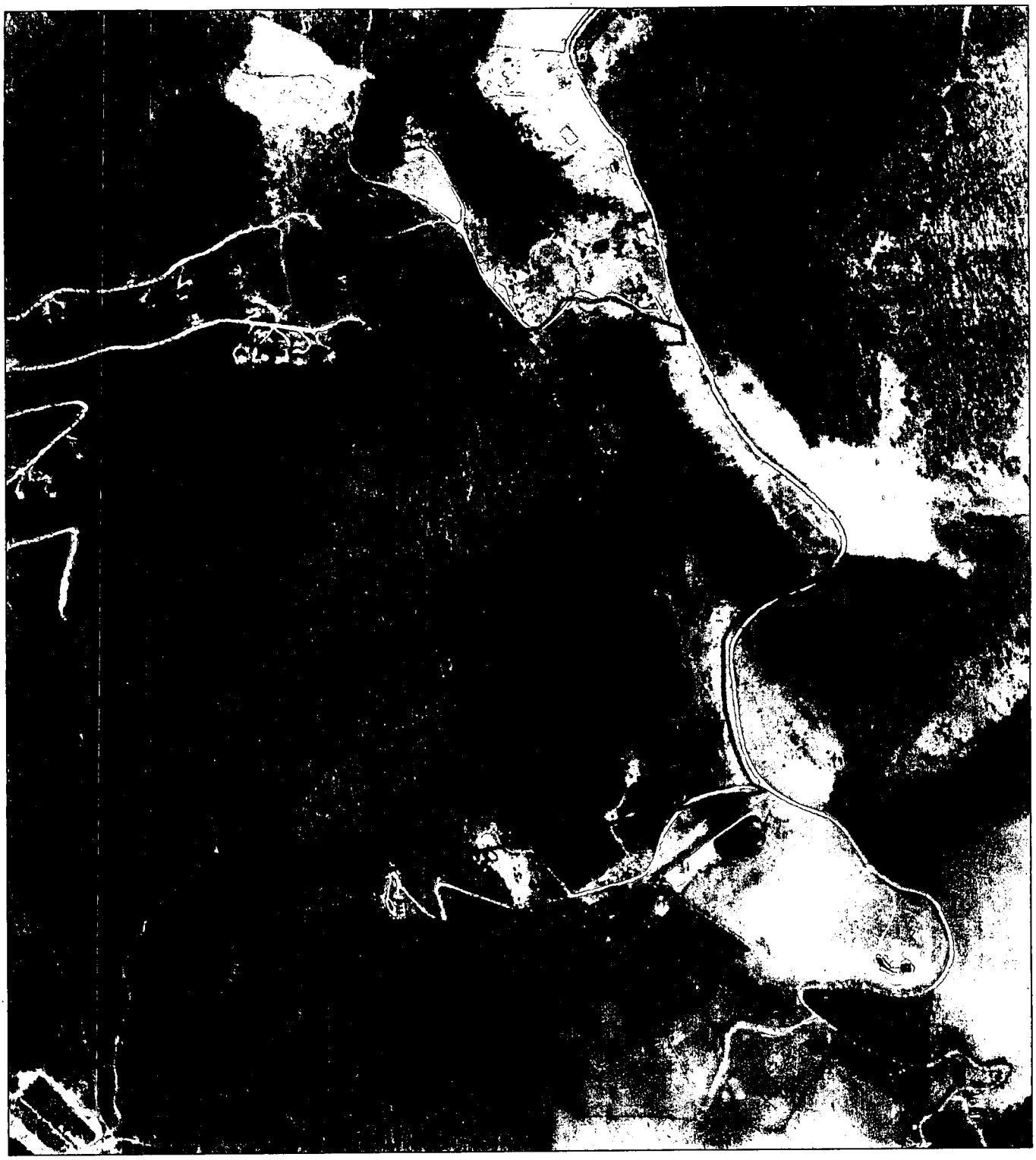
BACKGROUND: G.S. 113-44.14(b) provides that the Department of Environment and Natural Resources (DENR) may add a State park, State natural area, State recreation area, State trail, State river, or State lake to the State Parks System upon authorization by an act of the General Assembly.

Elk Knob is located approximately 20 miles north of Boone in the northeastern part of Watauga County and attains an elevation of 5,520 feet. Elk Knob supports several natural communities and three rare plants (trailing wolfsbane, Canada reed grass, and meehania). DENR has identified a 1,000-acre tract on the mountain that it seeks to acquire. The North Carolina Chapter of the Nature Conservancy is negotiating to secure an option on the tract from the landowner. The option would then be transferred to the State. The estimated purchase price is $4,000,000. DENR has received a $1,000,000 grant from the Natural Heritage Trust Fund for acquisition of the property. DENR is considering several different revenue sources, including the Natural Heritage Trust Fund, the Clean Water Management Trust Fund, and the Parks and Recreation Trust Fund, to complete the purchase of the property. The property would become the Elk Knob State Natural Area and recreational use that is consistent with protection of the site may be allowed.

Beech Creek Bog is located in Watauga County north of Banner Elk. The Bog is a Southern Appalachian Bog natural community, which is a type of non-riverine wetland that is very rare in North Carolina and not currently represented in the State Parks System. The Bog contains two rare plant species (bog clubmoss and the alder flycatcher) and is threatened by development. DENR has received a $675,000 grant from the Natural Heritage Trust Fund to purchase a 120-acre tract that includes most of the Bog. DENR has stated that the purchase of a smaller 65-acre tract estimated to cost $225,000 will be needed to acquire the entire Bog, provide a buffer for the Bog, and make the boundaries of the site more manageable. The properties would become Beech Creek Bog State Natural Area and provide protection and preservation of the natural communities and rare species.

BILL ANALYSIS: House Bill 1545 authorizes DENR to add Elk Knob State Natural Area and Beech Creek Bog State Natural Area to the State Parks System. The bill is effective when it becomes law.

6/18/02 Att. #6



500 0 500 Feet

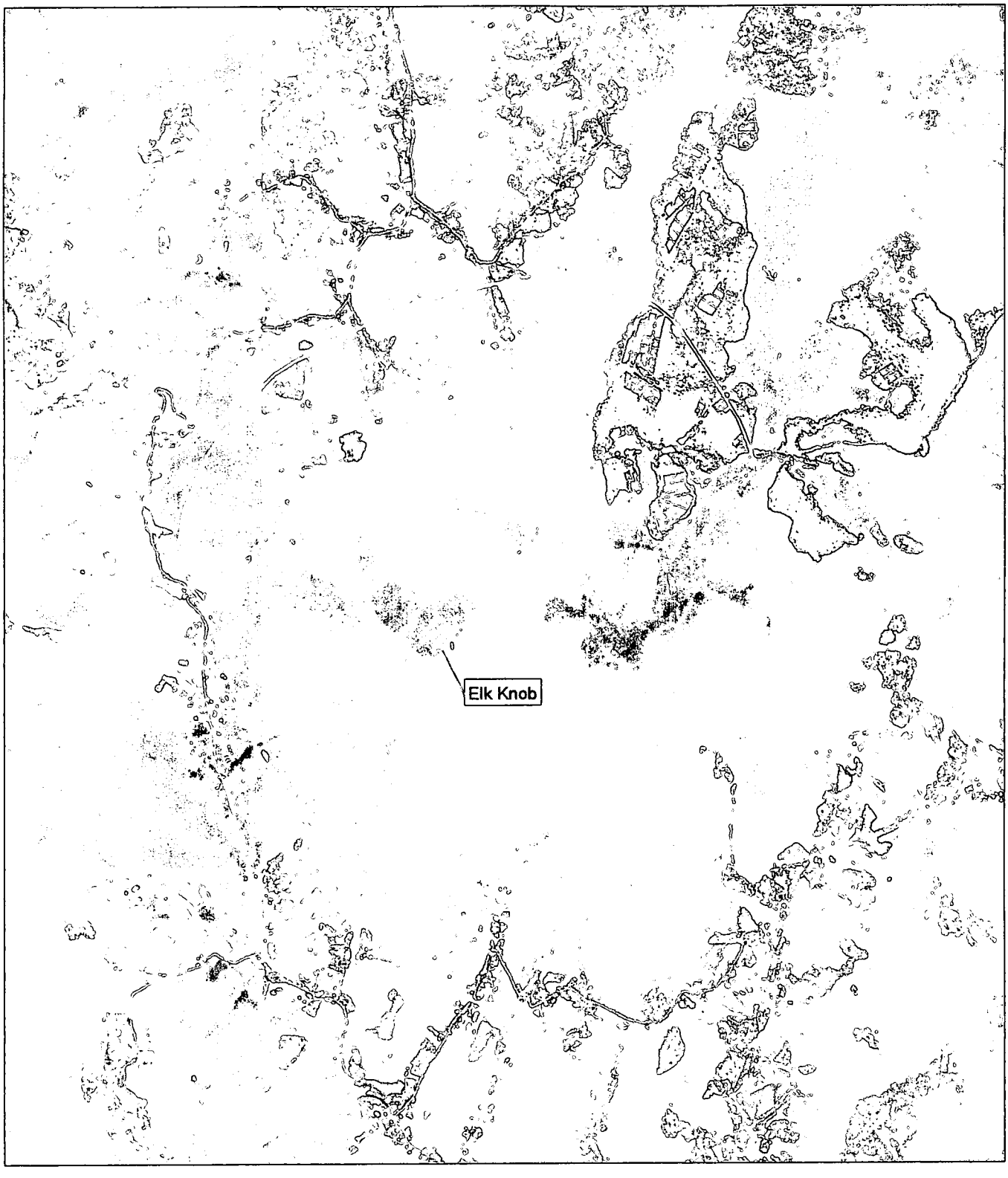
Beech Creek Bog

Subject Property

N

Division of Parks and Recreation
Resource Management Program
January 2002

6/18/02 ATT. #7



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Elk Knob

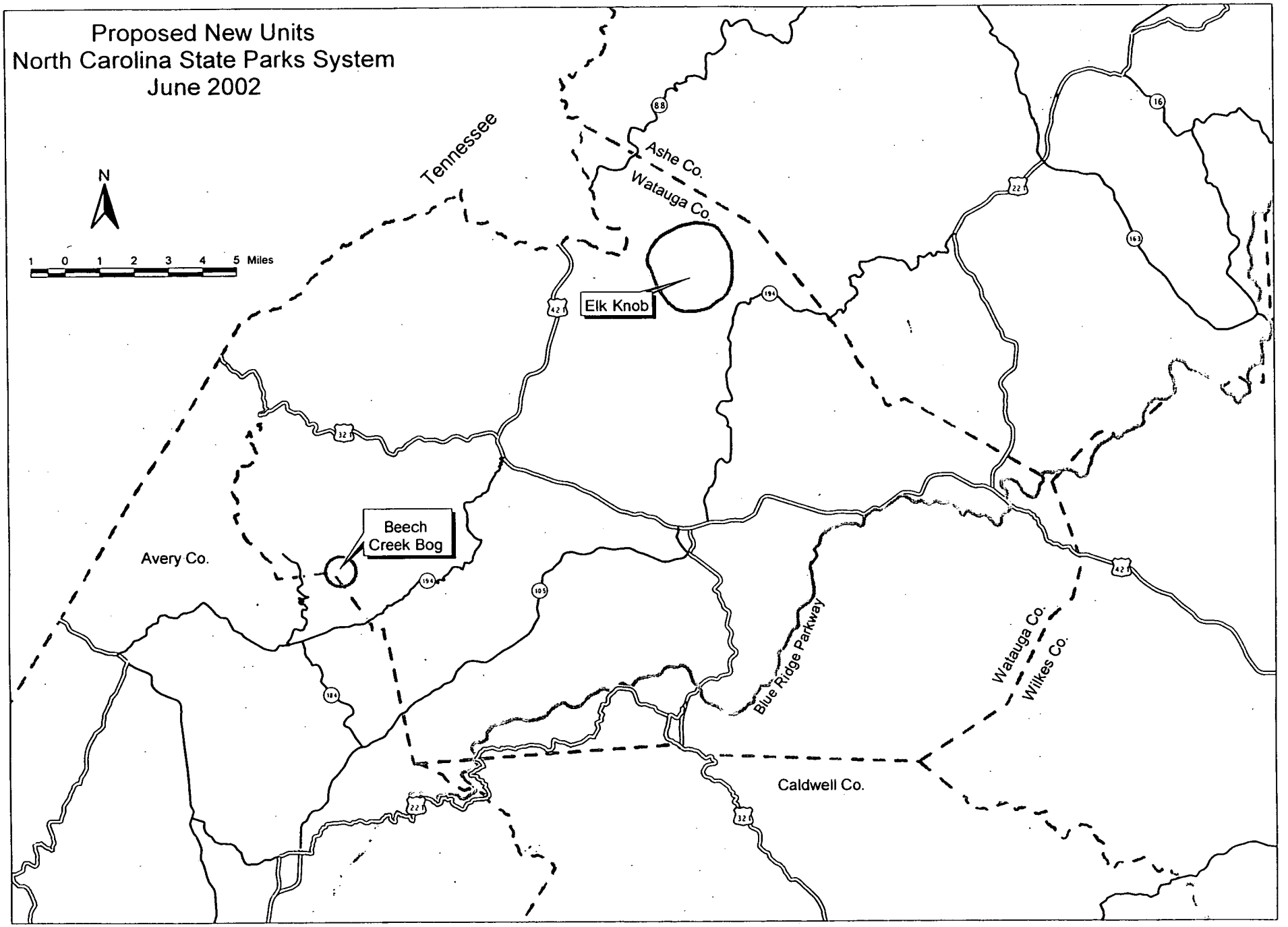
Subject

N

February 2002

Division of Parks and Recreation
Resource Management Program

6/18/02 ATT. # 8


Proposed New Units
North Carolina State Parks System
June 2002
N
1 0 1 2 3 4 5 Miles
Tennessee
Ashe Co.
Watauga Co.
Elk Knob
Beech Creek Bog
Avery Co.
Blue Ridge Parkway
Watauga Co.
Wilkes Co.
Caldwell Co.

6/6/02 ATT 9

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1557*

Short Title:	Extend Core Sound Mor./Marine Fish. Studies.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH CULTIVATION LEASES IN CORE SOUND AND TO DIRECT THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE TO STUDY VARIOUS MARINE FISHERIES ISSUES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; Section 1 of S.L. 1999-209; and Section 4 of S.L. 2001-213, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2002.~~July 1, 2003."

SECTION 2. The Joint Legislative Commission on Seafood and Aquaculture shall review the statutory changes recommended by the Marine Fisheries

Commission in the August 2001, Hard Clam Fishery Management Plan and the August 2001, Oyster Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture shall report its findings and recommendations, if any, including any legislative proposals, to the 2003 General Assembly.

SECTION 3. The Joint Legislative Commission on Seafood and Aquaculture shall review recommendations of the Marine Fisheries Commission regarding the moratorium on issuing new shellfish cultivation leases in Core Sound and the shellfish cultivation program. The Joint Legislative Commission on Seafood and Aquaculture shall report its findings and recommendations, if any, including any legislative proposals, to the 2003 General Assembly.

SECTION 4. The Joint Legislative Commission on Seafood and Aquaculture shall study the process by which the Department of Health and Human Services develops and issues fish consumption advisories. The Joint Legislative Commission on Seafood and Aquaculture shall report its findings and recommendations, if any, including any legislative proposals, to the 2003 General Assembly.

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

6/18/02 ATT #1 D

HOUSE BILL 1557:
Extend Core Sound Moratorium/Fish. Studies

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Wainwright
		Summary by:	Jeff Hudson Committee Counsel
Date:	June 18, 2002		
Version:	First Edition		

SUMMARY: ***House Bill 1557 would extend the moratorium on issuing new shellfish cultivation leases in Core Sound from October 1, 2002, to July 1, 2003. The bill would also direct the Joint Legislative Commission on Seafood and Aquaculture to conduct various marine fisheries studies.***

BILL ANALYSIS:

Section 1 – Extend Core Sound Moratorium: Core Sound is a water body located between mainland Carteret County and Core Banks. In this area of the State there is a great deal of user conflict between individuals who lease areas underlying coastal fishing waters for shellfish cultivation and individuals who harvest shellfish from naturally occurring shellfish beds. Under current law, there is a moratorium on issuing new shellfish cultivation leases in Core Sound. This moratorium was originally imposed by the General Assembly during the 1996 Regular Session from the period May 1, 1996, through July 1, 1997, and has been extended four times. The moratorium is currently scheduled to expire on October 1, 2002. House Bill 1557 would extend the moratorium on issuing new shellfish cultivation leases in Core Sound from October 1, 2002, to July 1, 2003.

Sections 2, 3, and 4 – Marine Fisheries Studies: These sections direct the Joint Legislative Commission on Seafood and Aquaculture to review or study the following items and to reports its findings and recommendations, if any, including any legislative proposals, to the 2003 General Assembly:

- Statutory changes recommended by the Marine Fisheries Commission in the August 2001 Hard Clam Fishery Management Plan and the August 2001 Oyster Fishery Management Plan.
- Recommendations of the Marine Fisheries Commission regarding the moratorium on issuing new shellfish cultivation leases in Core Sound and the shellfish cultivation program.
- The process by which the Department of Health and Human Services develops and issues fish consumption advisories.

BACKGROUND: House Bill 1557 was recommended by the Joint Legislative Commission on Seafood and Aquaculture. Its companion bill, Senate Bill 1260, was recommended by Senator Albertson.

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

6/18/02 ATT # 11

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1579

Short Title:	No Airboats on Lake Tillery.	(Local)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE OPERATION OF AIRBOATS ON LAKE TILLERY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. In order to protect the health, safety, and welfare of area residents, and to protect and preserve the animals, fowl, plant life, natural habitats, wetlands, and local environment, the General Assembly finds that it is necessary to prohibit airboats on Lake Tillery.

SECTION 2. It is unlawful to operate an airboat on the waters of Lake Tillery in Montgomery and Stanly Counties.

SECTION 3. Violation of this act is punishable as a Class 3 misdemeanor.

SECTION 4. For purposes of this act, the term "airboat" means any vessel, as defined in G.S. 75A-2, that is pushed, pulled, or propelled by airpower, including any vessel with a propulsion mechanism similar to that of an airplane that propels out of water.

SECTION 5. This act shall not apply to law enforcement officers, rescue or emergency medical personnel, military personnel, or any life-saving or enforcement patrols in the performance of their official duties.

SECTION 6. This act is enforceable by law enforcement officers of the Wildlife Resources Commission and by other law enforcement officers pursuant to their authority under G.S. 75A-17, as if this act were a provision of Chapter 75A of the General Statutes.

SECTION 7. This act applies only to Montgomery and Stanly Counties.

SECTION 8. This act becomes effective July 1, 2002.

6/8/02 - ATT #12

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1579
PROPOSED COMMITTEE SUBSTITUTE H1579-PCS6447-SG-44

Short Title: No Airboats on Lake Tillery. (Local)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE OPERATION OF AIRBOATS ON LAKE TILLERY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. In order to protect the health, safety, and welfare of area residents, and to protect and preserve the animals, fowl, plant life, natural habitats, wetlands, and local environment, the General Assembly finds that it is necessary to prohibit airboats on Lake Tillery.

SECTION 2. It is unlawful to operate an airboat on the waters of Lake Tillery in Montgomery and Stanly Counties.

SECTION 3. Violation of this act is punishable as a Class 3 misdemeanor.

SECTION 4. For purposes of this act, the term "airboat" means any vessel, as defined in G.S. 75A-2, that is pushed, pulled, or propelled by airpower, including any vessel with a propulsion mechanism similar to that of an airplane that propels out of water.

SECTION 5. This act shall not apply to law enforcement officers, public rescue or emergency medical personnel, military personnel, or any public lifesaving personnel in the performance of their official duties.

SECTION 6. This act is enforceable by law enforcement officers of the Wildlife Resources Commission and by other law enforcement officers pursuant to their authority under G.S. 75A-17, as if this act were a provision of Chapter 75A of the General Statutes.

SECTION 7. This act applies only to Montgomery and Stanly Counties. However, either county may adopt an ordinance exempting itself from coverage of this act and upon doing so the act shall not apply to the waters of Lake Tillery in that county.

SECTION 8. This act becomes effective August 1, 2002.

6/18/02 ATT#13

HOUSE BILL 1579:
No Airboats on Lake Tillery

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
		Summary by:	Rick Zechini Committee Counsel
Date:	June 18, 2002		
Version:	Proposed Committee Substitute		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1579 prohibits the operation of an airboat on Lake Tillery subject to certain exceptions and the opportunity for Montgomery and Stanly counties to opt out of the act. House Bill 1579 was recommended by the Environmental Review Commission.***

BACKGROUND: Lake Tillery is located on the Pee Dee River in Stanly and Montgomery counties in central North Carolina. The lake is owned and operated by Carolina Power and Light (CP&L), which has a hydroelectric plant on the lake.

BILL ANALYSIS: The Proposed Committee Substitute (PCS) for House Bill 1579 prohibits the operation of an airboat on Lake Tillery. Airboat is defined as any vessel that is pushed, pulled, or propelled by airpower, including any vessel with a propulsion mechanism similar to that of an airplane that propels out of water. The act is enforceable by law enforcement officers of the Wildlife Resources Commission and every other law enforcement officer of the State. A violation of the act is punishable as a Class 3 misdemeanor. The act does not apply to law enforcement officers, public rescue or emergency medical personnel, military personnel, or any public life-saving personnel in the performance of their official duties. The PCS amends the bill as introduced to allow Stanly and Montgomery counties to opt out of coverage of the act. Either county may adopt an ordinance exempting itself from coverage of the act and upon doing so the bill shall not apply to the waters of Lake Tillery in that county. The PCS also changes the effective date of the bill from July 1, 2002 to August 1, 2002.

VISITOR REGISTRATION SHEET

Env. Hlth. Res. — June 18, 02

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris Allerton	NCLM
Ross M. Smith	PCS Phosphate
Preston Pate	NC Marine Fisheries
Robin Smith	DENR
Laura DeVine	DENR
Kim Hibbard	NCLM
Paul Meyer	NCACC
John C Groom, Sr.	NC Emergency Mgmt
Jay Sikes	NC, E, M.
Nathan Slaughter	NC Emergency Management
Billy R Cameron	CCPS
Greg McLeod	CCPS
Jerry Schill	NC Fisheries Assoc.
James Van Orden	NC PIRG
Sara Rains	Rep. Webke
Andrea Schrag	Rep Weiss
Carol Tingley	DENR - Parks
Phil McKnelly	DENR - DPR
Betsy Davis	CCNC
Joe Gagnon	NC Sierra Club
Eric Cochran	NC Sierra club
Steve Wall	CCNC
Jim Stephenson	NC Coastal Federation
Pricey Harrison	Beaufort NC
Lisa Walter	Conset
Gordon Mclellin	N.C. Conset.
[illegible]	Capitol Group
Bruce Thompson	PPB
Beane Mills	NCLM

VISITOR REGISTRATION SHEET

Env. + Nat Res — June 18-02

Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michelle Cook	Weyerhaeuser
Tony Adams	NC Outdoor Advertising Association
Stephanie Mansur	NC Association of REALTORS
R. Paul Wilms	NCHBA
Ken McHon	Alley Associates, Inc.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1545 A BILL TO BE ENTITLED AN ACT AN ACT TO AUTHORIZE THE ADDITION OF ELK KNOB STATE NATURAL AREA AND BEECH CREEK BOG STATE NATURAL AREA TO THE STATE PARKS SYSTEM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1557 A BILL TO BE ENTITLED AN ACT TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH CULTIVATION LEASES IN CORE SOUND AND TO DIRECT THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE TO STUDY VARIOUS MARINE FISHERIES ISSUES, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **Gibson, McComas, Warwick** Chairs for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1579 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE OPERATION OF AIRBOATS ON LAKE TILLERY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill.

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **Gibson, McComas, Warwick** Chairs for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1584 A BILL TO BE ENTITLED AN ACT TO MAKE THE STATE DEADLINE FOR APPROVAL OF HAZARD MITIGATION PLANS CONSISTENT WITH THE FEDERAL DEADLINE FOR APPROVAL OF THESE PLANS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

☒ With a favorable report as to the committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

June 25, 2002

1. Call to Order – Representative McComas, Presiding
2. Agenda Items

   HB 1544 Amend CAMA Variance Process. – Representative Weiss

   HB 1568 Sedimentation Act Amendments. – Representative Weiss
3. Adjournment

ENVIRONMENT & NATURAL RESOURCES

MINUTES
June 25, 2002

The House ENVIRONMENT & NATURAL RESOURCES COMMITTEE met Tuesday, June 25, 2002 at 12:00 noon in room 643 of the Legislative Office Building. The following members were present: Co-Chairmen Gibson, McComas (presiding) and Warwick, Representatives Cox, Underhill and Weiss (Vice-chairs), Representatives Allen, Culp, Davis, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Mitchell, Preston, and Tucker. A visitor registration sheet is attached and made part of these minutes.

Chair McComas called the meeting to order at 12:08 pm. Action was taken on the following bills:

HB 1544 – AMEND CAMA VARIANCE PROCESS. Representative Weiss presented the bill to the committee (Attachment #1). A Proposed Committee Substitute # H1544-PCS6449-SB-61 for HB 1544 was adopted by the committee (Attachment #2). Staff Counsel George Givens explained necessity for the bill (Attachment #3). Representative Weiss stated that the bill came to the Committee from the Environmental Review Commission and basically clarifies the process by which a variance may be granted by the Coastal Resources Management Commission under the Coastal Area Management Act. Representative Luebke moved for a favorable report for the Proposed Committee Substitute. The motion carried and bill was referred to the floor.

HB 1568 – SEDIMENTATION ACT AMENDMENTS. Representative Weiss presented the bill to the committee (Attachment #4). A Proposed Committee Substitute # H1568-PCS8347-RT-92 for HB 1568 was adopted by the committee (Attachment #5). The Environmental Review Commission also recommended this bill. Representative Weiss reported this was a consensus bill and everyone was in agreement. Representative Hill reported the bill was heard in the Environmental Review Committee and moved for a favorable report. Representative Luebke asked for an explanation of the changes to the bill. Points of controversy were explained by Staff Counsel George Givens (Attachment #6), who stated the bill increased the fee from $50 to $150 per acre for a plan review. Mr. Givens noted that increasing the civil penalty to maximum on the first day of a violation of the plan to $10,000 is a significant change. The limited delegation program is also significant. Under the Sedimentation Act the Sedimentation Control Commission can delegate the entire program to local governments and add a limited delegation under which a local government can take over the inspection phase but does not have to assume the responsibility for planned approval and enforcement. After a brief discussion regarding state, local and self-policing procedures, Representative Hill's motion was brought forward. Bill passed and was re-referred to the Finance Committee.

The meeting was adjourned at 12:20 pm.

Representative Daniel McComas

Linda Uzzle, Committee Assistant

6-25-02 ATT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1544*

Short Title:	Amend CAMA Variance Process.	(Public)
Sponsors:	Representatives Weiss, McComas; Insko and Miller.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH A VARIANCE MAY BE GRANTED BY THE COASTAL RESOURCES COMMISSION UNDER THE COASTAL AREA MANAGEMENT ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-120.1 reads as rewritten:

"**§ 113A-120.1. Variances.**

(a) Any person may petition the Commission for a variance granting permission to use ~~his land~~ the person's property in a manner otherwise prohibited by ~~rules, standards, or limitations~~ rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. ~~When it finds that~~ To qualify for a variance, the petitioner must show all of the following:

~~(i)~~ (1) ~~practical difficulties or unnecessary~~ Unnecessary hardships would result from strict application of the ~~guidelines,~~ rules, standards, or orders. ~~or other restrictions applicable to the property,~~

~~(ii)~~ (2) ~~such difficulties or~~ The hardships result from conditions ~~which are peculiar~~ that are unique to the property, such as the location, size, or topography of the property. ~~to the property involved,~~

~~(iii)~~ (3) The hardships did not result from actions taken by the petitioner. ~~such conditions could not reasonably have been anticipated when the applicable guidelines, rules, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that~~

(4) The requested variance is consistent with the spirit, purpose, and intent of the rules, standards, or orders; will secure public safety and welfare; and will preserve substantial justice. ~~restrictions are preserved, public safety and welfare secured, and substantial justice preserved. In granting a variance, the~~

(b) The Commission may impose reasonable and appropriate conditions and safeguards upon any ~~permit it issues.~~ variance it grants. In order for a variance petition to be eligible to be heard at a meeting of the Commission, the petitioner and the staff of the Commission must reach an agreement on the stipulated facts at least 20 calendar days before the meeting of the Commission. The Commission shall hear a variance petition no later than the second regularly scheduled meeting of the Commission after an agreement on the stipulated facts is reached.~~The Commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.~~"

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

6-25-02 ATT 2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1544
PROPOSED COMMITTEE SUBSTITUTE H1544-PCS6449-SB-61

Short Title: Amend CAMA Variance Process. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH A VARIANCE MAY BE GRANTED BY THE COASTAL RESOURCES COMMISSION UNDER THE COASTAL AREA MANAGEMENT ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-120.1 reads as rewritten:

"**§ 113A-120.1. Variances.**

(a) Any person may petition the Commission for a variance granting permission to use ~~his~~ the person's land in a manner otherwise prohibited by ~~rules, standards, or limitations~~ rules or standards prescribed by the Commission, or orders issued by the Commission, pursuant to this Article. ~~When it finds that~~ To qualify for a variance, the petitioner must show all of the following:

~~(i)~~ (1) ~~practical difficulties or unnecessary~~ Unnecessary hardships would result from strict application of the ~~guidelines,~~ rules, standards, or orders. ~~or other restrictions applicable to the property,~~

~~(ii)~~ (2) ~~such difficulties or~~ The hardships result from conditions ~~which~~ that are peculiar to the property, such as the location, size, or topography of the property. ~~to the property involved,~~

~~(iii)~~(3) The hardships did not result from actions taken by the petitioner. ~~such conditions could not reasonably have been anticipated when the applicable guidelines, rules, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that~~

(4) The requested variance is consistent with the spirit, purpose, and intent of the rules, standards, or orders; will secure public safety and welfare; and will preserve substantial justice. ~~restrictions are preserved, public~~

~~safety and welfare secured, and substantial justice preserved. In granting a variance, the~~

(b) The Commission may impose reasonable and appropriate conditions and safeguards upon any ~~permit it issues.~~ variance it grants. ~~The Commission may conduct a hearing within 45 days from the receipt of the petition and shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.~~"

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

6-25-02 ATT 3

HOUSE BILL 1544:
Amend CAMA Variance Process

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Weiss
Date:	June 25, 2002	**Summary by:**	Jeff Hudson, Committee Counsel
Version:	Proposed Committee Substitute H1544-PCS6449-SB-61		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1544 (PCS) would provide that to receive a variance under the Coastal Area Management Act (CAMA), the petitioner for the variance must show, among other things, that the variance is consistent with the intent of CAMA rules, standards, and orders; will secure public safety and welfare; and will preserve substantial justice.***

BACKGROUND: Section 5 of S.L. 2001-494 (House Bill 1268) authorized the Environmental Review Commission (ERC) to study the standards for granting variances by the Coastal Resources Commission (CRC) under the Coastal Area Management Act (CAMA). This study was authorized by the General Assembly following the decision of the North Carolina Court of Appeals in *Williams v. North Carolina Department of Environment and Natural Resources*, 144 N.C. App. 479 (2001).

In *Williams*, the Court of Appeals reviewed the factors set out in G.S. 113A-120.1 (Variances) that the CRC must consider when hearing a petition for a variance from CAMA rules. The statute provides that when the CRC "finds that (i) practical difficulties or unnecessary hardships would result from strict application of the guidelines, rules, standards, or other restrictions applicable to the property, (ii) such difficulties or hardships result from conditions which are peculiar to the property involved, (iii) such conditions could not reasonably have been anticipated when the applicable guidelines, rules, standards, or restrictions were adopted or amended, the Commission may vary or modify the application of the restrictions to the property so that the spirit, purpose, and intent of the restrictions are preserved, public safety and welfare secured, and substantial justice preserved". The Court of Appeals found that the CRC must consider the three enumerated factors set out in the statute when hearing a petition for a variance. Historically, the CRC has considered four factors when reviewing variance petitions; the three enumerated factors, plus a fourth factor, which is set out in the statute but not enumerated, that is based on whether the variance preserves the spirit, purpose, and intent of CAMA rules; secures public safety; and preserves substantial justice. The Court of Appeals in *Williams* did not recognize the fourth "spirit, purpose, and intent" factor historically employed by the CRC.

Staff of the Division of Coastal Management in the Department of Environment and Natural Resources worked with interested parties to develop the language contained in House Bill 1544 and presented the language to the ERC. The ERC recommended House Bill 1544 and its Senate Companion, Senate Bill 1254, to the 2002 Regular Session of the 2001 General Assembly.

BILL ANALYSIS: The PCS would amend the CAMA variance statute so that the existing language regarding spirit, purpose, and intent is set out in the statute as a fourth enumerated factor. This would require a variance petitioner to satisfy the three currently enumerated factors as well as show that a "requested variance is consistent with the spirit, purpose, and intent of the rules, standards, and orders; will secure public safety and welfare; and will preserve substantial justice". The PCS would also delete obsolete language from the statute and make other technical and conforming changes. The act is effective when it becomes law.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas & Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1544 A BILL TO BE ENTITLED AN ACT TO AMEND THE PROCESS BY WHICH A VARIANCE MAY BE GRANTED BY THE COASTAL RESOURCES COMMISSION UNDER THE COASTAL AREA MANAGEMENT ACT, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

6-25-02 ATT 4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1568*

Short Title:	Sedimentation Act Amendments.	(Public)
Sponsors:	Representatives Weiss, Hackney; and Insko.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-54.1 reads as rewritten:

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

(a) A draft erosion control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. The Commission shall approve, approve with modifications, or disapprove a draft erosion control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall condition approval of a draft erosion control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. Failure to approve, approve with modifications, or disapprove a completed draft erosion control plan within 30 days of receipt shall be deemed approval of the plan. If the Commission disapproves a draft erosion control plan or a revised erosion control plan, it must state in writing the specific reasons that the plan was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 days of receipt shall be deemed approval of the plan. The Commission may establish an expiration date for erosion control plans approved under this Article.

(b) If, following commencement of a land-disturbing activity pursuant to an approved erosion control plan, the Commission determines that the plan is inadequate to meet the requirements of this Article, the Commission may require any revision of the plan that is necessary to comply with this Article. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 days of receipt shall be deemed approval of the plan.

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

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

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(d) In the event that an erosion control plan is disapproved by the Director pursuant to subsection (c) of this section, the Director shall state in writing the specific reasons that the plan was disapproved. The applicant may appeal the Director's disapproval of the plan to the Commission. For purposes of this subsection and subsection (c) of this section, an applicant's record may be considered for only the two years prior to the application date.

(e) An approved erosion and sedimentation control plan shall contain a schedule for the inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person submitting the erosion and sedimentation control plan or an agent of the person submitting the erosion and sedimentation control plan shall perform each inspection. The person who performs each inspection shall post a record of the inspection on the site of the land-disturbing activity. The record shall certify that the work has been completed in accordance with the approved erosion and sedimentation control plan and is being maintained in a manner that satisfies the requirements of this Article. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1."

SECTION 2. G.S. 113A-54.2 reads as rewritten:

"**§ 113A-54.2. Approval Fees.**

(a) The fee for the review of an erosion and sedimentation control plan and related compliance activities shall be one hundred fifty dollars ($150.00) per acre of disturbed land as shown on an erosion and sedimentation control plan or of land disturbed during the life of the project, whichever is greater. ~~The Commission may establish a fee schedule for the review and approval of erosion control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans~~

~~and for related compliance activities. An application fee may not exceed fifty dollars ($50.00) per acre of disturbed land shown on an erosion control plan or of land actually disturbed during the life of the project.~~

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

(c) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 1039, s. 3.

(d) This section may not limit the existing authority of local programs approved pursuant to this Article to assess fees for the approval of erosion control plans."

SECTION 3. G.S. 113A-56 reads as rewritten:

"**§ 113A-56. Jurisdiction of the Commission.**

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that ~~are:~~ are any one of the following:

(1) Conducted by the ~~State;~~ State.

(2) Conducted by the United ~~States;~~ States.

(3) Conducted by persons having the power of eminent ~~domain;~~ domain other than a local government.

~~(4) Conducted by local governments; or~~

(5) Funded in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a), in whole or in part, to any other State agency that has submitted an erosion control program to be administered by it, if such program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that have an approved erosion and sediment control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to an approved erosion and sediment control program:

(1) To review and amend an erosion and sedimentation control plan approved by an approved erosion and sediment control program if the Commission determines that the plan does not comply with the requirements of this Article and the rules adopted pursuant to this Article.

(2) To take inspection and enforcement action if the Commission determines that the local government has failed to take appropriate inspection or enforcement action."

SECTION 4. G.S. 113A-57 reads as rewritten:

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

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

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin

of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(2) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion-control devices or structures. In any event, slopes left exposed will, within ~~15~~ 10 working days or ~~30~~ 21 calendar days of completion of any phase of grading, whichever period is shorter, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

(3) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within a time period to be specified by rule of the Commission.

(4) No person shall initiate any land-disturbing activity of more than one acre on a tract ~~if more than one acre is to be uncovered~~ unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with the agency having jurisdiction. The agency having jurisdiction shall forward to the Director of the Division of Water Quality a copy of each erosion and sedimentation control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract."

SECTION 5. G.S. 113A-60 reads as rewritten:

"**§ 113A-60. Local erosion control programs.**

(a) ~~Any~~ A local government may submit to the Commission for its approval an erosion and sediment control program for its jurisdiction, and to this end local

governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sediment control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related compliance activities. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

(b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this Article and rules adopted pursuant to this Article.

(c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and sediment control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

(d) A local government may submit to the Commission for its approval a limited erosion and sediment control program for its jurisdiction that grants the local government the responsibility only for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for administering all components of the erosion and sediment control program other than the inspection of land-disturbing activities. The local government may adopt ordinances and regulations necessary to establish and enforce a limited erosion and sediment control program and that establish a fee for the Commission's review of an erosion and sedimentation control plan and related compliance activities performed under the direction of the local government or the Commission. A local government that administers a limited erosion and sediment control program shall pay an amount equal to one hundred twenty dollars ($120.00) per acre of disturbed land subject to inspection under the limited erosion and sediment control program to the Department of Environment and Natural Resources for deposit in the Sedimentation Account established by G.S. 113A-54.2(b). A local government may create or designate agencies or subdivisions of the local government to administer and enforce the limited program. An ordinance adopted by a local government that establishes a limited program shall at least meet and may exceed the minimum requirements regarding the inspection of land-

disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. Two or more units of local government may establish a joint limited program and enter into any agreements necessary for the proper administration and enforcement of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs."

SECTION 6. G.S. 113A-64 reads as rewritten:

"**§ 113A-64. Penalties.**

(a) Civil Penalties. –

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars ~~($5,000).~~ ($5,000), except that the Secretary may assess a civil penalty of up to ten thousand dollars ($10,000) for the first day of a violation. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) The Secretary or a local government that administers an erosion and sediment control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that

is contested is due at the conclusion of the administrative and judicial review of the assessment.

(3) In determining the amount of the penalty, the Secretary shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

(5) The clear proceeds of civil penalties collected by the Department or other State agency under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue.

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed five thousand dollars ($5,000)."

SECTION 7. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-67. Annual report.**

The Department of Environment and Natural Resources shall report to the Environmental Review Commission on the implementation of this Article on or before September 1 of each year. The Department shall include in the report an analysis of how well the implementation of the Sedimentation Pollution Control Act of 1973 is preventing the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include an evaluation of whether the fees and civil penalties are adequate to properly administer and enforce this Article. In addition, the report shall include a review of the effectiveness of local erosion control programs."

SECTION 8. The Department of Environment and Natural Resources shall submit the first report required by G.S. 113A-67, as enacted by Section 7 of this act, to the Environmental Review Commission on or before 1 September 2003.

SECTION 9. This act becomes effective 1 August, 2002.

6-25-02 ATT 5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1568
PROPOSED COMMITTEE SUBSTITUTE H1568-PCS8347-RT-92

Short Title: Sedimentation Act Amendments. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-54.1 is amended by adding a new subsection to read:

"(e) An approved erosion and sedimentation control plan shall contain a schedule for the inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person submitting the erosion and sedimentation control plan or an agent of the person submitting the erosion and sedimentation control plan shall perform each inspection. The person who performs each inspection shall post a record of the inspection on the site of the land-disturbing activity. The record shall certify that the work has been completed in accordance with the approved erosion and sedimentation control plan and is being maintained in a manner that satisfies the requirements of this Article. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1."

SECTION 2. G.S. 113A-54.2(a) reads as rewritten:

"(a) The fee for the review of an erosion and sedimentation control plan and related compliance activities shall be one hundred fifty dollars ($150.00) per acre of disturbed land as shown on an erosion and sedimentation control plan or of land disturbed during the life of the project, whichever is greater. ~~The Commission may establish a fee schedule for the review and approval of erosion control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities. An application fee may not exceed fifty dollars~~

~~($50.00) per acre of disturbed land shown on an erosion control plan or of land actually disturbed during the life of the project.~~"

SECTION 3. G.S. 113A-56 reads as rewritten:

"**§ 113A-56. Jurisdiction of the Commission.**

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that ~~are:~~ are any of the following:

(1) Conducted by the ~~State;~~ State.

(2) Conducted by the United ~~States;~~ States.

(3) Conducted by persons having the power of eminent ~~domain;~~ domain other than a local government.

~~(4) Conducted by local governments; or~~

(5) Funded in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a), in whole or in part, to any other State agency that has submitted an erosion and sedimentation control program to be administered by it, if such program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that have an approved erosion and sedimentation control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to an approved erosion and sedimentation control program:

(1) To review an erosion and sedimentation control plan approved by an approved erosion and sedimentation control program and to require a revised plan if the Commission determines that the plan does not comply with the requirements of this Article or the rules adopted pursuant to this Article.

(2) To take inspection and enforcement action if the Commission determines that the local government has failed to take appropriate inspection or enforcement action."

SECTION 4. G.S. 113A-57 reads as rewritten:

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

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

(1) No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater.

Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(2) The angle for graded slopes and fills shall be no greater than the angle ~~which~~ that can be retained by vegetative cover or other adequate erosion-control devices or structures. In any event, slopes left exposed will, within ~~15~~ 10 working days or ~~30~~ 21 calendar days of completion of any phase of grading, whichever period is shorter, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

(3) Whenever land-disturbing activity is undertaken on a tract comprising more than one acre, if more than one acre is uncovered, the person conducting the land-disturbing activity shall install ~~such~~ erosion and sedimentation ~~and erosion~~ control devices and practices ~~as~~ that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within a time period to be specified by rule of the Commission.

(4) No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract ~~if more than one acre is to be uncovered~~ unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with the agency having jurisdiction. The agency having jurisdiction shall forward to the Director of the Division of Water Quality a copy of each erosion and sedimentation control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract."

SECTION 5. G.S. 113A-60 reads as rewritten:

"**§ 113A-60. Local erosion and sedimentation control programs.**

(a) ~~Any~~ A local government may submit to the Commission for its approval an erosion and ~~sediment~~ sedimentation control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and ~~sediment~~ sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related compliance activities. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this

Article and the rules adopted pursuant to this Article. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

(b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this Article and rules adopted pursuant to this Article.

(c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and ~~sediment~~ sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.

(d) A local government may submit to the Commission for its approval a limited erosion and sedimentation control program for its jurisdiction that grants the local government the responsibility only for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for administering all components of the erosion and sedimentation control program other than the inspection of land-disturbing activities. The local government may adopt ordinances and regulations necessary to establish a limited erosion and sedimentation control program. A local government that administers a limited erosion and sedimentation control program shall pay an amount equal to one hundred twenty dollars ($120.00) per acre of disturbed land subject to inspection under the limited erosion and sedimentation control program to the Department for review of each erosion and sedimentation control plan and related compliance activities. Fees paid to the Department by a local government shall be deposited in the Sedimentation Account established by G.S. 113A-54.2(b). The local government shall establish a fee to be paid by each person who submits an erosion and sedimentation control plan to the local government. The amount of the fee shall be the amount that the local government is required to pay to the Department under this subsection for review of the erosion and sedimentation control plan and related compliance activities. In addition, the fee may include the amount that is required to cover the cost of inspection activities conducted by the local government. A local government may create or designate agencies or subdivisions of the local government to administer the limited program. An ordinance adopted by a local government that establishes a limited program shall at least meet and may exceed the minimum requirements regarding the inspection of land-disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. Two or more units of local government may

establish a joint limited program and enter into any agreements necessary for the proper administration of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs."

SECTION 6. G.S. 113A-64(a) reads as rewritten:

"(a) Civil Penalties. –

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars ~~($5,000).~~ ($5,000), except that, in order to deter violations, the Secretary may assess a civil penalty of up to ten thousand dollars ($10,000) for the first day of a violation. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

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

(3) In determining the amount of the penalty, the Secretary shall consider the degree and extent of harm caused by the violation, the cost of

rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

(5) The clear proceeds of civil penalties collected by the Department or other State agency under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue."

SECTION 7. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-67. Annual report.**

The Department of Environment and Natural Resources shall report to the Environmental Review Commission on the implementation of this Article on or before September 1 of each year. The Department shall include in the report an analysis of how well the implementation of the Sedimentation Pollution Control Act of 1973 is preventing the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include an evaluation of whether the fees and civil penalties are adequate to properly administer and enforce this Article. In addition, the report shall include a review of the effectiveness of local erosion and sedimentation control programs."

SECTION 8. The Department of Environment and Natural Resources shall submit the first report required by G.S. 113A-67, as enacted by Section 7 of this act, to the Environmental Review Commission on or before 1 September 2003.

SECTION 9. This act becomes effective 1 August 2002.

6-25-02 ATT #6

HOUSE BILL 1568:
Sedimentation Act Amendments

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Reps. Weiss and Hackney
		Summary by:	Rick Zechini Committee Counsel
Date:	June 25, 2001		
Version:	Proposed Committee Substitute		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1568 requires the self-inspection of an area covered by an approved erosion and sedimentation control plan; raises the fee for the review of an erosion and sedimentation control plan to $150 per acre from a maximum of $50 per acre; allows a local government with an approved erosion and sedimentation control program to regulate land-disturbing activities conducted by that local government; requires exposed slopes to be planted or provided with ground cover within 10 working days or 21 calendar days, whichever is shorter, of completion of any phase of grading; authorizes a local government to establish an erosion and sedimentation control program that is limited to the inspection of land-disturbing activities within the jurisdiction; provides that a civil penalty of $10,000 may be assessed for the first day of a violation; and requires the Department of Environment and Natural Resources to report on the implementation of the Sedimentation Pollution Control Act of 1973. House Bill 1568 was recommended by the Environmental Review Commission.***

CURRENT LAW: The General Assembly enacted the Sedimentation Pollution Control Act of 1973 (Act) to establish a program to allow development while minimizing the detrimental effects from pollution by sedimentation. The Act provides that certain land-disturbing activity is subject to mandatory requirements and the Act is enforceable by means of civil penalties, criminal penalties, stop-work orders, injunctive relief, and civil relief. The Act requires a person conducting a land-disturbing activity involving the uncovering of more than one acre to have an erosion and sedimentation control plan (plan) approved by the North Carolina Sedimentation Control Commission (Commission), which has delegated this authority to the Division of Land Resources in the Department of Environment and Natural Resources, prior to initiating the activity. In addition, the Act requires the utilization 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. A local government may establish its own erosion and sedimentation control program to approve plans and enforce the Act upon a determination by the Commission that the local program has standards that equal or exceed those of the Act. A local government that establishes its own program also sets its own fees.

BILL ANALYSIS:

Section 1. Self-Inspections

Section 1 of the Proposed Committee Substitute for HB 1568 requires a plan to include a schedule for the self-inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary groundcover. The person who submits the plan, or their agent, shall perform each inspection and post a record of each inspection on site that certifies that the work at the site has been completed and maintained in accordance with the approved plan and the Act.

Section 2. Fee for Plan Review and Related Compliance Activities

Section 2 raises the fee for the review of a plan and related compliance activities to $150 per acre of disturbed land. Current law authorizes the Commission to establish a fee schedule with a fee not to exceed $50 per acre of disturbed land.

Section 3. Jurisdiction

Section 3 allows a local government with an approved plan to regulate land-disturbing activities conducted by that local government. This section also clarifies that the Commission, by delegation the Division of Land Resources in the Department of Environment and Natural Resources (DENR), has concurrent jurisdiction with local governments that have approved erosion and sedimentation programs.

Section 4. Ground Cover on Exposed Slopes

Section 4 provides that exposed slopes must be planted or provided with ground cover within 10 working days or 21 calendar days, whichever period is shorter, of completion of any phase of grading.

Section 5. Limited Local Sedimentation and Erosion Control Programs

Section 5 authorizes a local government to establish an erosion and sedimentation control program that is limited to the inspection of land-disturbing activities if the Commission determines that the program has standards that equal or exceed those of the Act. If the Commission approves a limited local program, the Commission will retain responsibility for approval of plans and enforcement. The local government will establish a fee for the review of a plan and related compliance activities and is required to submit an amount equal to $120 per acre of land disturbed to DENR to compensate DENR for the costs associated with the review of plans and related compliance activities.

This section also clarifies that as a part of a local government's sedimentation and erosion control program it may adopt an ordinance that establishes a fee for the review of plans and related compliance activities.

Section 6. Civil Penalty

Section 6 authorizes the Secretary of Environment and Natural Resources, in order to deter violations of the Act, to assess a civil penalty of up to $10,000 for the first day of a violation. Current law provides that a $5,000 penalty may be assessed for the first day of a violation and the violator is given a date by which compliance is required. If the violation is not corrected by the stated date, then there is a continuing violation subject to a $5,000 civil penalty per day. The changes contained in Section 6 would allow a one-time civil penalty of up to $10,000 for the initial violation and a civil penalty of $5,000 for each additional violation.

Sections 7 and 8. Annual Reporting Requirement

Section 7 requires DENR to report to the Environmental Review Commission by September 1 of each year on the implementation of the Act, the adequacy of the fees and civil penalties, and the effectiveness of local programs. Section 8 provides that the first report is due September 1, 2003.

Section 9. Effective Date

Section 9 provides that the act becomes effective August 1, 2002.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas & Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1568 A BILL TO BE ENTITLED AN ACT TO AMEND THE SEDIMENTATION POLLUTION CONTROL ACT OF 1973, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

VISITOR REGISTRATION SHEET

House Committee on Environment & Natural Resources — 6/25/02
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Meyer	NCACC
Kim Hibbard	NCLM
[illegible] Kostrzewa	CAA
Sam Taylor	NCBIC
Karen Olsen	LWV
Lisa Walter	Connect
Kumyshkan Konurbaeva	Connect
Leslie Bevacqua	NCCBT
Fred Aiken	NC Aggregates Assn.
John Long	Martin Marietta
Ken Carroll	Vulcan Materials
David Wasley	Hunton & Williams
Karen Cox	Iredell County Commissioner
John Elmore	N.C. State Grange
Tony Adams	NCOAA
Rachel Crissman	NC DENR
Laura DeVivo	NC DENR
Alan Briggs	S.O.S.
[illegible]	NCDENR
Frances [illegible]	NCDENR-DLR-LQS
Robin Smith	DENR
Donna Moffitt	DCM-DENR
Steve Wall	CCNC
Molly Diggins	Sierra Club
Ram Atharale	Sierra Club
Andrea Schrag	Rep. Weiss
Abigail Youngken	Rep. Insko
David Harris	NCDOT

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Gagnon	NC Sierra Club

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 9, 2002

1. Call to Order – Representative McComas, Presiding

2. Agenda Items

HB 1541 Nolichucky River Basin/Basinwide WQ Mgt. Plan – Representatives Buchanan and Gibson

3. Adjournment

ENVIRONMENT & NATURAL RESOURCES

Minutes

July 9, 2002

The House ENVIRONMENT & NATURAL RESOURCES COMMITTEE met on Tuesday, July 9, 2002 at 12:00 noon in Room 643 of the Legislative Office Building. The following members were in attendance: Co-Chairmen Gibson, McComas (presiding) and Warwick, Representatives Cox, Underhill, Weiss, Bowie, Culp, Davis, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Preston and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative McComas called the meeting to order at 12:07 p.m. and asked Representative Buchanan to present his bill, **HB 1541 Nolichucky River Basin/Basinwide WQ Mgt. Plan**. (see attachment #1). Representative Gibson moved to adopt a Proposed Committee Substitute for HB 1541 (see attachments 2 & 3). The motion carried. Representative Buchanan spoke to the bill and explained that the people of Avery, Mitchell and Yancey Counties wanted to control the destiny of their own water resources. Representative Gibson further explained that the people of those counties are proud of being located on the other side of the Continental Divide and of the value of the French Broad River and local determination. Representative Gibson also expressed that this is not a mining bill and the bill would not take effect until 2005. Representative Gibson also stated that part of the reason for the bill is because the people in this area do not feel included in decision-making process for the river basin.

Robin Smith (Assistant Secretary of DENR) was recognized and said the Department could not support the bill because of the $250,000 cost.

Lucius Pullen who represents the Mining Association was recognized and spoke to support the bill. Mr. Pullen said that it was not a mining issue, but he supported the bill as a former resident of the French Broad area.

Molly Diggins of the Sierra Club was recognized and spoke against the bill. She expressed that DENR is over burdened at present.

No action was taken on the bill. Representative McComas adjourned the meeting at 12:50 p.m.

Representative Daniel E. McComas
Co-Chairman

Jayne A. Nelson
Committee Assistant

7-9-02 ATT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1541

Short Title:	Nolichucky River Basin/Basinwide WQ Mgt Plan.	(Public)
Sponsors:	Representatives Buchanan, Gibson; and Gillespie.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN AND TO REQUIRE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION DEVELOP AND IMPLEMENT A SEPARATE BASINWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NOLICHUCKY RIVER BASIN, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.8B is amended by adding a new subsection to read:

"(f) All land in this State that lies in the counties of Avery, Mitchell, or Yancey; that is located west of the eastern continental divide; and that drains into the Cane River, the North Toe River, the South Toe River, the Nolichucky River, or any tributary of any of those rivers is hereby designated the Nolichucky River Basin. Notwithstanding G.S. 143-215.22G and subsection (a) of this section, the Nolichucky River Basin shall be considered a major river basin for purposes of this section. The Commission shall develop and implement a separate basinwide water quality management plan for the Nolichucky River Basin and shall not include the Nolichucky River Basin in any basinwide water quality management plan that is developed for the French Broad River Basin."

SECTION 2. G.S. 143-215.8B(c) reads as rewritten:

"(c) The Commission shall review and revise its ~~17~~ basinwide water quality management plans at least every five years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies."

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

7-9-02 ATT#2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H D

HOUSE BILL 1541
PROPOSED COMMITTEE SUBSTITUTE H1541-PCS7388-RT-95

Short Title: Nolichucky River Basin/Basinwide WQ Mgt Plan. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN AND TO REQUIRE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION DEVELOP AND IMPLEMENT A SEPARATE BASINWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NOLICHUCKY RIVER BASIN, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

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"(c) The Commission shall review and revise its ~~17~~ basinwide water quality management plans at least every five years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies."

SECTION 3. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. This act shall not be construed to require the Environmental Management Commission to develop or

implement a basinwide water quality management plan for the Nolichucky River Basin or to review and revise the May 2000 basinwide water quality management plan for the French Broad River Basin prior to May 2005. In developing and implementing a basinwide water quality management plan for the Nolichucky River Basin and in reviewing and revising the May 2000 basinwide water quality management plan for the French Broad River Basin, the Department of Environment and Natural Resources and the Environmental Management Commission shall implement the provisions of this act from funds otherwise appropriated or available to the Department and the Commission.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1541
PROPOSED COMMITTEE SUBSTITUTE H1541-PCS7388-RT-95

Short Title: Nolichucky River Basin/Basinwide WQ Mgt Plan. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN AND TO REQUIRE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION DEVELOP AND IMPLEMENT A SEPARATE BASINWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NOLICHUCKY RIVER BASIN, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

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SECTION 2. G.S. 143-215.8B(c) reads as rewritten:

"(c) The Commission shall review and revise its ~~17~~ basinwide water quality management plans at least every five years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies."

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implement a basinwide water quality management plan for the Nolichucky River Basin or to review and revise the May 2000 basinwide water quality management plan for the French Broad River Basin prior to May 2005. In developing and implementing a basinwide water quality management plan for the Nolichucky River Basin and in reviewing and revising the May 2000 basinwide water quality management plan for the French Broad River Basin, the Department of Environment and Natural Resources and the Environmental Management Commission shall implement the provisions of this act from funds otherwise appropriated or available to the Department and the Commission.

SECTION 4. This act is effective when it becomes law.

River Basins in North Carolina

Basin	Basin in North Carolina[1]	Flows to:	Flows to:	Flows to:	Flows to:	Flows to:
1-1	Broad River	Congaree River	Santee-Cooper Rivers	Atlantic Ocean		
2-1	Haw River	Cape Fear	Atlantic Ocean			
2-2	Deep River	Cape Fear	Atlantic Ocean			
2-3	Cape Fear River	Atlantic Ocean				
2-4	South River	Cape Fear	Atlantic Ocean			
2-5	Northeast River	Cape Fear	Atlantic Ocean			
2-6	New River	Intercoastal waterway	Atlantic Ocean			
3-1	Catawba River	Wateree River	Santee-Cooper Rivers	Atlantic Ocean		
3-2	South Fork Catawba River	Catawba River	Wateree River	Santee-Cooper Rivers	Atlantic Ocean	
4-1	Chowan River	Albemarle Sound	Atlantic Ocean			
4-2	Meherrin River	Chowan River	Albemarle Sound	Atlantic Ocean		
5-1	Nolichucky River	French Broad River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico
5-2	French Broad River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico	
5-3	Pigeon River	French Broad River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico
6-1	Hiwassee River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico	
7-1	Little Tennessee River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico	
7-2	Tuckasegee River	Little Tennessee River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico
8-1	Savannah River	Atlantic Ocean				
9-1	Lumber River	Little Pee Dee River	Pee Dee River	Atlantic Ocean		
9-2	Big Shoe Heel Creek	Little Pee Dee River	Pee Dee River	Atlantic Ocean		
9-3	Waccamaw River	Pee Dee River	Atlantic Ocean			
9-4	Shallotte River	Intercoastal waterway	Atlantic Ocean			
10-1	Neuse River	Pamlico Sound	Atlantic Ocean			
10-2	Contentnea Creek	Neuse River	Pamlico Sound	Atlantic Ocean		
10-3	Trent River	Neuse River	Pamlico Sound	Atlantic Ocean		
11-1	New River	Kanawha River	Ohio River	Mississippi River	Atlantic Ocean	
12-1	Albemarle Sound[2]	Atlantic Ocean				
13-1	Ocoee River[3]	Hiwassee River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico
14-1	Roanoke River	Albemarle Sound	Atlantic Ocean			
15-1	Tar River	Pamlico Sound	Atlantic Ocean			
15-2	Fishing Creek	Tar River	Pamlico Sound	Atlantic Ocean		
15-3	Pamilco River and Sound	Atlantic Ocean				
16.1	Watauga River	Holston River	Tennessee River	Ohio River	Mississippi River	Gulf of Mexico
17-1	White Oak River	Intercoastal waterway	Atlantic Ocean			
18-1	Yadkin (Yadkin Pee-Dee) River	Pee Dee River	Atlantic Ocean			
18-2	South Yadkin River	Yadkin River	Pee Dee River	Atlantic Ocean		
18-3	Uwharrie River	Yadkin River	Pee Dee River	Atlantic Ocean		
18-4	Rocky River	Yadkin River	Pee Dee River	Atlantic Ocean		

Notes:

1 - As defined in G.S. 143-215.22G.

2 - Identified as the Pasquotank River Basin in the basinwide water quality management plan developed by the Division of Water Quality, DENR

3 - The Oc[illegible]ver is included in the Hiwassee River Basinwide Water Quality Manageme[illegible] by the Division of Water Quality, DENR

Source: The Division of Water Resources, North Carolina Department of Environment and Natural Resources(DENR)

July 9, 2002

VISITOR REGISTRATION SHEET

Env. + Natres. — July 9

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Coleen H. Sullins	DENR/DWQ
Laura H. DeVivo	DENR
Price Harrison	Beaufort NC
Steve Hall	CCNC
Mary Katherine Hackney	Rep. Hackney
Sara Rains	Rep. Luebke
TINA Covington	NCAR
James Van Orden	NC PIRG
Eric Cochran	NC Sierra Club
David Nasab	Hunton & Williams
[illegible]	NCRA
Lisa Walter	Connect
Elizabeth Ouzts	NCPIRG

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 16, 2002

1. Call to Order – Representative Warwick, presiding
2. Agenda Items

   SB 1037 – No Air Pmt. Req. Until Facility Operational

3. Adjournment

ENVIRONMENT & NATURAL RESOURCES

MINUTES
July 16, 2002

The House Environment and Natural Resources Committee met Tuesday, July 16, 2002 at 12:00 noon in Room 643 of the Legislative Office Building. The following members were present: Co-Chairmen Gibson and Warwick, Representatives Cox, Underhill, and Weiss (Vice-Chairs), Representatives Bowie, Culp, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Miner, Mitchell, Preston, Smith, Tucker, Warner, and Weatherly. A visitor registration sheet is attached and made part of these minutes.

Chair Warwick called the meeting to order at 12:00 noon. Following a brief discussion, the meeting was turned over the Vice-Chairman Cox at 12:10 pm. Action was taken on the following bill:

SB 1037 – NO AIR PMT. REQ. UNTIL FACILITY OPERATIONAL. Representative Gibson presented the bill for Senator Hoyle (Attachment # 1). This bill would modify the procedures required before construction, expansion, modification, or operation of an air contaminant source and its components can commence. The bill would establish notification and review procedures for permit applicants, establish an application fee, and prohibit the use of economic and financial losses incurred by a person who proceeds without a permit as evidence during administrative and judicial review of permit decisions. Representative Gibson moved that Proposed Committee Substitute # S1037-PCS6880-RTf-96 be adopted for this bill (Attachment # 2). The PCS would make the following changes: 1) Require notice by publication of an owner's intent to expand, modify or operate an air contaminant source and would require the notice to include the name and address information on the facility and the applicant, 2) state that the elements of the bill would not affect the applicant's responsibilities and requirements under federal air quality programs. Following a thorough discussion of the PCS by Staff Counsel (Attachment # 3) and the Committee, interested individuals were invited to speak briefly in favor of, or in opposition to, the bill. Those speaking were Jo Ann Almon of Stanley County representing Stanley Citizens Opposed to Toxic Chemicals, Dr. Richard Weisler, Medical School Professor at Duke University and Chapel Hill, and Clinton Ray Miller (Attachment # 4), representing Greater Statesville for Cleaner and Safer Neighborhoods. All were in opposition to the bill.

Representatives Weiss and Mitchell wished to offer amendments to the PCS; However, due to time constraints, no action was taken on the bill and the requests for amendments were held over until the next scheduled meeting July 23, 2002.

The meeting was adjourned at 12:57 pm.

Representative Leslie Cox

Linda Uzzle, Committee Assistant

7-16-02 #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 1037

Agriculture/Environment/Natural Resources Committee Substitute Adopted 9/19/01

Finance Committee Substitute Adopted 9/26/01

Short Title: No Air Pmt. Req. Until Facility Operational. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ANY PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY COMMENCE CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION AND THAT ANY CURRENT HOLDER OF AN AIR QUALITY PERMIT MAY COMPLETE NEW CONSTRUCTION AT AN EXISTING PERMITTED FACILITY PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a) reads as rewritten:

"(a) After the effective date applicable to any air quality or emission control standards established pursuant to G.S. 143-215.107 and except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene ~~such~~ these standards ~~until or~~ unless ~~such~~ that person ~~shall have applied for and shall have received~~ has obtained from the Commission a permit therefor and ~~shall have~~ has complied with ~~such conditions, if any, as are prescribed by such~~ any conditions of this permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to ~~construction or~~ operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of ~~construction or~~ operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities and the expansion of existing facilities.**

(a) New Facilities. – A person may construct components of a facility that may result in the emission of an air contaminant, at a site or facility where at the time of the construction there is no other air contaminant source or equipment for which a permit is required under G.S. 143-215.108, as provided in this section, unless the construction would be inconsistent with any federal program delegation. The person may construct all components of the facility that are not intended solely for the operation of the air contaminant source or equipment, including those portions of the facility that relate to or support both the air contaminant source or equipment and other functions, such as the foundation, walls, roof, electrical wiring, and vents, without obtaining a permit under G.S. 143-215.108. A person may not, however, construct or operate the actual air contaminant source, equipment, or associated air-cleaning devices without obtaining a permit under G.S. 143-215.108. At least 15 days prior to commencing construction under this subsection, the person who owns the facility shall submit a notice of construction to the Commission. The notice shall include all of the following:

(1) The nature of the air contaminant sources and equipment associated with the facility when constructed.

(2) An estimate of total regulated air contaminant emissions associated with the facility when constructed.

(3) The air-cleaning devices that are to be employed to address each of the air contaminant sources.

(4) The construction schedule for the proposed construction.

(5) An acknowledgment by the person that the actual air contaminant sources, equipment, and associated air-cleaning devices may not be constructed until the person has obtained a permit under G.S. 143-215.108.

(6) An acknowledgment by the person that any construction prior to the issuance of a permit under G.S. 143-215.108 is undertaken at the person's own risk and with the knowledge that the person may be denied a permit under G.S. 143-215.108 without regard to the person's financial investment or construction activities.

(7) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the person's knowledge and ability, executed by the person or, if the person is a corporation, by the appropriate officers of the corporation.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or the associated air-cleaning device in a manner that alters the emission of

air contaminants. A permittee may construct or modify an air contaminant source, equipment, or the associated air-cleaning device, at a facility permitted under G.S. 143-215.108, as provided in this section, unless the construction or modification would be inconsistent with any federal program delegation. The permittee may not, however, operate the air contaminant source, equipment, or associated air-cleaning devices in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. At least 15 days prior to commencing construction or modification under this subsection, the permittee shall submit a notice of construction to the Commission. The notice shall include all of the following:

(1) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(2) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(3) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.

(4) The air-cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.

(5) The construction schedule associated with the proposed modification of the permit.

(6) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air-cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.

(7) An acknowledgment by the permittee that any construction prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or construction activities.

(8) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. – Upon receipt of a notice of construction required under subsection (a) or (b) of this section, the Commission may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility or permit modification. If at any time during construction the Commission determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request in writing that the person or permittee submit, within 15 days of receipt of the request, specific additional information related to the reasons that give rise to the determination. If, after reviewing any additional information submitted by the person or permittee, the Commission again determines

that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request that the plans for the construction be altered in order to address the anticipated inability of the person or permittee to qualify for a permit or permit modification or the Commission may order that construction or modification cease. If the Commission orders that construction or modification cease, then construction may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the determination that resulted in the order to cease construction or modification have been adequately addressed or the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction to resume. Any order by the Commission that construction cease shall be in writing and shall set forth specific reasons for the determination that the person or permittee will not qualify for a permit.

(d) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction allowed under this section had not occurred. No evidence regarding any financial investment made, construction activity undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108.

(e) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any construction or modification undertaken by any person, permittee, or owner of any facility pursuant to this section.

(f) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(g) Fee. – A person or permittee who submits a notice of construction under subsection (a) or subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

7-16-02 #2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1037

Agriculture/Environment/Natural Resources Committee Substitute Adopted 9/19/01

Finance Committee Substitute Adopted 9/26/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1037-PCS6880-RTf-96

Short Title: No Air Pmt. Req. Until Facility Operational. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ANY PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY COMMENCE CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION AND THAT ANY CURRENT HOLDER OF AN AIR QUALITY PERMIT MAY COMPLETE NEW CONSTRUCTION AT AN EXISTING PERMITTED FACILITY PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a), as amended by Section 2 of S.L. 2002-4, reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained ~~from the Commission~~ a permit ~~therefor~~ from the Commission and has complied with any conditions of ~~this~~ the permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to ~~construction or~~ operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of ~~construction or~~ operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities and the expansion of existing facilities.**

(a) New Facilities. – A person may not, without obtaining a permit under G.S. 143-215.108, construct or operate an air contaminant source, equipment, or associated air-cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or device for which a permit is required under G.S. 143-215.108. A person may, however, construct any component of the facility that is not integral to the operation of the air contaminant source, equipment, or associated air-cleaning device, including any portion of the facility that relates to or supports both the air contaminant source, equipment, or device and other functions, such as the foundation, walls, roof, electrical wiring, and vents, if the person complies with the requirements of this section. At least 15 days prior to commencing construction under this subsection, the person who owns the facility shall give notice by publication, and shall submit to the Commission a notice, of the person's intent to construct a facility for which a permit will be required under G.S. 143-215.108. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is to be located; shall be at the person's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives during its review of the application for a permit, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (5) of this subsection. The person shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice to the Commission shall include all of the following:

(1) The name and location of the proposed facility and the name and address of the person who will apply for a permit under G.S. 143-215.108.

(2) The nature of the air contaminant sources and equipment associated with the facility when constructed.

(3) An estimate of total regulated air contaminant emissions associated with the facility when constructed.

(4) The air-cleaning devices that are to be employed to address each of the air contaminant sources.

(5) The construction schedule for the proposed construction.

(6) An acknowledgment by the person that the actual air contaminant sources, equipment, and associated air-cleaning devices may not be constructed until the person has obtained a permit under G.S. 143-215.108.

(7) An acknowledgment by the person that any construction prior to the issuance of a permit under G.S. 143-215.108 is undertaken at the person's own risk and with the knowledge that the person may be denied a permit under G.S. 143-215.108 without regard to the person's financial investment or construction activities.

(8) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the person's knowledge

and ability, executed by the person or, if the person is a corporation, by the appropriate officers of the corporation.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or the associated air-cleaning device in a manner that alters the emission of air contaminants. The permittee may not operate the altered, expanded, or additional air contaminant source, equipment, or associated air-cleaning devices in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. A permittee may, however, construct or modify an air contaminant source, equipment, or the associated air-cleaning device at a facility permitted under G.S. 143-215.108 if the permittee complies with the requirements of this section. At least 15 days prior to commencing construction or modification under this subsection, the permittee shall give notice by publication, and shall submit to the Commission a notice, of the person's intent to construct a facility for which a permit modification will be required under G.S. 143-215.108. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is located; shall be at the person's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives during its review of the application for a permit modification, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (6) of this subsection. The permittee shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice to the Commission shall include all of the following:

(1) The name and location of the facility and the name and address of the permittee.

(2) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(3) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(4) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.

(5) The air-cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.

(6) The construction schedule associated with the proposed modification of the permit.

(7) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air-cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.

(8) An acknowledgment by the permittee that any construction prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be

denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or construction activities.

(9) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. – Upon receipt of the notice to the Commission required under subsection (a) or (b) of this section, the Commission may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility or permit modification. If at any time during construction the Commission determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request in writing that the person or permittee submit, within 15 days of receipt of the request, specific additional information related to the reasons that give rise to the determination. If, after reviewing any additional information submitted by the person or permittee, the Commission again determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request that the plans for the construction be altered in order to address the anticipated inability of the person or permittee to qualify for a permit or permit modification or the Commission may order that construction or modification cease. If the Commission orders that construction or modification cease, then construction may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the determination that resulted in the order to cease construction or modification have been adequately addressed or the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction to resume. Any order by the Commission that construction cease shall be in writing and shall set forth specific reasons for the determination that the person or permittee will not qualify for a permit.

(d) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction allowed under this section had not occurred. The Commission shall consider any written comment that it receives in response to a notice by publication given pursuant to subsection (a) or (b) of this section. No evidence regarding any financial investment made, construction activity undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108.

(e) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any construction or modification undertaken by any person, permittee, or owner of any facility pursuant to this section.

(f) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(g) Federal Air Quality Programs Not Affected. – This section does not relieve any person from any preconstruction or construction prohibition imposed by any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply to any construction or modification that is subject to requirements for prevention of significant deterioration or federal nonattainment new source review, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply if it is inconsistent with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112.

(h) Fee. – A person or permittee who submits a notice of construction under subsection (a) or subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

7-16-02 #3

SENATE BILL 1037:
No Air Pmt. Req. Until Facility Operational.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Hoyle
Date:	July 16, 2002	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute (S1037-PCS6880-RTf-96)		Tim Dodge Research Assistant

SUMMARY: ***Senate Bill 1037 would modify the procedures required before construction, expansion, modification, or operation of an air contaminant source and its components can commence. The bill would establish notification and review procedures for permit applicants, establish an application fee, and prohibit the use of economic and financial losses incurred by a person who proceeds without a permit as evidence during administrative and judicial review of permit decisions.***

The proposed committee substitute (PCS) for SB 1037 would make the following additional changes (underlined):

- ***Require notice by publication of an owner's intent to expand modify, or operate an air contaminant source, and would require the notice to include the name and address information on the facility and the applicant.***
- ***Expressly state that the elements of the bill would not affect the applicant's responsibilities and requirements under federal air quality programs.***

The PCS would become effective when it becomes law.

BACKGROUND: G.S 143-215.108 prohibits a person from carrying out activities that may contravene the air quality or emission control standards established by the Environmental Management Commission (EMC) under G.S. 143-215.107 unless the person has applied for and received a permit from the EMC. These laws prohibit the construction, alteration, or entering into an irrevocable contract for the construction or installation of any air contaminant source without a permit from the EMC.

BILL ANALYSIS: The PCS for Senate 1037 modifies G.S. 143-215.108 and adds a new G.S. 143-215.108A to clearly delineate the point at which a permit approved by the EMC becomes necessary for air contaminant sources during construction, expansion, modification, or operation. The PCS makes the following changes:

Consistency with local government ordinances:

Current law (G.S. 143-215.108(f)) requires facilities to be consistent with local ordinances **prior to construction or operation.** The PCS amends G.S. 143-215.108(f) to require persons proposing to construct or expand to ensure the facility or expansion is consistent with local zoning or subdivision ordinances **prior to *operation***. The PCS also adds a subsection (f) to G.S. 143-215.108A that states that the new section does not affect the validity of any lawfully adopted franchise, local zoning, subdivision,

or land-use planning ordinance or affect the responsibility of any person to comply with any local ordinance.

Procedures for construction of new air pollution facilities:

The PCS authorizes a person to construct components of a facility **that are not integral to the operation of the air contaminant source or equipment prior to obtaining an air permit,** but the person must obtain a permit **prior to *construction* or operation of the actual air contaminant source, equipment, or associated air-cleaning devices.** Facilities would be required to notify the EMC at least 15 days prior to commencing construction and provide the EMC with the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The nature of the proposed contaminant source.
3. An estimate of regulated emissions.
4. The air cleaning devices that will be employed to address each contaminant source.
5. The expected construction schedule.
6. An acknowledgement by the person that the actual air contaminant sources may not be constructed until the permit is obtained.
7. An acknowledgement that any construction of an air contaminant source prior to the receipt of an operation permit will be performed at the applicant's own risk.
8. A certification under oath of the accuracy of the notice of construction.

The PCS would also require the person who owns the facility to give notice by publication in a newspaper having general circulation in the county or counties where the facility would be located at least 15 days prior to construction. The notice by publication shall include the first five items listed above.

Procedures for facilities currently holding a permit:

The PCS would allow a person that holds a current permit to modify a facility or emission source prior to obtaining a modified permit, but if the modification would alter the emissions from the facility, the facility must obtain a modified permit **prior to operation** of the modified emissions source. Notification requirements would be similar to those for a new facility and would require the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The current permit number.
3. The nature of the contaminant sources and equipment associated with the modification.
4. An estimate of regulated emissions under the proposed modification.
5. The air cleaning devices that will be employed to address each contaminant source.
6. The expected construction schedule.
7. An acknowledgement by the permittee that the actual air contaminant sources may not be operated in a manner that alters the permitted emissions until a modified permit is obtained.
8. An acknowledgement that any construction of an air contaminant source prior to the receipt of a modified operation permit will be performed at the permittee's own risk.

9. A certification under oath of the accuracy of the notice of construction or modification.

Review and Determination by the EMC:

Following receipt of a notice of construction, the EMC may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility. If the EMC determines that there is a significant likelihood that a person or permittee will not qualify for a permit or modified permit, the EMC may request in writing that the person submit specific additional information. Upon review of the additional information, if the EMC determines that there continues to be a significant likelihood that a person or permittee would not qualify for a permit, the EMC may request that the plans be altered or may order that construction cease until the EMC issues a permit or permit modification that authorizes construction to resume.

Administrative and Judicial Review of Permit Decisions:

The PCS would prohibit the use of prior financial investment, construction activity undertaken, or economic loss incurred as evidence by a person or permittee who proceeds with construction, expansion, or modification without first obtaining a permit. Under current law, a person or permittee may contest a decision based on dissatisfaction arising from any issue. The PCS also directs the EMC to consider any written comment that it receives in response to the public notice.

State, EMC, and Employees Not Liable:

The State, EMC, and their employees shall not be held liable for any loss incurred by a person, permittee, or owner of a facility as a result of the enforcement of the provisions of the PCS.

Federal Air Quality Programs Not Affected:

G.S. 143-215.108A would not affect a person's duty to comply with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, nor would G.S. 143-215.108A apply if it is inconsistent with any federal requirement. The PCS would also not apply to any construction or modification that is subject to the requirements for prevention of significant deterioration or federal nonattainment new source review.

Fee:

The applicant or permittee shall pay a processing fee of two hundred dollars ($200.00) at the time of notification.

Effective Date:

The PCS would become effective when it becomes law and would apply to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after that date.

7-16-02 #4

SB1037-1

Testimony of Clinton Ray Miller, July 16, 2002, in opposition to Senate Bill 1037, Raleigh, N.C.

Mr. Chairman and Members of the Committee:

Thank you for giving us an opportunity to testify against Senate Bill 1037. This bill is one of the worst anti-environmental protection bills ever introduced. It is a giant pollution loophole.

If enacted, North Carolina will rapidly move to the top of the list of states with the most contaminated air. We are already well on the way to give this shameful legacy to our children and grandchildren.

Senate Bill 1037 makes no pretense about its intent to make it perfectly legal for a company which intends to build an asphalt or other air-pollution facility to commence and complete construction without ever applying for, let alone obtaining a ***NEW*** air quality permit.

The "IF" clause in Senate Bill 1037 is based on the false premise that the science behind ***OLD*** air qualilty permits is equal to newer scientific discoveries which will, and certainly should, be driving newer, far more strict air quality permits.

To allow auto manufacturers to build automobiles in 2002 using the same emission standards [permits] that were permissible 10, 50 and 100 years ago would be wrong. Yet this bill proposes that we do precisely that with asphalt and other pollution facilities.

I propose a "strike-all" amendment which clearly states that all older asphalt, and other air polluting facilities shall comply to new, safer, air quality permit standards as soon as they reasonably can.

ASPHALT PLANTS AND AIRBORNE LEAD

by Clinton Ray Miller 704-924-8615 E-mail: Freedomman 2000 @ MSN.COM

*From LEAD IS A SILENT HAZARD by Richard Stapleton /lead-air/

The higher rate at which airborne lead poisons children's bodies explains why airborne lead emissions from asphalt plants are such a major and constant hazard to all children living or schooling within a 5 to 10 mile radius of the plant.

Children absorb lead at 2 to 3 times the rate as adults.

*The most dangerous form of lead pollution is airborne lead. Our lungs absorb between 30 to 50 percent of the lead we breathe in. Children's lungs absorb at the same rate as adults, but kids have a much higher metabolic rate. That means they breathe in more air, relative to their body size and weight, than adults do. It is estimated that children's lungs absorb two to three times as much lead as adults.

*Animal research shows that the smaller the particles of lead, the more easily they'll be absorbed. In experiments with rats, when the size of the ingested lead dropped from 150 to 8 microns--a micron is one millionth of a meter--the rate of absorption increased 500 percent.

The bad news: It is legal to use waste oil, which is loaded with up to 100 ppm lead. as fuel in hot mix asphalt plants! *NC does not require asphalt plants monitor lead emissions!*

STATESVILLE
Record & Landmark
Vol. 126 No. 201 Statesville, N.C. WEDNESDAY, JULY 19, 2000

EDITORIAL

Asphalt plant foes must remain vigilant

The residents who live along NC Hwy. 115 on the outskirts of the city may feel they dodged an asphalt bullet Tuesday when plans to locate a plant there were withdrawn.

Residents, for now, can savor their vindication but probably not for long.

That's because the site may again be up for discussion. It could happen soon.

ProSeal owner Ronnie Sipes chose to remove the rezoning request that would have paved the way for a new asphalt plant. That's significant.

If Statesville City Council had actually considered the request and decided against ProSeal's bid, the property would be subject to no further zoning requests for two years.

That is not the case.

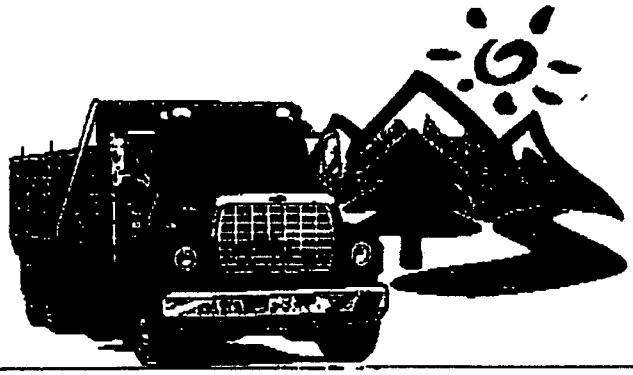
As the property stands, a second firm could bring a similar request before council. And that seems reasonable, despite the outcry against ProSeal's request.

Any company looking to erect an asphalt plant would undoubtedly see the proposed site as a prime one. A smart firm would likely let the issue rest for a few months before, in a very low-key fashion, introducing a similar request.

Businesses know that citizen involvement tends to ebb and flow. Once the issue is, at least on the surface, laid to rest, the outraged residents go back to the everyday challenges of their lives and place issues like rezoning, asphalt plants and pollution on the back burner.

The residents had their way Tuesday night, but they must remain vigilant if they want to continue to have a say in the property.

CITIZENS FOR A NICER, SAFER NEIGHBORHOOD CNSN
JAY & JENNIFER GRIFFITH, CO-PRESIDENTS, 873-9570
SECRETARY: STEPHANIE GILL, 140 Meadow Lark Lane; 878-6338
TREASURER: MAUREEN PRICE, 113 Blue Jay Way, 28625; 873-1207



Rhodes Brothers Paving operates a 180 ton per hour, 100 thousand ton per year asphalt plant on the Cullasaja River.

The Rhodes Bros. Paving asphalt plant on the banks of the Cullasaja was manufactured in 1963. The 36 year old plant is permitted to have double the emissions of smoke (40% opacity) plants built after 1971. The permit issued by the NC Division of Air Quality on October 14, 1998 allows the plant to emit these air pollutants:

nitrogen oxides	17,000 pounds/year
sulfur dioxide	19,591 pounds/year
carbon monoxide	6,900 pounds/year
volatile organics	4,170 pounds/year
particulates	3,200 pounds/year
benzene	25 pounds/year
xylene	11 pounds/year
toluene	4 pounds/year
cadmium	0.08 pounds/year
formaldehyde	5,080 pounds/year

10/99

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE
PO Box 88 Glendale Springs, North Carolina 28629 336-982-2691 fax: 336-982-2954 e-mail:
BREDL@skybest.com http://www.bredl.org

Pope Drops The Asphalt Petition Request

Mary McKelvy Brown
IREDELL CITIZEN

The citizens won. Ron Sipes, petitioner for the proposed asphalt plant on Highway 115, had his attorney, Bill Pope, take his request off the table at a recent meeting of the Statesville City Council.

Over 400 area residents met at the Statesville Civic Center to oppose the plant. Many were members of the Citizens for Nicer 'n Safer Neighborhoods. This organization formed to combat the asphalt plant and other development the group feels will harm Statesville's residential communities.

Residents wore pins and held signs saying "No Asphalt." They stayed in the Civic Center for almost two hours before they heard Sipes had withdrawn his petition.

As excited as they were for what they call a victory, most think they need to remain vigilant against any proposed development that does not benefit Statesville.

Pope said the petition was removed because he and his client feel the city council does not have enough information to make an informed decision. He also said that they probably will petition again.

CITIZENS FOR A NICER, SAFER NEIGHBORHOOD CNSN

JAY & JENNIFER GRIFFITH, CO-PRESIDENTS, 873-9570
SECRETARY: STEPHANIE GILL, 140 Meadow Lark Lane; 878-6338
TREASURER: MAUREEN PRICE, 113 Blue Jay Way, 28625; 873-1207

Asphalt Plant Could Endanger Fourth Creek

Mary McKelvy Brown
IREDELL CITIZEN

THEY ARE A GROUP of concerned citizens, well-organized, well-researched and prepared to take a stand for their neighborhood.

These proactive people have formed a group called Citizens for Nicer 'n Safer Neighborhoods. It meets every Thursday night to discuss issues that influence the quality of life in Statesville's neighborhoods.

The event that galvanized this group into action was the proposal to rezone 28 acres behind the Riverfront Antique Mall on Hwy. 21 to heavy industrial.

Ronnie Sipes, owner of Pro Seal wants to put an asphalt plant on the land. The area is now full of trees and soybean fields. The first reading request was made at the May 15 meeting of the Statesville City Council. Residents of the nearby neighborhoods said they had not been contacted until the day of the first reading and not at all regarding the rezoning.

June 5, at the second reading, 50 people came to protest. Councilman Ray Raymer asked that the item be tabled due to the residents' concerns. David Currier, city planner, requested that his staff contact the state for an environmental impact study. The council decided to wait to make a vote.

Citizens for Nicer 'n Safer Neighborhoods have since been doing their homework. They've started a campaign to combat the asphalt plant through mailings, handouts, meetings and contacting city council members.

A main reason not to allow the asphalt plant, according to the group, is; if this plant is allowed, heavy industry will creep up Hwy. 21 and along I 40.

Heavy truck, they believe, will get worse with the plant in operation and could endanger other vehicles as well as bikers, walkers and EMS vehicles.

Environmentally, they think that the storm water runoff from the plant could further harm Fourth Creek. The creek is ultimately supposed to be part of the Greenway project. According to the group, asphalt plants poison the air in two ways. First, through smokestake emissions of nitrogen oxide, carbon dioxide and sulfur dioxide. Secondly, through fugitive emissions. These uncontrolled emissions occur during the storage and transfer of asphalt. The group believes these emissions will aggravate emphysema, bronchitis and lower respiratory infections.

Also, they're worried that odor, residue and fallout from the plant will affect their quality of life. An expected drop in property values near the plant is also a cause for concern.

The group will be at the next city council meeting, July 17.

According to the group's literature, "Protection of people and their homes should be the focus of the city council - not unbridled development and the spread of spot zoning."

For information call Jennifer and Jay Griffith, co-presidents, at 873-9570, Stephanie Gill, secretary, at 878-6338 or Maureen Price, treasurer, at 873-1207. The next city council meeting is July 17 at 7:30 p.m.

Mary McKelvy Brown/CITIZEN

CITIZENS FOR NICER 'n Safer Neighborhoods: Clinton Miller, Jack Goforth, Stephanie Gill, Jane Srail, Melba Ritchie, Bruce Wolf, Wilbur Munneky, Kristalyn Gill, Ashtin Gill, Preston Ritchie, Austin Ritchie, Jonathon Ritchie.

CITIZENS FOR A NICER, SAFER NEIGHBORHOOD CNSN

JAY & JENNIFER GRIFFITH, CO-PRESIDENTS, 873-9570
SECRETARY: STEPHANIE GILL, ; 878-6338
TREASURER: MAUREEN PRICE, ; 873-1207

Record & Landmark
STATESVILLE
WEDNESDAY, JUNE 28, 2000

LETTERS TO THE EDITOR

Will rezoning impact quality of our air?

To The Editor:

I was shocked to learn that in nearly one-fourth of the counties in North Carolina (22 out of 100) that the air is not "safe to breathe."

Your (AP) article of 6/22/2000 reported that 22 counties in NC do not meet smog standards. You reported that Jason Zauder of the North Carolina Public Interest Research Group said that "By June 30, Governor Hunt should develop an action plan to make sure the air in each of these (22) areas will be safe to breathe."

Translation: In 22 North Carolina Counties the air is not now "safe to breathe" according to new standards adopted by the Environmental Protection Agency in 1997.

I was relieved to learn that Iredell County is NOT one of those 22 counties. We have children, grandchildren and great-grandchildren who can breathe more freely knowing our air — at least in this county — is "safe to breathe."

Should I be grateful that the air from the adjacent counties where it is not "safe to breathe" does not cross their county lines? Or should I be concerned that it does?

Five of the 22 unsafe air counties surround Iredell County. They are Alexander, Lincoln, Mecklenburg, Rowan and Davie.

I assume Iredell County's level of air safety is close to the unsafe levels of these five surrounding counties

Before Statesville's City council approves rezoning to allow a large new asphalt plant to move into our "safe air" neighborhood we should all be fully informed about the extent of air pollution it will add to our currently "safe" air.

Sincerely yours,
Clinton Ray Miller
Northmont Drive
Statesville, N.C. 28625

7-16-02 #5

VISITOR REGISTRATION SHEET

Environment & Natural Res. — 7-16-02
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Katherine Hackney	Rep. Hackney
Andrea Schrag	Rep. Webb
Sara Rains	Rep. Luebke
Margaret McNamy	IOTEN
KELLY ANDERSEN	CWMTF
James Van Orden	NC PIRG
Betsy Davis	CCNC
Brent Winstead	NC Sierra Club
Joe Gagnon	NC Sierra Club
Clint Thomas	Political Aide
Lisa Walker	ConNet
Grady McCallie	N.C. Conservation Network.
John Metts	Law office
Pricey Harrison	Beaufort NC
Deborah Bryan	American Lung Assoc of NC
Dan Oakley	DENR
Keith Overcash	DENR - DAQ
David Knight	NC Sierra
Steve Wall	CCNC
Clinton Ray Miller	Greater Statesville Citizens for Cleaner Air Safer Neighborhoods
Jim Gulick	NC AGO
Brock Nicholson	NC DAQ
ALLEN JERNIGAN	NC AGO
Hawley Truax	Governor's office
[illegible]	MCFC
Leslie Bevacqua	NCCBI
Kim Hibbard	NCLM
Angie McMillan	TNC

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Weiss	BREDL 2541 Plaza Place Suite 160 Raleigh, NC. 27615
Carole Lawler	EGHS
Jerry Mills	NRRA
Katherine Joyce	Electric Cooperatives
David Meredith	NC State Grange PO Box 9965 Greensboro, NC 27429
[illegible]	NC. Pork Council
Gene Ainsworth	RJ Reynolds
Omid Nasab	Hunton & Williams
Amy Fuellbright	Hunton & Williams
Charles Case	Hunton & Williams
Bob Slocum	NC Poultry Assoc.

House Pages

1. Name: Alex Brewington
   County: New Hanover
   Sponsor: Rep. Wright
2. Name: Raymond Shen
   County: Orange
   Sponsor: Rep. Insko
3. Name: Wes Hight
   County: Vance
   Sponsor: Rep. Crawford
4. Name:
   County:
   Sponsor:
5. Name:
   County:
   Sponsor:

Sgt-At-Arms

1. Name:
2. Name: Jack Dossenbach
3. Name: Ann Lassiter
4. Name:

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 23, 2002
12:00 noon

1. **Call to Order – Representative Warwick, Presiding**

2. **Bills to be considered:**

   SB 1037 – NO AIR PMT. REQUIRED UNTIL FACILITY OPERATIONAL- Sen. Hoyle
   SB 1251 – MERGE RADIATION PROT. INTO DIV. ENV. HEALTH. – Sen. Odom
   HB 1575 – CLARIFY LUST LAND-USE RESTRICT./DEED RECORD – Rep. Gibson

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 23, 2002

MINUTES

The House Committee on Environment and Natural Resources met July 23, 2002, in Room 643 of the Legislative Office Building at 12:00 noon. Pryor Gibson and Danny McComas, Chairs, were present. Other members attending were Vice Chairs, Leslie Cox, Jennifer Weiss, Alice Underhill, and Committee members Gordon Allen, Joanne Bowie, Arlie Culp, Don Davis, Lyons Gray, Jim Gulley, Joe Hackney, Dewey Hill, Verla Insko, Paul Luebke, Eugene McCombs, David Miner, Frank Mitchell, Jean Preston, Alex Warner, and John Weatherly. A Visitor Registration is attached and made part of these minutes.

Chair McComas called the meeting to order at 12:13 pm. The following bills were discussed:

SB 1251 – Merge Radiation Protection into Div. Env. Health (Attachments 1 & 2) – Representative Gibson presented the bill for Senator Odom, and said that DENR recommends the transfer of the functions, powers, and duties of radiation protection to Environmental Health. No functions will be eliminated nor added as result of this legislation. Representative Hackney moved for a favorable report. Passed.

HB 1575 – Clarify LUST Land-Use Restrict. /Deed Record (Attachment 3) – Representative Gibson moved to adopt H1575-PCS8356-RT-101 (Attachments 4 & 5). He said that this bill would clean up one of the wrinkles in the LUST bill from last year. The change is on page 3, line 20.

Chief Counsel George Givens said that this is the last effort to resolve risk basis of petroleum storage tanks of underground contamination and basically clarifying some language.

Following a short discussion, Representative Luebke moved for a favorable report. Passed.

SB 1037 – No Air Pmt. Req. Until Facility Operational – (Attachments 6 & 7) – Representative Gibson continued presenting the bill that was held over from July 16, 2002. He said this process would not relax regulations nor hurt the environment.

Representative Mitchell asked that the staff draft an amendment to exempt existing asphalts plants.

Deputy Director, B. Keith Overcash, DENR, said that the bill would not cause the Department any problems.

Representative Weiss said that this bill would be taking the State in wrong direction on air quality.

Representative Bowie asked about the turnaround time between submitting a permit and its approval. Mr. Overcash said the number of processing days in 2000 was 52 days; in 2001, it was 56 days.

Representative Hackney said that the ruling of the Attorney General should not be criticized for reading and interpreting the law. The turnaround time seems very reasonable in view of the fact that the Appropriations Sub-Committee which governs this area has been cutting jobs rather than adding them. He questioned what would happen if plants were built and then could not get a permit.

Preston Howard, Manufacturers and Chemical Industry Council of NC (MCIC), said that this bill would resolve the confusion after the Attorney General's Ruling and would codify the process DENR had set down. This bill would require a new public notice. This bill does not result in any harm to the environment, will not make it easier to get an air quality permit, and will not change any standard for permit review for air quality protection.

Leslie Bevacqua, NC Citizens for Business and Industry (NCBBI), said the bill does not change any air quality standards, adds safeguards for the public, and does not make getting the permit any easier. It just allows the construction to begin.

Amendments (Attachments 9, 10, 11) were not discussed because of lack of time.

Chair McComas adjourned the meeting at 12:52 pm.

Danny McComas, Chair

Shirlyn MacPherson, Committee Assistant

7-23-02 ATT # 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1251

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/9/02

Short Title: Merge Radiation Prot. Into Div. Env. Health. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO MERGE THE DIVISION OF RADIATION PROTECTION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES INTO THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO CREATE THE RADIATION PROTECTION SECTION OF THE DIVISION OF ENVIRONMENTAL HEALTH, AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.3(c) reads as rewritten:

"(c)

(1) ~~There is created a division within the environmental area of the Department of Environment and Natural Resources to be named the Division of Radiation Protection. All functions, powers, duties, and obligations of the Radiation Protection Section of the Division of Facility Services of the Department of Health and Human Services are transferred in their entirety to the Radiation Protection Division of the Department of Environment and Natural Resources.~~

(2) There is created a division within the environmental area of the Department of Environment and Natural Resources to be named the Division of Waste Management. All functions, powers, duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Health and Human Services are transferred in their entirety to the Division of Waste Management of the Department of Environment and Natural Resources.

(3) There is created a division within the environmental areas of the Department of Environment and Natural Resources to be named the Division of Environmental Health. All functions, powers, duties and

obligations of the Division of Environmental Health of the Department of Environment and Natural Resources are transferred in their entirety to the Division of Environmental Health, Department of Environment and Natural Resources. All functions, powers, duties, and obligations of the Division of Radiation Protection of the Department of Environment and Natural Resources are transferred in their entirety to the Division of Environmental Health of the Department of Environment and Natural Resources."

SECTION 2. G.S. 104E-8(c) reads as rewritten:

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

(1) The Utilities ~~Commission;~~Commission.
(2) The Commission for Health ~~Services;~~Services.
(3) The Environmental Management ~~Commission;~~Commission.
(4) The Board of ~~Transportation;~~Transportation.
(5) The Division of Emergency Management of the Department of Crime Control and Public ~~Safety;~~Safety.
(6) The Division of ~~Radiation Protection~~Environmental Health of the ~~Department;~~Department.
(7) The Department of ~~Labor;~~Labor.
(8) The Industrial ~~Commission;~~Commission.
(9) The Department of ~~Insurance;~~Insurance.
(10) The Medical Care Commission."

SECTION 3. G.S. 104E-9(b) reads as rewritten:

"(b) The ~~Radiation Protection~~ Division of Environmental Health of the Department ~~of Environment and Natural Resources~~ shall develop a training program for tanning equipment operators that meets the training rules adopted by the ~~North Carolina Radiation Protection~~ Commission. If the training program is provided by the Department, the Department may charge each person trained a reasonable fee to recover the actual cost of the training program."

SECTION 4. G.S. 120-70.33(3) reads as rewritten:

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

SECTION 5. G.S. 166A-6.1(b) reads as rewritten:

"(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the Department of Crime Control and Public Safety, for the use of the Division of ~~Radiation Protection~~Environmental Health of the Department of Environment and

Natural Resources, an annual fee of thirty-six thousand dollars ($36,000) for each fixed nuclear facility that is located within this State or that has a Plume Exposure Pathway Emergency Planning Zone any part of which ~~any part~~ is located within this State. This fee shall be applied only to the costs of planning and implementing emergency response activities as ~~are~~ required by the Federal Emergency Management Agency for the operation of nuclear facilities. This fee is to be paid no later than 31 July ~~31~~ of each year."

SECTION 6. This act becomes effective 1 July 2002.

7-23-02 ATT #2

SENATE BILL 1251:
Merge Radiation Prot. Into Div. Env. Health.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
		Summary by:	Tim Dodge Research Assistant for Environmental Issues
Date:	July 23, 2002		
Version:	2nd Edition		

SUMMARY: ***Senate Bill 1251 abolishes the Division of Radiation Protection (DRP) of the Department of Environment and Natural Resources (DENR) and transfers the functions, powers, and duties of DRP to the Division of Environmental Health of DENR.***

CURRENT LAW: The Division of Radiation Protection (DRP) oversees programs to license, regulate, and monitor radiation hazards in the State. The responsibilities of DRP include the following activities:

- Performs compliance inspections and maintains database of registered x-ray and tanning facilities.
- Performs compliance inspections annually under the Mammography Quality Standards Act (under contract with the United States Food and Drug Administration (USDA)).
- Provides technical assistance to mammography, x-ray, and tanning facilities.
- Licenses and inspects radioactive material and particle accelerator facilities.
- Regulates and permits the receipt, possession, use, transfer, and disposal of radioactive material and particle accelerators.
- Monitors and evaluates radiation and radioactive contamination levels in the environment statewide.
- Provides technical assistance to the public on indoor airborne radon gas and radon in groundwater.
- Under the coordination of the Division of Emergency Management of the Department of Crime Control and Public Safety, DRP serves as the lead technical responder to all radiation accidents and emergencies in the State.

BILL ANALYSIS: SB 1251 would amend the references to DRP in the General Statutes and transfer the functions, powers, duties, and obligations of DRP to the Division of Environmental Health. The bill would become effective July 1, 2002.

BACKGROUND: On May 24, 2002, DENR announced several organizational changes, including the transfer of DRP to the Division of Environmental Health. The move is designed to reduce management staff and to provide additional administrative support to the program areas in radiation protection. Senate Bill 1115, Modify Appropriations Act of 2001, proposes similar organizational changes and contains statutory changes to accomplish the transfer.

7-23-02 ATT # 3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H 1

HOUSE BILL 1575*

Short Title:	Clarify LUST Land-Use Restrict./Deed Record.	(Public)
Sponsors:	Representatives Gibson; and Morris.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN STATUTES RELATED TO LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN CONNECTION WITH THE CLEANUP OF RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANKS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.9 reads as rewritten:

"**§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.**

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the requirements of this section. ~~The~~ Except as provided in subsection (b) of this section, restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet unrestricted use standards, the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.10 or G.S. 143B-279.11, whichever applies. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any owner of the land, operator of the facility, or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department

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

(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A ~~risk-based~~ remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes ~~that will not require that the site meet unrestricted use standards~~ must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record a notice of approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this subsection. Any restriction on the current or future use of real property shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any notice of restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S. 143B-279.11, the current or future use of real property may be restricted only as set out in any one or more of the following subdivisions:

(1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.

(2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.

(3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.

(4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department.

(c) This section does not alter any right, duty, obligation, or liability of any owner, operator, or other responsible party under any other provision of law.

(d) As used in this section:

(1) 'Unrestricted use standards' means generally applicable standards, guidance, or established methods governing contaminants that are established by statute or adopted, published, or implemented by the Environmental Management Commission, the Commission for Health Services, or the Department. Cleanup or remediation of real property to unrestricted use standards means that the property is restored to a condition such that the property and any use that is made of the property does not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than that posed by use of the property prior to its having been contaminated.

(2) 'Risk-based', when used in connection with cleanup, remediation, or similar terms, means cleanup or remediation of contamination of real property to a level that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk to public health, the environment, or users of the real property so long as the property remains in the condition and is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based."

SECTION 2. G.S. 143B-279.10(g) reads as rewritten:

"(g) This section does not apply to the cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 3. G.S. 143B-279.11(a) reads as rewritten:

"(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 4. G.S. 143-215.94W(a)(5) reads as rewritten:

"(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to ~~G.S. 143-215.2.~~G.S. 143-215.2 or fails to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 5. G.S. 143-215.94Y reads as rewritten:

"**§ 143-215.94Y. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Part, any of the terms of any permit issued pursuant to this Part, or a rule implementing this ~~Part,~~Part or has failed to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this ~~Part or~~ Part, the ~~regulations~~ rules of the ~~Commission~~ Commission, or the failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11 has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this ~~Part.~~Part or for failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 6. This act is effective retroactively to 1 September 2001. This act applies retroactively to any cleanup of a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes except that land-use restrictions and recordation of residual contamination are not required with respect to a discharge or release of petroleum for which the Department of Environment and Natural Resources issued a determination that no further action is required prior to 1 September 2001.

7-23-02 ATT # 4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1575
PROPOSED COMMITTEE SUBSTITUTE H1575-PCS8356-RT-101

Short Title: Clarify LUST Land-Use Restrict./Deed Record. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN STATUTES RELATED TO LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN CONNECTION WITH THE CLEANUP OF RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANKS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.9(b) reads as rewritten:

"(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A ~~risk-based~~ remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes ~~that will not require that the site meet unrestricted use standards~~ must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record ~~approved~~ a notice of any applicable land-use restrictions that meet the requirements of this ~~section~~ subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this ~~subsection.~~ subsection and G.S. 143B-279.11. Any restriction on the current or future use of real property pursuant to this subsection shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any notice of restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S.

143B-279.11, the Secretary may restrict current or future use of real property ~~may be restricted~~ only as set out in any one or more of the following subdivisions:

(1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.

(2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.

(3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.

(4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department."

SECTION 2. G.S. 143B-279.10(g) reads as rewritten:

"(g) This section does not apply to the cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 3. G.S. 143B-279.11(a) reads as rewritten:

"(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 4. G.S. 143B-279.11(b) reads as rewritten:

"(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall prepare and submit to the Department a proposed Notice that meets the requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other

responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users of the property."

SECTION 5. G.S. 143B-279.11(d) reads as rewritten:

"(d) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section and shall provide the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank with a notarized copy of the approved Notice. After the Department approves the Notice, the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs. If the owner, operator, or other person responsible for the discharge or release fails to file the Notice as required by this section, any determination by the Department that no further action is required is void. The owner, operator, or other person responsible for the discharge or release, may record the Notice required by this section without the agreement of the owner of the real property. The owner, operator, or other person responsible for the discharge or release shall submit a certified copy of the Notice as filed in the register of deeds office to the Department."

SECTION 6. G.S. 143-215.94W(a)(5) reads as rewritten:

"(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to ~~G.S. 143-215.2.~~G.S. 143-215.2 or fails to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 7. G.S. 143-215.94Y reads as rewritten:

"**§ 143-215.94Y. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Part, any of the terms of any permit issued pursuant to this Part, or a rule implementing this ~~Part,~~Part or has failed to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur

or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this ~~Part or~~ Part, the ~~regulations~~ rules of the ~~Commission~~ Commission, or the failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11 has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this ~~Part.~~Part or for failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 8. This act is effective retroactively to 1 September 2001. This act applies retroactively to any cleanup of a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes except that land-use restrictions and recordation of residual contamination are not required with respect to a discharge or release of petroleum for which the Department of Environment and Natural Resources issued a determination that no further action is required prior to 1 September 2001.

7-23-02 ATT # 5

HOUSE BILL 1575:
Clarify LUST Land-Use Restrict./Deed Record.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Represenative Gibson
Date:	July 23, 2002	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (H1575-PCS8356-RT-101)		

SUMMARY: ***The Proposed Committee Substitute (PCS) for HB 1575 amends the statutory provisions related to the use of land-use restrictions and recordation of the restrictions in connection with the cleanup of a release from a petroleum underground storage tank.***

The PCS would become effective retroactively to September 1, 2001 and would apply to any cleanup of petroleum from an underground storage tank site for which a determination that no further action is required is made on or after September 1, 2001.

BILL ANALYSIS: The PCS for HB 1575 makes clarifying changes to the statutes related to land-use restrictions and recordation of those restrictions in connection with the cleanup of a release from a petroleum Underground Storage Tank (UST). The bill makes the following changes:

- Removes the redundant use of the terms "risk-based" and "unrestricted use standards" from the portion of the statutes that requires a remediation action plan for the cleanup of environmental damage resulting from a leaking petroleum UST to include an agreement to file a notice of any applicable land-use restrictions. This would make the agreement to file any applicable land-use restrictions a mandatory part of any UST remedial action plan where soil or groundwater contamination will remain in excess of unrestricted use standards, including high-risk sites. *(Sections 1 through 3)*
- Adds the places the phrase "notice of" between the words "record" and "restriction", to more accurately describe the process of recording a notice of any applicable land-use restrictions. *(Sections 1 and 4)*
- Specifies that the Secretary of Environment and Natural Resources has the authority to require land-use restrictions under a remedial action plan for the cleanup of environmental damage resulting from a leaking petroleum UST. Previous statutory language did not specify who had the authority to require land-use restrictions. *(Section 1)*
- Authorizes the owner, operator, or other person responsible for the discharge or release of petroleum from a UST to record a Notice of Residual Petroleum without the agreement of the owner of the real property where the residual petroleum may be located. *(Section 5)*
- Provides that the penalty and enforcement provisions for violations of petroleum UST cleanup requirements also apply when a person has failed to file any applicable notices of land-use restriction required under a remedial action plan. *(Sections 6 and 7)*

CURRENT LAW: Land-use restrictions for a site that is contaminated by a discharge or release of petroleum from a leaking petroleum UST are required when the site is cleaned up under a risk-based

approach to a cleanup level that does not meet unrestricted use standards. The restrictions are enforceable only with respect to (i) the real property on which the source of the contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the UST or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The current or future use of sites contaminated with remedial petroleum may be restricted only as follows:

- Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department of Environment and Natural Resources (DENR).
- Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary of Environment and Natural Resources may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.
- Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.
- Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and DENR.

BACKGROUND: S.L. 1999-198 provided general authority for DENR to impose land-use restrictions and deed recordation requirements on contaminated property that is subject to a DENR remediation program in order to protect public health and the environment. Land-use restrictions would be required when contaminated sites were to be remediated to a "less than pristine" level of cleanup. S.L. 2000-51 also exempted sites contaminated by leaking USTs that were remediated to "risk-based" standards from the land-use restrictions imposed by S.L. 1999-198 until September 1, 2001, due to issues related to the application of land-use restrictions and deed recordation to petroleum UST sites.

S.L. 2001-384 (HB 1301) clarified the circumstances under which cleanups of environmental damage in risk-based regulatory programs are subject to land-use restriction requirements. The term "unrestricted use standards" is defined as generally applicable standards that, when applied to the cleanup of a contaminated property, would result in restoration of the property to a condition such that any use of the property would not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than the risk posed by the property prior to its having been contaminated. "Risk-based" is defined to mean a cleanup or remediation that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk so long as the property is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based.

EFFECTIVE DATE: The PCS would become effective September 1, 2001, and would apply to any cleanup of petroleum under the Leaking Petroleum Underground Storage Tank Cleanup Program for which a determination of no further action required was not made prior to September 1, 2001.

1-23-02 ATT # 6

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1037

Agriculture/Environment/Natural Resources Committee Substitute Adopted 9/19/01

Finance Committee Substitute Adopted 9/26/01

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1037-PCS6880-RTf-96

Short Title: No Air Pmt. Req. Until Facility Operational. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ANY PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY COMMENCE CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION AND THAT ANY CURRENT HOLDER OF AN AIR QUALITY PERMIT MAY COMPLETE NEW CONSTRUCTION AT AN EXISTING PERMITTED FACILITY PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a), as amended by Section 2 of S.L. 2002-4, reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained ~~from the Commission~~ a permit ~~therefor~~ from the Commission and has complied with any conditions of ~~this~~ the permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to ~~construction or~~ operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of ~~construction or~~ operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities and the expansion of existing facilities.**

(a) New Facilities. – A person may not, without obtaining a permit under G.S. 143-215.108, construct or operate an air contaminant source, equipment, or associated air-cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or device for which a permit is required under G.S. 143-215.108. A person may, however, construct any component of the facility that is not integral to the operation of the air contaminant source, equipment, or associated air-cleaning device, including any portion of the facility that relates to or supports both the air contaminant source, equipment, or device and other functions, such as the foundation, walls, roof, electrical wiring, and vents, if the person complies with the requirements of this section. At least 15 days prior to commencing construction under this subsection, the person who owns the facility shall give notice by publication, and shall submit to the Commission a notice, of the person's intent to construct a facility for which a permit will be required under G.S. 143-215.108. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is to be located; shall be at the person's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives during its review of the application for a permit, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (5) of this subsection. The person shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice to the Commission shall include all of the following:

(1) The name and location of the proposed facility and the name and address of the person who will apply for a permit under G.S. 143-215.108.

(2) The nature of the air contaminant sources and equipment associated with the facility when constructed.

(3) An estimate of total regulated air contaminant emissions associated with the facility when constructed.

(4) The air-cleaning devices that are to be employed to address each of the air contaminant sources.

(5) The construction schedule for the proposed construction.

(6) An acknowledgment by the person that the actual air contaminant sources, equipment, and associated air-cleaning devices may not be constructed until the person has obtained a permit under G.S. 143-215.108.

(7) An acknowledgment by the person that any construction prior to the issuance of a permit under G.S. 143-215.108 is undertaken at the person's own risk and with the knowledge that the person may be denied a permit under G.S. 143-215.108 without regard to the person's financial investment or construction activities.

(8) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the person's knowledge

and ability, executed by the person or, if the person is a corporation, by the appropriate officers of the corporation.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or the associated air-cleaning device in a manner that alters the emission of air contaminants. The permittee may not operate the altered, expanded, or additional air contaminant source, equipment, or associated air-cleaning devices in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. A permittee may, however, construct or modify an air contaminant source, equipment, or the associated air-cleaning device at a facility permitted under G.S. 143-215.108 if the permittee complies with the requirements of this section. At least 15 days prior to commencing construction or modification under this subsection, the permittee shall give notice by publication, and shall submit to the Commission a notice, of the person's intent to construct a facility for which a permit modification will be required under G.S. 143-215.108. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is located; shall be at the person's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives during its review of the application for a permit modification, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (6) of this subsection. The permittee shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice to the Commission shall include all of the following:

(1) The name and location of the facility and the name and address of the permittee.

(2) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(3) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(4) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.

(5) The air-cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.

(6) The construction schedule associated with the proposed modification of the permit.

(7) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air-cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.

(8) An acknowledgment by the permittee that any construction prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be

denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or construction activities.

(9) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. – Upon receipt of the notice to the Commission required under subsection (a) or (b) of this section, the Commission may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility or permit modification. If at any time during construction the Commission determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request in writing that the person or permittee submit, within 15 days of receipt of the request, specific additional information related to the reasons that give rise to the determination. If, after reviewing any additional information submitted by the person or permittee, the Commission again determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request that the plans for the construction be altered in order to address the anticipated inability of the person or permittee to qualify for a permit or permit modification or the Commission may order that construction or modification cease. If the Commission orders that construction or modification cease, then construction may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the determination that resulted in the order to cease construction or modification have been adequately addressed or the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction to resume. Any order by the Commission that construction cease shall be in writing and shall set forth specific reasons for the determination that the person or permittee will not qualify for a permit.

(d) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction allowed under this section had not occurred. The Commission shall consider any written comment that it receives in response to a notice by publication given pursuant to subsection (a) or (b) of this section. No evidence regarding any financial investment made, construction activity undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108.

(e) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any construction or modification undertaken by any person, permittee, or owner of any facility pursuant to this section.

(f) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(g) Federal Air Quality Programs Not Affected. – This section does not relieve any person from any preconstruction or construction prohibition imposed by any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply to any construction or modification that is subject to requirements for prevention of significant deterioration or federal nonattainment new source review, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply if it is inconsistent with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112.

(h) Fee. – A person or permittee who submits a notice of construction under subsection (a) or subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

7-23-02 ATT # 7

SENATE BILL 1037:
No Air Pmt. Req. Until Facility Operational.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Hoyle
Date:	July 16, 2002	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute (S1037-PCS6880-RTf-96)		Tim Dodge Research Assistant

SUMMARY: ***Senate Bill 1037 would modify the procedures required before construction, expansion, modification, or operation of an air contaminant source and its components can commence. The bill would establish notification and review procedures for permit applicants, establish an application fee, and prohibit the use of economic and financial losses incurred by a person who proceeds without a permit as evidence during administrative and judicial review of permit decisions.***

The proposed committee substitute (PCS) for SB 1037 would make the following additional changes (underlined):

- ***Require notice by publication of an owner's intent to expand modify, or operate an air contaminant source, and would require the notice to include the name and address information on the facility and the applicant.***
- ***Expressly state that the elements of the bill would not affect the applicant's responsibilities and requirements under federal air quality programs.***

The PCS would become effective when it becomes law.

BACKGROUND: G.S 143-215.108 prohibits a person from carrying out activities that may contravene the air quality or emission control standards established by the Environmental Management Commission (EMC) under G.S. 143-215.107 unless the person has applied for and received a permit from the EMC. These laws prohibit the construction, alteration, or entering into an irrevocable contract for the construction or installation of any air contaminant source without a permit from the EMC.

BILL ANALYSIS: The PCS for Senate 1037 modifies G.S. 143-215.108 and adds a new G.S. 143-215.108A to clearly delineate the point at which a permit approved by the EMC becomes necessary for air contaminant sources during construction, expansion, modification, or operation. The PCS makes the following changes:

Consistency with local government ordinances:

Current law (G.S. 143-215.108(f)) requires facilities to be consistent with local ordinances **prior to construction or operation.** The PCS amends G.S. 143-215.108(f) to require persons proposing to construct or expand to ensure the facility or expansion is consistent with local zoning or subdivision ordinances **prior to *operation*.** The PCS also adds a subsection (f) to G.S. 143-215.108A that states that the new section does not affect the validity of any lawfully adopted franchise, local zoning, subdivision,

or land-use planning ordinance or affect the responsibility of any person to comply with any local ordinance.

Procedures for construction of new air pollution facilities:

The PCS authorizes a person to construct components of a facility **that are not integral to the operation of the air contaminant source or equipment prior to obtaining an air permit,** but the person must obtain a permit **prior to *construction* or operation of the actual air contaminant source, equipment, or associated air-cleaning devices.** Facilities would be required to notify the EMC at least 15 days prior to commencing construction and provide the EMC with the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The nature of the proposed contaminant source.
3. An estimate of regulated emissions.
4. The air cleaning devices that will be employed to address each contaminant source.
5. The expected construction schedule.
6. An acknowledgement by the person that the actual air contaminant sources may not be constructed until the permit is obtained.
7. An acknowledgement that any construction of an air contaminant source prior to the receipt of an operation permit will be performed at the applicant's own risk.
8. A certification under oath of the accuracy of the notice of construction.

The PCS would also require the person who owns the facility to give notice by publication in a newspaper having general circulation in the county or counties where the facility would be located at least 15 days prior to construction. The notice by publication shall include the first five items listed above.

Procedures for facilities currently holding a permit:

The PCS would allow a person that holds a current permit to modify a facility or emission source prior to obtaining a modified permit, but if the modification would alter the emissions from the facility, the facility must obtain a modified permit **prior to operation** of the modified emissions source. Notification requirements would be similar to those for a new facility and would require the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The current permit number.
3. The nature of the contaminant sources and equipment associated with the modification.
4. An estimate of regulated emissions under the proposed modification.
5. The air cleaning devices that will be employed to address each contaminant source.
6. The expected construction schedule.
7. An acknowledgement by the permittee that the actual air contaminant sources may not be operated in a manner that alters the permitted emissions until a modified permit is obtained.
8. An acknowledgement that any construction of an air contaminant source prior to the receipt of a modified operation permit will be performed at the permittee's own risk.

9. A certification under oath of the accuracy of the notice of construction or modification.

Review and Determination by the EMC:

Following receipt of a notice of construction, the EMC may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility. If the EMC determines that there is a significant likelihood that a person or permittee will not qualify for a permit or modified permit, the EMC may request in writing that the person submit specific additional information. Upon review of the additional information, if the EMC determines that there continues to be a significant likelihood that a person or permittee would not qualify for a permit, the EMC may request that the plans be altered or may order that construction cease until the EMC issues a permit or permit modification that authorizes construction to resume.

Administrative and Judicial Review of Permit Decisions:

The PCS would prohibit the use of prior financial investment, construction activity undertaken, or economic loss incurred as evidence by a person or permittee who proceeds with construction, expansion, or modification without first obtaining a permit. Under current law, a person or permittee may contest a decision based on dissatisfaction arising from any issue. The PCS also directs the EMC to consider any written comment that it receives in response to the public notice.

State, EMC, and Employees Not Liable:

The State, EMC, and their employees shall not be held liable for any loss incurred by a person, permittee, or owner of a facility as a result of the enforcement of the provisions of the PCS.

Federal Air Quality Programs Not Affected:

G.S. 143-215.108A would not affect a person's duty to comply with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, nor would G.S. 143-215.108A apply if it is inconsistent with any federal requirement. The PCS would also not apply to any construction or modification that is subject to the requirements for prevention of significant deterioration or federal nonattainment new source review.

Fee:

The applicant or permittee shall pay a processing fee of two hundred dollars ($200.00) at the time of notification.

Effective Date:

The PCS would become effective when it becomes law and would apply to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after that date.

7-23-02 ATT # 8

REPRESENTATIVE JENNIFER WEISS
NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVE
HOUSE DISTRICT 63

Office Address:
State Legislative Building, Room 2221
Raleigh, NC 27601-1096
(919) 733-5781
(919) 733-2599 Fax

Home Address:
303 Tibbetts Rock Drive
Cary, NC 27513
(919) 678-1367

E-mail: jenniferw@ms.ncga.state.nc.us

Subject: S1037 No air permit required until facility operational

Importance: High

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

www.BREDL.org ~ PO Box 88 Glendale Springs, North Carolina 28629 ~ Phone (336) 982-2691 ~ Fax (336) 982-2954 ~ BREDL@skybest.com

To: NC House Environment and Natural Resources Committee
From: Richard Weisler, MD and Louis Zeller, Physician Assistant
Re: NC SENATE BILL 1037 "No Air Permit Required Until Facility Operational"
Date: July 23, 2002

Senate Bill 1037 would put public health at risk by allowing the siting of new air pollution facilities without proper review. According to the American Lung Association, 27% of North Carolina's children have asthma or asthma-like symptoms. And over the last 20 years the death rate from asthma in our state has increased 55%. For example, hydrogen sulfide levels 4600 feet from a Salisbury asphalt facility are six times the level known to trigger asthma. S1037 would undermine the public health protections provided by North Carolina's Toxic Air Pollutant law (15A NCAC 2D .1100) by permitting toxic air pollution sources to be constructed where they cannot now be built.

The TAP program is health based and requires a plant operator to comply with 105 toxic air pollution limits at the property line of the facility. Air toxics include irritants and carcinogens such as arsenic, benzene, cadmium, and formaldehyde. Location of a plant is often determined by the TAP rules; for example, smokestack height and placement of pollution sources can affect compliance with the law. Before construction begins, DAQ's air pollutant computer modeling engineers assess the impacts of wind and terrain downwind from the smokestack. The location of components of a facility— foundation, walls, roof, vents. etc.— all affect pollution levels at the property line. **By allowing construction before permitting, S1037 would eliminate the TAP review process and subject plant neighbors to unsafe levels of air toxins.**

Also, based on discussions with EPA staff in Atlanta and RTP, we believe that S1037 would not comply with the Clean Air Act and could not be approved as part of North Carolina's State Implementation Plan (SIP). We note three problems with S1037 regarding the Act:

1) Section 110(a)(2) of the Clean Air Act says that State Implementation Plans (SIPs) must regulate the "modification and ***construction*** of ***any*** stationary source...." S1037 allows construction of stationary sources before revue and permitting.

2) Section 165(a) of the Act states, "No major emitting facility...may be constructed in any area...unless a permit has been issued...." One purpose of this section is to ensure that a public hearing has been held before a permit is issued. S1037 makes no provision for public notice to the affected community before construction begins.

3) Section 173 of the Act states that permits to ***construct*** may be issued only if they are written in accordance with the SIP. The purpose of the Act here is to ensure that emission limits for new or modified facilities, ***including non-major sources,*** are met. S1037 would allow asphalt plants and other minor sources to be constructed regardless of the SIP.

Contrary to provisions of the Clean Air Act, S1037 would enact a backwards and illegal permitting process in North Carolina.

7/23/02 #9

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 23 July 2002

S. B. No. 1037 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) M. Mitchell
) _____
~~Sen.~~)

1 moves to amend the bill on page 6 between, lines 20 and 21
2 ( ) WHICH CHANGES THE TITLE
3 by inserting:
4 "(h) Not Applicable to Asphalt Plants. –
5 This section shall not apply to any
6 facility for the manufacture, sale, or
7 distribution of asphalt. No person may
8 construct, operate, or modify any new or
9 permitted facility for the manufacture, sale,
10 or distribution of asphalt until the
11 person has obtained all permits that
12 will be required for any air
13 contaminant source, equipment, or associated
14 air-cleaning device at the facility." and
15
16 on page 6, line 21, by deleting
17 "(h)" and substituting "(i)".
18
19

SIGNED W. F. Mitchell

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

7/23/02 #10

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-36 [v.2]

Date _____,2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative Weiss

moves to amend the bill on page 3, line 12,
by deleting "15" and substituting "45", and

on page 4, line 13,
by deleting "15" and substituting "45".

SIGNED Jennifer Weiss
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

4/23/02 ATT 11

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-37 [v.2]

Date _____ ,2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative Hackney

moves to amend the bill on page 3, lines 8 through 12,
by deleting lines 8 through 11 and the words "requirements of this section." on line 12
and substituting:

"is peripheral to the operation of the air contaminant source, equipment, or associated air-cleaning device if the person complies with the requirements of this section. Peripheral construction includes grading, foundations, and structures not associated with an air contaminant source, equipment, or air-cleaning device.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Envor. & Natural Res. — 7.23.02
Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Clayton Ray Miller	Carestar Statesville Cit. for Cleanup/Safe Neighborhood
David C Miller	117 Tommy Drive, Statesville, NC
Elizabeth Ouzts	NCPIRG
David Knight	NC Sierra Club, NC Wildlife Fed
Brock Winstead	~~ron~~ roustabout
Steve Wall	CCNC
Pricy Harrison	Beaufort NC
Molly Diggin	Sierra Club
Betsy Davis	CCNC
Joe Gagnon	NC Sierra Club
KELLY ANDERSEN	CWMTF
Brock Nicholson	NC DAQ / DENR
Keith Overcash	NC DAQ
Dan Ockley	DENR 100-L
Deborah Brigman	Amer. Lung Assn of NC
Jim Mills	NC Home Builders Assn
Stephanie Mansour	NC Assn. of Realtors
John Hennig	NC Bar Assoc.
James Van Orden	NC PIRG
Lisa Walker	NC CoNNect
Dave Simpson	Carolinas AGC
Steve Paul	" "
DON HOBART	DOC
Randy Lolley	Dominion NC Power - Williamston
KEITH PELAND	Dominion NC Power - Ahoskie
Lola Ausby	Dominion NC Power - Roanoke Rapids
Paula Pekrun	Dominion NC Power - Outer Banks
Michael Thompson	Dominion NC Power
Richard Weisker	BREDL

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Preston Howard	MCIC
Jackie Bevacqua	NCCBI
Sandra Lang	Martin Marietta
Fred Allen	NC Aggregates Assn.
Julie Woodson	NCCBI
Kari Barsness	DENR
Amy Fullbright	Hunton & Williams
Charles Cabe	"
Alan Briggs	S.O.S.
Angie McMillan	TNC
Kim Hibbard	NCLM
Katherine Joyce	Electric Cooperatives
David Meredith	NC State Grange
Terry Hershey	NCRC
Butch Bunnells	NCSDA
Ken Melton	Alley Associates, Inc.
Lucius W. Pullen	ATTORNEY - NCMA
Coleman Mehta	Rep Gibson
Sara Rains	Rep. Iveloke
Andrea Schrag	Rep. Weiss
Anita Watkins	DENR
Robin Smith	DENR
Laura DeVito	DENR
ALLEN JERNIGAN	AGO
MARC BERNSTEIN	AGO

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
S.B. 1251 A BILL TO BE ENTITLED AN ACT TO MERGE THE DIVISION OF RADIATION PROTECTION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES INTO THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO CREATE THE RADIATION PROTECTION SECTION OF THE DIVISION OF ENVIRONMENTAL HEALTH, AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
S.B. 1251 A BILL TO BE ENTITLED AN ACT TO MERGE THE DIVISION OF RADIATION PROTECTION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES INTO THE DIVISION OF ENVIRONMENTAL HEALTH OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO CREATE THE RADIATION PROTECTION SECTION OF THE DIVISION OF ENVIRONMENTAL HEALTH, AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
H.B. 1575 A BILL TO BE ENTITLED AN ACT TO CLARIFY CERTAIN STATUTES RELATED TO LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN CONNECTION WITH THE CLEANUP OF RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANKS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 30, 2002
12:00 noon

1. **Call to order – Representative Gibson, Presiding**

2. **Bills to be considered:**

   SB 1037 – NO AIR PMT. REQUIRED UNTIL FACILITY OPERATIONAL – Sen. Hoyle

3. **Adjournment**

ENVIRONMENT & NATURAL RESOURCES

Minutes

July 30, 2002

The House Environment & Natural Resources Committee met on July 30, 2002 in Room 643 of the Legislative Office Building at 12:00 p.m. The following members attended: Representatives Gibson (presiding Cochairman), McComas (Cochairman), Warwick (Cochairman), Cox , Underhill, Weiss, Allen, Bowie, Culp, Davis, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Mitchell, Preston, Tucker, Warner and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative Gibson called the meeting to order at 12:08 p.m.

Representative Gibson asked Senator Hoyle to present his bill **SB 1037 No Air Pmt. Req. Until Facility Operational.** (see attachment 1 & 2). Senator Hoyle explained that the bill would not hurt the environment, would give a 15 day notice to the public and would help promote new jobs to replace textile jobs that have been lost.

Representative Gibson asked for comments from the visitors in attendance.

Molly Diggins addressed the committee and spoke against the bill. Ms. Diggins said the bill would put political pressure on the State Permitters and would dilute the public's voice.

Steve Wall of the Conservation Council of North Carolina spoke against the bill. Mr. Wall said the bill would rank North Carolina at the bottom of the nine states in the southeast concerning environmental issues.

Preston Howard of the North Carolina Citizens for Business and Industry spoke in favor of the bill. Mr. Howard explained that the bill codifies the law, does not hurt the environment, provides notice to the public of construction of a new facility where there is no notice required now, and promotes new jobs.

Leslie Bevacqua also of North Carolina Citizens for Business and Industry spoke in favor of the bill. Ms. Bevacqua added that the air quality standard would not change, the permit process would improve, it would not become any easier to get a permit and new jobs would be created that are greatly needed in the present economy.

Dan Oakley of the Department of Environment and Natural Resources was recognized by the Chair and stated the Department neither supported nor opposed the bill.

Don Hobart of the Department of Commerce was recognized and said the bill was a step in the right direction.

Several members of the committee were recognized to offer amendments:

Representative Mitchell offered an amendment regarding asphalt plants (see attachment 3) and Representative McComas offered a perfecting amendment (see attachment 4). The McComas perfecting amendment failed. The Mitchell amendment was then voted on and carried.

Representative Hackney offered an amendment to the bill to limit the scope of the bill to peripheral construction (see attachment 5). The amendment failed.

Representative Weiss offered an amendment to change the requirement of a 15 day notice to a 30 day notice (see attachment 6). The amendment carried.

Representative Tucker made a motion to vote on SB1037 and asked for a roll call of the members. Representative Insko seconded the motion. The motion carried (see attachment 7). SB 1037 received a favorable report as to the House Committee Substitute, unfavorable to the Senate Committee Substitute 2 and the House Committee Substitute was re-referred to Finance (see attachment 8).

Representative Gibson adjourned the meeting at 12:55 p.m.

Representative Pryor Gibson
Co-chairman

Jayne A. Nelson
Committee Assistant

7/30/02 ATT. #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 1037

Agriculture/Environment/Natural Resources Committee Substitute Adopted 9/19/01

Finance Committee Substitute Adopted 9/26/01

Short Title: No Air Pmt. Req. Until Facility Operational. (Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ANY PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY COMMENCE CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION AND THAT ANY CURRENT HOLDER OF AN AIR QUALITY PERMIT MAY COMPLETE NEW CONSTRUCTION AT AN EXISTING PERMITTED FACILITY PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a) reads as rewritten:

"(a) After the effective date applicable to any air quality or emission control standards established pursuant to G.S. 143-215.107 and except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene ~~such~~ these standards ~~until or~~ unless ~~such~~ that person ~~shall have applied for and shall have received~~ has obtained from the Commission a permit therefor and ~~shall have~~ has complied with ~~such conditions, if any, as are prescribed by such~~ any conditions of this permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to ~~construction or~~ operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of ~~construction or~~ operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities and the expansion of existing facilities.**

(a) New Facilities. – A person may construct components of a facility that may result in the emission of an air contaminant, at a site or facility where at the time of the construction there is no other air contaminant source or equipment for which a permit is required under G.S. 143-215.108, as provided in this section, unless the construction would be inconsistent with any federal program delegation. The person may construct all components of the facility that are not intended solely for the operation of the air contaminant source or equipment, including those portions of the facility that relate to or support both the air contaminant source or equipment and other functions, such as the foundation, walls, roof, electrical wiring, and vents, without obtaining a permit under G.S. 143-215.108. A person may not, however, construct or operate the actual air contaminant source, equipment, or associated air-cleaning devices without obtaining a permit under G.S. 143-215.108. At least 15 days prior to commencing construction under this subsection, the person who owns the facility shall submit a notice of construction to the Commission. The notice shall include all of the following:

(1) The nature of the air contaminant sources and equipment associated with the facility when constructed.

(2) An estimate of total regulated air contaminant emissions associated with the facility when constructed.

(3) The air-cleaning devices that are to be employed to address each of the air contaminant sources.

(4) The construction schedule for the proposed construction.

(5) An acknowledgment by the person that the actual air contaminant sources, equipment, and associated air-cleaning devices may not be constructed until the person has obtained a permit under G.S. 143-215.108.

(6) An acknowledgment by the person that any construction prior to the issuance of a permit under G.S. 143-215.108 is undertaken at the person's own risk and with the knowledge that the person may be denied a permit under G.S. 143-215.108 without regard to the person's financial investment or construction activities.

(7) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the person's knowledge and ability, executed by the person or, if the person is a corporation, by the appropriate officers of the corporation.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or the associated air-cleaning device in a manner that alters the emission of

air contaminants. A permittee may construct or modify an air contaminant source, equipment, or the associated air-cleaning device, at a facility permitted under G.S. 143-215.108, as provided in this section, unless the construction or modification would be inconsistent with any federal program delegation. The permittee may not, however, operate the air contaminant source, equipment, or associated air-cleaning devices in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. At least 15 days prior to commencing construction or modification under this subsection, the permittee shall submit a notice of construction to the Commission. The notice shall include all of the following:

(1) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(2) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(3) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.

(4) The air-cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.

(5) The construction schedule associated with the proposed modification of the permit.

(6) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air-cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.

(7) An acknowledgment by the permittee that any construction prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or construction activities.

(8) A certification under oath that all of the information contained in the notice is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. – Upon receipt of a notice of construction required under subsection (a) or (b) of this section, the Commission may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility or permit modification. If at any time during construction the Commission determines that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request in writing that the person or permittee submit, within 15 days of receipt of the request, specific additional information related to the reasons that give rise to the determination. If, after reviewing any additional information submitted by the person or permittee, the Commission again determines

that there is a significant likelihood that a person or permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may request that the plans for the construction be altered in order to address the anticipated inability of the person or permittee to qualify for a permit or permit modification or the Commission may order that construction or modification cease. If the Commission orders that construction or modification cease, then construction may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the determination that resulted in the order to cease construction or modification have been adequately addressed or the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction to resume. Any order by the Commission that construction cease shall be in writing and shall set forth specific reasons for the determination that the person or permittee will not qualify for a permit.

(d) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction allowed under this section had not occurred. No evidence regarding any financial investment made, construction activity undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108.

(e) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any construction or modification undertaken by any person, permittee, or owner of any facility pursuant to this section.

(f) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(g) Fee. – A person or permittee who submits a notice of construction under subsection (a) or subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

7/30/02 ATT. #2

SENATE BILL 1037:
No Air Pmt. Req. Until Facility Operational.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Hoyle
Date:	July 16, 2002	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute (S1037-PCS6880-RTf-96)		Tim Dodge Research Assistant

SUMMARY: ***Senate Bill 1037 would modify the procedures required before construction, expansion, modification, or operation of an air contaminant source and its components can commence. The bill would establish notification and review procedures for permit applicants, establish an application fee, and prohibit the use of economic and financial losses incurred by a person who proceeds without a permit as evidence during administrative and judicial review of permit decisions.***

The proposed committee substitute (PCS) for SB 1037 would make the following additional changes (underlined):

- ***Require notice by publication of an owner's intent to expand modify, or operate an air contaminant source, and would require the notice to include the name and address information on the facility and the applicant.***
- ***Expressly state that the elements of the bill would not affect the applicant's responsibilities and requirements under federal air quality programs.***

The PCS would become effective when it becomes law.

BACKGROUND: G.S 143-215.108 prohibits a person from carrying out activities that may contravene the air quality or emission control standards established by the Environmental Management Commission (EMC) under G.S. 143-215.107 unless the person has applied for and received a permit from the EMC. These laws prohibit the construction, alteration, or entering into an irrevocable contract for the construction or installation of any air contaminant source without a permit from the EMC.

BILL ANALYSIS: The PCS for Senate 1037 modifies G.S. 143-215.108 and adds a new G.S. 143-215.108A to clearly delineate the point at which a permit approved by the EMC becomes necessary for air contaminant sources during construction, expansion, modification, or operation. The PCS makes the following changes:

Consistency with local government ordinances:

Current law (G.S. 143-215.108(f)) requires facilities to be consistent with local ordinances **prior to construction or operation.** The PCS amends G.S. 143-215.108(f) to require persons proposing to construct or expand to ensure the facility or expansion is consistent with local zoning or subdivision ordinances **prior to *operation*.** The PCS also adds a subsection (f) to G.S. 143-215.108A that states that the new section does not affect the validity of any lawfully adopted franchise, local zoning, subdivision,

or land-use planning ordinance or affect the responsibility of any person to comply with any local ordinance.

Procedures for construction of new air pollution facilities:

The PCS authorizes a person to construct components of a facility **that are not integral to the operation of the air contaminant source or equipment prior to obtaining an air permit,** but the person must obtain a permit **prior to *construction* or operation of the actual air contaminant source, equipment, or associated air-cleaning devices**. Facilities would be required to notify the EMC at least 15 days prior to commencing construction and provide the EMC with the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The nature of the proposed contaminant source.
3. An estimate of regulated emissions.
4. The air cleaning devices that will be employed to address each contaminant source.
5. The expected construction schedule.
6. An acknowledgement by the person that the actual air contaminant sources may not be constructed until the permit is obtained.
7. An acknowledgement that any construction of an air contaminant source prior to the receipt of an operation permit will be performed at the applicant's own risk.
8. A certification under oath of the accuracy of the notice of construction.

The PCS would also require the person who owns the facility to give notice by publication in a newspaper having general circulation in the county or counties where the facility would be located at least 15 days prior to construction. The notice by publication shall include the first five items listed above.

Procedures for facilities currently holding a permit:

The PCS would allow a person that holds a current permit to modify a facility or emission source prior to obtaining a modified permit, but if the modification would alter the emissions from the facility, the facility must obtain a modified permit **prior to operation** of the modified emissions source. Notification requirements would be similar to those for a new facility and would require the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The current permit number.
3. The nature of the contaminant sources and equipment associated with the modification.
4. An estimate of regulated emissions under the proposed modification.
5. The air cleaning devices that will be employed to address each contaminant source.
6. The expected construction schedule.
7. An acknowledgement by the permittee that the actual air contaminant sources may not be operated in a manner that alters the permitted emissions until a modified permit is obtained.
8. An acknowledgement that any construction of an air contaminant source prior to the receipt of a modified operation permit will be performed at the permittee's own risk.

9. A certification under oath of the accuracy of the notice of construction or modification.

Review and Determination by the EMC:

Following receipt of a notice of construction, the EMC may review the information contained in the notice, investigate the site or facility, and comment on the proposed facility. If the EMC determines that there is a significant likelihood that a person or permittee will not qualify for a permit or modified permit, the EMC may request in writing that the person submit specific additional information. Upon review of the additional information, if the EMC determines that there continues to be a significant likelihood that a person or permittee would not qualify for a permit, the EMC may request that the plans be altered or may order that construction cease until the EMC issues a permit or permit modification that authorizes construction to resume.

Administrative and Judicial Review of Permit Decisions:

The PCS would prohibit the use of prior financial investment, construction activity undertaken, or economic loss incurred as evidence by a person or permittee who proceeds with construction, expansion, or modification without first obtaining a permit. Under current law, a person or permittee may contest a decision based on dissatisfaction arising from any issue. The PCS also directs the EMC to consider any written comment that it receives in response to the public notice.

State, EMC, and Employees Not Liable:

The State, EMC, and their employees shall not be held liable for any loss incurred by a person, permittee, or owner of a facility as a result of the enforcement of the provisions of the PCS.

Federal Air Quality Programs Not Affected:

G.S. 143-215.108A would not affect a person's duty to comply with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, nor would G.S. 143-215.108A apply if it is inconsistent with any federal requirement. The PCS would also not apply to any construction or modification that is subject to the requirements for prevention of significant deterioration or federal nonattainment new source review.

Fee:

The applicant or permittee shall pay a processing fee of two hundred dollars ($200.00) at the time of notification.

Effective Date:

The PCS would become effective when it becomes law and would apply to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after that date.

7-30-02 ATT 3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-39 [v.2]

Date 30 July ,2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative Mitchell

moves to amend the bill on page 6, between lines 20 and 21, by inserting:

"(h) Not Applicable to New Asphalt Plants. – This section shall not apply to any new facility for the manufacture, sale, or distribution of asphalt. No person may construct or operate any component of any new facility for the manufacture, sale, or distribution of asphalt until the person has obtained all permits that will be required for any air contaminant source, equipment, or associated air-cleaning device at the facility."
and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-39 [v.2]

on page 6, line 21, by deleting "(h)" and substituting "(i)".

SIGNED W. F. Mitchell
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 30 July 2002 FAILED _____ TABLED _____

7/30/02 ATT. 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

Perfecting for

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

S1037-ART-39 [v.2]

Date 30 July .2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative Mitchell

moves to amend the bill on page 6, between lines 20 and 21, by inserting:

"(h) Not Applicable to New Asphalt Plants. – This section shall not apply to any new facility for the manufacture, sale, or distribution of asphalt. No person may construct, modify or operate any component of any new facility for the manufacture, sale, or distribution of asphalt until the person has obtained all permits that will be required for any air contaminant source, equipment, or associated air-cleaning device at the facility."
and

Mr Comas perfecting amendment to Mitchell amendment

Failed 30 Jul 2002 GFC

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-39 [v.2]

on page 6, line 21, by deleting "(h)" and substituting "(i)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

7-30-02 ATT# 5

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S1037-ART-40 [v.2]

Date 30 July ,2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative Hackney

moves to amend the bill on page 3, lines 8 through 12,
by deleting lines 8 through 11 and the words "requirements of this section." on line 12
and substituting:

"is peripheral to the operation of the air contaminant source, equipment, or associated air-cleaning device if the person complies with the requirements of this section. Peripheral construction includes grading, foundations, and structures not associated with an air contaminant source, equipment, or air-cleaning device." and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

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

S1037-ART-40 [v.2]

on page 4, lines 10 through 13
by deleting lines 10 through 12 and the words "this section." on line 13 and substituting:

"under G.S. 143-215.108. A permittee may, however, construct or modify any component of the facility that is peripheral to the operation of the air contaminant source, equipment, or associated air-cleaning device if the person complies with the requirements of this section. Peripheral construction includes grading, foundations, and structures not associated with an air contaminant source, equipment, or air-cleaning device.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED 30 July 2002 TABLED _____

7-30-02 ATT#6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1037

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

S1037-ART-38 [v.3]

Date 30 July 2002, 2002

Comm. Sub. [YES]
Amends Title [NO]
PCS6880-RTf-96

Representative ~~Gray~~ Weiss

moves to amend the bill on page 3, line 12,
by deleting "15" and substituting "30", and

on page 4, line 13,
by deleting "15" and substituting "30".

SIGNED Jennifer Weiss
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 30 July 2002 FAILED _____ TABLED _____

1-30-02 ATT 7

ROLL CALL VOTE

13 YES 8 NO = 21 (TOTAL)

HB# ____
SB# 1037

HOUSE STANDING COMMITTEE ON 2001-2002 Environment and Natural Resources

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
✓		Gibson, Co-Chair			
✓		McComas, Co-Chair			
✓		Warwick, Co-Chair			
✓		Cox, Vice Chair			
	✓	Underhill, Vice Chair			
	✓	Weiss, Vice Chair			
✓		Allen			
✓		Bowie			
✓		Culp			
✓		Davis			
		Gray			
✓		Gulley			
	✓	Hackney			
✓		Hill			
	✓	Insko			
	✓	Luebke			
✓		McCombs			
		Miner			
	✓	Mitchell			**Ex officio Members**
	✓	Preston			Rep. Cunningham
		Smith			Speaker Pro Tem Hackney
✓		Tucker			Majority Leader Baddour
	✓	Warner			Majority Whip Dedmon
✓		Weatherly			Majority Whip Earle

1-30-02 ATT 8

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☒ Committee Substitute for
S.B. 1037 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT ANY PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY COMMENCE CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION AND THAT ANY CURRENT HOLDER OF AN AIR QUALITY PERMIT MAY COMPLETE NEW CONSTRUCTION AT AN EXISTING PERMITTED FACILITY PRIOR TO OBTAINING THE AIR QUALITY PERMIT TO OPERATE THAT FACILITY IF THE PROSPECTIVE APPLICANT SUBMITS A NOTICE OF THE CONSTRUCTION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

☒ With a favorable report as to the committee substitute bill ~~(#_____), ☐ which changes the title~~, unfavorable as to ~~(the original bill)~~ (Committee Substitute Bill # ~~Senate~~ 2 ~~House~~), (and recommendation that the committee substitute bill ~~#_____~~) be re-referred to the Committee on Finance.

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

VISITOR REGISTRATION SHEET

Environment & Nat Resources 7/30/02
Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carole Lauer	EGHS
Amy Fullbright	Hunton & Williams
Leslie Beraldino	NCCBI
Sharee Lambert	DUPONT
Omid Nasab	Hunton & Williams
Mac Boxley	NCAggregates
Fred Aller	NC Aggregates Assn.
Angie McMillan	TNC.
John Phelps	NCLM
Preston Howard	MCIC
Sandra Kane	Martin Marietta
Terry Haskins	NC Pork Council
Beth Anne Mumford	NCPC
Theresa Kostr-Lewis	CAA
David Meredith	NC State Grange
Tony Adams	NC Outdoor Advertising Association
Clinton Miller	Statesville Citizens for Quality, Sfty Clean Neighborhoods
Daniel C Miller	Statesville, NC
John McKay	GOVOFFICE
Steve Neal	CCNC
ELIZABETH OUTS	NCPIRG
David Hunt	@ NC Sierra Club, NC Wildlife Fed
MARC BERNSTEIN	NC ATTORNEY GENERAL'S OFFICE
ALLEN BERNSTEIN	NC AGO
DAN OAKLEY	DENR/OLC
Keith Overcash	DENR/DAQ
Hawley Troxler	Governor's office
J Gulick	NC AGO
Betsy Davis	CCNC

VISITOR REGISTRATION SHEET

Environment & Nat Resource 7/30/02

Name of Committee Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Gagnon	NC Sierra Club
Brock Winstead	intern
Eric Cochran	intern
Priscy Harrison	Beaufort NC
Molly Diggins	NC Sierra Club
Tom Beal	NCED
Lisa Walter	ConNet
Grady McCallie	NC Conservation Network

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

July 31, 2002
12:00 noon

1. **Call to Order – Representative Gibson, Presiding**

2. **Bills to be considered:**

   HB 1761 - FINANCING PARKS, RECREATION, AND HERITAGE

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

MINUTES
July 31, 2002

The House Environment & Natural Resources Committee met Wednesday, July 31, 2002 at 12:00 noon in room 643 of the Legislative Office Building. The following members were present: Chairman Gibson, Representatives Cox, Underhill, and Weiss, Vice-Chairs, Representatives Allen, Bowie, Culp, Davis, Gray, Gulley, Hackney, Hill, Insko, Luebke, McCombs, Mitchell, Preston, Smith and Weatherly. A visitor registration sheet is attached and made part of these minutes.

Chair Gibson called the meeting to order at 12:03. Action was taken on the following bill:

HB 1761 – FINANCING PARKS, RECREATION, AND HERITAGE. Chair Gibson presented the bill to the committee (Attachment # 1). Chair Gibson explained that the bill authorizes the State to use installment-financing contracts to acquire property for parks, recreation, and preservation of natural heritage, and to finance the cost of capital projects, repairs, and renovations for the State Parks System. Chair Gibson referred to the State of Florida's success with a program similar to the one being presented at this meeting. Staff Counsel Rick Zechini explained the bill further (Attachment # 2). Mr. Zechini assured the committee that the proceeds of special indebtedness may not be used for grants to local governments or for capital facilities in which the State has no ownership interest. The amount of debt incurred per year is limited to no more than $10 million of debt service payments in any year, and that the debt service would be paid from funds available from the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund. This debt would be tax-exempt and secured by interest in the real property being financed. No pledge of the State's taxing power or full faith and credit is needed; therefore, voter approval is unnecessary for borrowing the funds. Mr. Zechini answered questions regarding acquisition of funds and explained the funds could be borrowed from a single entity or by the sale of certificates of participation with the Council of State setting the interest rate and terms of repayment as well as having financing approved by the Council of State and the State Treasurer.

Speaking in favor of the bill were Alan Briggs, President of Save our State and Trustee of the National Heritage Trust Fund Program. Mr. Briggs gave an overview of new ways to protect the states dwindling valuable natural areas and stated this legislation can be a tool to help the state attain its goals to preserve these areas. In answer to questions regarding how money was raised, Mr. Briggs reported money was earned on deed transfers and the sale of vanity plates. He stated many landowners have an interest in protecting the environment, but there is no guarantee the money will be there to purchase the land. This bill would provide a mechanism to make a monetary commitment for the acquisition of larger parcels of land with the money being obligated and available after approved by the General Assembly.

Mr. David G. Martin, Carolinas Director of the Trust For Public Land, pointed out that this bill provides an opportunity to protect some of the open space and land by providing the state a vehicle to purchase land without additional funds from the General Assembly.

Representative Bowie asked for an explanation of finance installment contracts and was referred to Martha Harris of the Finance Committee. Ms. Harris explained the two basic forms of installment purchase noting the one being used by the state is the lease purchase form in that the seller retains title to the land until the state repays the money that was obligated to finance the land. No vote of the people is required.

Representative Gulley questioned if the general public would have access and if hunting would be permissible. Staff Counsel Rick Zechini stated no hunting was allowed on land in state parks or nature areas, but if money is used to purchase game land, hunting is approved.

Mr. Phil McNally, Director of Division of Parks and Recreation explained that state parks do not allow hunting but the Natural Resources Heritage Trust Fund is available to the Wildlife Resources Commission and hunting would be allowed on those properties.

Representative Hackney questioned where the state is on the million-acres initiative, which is a ten-year initiative to obtain 100,000 acres per year. Richard Rogers, Office of Conservation and Community Affairs, stated that the state currently has 116,000 acres and that the state was falling behind on the initiative, with an average of 58,000 acres per year. Mr. Rogers stated DENR Secretary Ross is working on a comprehensive land and water conservation initiative in which the state is trying to build a comprehensive statewide planning mechanism with regard to conservation initiatives by prioritizing land and implementing other ideas.

Representative Smith moved the PCS be adopted with a favorable report, and re-referred to the Finance Committee. Motion carried.

The meeting was adjourned at 12:52 pm.

Representative Pryor Gibson

Linda Uzzle, Committee Assistant

7-31-02 ATT #1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1761*

Short Title:	Financing Parks, Recreation, and Heritage.	(Public)
Sponsors:	Representatives Gibson, Hackney, Allen, McComas (Primary Sponsors); Hunter, Insko, Weiss, and Womble.	
Referred to:	Finance.	

June 17, 2002

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE TO USE FINANCING CONTRACTS IN ACQUIRING PROPERTY THROUGH THE PARKS AND RECREATION TRUST FUND AND THE NATURAL HERITAGE TRUST FUND.

The General Assembly of North Carolina enacts:

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

"Article 5B.

"Financing Contracts for Parks, Recreation, and Natural Heritage.

"**§ 113-77.15. Purpose.**

The State is authorized to enter into financing contracts as provided in this Article for the following purposes:

(1) To finance the cost of capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1).

(2) To finance the costs of acquiring land for parks, recreation, and preservation of natural heritage pursuant to G.S. 113-77.9(b).

"**§ 113-77.16. Definitions.**

The following definitions apply in this Article:

(1) Certificates of participation. – Certificates or other instruments delivered by a special corporation as provided in this Article evidencing the assignment of proportionate and undivided interests in the rights to receive installment payments to be made by the State pursuant to a financing contract.

(2) Cost. – The term includes all of the following, without limiting or restricting any proper definition of this term in financing the cost of a project as authorized by this Article:

a. The cost of acquiring, constructing, and equipping a project, including the acquisition of rights-of-way, easements, franchises, equipment, furnishings, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services as may be required.

c. Finance charges, reserves for installment payments and interest prior to and during construction and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.

d. Administrative expenses and charges.

e. The cost of bond insurance, credit and liquidity facilities, interest rate swap and other derivative agreements, financial and legal consultants, and related costs of financing the project or delivering and selling certificates of participation, to the extent and as determined by the State Treasurer.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this Article.

(3) Credit facility. – An agreement that meets both of the following conditions:

a. It is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America.

b. It provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract or certificates of participation in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or should the Department of Administration be abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Department of Administration.

(5) Financing contract. – An installment financing contract entered into pursuant to the provisions of this Article to finance the cost of a project.

(6) Project. – Any of the following:

a. Capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, authorized by G.S. 113-44.15(b)(1).

b. Land acquisition for parks, recreation, and preservation of natural heritage pursuant to G.S. 113-77.9(b).

(7) Special corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes or a successor statute for the purpose of delivering any certificates of participation provided by this Article.

(8) State. – The State of North Carolina.

"**§ 113-77.17. Authorization of financing contracts.**

(a) The State, with the prior approval of the Council of State and the State Treasurer as provided in this Article, is authorized to execute and deliver financing contracts in order to provide funds to the Department of Administration and the Department of Environment and Natural Resources to be used, together with any other available funds, to pay the costs of projects. The aggregate annual principal and interest payments to be made in any year on financing contracts entered into pursuant to this Article may not exceed ten million dollars ($10,000,000).

"**§ 113-77.18. Approval required.**

(a) A financing contract may not be entered into pursuant to this Article unless prior to entering into the financing contract the following conditions are met:

(1) The Council of State, by resolution, approves the execution and delivery of the financing contract, which resolution shall set forth all of the following:

a. The not to exceed term or final maturity of the financing contract.

b. The not to exceed interest rate or rates (or the equivalent thereof) with respect to the financing contract.

c. The appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it.

d. Any other matters as the Council of State may determine.

(2) The State Treasurer approves the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement, derivative agreement, or credit facility.

(b) In determining whether to approve a financing contract, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the project.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract is not excessive.

(3) The financing contract can be entered into on terms desirable to the State.

(4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

"**§ 113-77.19. Security.**

(a) In order to secure the performance by the State of its obligations under a financing contract, the State may grant a lien on, or security interest in, all or any part of the project financed, the land upon which the project is or will be located, or both.

(b) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in a financing contract entered into under this Article or contained in any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract authorized by this Article. In the event that the General Assembly does not appropriate funds sufficient to make payments required under the financing contract, the net proceeds received from the sale, lease, or other disposition of the project or the site, or a portion of the project or the site, subject to a lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy the payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under a financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the Parks and Recreation Trust Fund established pursuant to G.S. 113-44.15, the Natural Heritage Trust Fund established pursuant to G.S. 113-77.7, the General Fund, or any combination of these, as appropriate, based on the source of payments made under the financing contract secured by the property disposed of, as conclusively determined by the Secretary of the Department of Environment and Natural Resources.

(c) A financing contract shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for a project financed pursuant to this Article.

(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to the budget proposal, appropriations necessary to make the payments required under the financing contract.

(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the entity advancing moneys or providing funds under the financing contract as may be reasonable, proper, and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the

funds advanced under the financing contract may be applied and the duties of the State with respect to a project, including, without limitation, provisions relating to insuring and maintaining the project and to the custody, safeguarding, investment, and application of moneys.

(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the installment payments under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this Article.

(h) The entity entering into a financing contract with the State and any other professionals providing services relating to the financing contract, including, without limitation, the provider of any credit facility and the underwriter or placement agent for any certificates of participation, shall be selected by the State Treasurer.

"**§ 113-77.20. Source of repayment.**

(a) The payment of amounts payable by the State under a financing contract and other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this Article and no financing contract shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(b) It is the intent of the General Assembly that the payments due under a financing contract and any other related documentation shall be made from amounts appropriated to and deposited in, pursuant to G.S. 105-228.30(b), the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund, including investment earnings on these amounts, in each case to the extent the funds may be lawfully applied for this purpose. In the event that funds appropriated to and deposited in the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund, including investment earnings on these amounts, are not sufficient to make these payments, the General Assembly is not obligated to appropriate additional funds necessary to make these payments. The General Assembly may, however, in its discretion, appropriate the additional funds.

(c) A financing contract entered into pursuant to this Article shall incorporate a statement that sets forth a description of the provisions of subsections (a) and (b) of this section.

(d) Expenditures during each fiscal biennium or fiscal year from the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund shall be administered by the Department of Environment and Natural Resources in such a manner so as to assure that sufficient amounts shall be available in the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund to make the required payments under financing contracts and any other related documentation.

"**§ 113-77.21. Certificates of participation.**

(a) If certificates of participation are delivered pursuant to this Article, a special corporation shall be created for the purpose of entering into a financing contract and executing and delivering certificates of participation. A single special corporation may be used for one or more certificates of participation financings pursuant to this Article. The special corporation shall furnish to the State Treasurer any information and documentation relating to the delivery and sale of the certificates of participation that the State Treasurer requests.

(b) Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the sale must be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(c) Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this Article and further provide for the enforcement of any lien or security interest created pursuant to G.S. 113-77.19(a), and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation, not inconsistent with the provisions of this Article, that the State Treasurer considers appropriate.

"**§ 113-77.22. Insurance; other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, credit facilities, liquidity facilities, interest rate swap or other derivative agreements, and any other related instruments that the State Treasurer considers desirable in connection with the financing of a project as provided in this Article.

"**§ 113-77.23. Tax exemption.**

A financing contract entered into under this Article and any certificates of participation relating to it are exempt from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance or gift taxes, income taxes on the gain from the transfer of the financing contract or certificates of participation, and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

"**§ 113-77.24. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and all other laws and rules of the State that relate to the acquisition and construction of State property apply to the financing of projects through the use of financing contracts pursuant to this Article."

SECTION 2.(a) The foregoing sections of this act provide an additional and alternative method for the doing of the things authorized by the act, are supplemental

and additional to powers conferred by other laws, and do not derogate any powers now existing.

SECTION 2.(b) References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as amended and as they may be amended from time to time by the General Assembly.

SECTION 2.(c) This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 2.(d) If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

7-31-02 ATT #2

HOUSE BILL 1761:
Financing Parks, Recreation, and Heritage

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Sponsor:**	Reps. Gibson, Hackney, Allen, and McComas
Date:	July 31, 2002	**Summary by:**	Rick Zechini Committee Counsel
Version:	First Edition		

SUMMARY: ***House Bill 1761 authorizes the State to use installment financing contracts to acquire property for parks, recreation, and preservation of natural heritage, and to finance the cost of capital projects, repairs, and renovations for the State Parks System.***

CURRENT LAW: The State has two dedicated financial tools to acquire park and conservation lands: The Parks and Recreation Trust Fund and the Natural Heritage Trust Fund. Both Funds receive revenue from the deed transfer tax, which is levied at an amount equal to one dollar per $500 dollars of property conveyed. After the counties retain 51% of the revenue, 75% of the remaining revenue is credited to the Parks and Recreation Trust Fund and 25% is credited to the Natural Heritage Trust Fund. The Natural Heritage Trust Fund also receives revenue from the registration fees for certain special license plates.

The revenue in the Parks and Recreation Trust Fund is allocated by the North Carolina Parks and Recreation Authority as follows:

(1) 65% for the State Parks System for capital projects, repairs, and renovations of park facilities, and land acquisition.

(2) 30% to provide matching funds to local governmental units or public authorities on a dollar-for-dollar basis for local park and recreation purposes.

(3) 5% for the Coastal and Estuarine Water Beach Access Program.

The revenue in the Natural Heritage Trust Fund is used by the Natural Heritage Trust Fund Board of Trustees to acquire:

(1) Land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic purposes.

(2) Land as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the public.

(3) Land that contributes to the development of a balanced State program of historic properties (up to 25% of the revenue credited to the Natural Heritage Trust Fund may be used for this purpose).

The Trustees may also authorize expenditures from the Natural Heritage Trust Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program, for conservation and protection planning, and for informational programs for owners of natural areas.

BILL ANALYSIS: House Bill 1761 authorizes the State to use installment financing contracts to acquire property for parks, recreation, and preservation of natural heritage, and to finance the cost of capital projects, repairs, and renovations for the State Parks System. The proceeds of special indebtedness

Martha H. Harris, Staff Attorney, Bill Drafting Division, contributed to this summary.

may not be used, however, for grants to local governments or for capital facilities in which the State ha no ownership interest.

The amount of debt that may be incurred is limited to an amount that would generate no more than $10 million of debt service payments in any year. The bill states that it is the intent of the General Assembly that the debt service would be paid from funds available from the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund. Thus, the effect of the bill would be to allow the State to acquire property for these purposes sooner, by borrowing money to be repaid from $10 million a year of the tax revenue earmarked to the Trust Funds. The Parks and Recreation Trust Fund receives roughly $25 million per year and the Natural Heritage Trust Fund receives roughly $13 million per year.

Under an installment financing contract, the debt would be tax-exempt. The debt would be secured by a security interest in the real property being financed. There would be no pledge of the State's taxing power or full faith and credit. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, the real property could be disposed of to generate funds to satisfy the debt. Under the bill, the funds could be borrowed either from a single entity or by the sale of certificates of participation. A certificate of participation represents the holder's undivided interest in the right to receive the installment payments to be made by the State. If certificates of participation are issued, a nonprofit corporation will have to be created to facilitate the financing.

Before a financing contract could be entered into, it would have to be approved by the Council of State. The Council of State would, by resolution, set the maximum interest rate and the maximum number of years over which the debt would be repaid. In addition, the State Treasurer must approve the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment.

The act becomes effective when it becomes law.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, and Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT & NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1761 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE STATE TO USE FINANCING CONTRACTS IN ACQUIRING PROPERTY THROUGH THE PARKS AND RECREATION TRUST FUND AND THE NATURAL HERITAGE TRUST FUND.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

VISITOR REGISTRATION SHEET

Environment & Natural Resources — 7/31/02
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Preston Howard	NCIC
Stephanie Manson	NCAR
Paul Meyer	NCACC
Angie McMillan	TNC
John McMillan	NFOS PA
[illegible]	NCRA
Hal Miller	NCAECT
Jerry Hawksley	NC Pork Council
Carol Dawson	EOHS
Peter Reaves	NCPIRG
Lisa Walker	NC CONNect
Betsy Davis	CCNC Lackey
Eric Cochran	HIGHSCHOOL Draper
Joe Gerron	Polo, Missouri
Brock Winstead	intern wannabe
David Knight	NC Sierra Club, TPL
Steve Wall	Conservation Council
Elizabeth Ouzts	NCPIRG
Pricey Harrison	Beaufort, NC
Linda Pearsall	NC Div. Parks & Recreation/DENR
Phil McKnelly	DENR/DPR
John Mosley	GOV OFFICE
[illegible]	DENR
Laura Reed	DENR
Heather Mercer	NC Legislature
Katie Hunt	NC State Watch
Molly Diggins	Sierra Club
Kim Hibbard	NCLM

VISITOR REGISTRATION SHEET

Environment + Natural Resources — 7/31/02

Name of Committee — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Williams	NCHBA
DG Martin	TPL
Alan Briggs	S.O.S.

House Pages

1. Name: Allison Bowles
   County: Davie
   Sponsor: Julia Howard
2. Name: Bernadette Healy
   County: Mecklenburg
   Sponsor: James Black
3. Name: Nan Yang
   County: Wake
   Sponsor: Jennifer Weiss
4. Name:
   County:
   Sponsor:
5. Name:
   County:
   Sponsor:

Sgt-At-Arms

1. Name:
2. Name:
3. Name:
4. Name:

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Minutes

August 14, 2002

The House Committee on Environment & Natural Resources met on August 14, 2002 in Room 643 of the Legislative Office Building. The following members were present: Cochairmen Gibson, McComas (presiding), and Representatives Cox, Underhill, Weiss, Allen, Culp, Gulley, Hackney, Insko, Luebke, McCombs, Mitchell, Smith, Tucker, Warner and Weatherly. George Givens, Jeff Hudson and Rick Zechini of Counsel were in attendance. A Visitor's Sheet is attached and made a part of these minutes.

Representative McComas called the meeting to order at 12:07 p.m. and introduced Senator Horton to present **Senate Bill 1211 Nat & Hist Preserve and Park System Removals.** (see attachment 1). Senator Horton explained that the properties involved are Boone's Cave State Natural Area and a portion of Baldhead Island, and that these properties would be transferred out of the State Parks System. Senator Horton further explained that the Baldhead Island property is being donated by the owners to help preserve the habitat of the park. Rick Zechini of Counsel explained the bill to the committee (see attachment 2). Representative Smith moved to give the bill a favorable report. Representative Gibson added that there will be no added expense and by letting the community handle the Baldhead Island property, it will be easier to maintain. The motion carried.

Representative Gibson presented **HB 1541 Nolichucky River Basin/Basinwide WQ Mgt Plan.** (see attachment 3). A proposed committee substitute was adopted (see attachments 4 and 5). Representative Culp moved to give the proposed committee substitute a favorable report and the motion carried.

Representative Gibson presented **HB 1777 Disapprove Sanitation Rules.** The committee adopted the proposed committee substitute (see attachments 6,7 and 8). Linda Sewell from the Division of Environmental Health was recognized and explained that the bill would give the Division temporary rulemaking ability. Lou Wilson representing the NC Association of Long Term Care Facilities was recognized and spoke in support of the bill. Representative Mitchell moved to give the proposed committee substitute a favorable report. The motion carried.

Representative Gibson presented **SB 1253 Amend Pollution Abatement Tax Exclusion.** (see attachment 9). Representative Gibson explained that the bill came from the Environmental Review Commission. Representative Gibson further explained that SB 1253 provides that certain animal waste management systems shall not qualify for special property classification and exclusion from the tax base and directs the Revenue Laws Study Committee to study issues related to the tax exclusion. George Givens of counsel explained the impact of the bill and that it would have to be re-referred to the Committee

on Finance (see attachment 10). Ed Reagan representing the NC Association of County Commissioners was recognized and spoke in favor of the bill because it would target new techniques being developed by the State. Representative Smith moved for a favorable report and for the bill to be re-referred to the Committee on Finance. The motion carried.

Representative Gibson presented **SB 1227 Clarify LUST Land-use Restrict./Deed Record.** (see attachments 11 and 12). Representative Gibson explained that the bill came from the Environmental Review Commission. Representative Luebke moved for a favorable report. The motion carried.

Representative McComas adjourned the meeting at 12:42 p.m.

Representative Daniel F. McComas

Jayne A. Nelson

ATTH 1
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S 3

SENATE BILL 1211
Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/22/02
Third Edition Engrossed 7/24/02

Short Title: Nat & Hist Preserve and Park System Removals. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO REMOVE BOONE'S CAVE STATE NATURAL AREA AND A PORTION OF BALDHEAD ISLAND STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE THESE PROPERTIES FROM THE STATE PARKS SYSTEM, TO AUTHORIZE THE TRANSFER OF THESE PROPERTIES FOR LIMITED PURPOSES, AND TO ALLOW CERTAIN PUBLIC ENTITIES TO USE THE FIRE TOWER AT MOUNT JEFFERSON STATE NATURAL AREA FOR PUBLIC COMMUNICATION PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: ~~Baldhead Island State Natural Area,~~ Bay Tree Lake State Park, ~~Boone's Cave State Natural Area,~~ Bullhead Mountain State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, ~~Mount Jefferson State Natural Area,~~ Mount Mitchell State Park, Occoneechee

Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

...

(16) All lands and waters located within the boundaries of Baldhead Island State Natural Area as of April 3, 2001, with the exception of the southern one-quarter of the appurtenant easement on that certain tract or parcel of property at Baldhead Island State Natural Area in Brunswick County, Smithville Township, described in Deed Book 401, Page 602, and more particularly described as follows: the tract beginning at a point having North Carolina Grid Coordinates y=40000.00, x=2315685.00; thence due west 510 feet to a point in the high water mark of the marsh having North Carolina Grid Coordinates y=40000.00, x=2315175.00; thence with the high water mark of the marsh in a northerly direction to a point intersecting the northern boundary of the tract, which is represented by a line running due east and west and intersecting North Carolina Grid Coordinates y=40750.00, x=2315685.00; thence along the northern boundary to a point intersecting the mean high water line of the Atlantic Ocean; thence in a southerly direction with the mean high water line of the Atlantic Ocean to the point of beginning. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Baldhead Island State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(17) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of April 3, 2001. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communication purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communication purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is

necessary for the proper operation of the communication devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes."

SECTION 2. Boone's Cave State Natural Area is deleted from the State Parks System pursuant to G.S. 113-44.14. The State may transfer this property to Davidson County for management as a park. The instrument transferring this property shall provide that the State retains a possibility of reverter and shall provide that in the event that Davidson County ceases to manage the property as a park the property shall revert to the State. The State may not otherwise sell or exchange the property.

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

ATT # 2
8/14/02

SENATE BILL 1211: Nature and Historic Preserve and Park System Removals

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Horton
		Summary by:	Rick Zechini Committee Counsel
Date:	August 14, 2002		
Version:	Third Edition		

SUMMARY: ***The Third Edition of SB 1211 removes Boone's Cave State Natural Area and part of Baldhead Island State Natural Area from the State Nature and Historic Preserve and the State Parks System. The State is authorized to transfer Boone's Cave State Natural Area to Davidson County for management as a park. The bill also authorizes the use of the communications tower site on the top of Mount Jefferson at the Mount Jefferson State Natural Area by State public safety and emergency management agencies and local governments in Ashe County. The bill is effective when it becomes law.***

CURRENT LAW: Article XIV, Section 5 of the North Carolina Constitution establishes the State Nature and Historic Preserve (Preserve). The Preserve is intended to insure that lands and waters acquired and preserved by the State of North Carolina or its political subdivisions for 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.[1] 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:

Boone's Cave State Natural Area

Senate Bill 1211 removes Boone's Cave State Natural Area from the State Nature and Historic Preserve and the State Parks System and authorizes the transfer of this property to Davidson County for management as a park. The instrument transferring this property must provide that the State retains a possibility of reverter and shall provide that in the event that Davidson County ceases to manage the property as a park the property shall revert to the State. The State may not otherwise sell or exchange the property.

Baldhead Island State Natural Area

Included in the Baldhead Island State Natural Area is 44 acres of property in which the State holds an appurtenant easement (i.e., conservation easement). Although the State does not own the property, the ownership of the easement allows the State to prevent certain uses of the property (e.g., construction of

[1] Section 4 of S.L. 1999-268, as amended by Section 3 of S.L. 2001-18 and Section 1 of S.L. 2002-3 (2002 Extra Session), provides for a vote at the next statewide general election on amending the North Carolina Constitution to provide that properties may be accepted into the Preserve through the enactment of a bill alone.

buildings or roads, timbering, fish and wildlife habitat destruction) by the owners. The northern part of this property is bounded on the west and north by land that is owned by the State and included in the Baldhead Island State Natural Area. The southern end of this property abuts property owned by the owners of the 44-acre tract. The Department of Environment and Natural Resources (DENR) wishes to release its conservation easement on an 11-acre tract at the southern end of the property to the owners in exchange for the owners conveying the remaining 33 acres to the State. Senate Bill 1211 removes the 11 acres from the Preserve and the State Parks System to enable DENR to conduct the exchange.

Mount Jefferson State Natural Area

Some time ago DENR erected a fire tower on the top of Mount Jefferson. In addition to using the structure as a fire tower, DENR placed radio repeaters on the tower for use by the Division of Forest Resources and the Division of Parks and Recreation. Over the years DENR allowed the State Highway Patrol, the Department of Transportation, and Ashe County to install repeaters or antennas on the fire tower and on a neighboring tower.

As stated above, once land is dedicated into the Preserve any use of the land for other than park, recreation, conservation, and historic preservation purposes must be authorized by a law enacted by a vote of three-fifths of the members of each house. Senate Bill 1211 explicitly authorizes the use of the site by State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communication purposes. The bill also authorizes, notwithstanding G.S. 146-29.2, the State to lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communication purposes. G.S. 146-29.2 prohibits the State from leasing lands of the State Parks System for the construction and placement of communications towers or the placement of antennas on State-owned structures. Thus, the bill provides a limited exemption to the prohibition set out in G.S. 146-29.2.

The bill is effective when it becomes law.

Att # 3
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1541

Short Title:	Nolichucky River Basin/Basinwide WQ Mgt Plan.	(Public)
Sponsors:	Representatives Buchanan, Gibson; and Gillespie.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN AND TO REQUIRE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION DEVELOP AND IMPLEMENT A SEPARATE BASINWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NOLICHUCKY RIVER BASIN, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.8B is amended by adding a new subsection to read:

"(f) All land in this State that lies in the counties of Avery, Mitchell, or Yancey; that is located west of the eastern continental divide; and that drains into the Cane River, the North Toe River, the South Toe River, the Nolichucky River, or any tributary of any of those rivers is hereby designated the Nolichucky River Basin. Notwithstanding G.S. 143-215.22G and subsection (a) of this section, the Nolichucky River Basin shall be considered a major river basin for purposes of this section. The Commission shall develop and implement a separate basinwide water quality management plan for the Nolichucky River Basin and shall not include the Nolichucky River Basin in any basinwide water quality management plan that is developed for the French Broad River Basin."

SECTION 2. G.S. 143-215.8B(c) reads as rewritten:

"(c) The Commission shall review and revise its ~~17~~ basinwide water quality management plans at least every five years to reflect changes in water quality, improvements in modeling methods, improvements in wastewater treatment technology, and advances in scientific knowledge and, as need to support designated uses of water, modifications to management strategies."

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

ATT #4
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H D

HOUSE BILL 1541
PROPOSED COMMITTEE SUBSTITUTE H1541-PCS6473-RT-105

Short Title: Nolichucky River Basin. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN FOR THE PURPOSE OF RECEIVING PUBLIC COMMENT RELATED TO THE REVIEW AND REVISION OF THE APPLICABLE BASINWIDE WATER QUALITY MANAGEMENT PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.8B is amended by adding a new subsection to read:

"(f) For purposes of this subsection, all land in this State that lies in the counties of Avery, Mitchell, or Yancey; that is located west of the eastern continental divide; and that drains into the Cane River, the North Toe River, the South Toe River, the Nolichucky River, or any tributary of any of those rivers is hereby designated the Nolichucky River Basin. The Nolichucky River Basin shall be considered a major river basin for the purpose of soliciting and receiving public comment when the Commission reviews and revises the basinwide water quality management plan for the French Broad River Basin pursuant to subsection (c) of this section. The Commission shall hold at least one public hearing in the Nolichucky River Basin as a part of its review and revision on the basinwide water quality management plan for the French Broad River Basin. This subsection shall not be construed to require the Commission to develop or implement a separate basinwide water quality management plan for the Nolichucky River Basin."

SECTION 2. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

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

ATT #5
8/14/02

HOUSE BILL 1541: Nolichucky River Basin.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Buchanan
Date:	August 13, 2002	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute H1541-PCS6473-RT-105		

SUMMARY: ***The Proposed Committee Substitute (PCS) for HB 1541 delineates the Nolichucky River Basin and directs the Environmental Management Commission (EMC) to consider the Nolichucky River Basin as a major river basin for the purpose of soliciting and receiving public comment when the EMC reviews and revises the French Broad River basinwide water quality management plan. The PCS would become effective when it becomes law.***

CURRENT LAW: G.S. 143-215.8B directs the EMC to review and revise its basinwide water quality management plans at least every five years. The basinwide water quality management plan for the French Broad River Basin was last completed in 2000. The French Broad River Basin is composed of three major drainage areas: the French Broad River, the Pigeon River, and the Nolichucky River. These rivers individually flow northwest into Tennessee.

BILL ANALYSIS: The PCS delineates the Nolichucky River Basin as all land in this State that:

- Lies in the counties of Avery, Mitchell, or Yancey.
- Is located west of the eastern continental divide.
- Drains into the Cane River, the North Toe River, the South Toe River, the Nolichucky River, or any tributary of any of those rivers.

The PCS directs the EMC to consider the Nolichucky River Basin as a major river basin for the purpose of soliciting and receiving public comment when the EMC reviews and revises the French Broad River basinwide water quality management plan. The PCS also directs the EMC to hold at least one public hearing in the Nolichucky River Basin during the French Broad Plan review and revision. The PCS provides, however, that the EMC is not required to develop or implement a separate basinwide water quality management plan for the Nolichucky River Basin.

The PCS is effective when it becomes law.

ATT#6
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1777

Short Title:	Disapprove Sanitation Rules.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

July 17, 2002

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE ADOPTION OF AND AMENDMENTS TO CERTAIN ADMINISTRATIVE RULES GOVERNING THE SANITATION OF HOSPITALS, NURSING HOMES, REST HOMES, AND OTHER INSTITUTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b), amendments to the following rules governing the Sanitation of Hospitals, Nursing Homes, Rest Homes, and Other Institutions approved by the Rules Review Commission on October 18, 2001, are disapproved: 15A NCAC 18A.1301, 15A NCAC 18A.1302, 15A NCAC 18A.1304, 15A NCAC 18A.1305, 15A NCAC 18A.1306, 15A NCAC 18A.1307, 15A NCAC 18A.1308, 15A NCAC 18A.1309, 15A NCAC 18A.1310, 15A NCAC 18A.1312, 15A NCAC 18A.1313, 15A NCAC 18A.1314, 15A NCAC 18A.1315, 15A NCAC 18A.1316, 15A NCAC 18A.1317, 15A NCAC 18A.1318, 15A NCAC 18A.1319, 15A NCAC 18A.1320, 15A NCAC 18A.1322, 15A NCAC 18A.1323, and 15A NCAC 18A.1324.

SECTION 2. Pursuant to G.S. 150B-21.3(b), 15A NCAC 18A.1327 governing the Sanitation of Hospitals, Nursing Homes, Rest Homes, and Other Institutions approved by the Rules Review Commission on October 18, 2001, is disapproved.

SECTION 3. Pursuant to G.S. 150B-21.3(b), amendments to 15A NCAC 18A.1311 and 15A NCAC 18A.1321 governing the Sanitation of Hospitals, Nursing Homes, Rest Homes, and Other Institutions approved by the Rules Review Commission on November 15, 2001, are disapproved.

SECTION 4. This act is effective when it becomes law.

ATTH 7
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1777
PROPOSED COMMITTEE SUBSTITUTE H1777-PCS6476-RT-107

Short Title: Sanitation Rules/Effective Date & Field Test. (Public)

Sponsors:

Referred to:

July 17, 2002

A BILL TO BE ENTITLED

AN ACT TO DELAY THE EFFECTIVE DATE OF CERTAIN ADMINISTRATIVE RULES GOVERNING SANITATION OF HOSPITALS, NURSING HOMES, REST HOMES, AND OTHER INSTITUTIONS; TO PROVIDE FOR A FIELD TEST OF THOSE RULES; TO AUTHORIZE THE COMMISSION FOR HEALTH SERVICES TO ADOPT TEMPORARY AND PERMANENT RULES TO AMEND THOSE RULES; AND TO AUTHORIZE THE MEDICAL CARE COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO AMEND A RELATED RULE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(b), amendments to the following rules governing sanitation of hospitals, nursing homes, rest homes, and other institutions, adopted by the Commission for Health Services and approved by the Rules Review Commission on 18 October 2001, become effective 1 March 2003: 15A NCAC 18A .1301 (Definitions), 15A NCAC 18A .1302 (Approval of Plans), 15A NCAC 18A .1304 (Inspections), 15A NCAC 18A .1305 (Grading Residential Care Facilities in Institutions), 15A NCAC 18A .1306 (Public Display of Grade Card), 15A NCAC 18A .1307 (Reinspections), 15A NCAC 18A .1308 (Approved Institutions), 15A NCAC 18A .1309 (Floors), 15A NCAC 18A .1310 (Walls and Ceilings), 15A NCAC 18A .1312 (Toilet: Handwashing: Laundry: and Bathing Facilities), 15A NCAC 18A .1313 (Water Supply), 15A NCAC 18A .1314 (Drinking Water Facilities: Ice Handling), 15A NCAC 18A .1315 (Liquid Wastes), 15A NCAC 18A .1316 (Solid Wastes), 15A NCAC 18A .1317 (Vermin Control: Premises: Animal Maintenance), 15A NCAC 18A .1318 (Miscellaneous), 15A NCAC 18A .1319 (Furnishings and Patient Contact Items), 15A NCAC 18A .1320 (Food Service Utensils and Equipment), 15A NCAC 18A .1322 (Milk and Milk Products), 15A NCAC 18A .1323 (Food Protection), and 15A NCAC 18A .1324 (Employees).

SECTION 2. Notwithstanding G.S. 150B-21.3(b), 15A NCAC 18A .1327 (Incorporated Rules) adopted by the Commission for Health Services and approved by the Rules Review Commission on 18 October 2001 becomes effective 1 March 2003.

SECTION 3. Notwithstanding G.S. 150B-21.3(b), amendments to 15A NCAC 18A .1311 (Lighting, Ventilation and Moisture Control) and 15A NCAC 18A .1321 (Food Supplies) adopted by the Commission for Health Services and approved by the Rules Review Commission on 15 November 2001 become effective 1 March 2003.

SECTION 4. The Division of Environmental Health of the Department of Environment and Natural Resources, with the assistance of local health departments, shall field test the amended rules listed in Sections 1 through 3 of this act by conducting trial inspections of a representative sample of facilities subject to the amended rules throughout the State. Trial inspections under the amended rules shall be performed during the period 1 October 2002 through 1 February 2003 in conjunction with the regular inspection of the representative sample of facilities under rules in effect during the field test period. A facility that is subject to a trial inspection shall not be liable for an enforcement action for any violation of an amended rule that is observed during a trial inspection but may be liable for an enforcement action under rules in effect during the field test period. The purposes of the field test shall be to determine what expenditures, if any, will be required of facilities in order to comply with the amended rules and whether the amended rules will result in lower inspection grades for facilities. As a part of the field test, the Division shall also review the amended rules, giving particular attention to applicable federal regulations and to the incorporation by reference of any other rules or standards in the amended rules, to determine whether the amended rules will result in any duplication or conflict in applicable requirements or standards and whether the amended rules will result in duplicative or conflicting inspection or enforcement policies or procedures. The Division of Environmental Health shall compile and analyze field test data to determine whether any of the amended rules should be revised. The Division shall report the results of the field test required by this Section, any recommendations to the Commission for Health Services regarding revisions to the amended rules, and the status of any recommended rule revisions to the Environmental Review Commission on or before 1 March 2003.

SECTION 5. The Division of Environmental Health of the Department of Environment and Natural Resources shall offer training to staff of facilities that are subject to the amended rules listed in Sections 1 through 3 of this act. Training shall be offered in the various regions of the State as appropriate and shall include information on the requirements of the amended rules, enforcement policies and procedures, and updated information as to any revisions to the amended rules that may be recommended as a result of the field test of the amended rules required by Section 4 of this act.

SECTION 6. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). Notwithstanding Sections 1 through 3 of this act, the Commission for Health Services may adopt temporary and permanent rules to further delay the effective date of any of the rules listed in Sections 1 through 3 of this act. The Commission for Health Services may adopt temporary and permanent rules to revise any of the rules listed in Sections 1 through 3 of this act. The Medical Care

Commission may adopt temporary and permanent rules to amend 10 NCAC 42D .1504 (Housekeeping and Furnishings). Notwithstanding 26 NCAC 2C .0102(11), the Commission for Health Services and the Medical Care Commission may adopt temporary rules as provided in this section until 1 July 2003.

SECTION 7. This act is effective when it becomes law.

ATT # 8
8/14/02

HOUSE BILL 1777:
Effective Date & Field Test/Sanitation Rules

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
Date:	August 13, 2002	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute H1777-PCS6476-RT-107		

SUMMARY: ***The Proposed Committee Substitute (PCS) for HB 1777 delays the effective date of administrative rules and amendments to administrative rules governing the sanitation of certain health care institutions; directs the Division of Environmental Health to perform a four-month field test of the delayed rules and analyze the field test data to determine whether any of the delayed rules should be revised; and authorizes the Commission for Health Services and the Medical Care Commission to adopt temporary and permanent rules to revise the delayed rules and a related rule. The PCS becomes effective when it becomes law.***

BACKGROUND: Section .1300 of Subchapter 18A of Title 15A of the North Carolina Administrative Code regulates the sanitation of hospitals, nursing homes, rest homes, and other institutions. The Commission for Health Service adopted rules amending Section .1300 in 2001. Most of the amended rules were approved by the Rules Review Commission on October 18, 2001; the remainder were approved on November 15, 2001. The rules were scheduled to become effective August 1, 2002. Section .1504 of Subchapter 42D of Title 10 of the North Carolina Administrative Code provides for the required sanitation grades for homes for the aged and disabled. This rule was adopted by the Medical Care Commission.

BILL ANALYSIS: The PCS for HB 1777 would:

- Delay the effective date of certain rules and amendments to certain rules governing the sanitation of hospitals, nursing homes, rest homes, and other institutions from August 1, 2002, to March 1, 2003.
- Direct the Division of Environmental Health of the Department of Environment and Natural Resources (Division), with the assistance of local health departments, to perform a field test of the delayed sanitation rules. During the field test, a representative sample of facilities will be inspected under both the existing rules and the delayed rules. The purpose of the field test is to determine what expenditures, if any, will be required of facilities in order to comply with the delayed rules and whether the delayed rules will result in lower inspection grades. A facility that is subject to a trial inspection shall not be liable for an enforcement action for any violation of a delayed rule, but may be liable for an enforcement action under rules in effect during the field test period. The Division will analyze the field test data to determine whether any of the delayed rules should be revised. On or before March 1, 2003, the Division will report on the results of the field test, any recommendations to the Commission for Health Services, and the status of any revisions of the delayed rules to the Environmental Review Commission.
- Authorize the Commission for Health Services to adopt rules to further delay the effective date of or amend the delayed sanitation rules and authorize the Medical Care Commission to adopt rules to amend a rule that provides for the required sanitation grades for homes for the aged and disabled. The Commissions may adopt temporary rules pursuant to these provisions until July 1, 2003.

ATT #9,
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1253

Finance Committee Substitute Adopted 7/24/02

Short Title: Amend Pollution Abatement Tax Exclusion. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN ANIMAL WASTE MANAGEMENT SYSTEMS SHALL NOT QUALIFY FOR SPECIAL PROPERTY CLASSIFICATION AND EXCLUSION FROM THE TAX BASE PURSUANT TO G.S. 105-275(8) AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY ISSUES RELATED TO THE TAX EXCLUSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-275(8) is amended by adding a new sub-subdivision to read:

"a1. Sub-subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:

1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. Substantially eliminate atmospheric emissions of ammonia.
3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater."

SECTION 2. The Revenue Laws Study Committee shall study issues related to the application of G.S. 105-275(8). The Committee shall consider whether the tax

exclusion should be limited to real or personal property that is subject to or is part of a facility that is subject to an individual permit issued by the Environmental Management Commission. The Committee shall also consider whether the tax exclusion should be phased out for certain types of real or personal property. In conducting this study, the Committee shall consult with the North Carolina Association of County Commissioners and the North Carolina League of Municipalities. The Committee shall report its findings and recommendations, including legislative proposals, if any, to the 2003 General Assembly.

SECTION 3. This act is effective when it becomes law. Section 1 of this act applies to taxes imposed for taxable years beginning on or after July 1, 2002.

ATT # 10
8/14/02

SENATE BILL 1253:
Amend Pollution Abatement Tax Exclusion.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
		Summary by:	Tim Dodge Research Assistant for Environmental Issues
Date:	August 13, 2002		
Version:	2nd Edition		

SUMMARY: ***Senate Bill 1253 would exclude certain animal waste management systems from qualifying for special property classification and exclusion from the tax base, specify the criteria that the Environmental Management Commission (EMC) can use for certification and exemption of an animal waste management system from property taxes, and direct the Revenue Laws Study Committee to study issues related to the tax exclusion.***

CURRENT LAW: G.S. 105-275 identifies classes of property that are excluded from the tax base. G.S. 105-275(8)a. excludes real and personal property used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character). The EMC may certify property for exclusion if the EMC finds that the property satisfies all statutory requirements for exclusion.

G.S. 143-215.10B defines animal waste management systems as a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste. The General Assembly established a statewide moratorium on the issuance of permits for the construction of lagoons and animal waste management systems for swine farms in 1997 (S.L. 1997-458) and extended the moratorium in 1998 (S.L. 1998-188), 1999 (S.L. 1999-329), and 2001 (S.L. 2001-254). The moratorium currently extends to September 1, 2003. Under the moratorium, the EMC may issue a permit for the construction or expansion of an animal waste management system only if it determines, after consultation with the Animal and Poultry Waste Management Center of North Carolina State University, that the animal waste management system will satisfy all of the following performance criteria:

1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. Substantially eliminate atmospheric emissions of ammonia.
3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.

BILL ANALYSIS: Senate Bill 1253 would add a new sub-subdivision to G.S. 105-275(8) that excludes animal waste management systems from certification and exemption, unless the EMC determines that the system meets the performance criteria specified in the moratorium on issuing animal waste management systems permits.

The bill would also direct the Revenue Laws Study Committee to study issues related to the tax exclusion and to report its findings and recommendations to the 2003 General Assembly.

EFFECTIVE DATE: The bill would become effective when it becomes law and would apply to taxes imposed for taxable years beginning on or after July 1, 2002.

ATTH 11
8/14/02

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1227

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/23/02

Short Title: Clarify LUST Land-Use Restrict./Deed Record. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN STATUTES RELATED TO LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN CONNECTION WITH THE CLEANUP OF RELEASES FROM PETROLEUM UNDERGROUND STORAGE TANKS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.9(b) reads as rewritten:

"(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A ~~risk-based~~ remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes ~~that will not require that the site meet unrestricted use standards~~ must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record ~~approved~~ a notice of any applicable land-use restrictions that meet the requirements of this ~~section~~ subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this ~~subsection.~~ subsection and G.S. 143B-279.11. Any restriction on the current or future use of real property pursuant to this subsection shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any notice of restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S.

143B-279.11, the Secretary may restrict current or future use of real property ~~may be restricted~~ only as set out in any one or more of the following subdivisions:

(1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.

(2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.

(3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.

(4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department."

SECTION 2. G.S. 143B-279.10(g) reads as rewritten:

"(g) This section does not apply to the cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 3. G.S. 143B-279.11(a) reads as rewritten:

"(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a ~~risk-based~~ remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes."

SECTION 4. G.S. 143B-279.11(b) reads as rewritten:

"(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall prepare and submit to the Department a proposed Notice that meets the requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other

responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users of the property."

SECTION 5. G.S. 143B-279.11(d) reads as rewritten:

"(d) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section and shall provide the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank with a notarized copy of the approved Notice. After the Department approves the Notice, the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs. If the owner, operator, or other person responsible for the discharge or release fails to file the Notice as required by this section, any determination by the Department that no further action is required is void. The owner, operator, or other person responsible for the discharge or release, may record the Notice required by this section without the agreement of the owner of the real property. The owner, operator, or other person responsible for the discharge or release shall submit a certified copy of the Notice as filed in the register of deeds office to the Department."

SECTION 6. G.S. 143-215.94W(a)(5) reads as rewritten:

"(5) Violates or fails to act in accordance with the terms, conditions, or requirements of any special order or other appropriate document issued pursuant to ~~G.S. 143-215.2.~~G.S. 143-215.2 or fails to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 7. G.S. 143-215.94Y reads as rewritten:

"**§ 143-215.94Y. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Part, any of the terms of any permit issued pursuant to this Part, or a rule implementing this ~~Part,~~Part or has failed to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur

or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of the provisions of this ~~Part or~~ Part, the ~~regulations~~ rules of the ~~Commission~~ Commission, or the failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11 has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of this ~~Part.~~Part or for failure to comply with the requirements of G.S. 143B-279.9 through G.S. 143B-279.11."

SECTION 8. This act is effective retroactively to 1 September 2001. This act applies retroactively to any cleanup of a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes except that land-use restrictions and recordation of residual contamination are not required with respect to a discharge or release of petroleum for which the Department of Environment and Natural Resources issued a determination that no further action is required prior to 1 September 2001.

ATTH 12
8/14/02

SENATE BILL 1227:
Clarify LUST Land-Use Restrict./Deed Record.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Plyler
		Summary by:	Tim Dodge Research Assistant for Environmental Issues
Date:	August 13, 2002		
Version:	2nd Edition		

SUMMARY: ***Senate Bill 1227 amends the statutory provisions related to the use of land-use restrictions and recordation of the restrictions in connection with the cleanup of a release from a petroleum underground storage tank. The bill would become effective retroactively to September 1, 2001 and would apply to any cleanup of petroleum from an underground storage tank site for which a determination that no further action is required is made on or after September 1, 2001.***

BILL ANALYSIS: Senate Bill 1227 makes clarifying changes to the statutes related to land-use restrictions and recordation of those restrictions in connection with the cleanup of a release from a petroleum Underground Storage Tank (UST). The bill makes the following changes:

- Removes the redundant use of the terms "risk-based" and "unrestricted use standards" from the portion of the statutes that requires the remediation action plan for the cleanup of environmental damage resulting from a leaking petroleum UST to include an agreement to file a notice of any applicable land-use restrictions. This would make the agreement to file any applicable land-use restrictions a mandatory part of any UST remedial action plan where soil or groundwater contamination will remain in excess of unrestricted use standards. *(Sections 1 through 3)*
- Adds the places the phrase "notice of" between the words "record" and "restriction", to more accurately describe the process of recording a notice of any applicable land-use restrictions. *(Sections 1 and 4)*
- Specifies that the Secretary of Environment and Natural Resources has the authority to require land-use restrictions under a remedial action plan for the cleanup of environmental damage resulting from a leaking petroleum UST. Previous statutory language did not specify who had the authority to require land-use restrictions. *(Section 1)*
- Authorizes the owner, operator, or other person responsible for the discharge or release of petroleum from a UST to record a Notice of Residual Petroleum without the agreement of the owner of the real property where the residual petroleum may be located. *(Section 5)*
- Provides that the penalty and enforcement provisions for violations of petroleum UST cleanup requirements also apply when a person has failed to file any applicable notices of land-use restriction required under a remedial action plan. *(Sections 6 and 7)*

CURRENT LAW: Land-use restrictions for a site that is contaminated by a discharge or release of petroleum from a leaking petroleum UST are required when the site is cleaned up under a risk-based approach to a cleanup level that does not meet unrestricted use standards. The restrictions are enforceable only with respect to (i) the real property on which the source of the contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the UST or other responsible

party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The current or future use of sites contaminated with remedial petroleum may be restricted only as follows:

- Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department of Environment and Natural Resources (DENR).
- Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary of Environment and Natural Resources may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.
- Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.
- Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and DENR.

BACKGROUND: S.L. 1999-198 provided general authority for DENR to impose land-use restrictions and deed recordation requirements on contaminated property that is subject to a DENR remediation program in order to protect public health and the environment. Land-use restrictions would be required when contaminated sites were to be remediated to a "less than pristine" level of cleanup. S.L. 2000-51 also exempted sites contaminated by leaking USTs that were remediated to "risk-based" standards from the land-use restrictions imposed by S.L. 1999-198 until September 1, 2001, due to issues related to the application of land-use restrictions and deed recordation to petroleum UST sites.

S.L. 2001-384 (HB 1301) clarified the circumstances under which cleanups of environmental damage in risk-based regulatory programs are subject to land-use restriction requirements. The term "unrestricted use standards" is defined as generally applicable standards that, when applied to the cleanup of a contaminated property, would result in restoration of the property to a condition such that any use of the property would not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than the risk posed by the property prior to its having been contaminated. "Risk-based" is defined to mean a cleanup or remediation that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk so long as the property is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based.

EFFECTIVE DATE: The bill would become effective September 1, 2001, and would apply to any cleanup of petroleum under the Leaking Petroleum Underground Storage Tank Cleanup Program for which a determination of no further action required was not made prior to September 1, 2001.

VISITOR REGISTRATION SHEET

ENV. — Name of Committee

8-14-03 — Date

VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken McHan	Allen Associates, Inc
Lucius Pullen	ATTORNEY NCMA
Stacey Flannery	NCHCFA
Michelle Frazier	NC Bar Ass'n
Roger Bone	Bone Mtn
Lee B. Wilson	NCAHTCF
Elizabeth Dalton	Bone Assoc.
Steve Woodson	NC FB
Angie Whitten	TNC
Jim Hayes	NCDENR
Linda Sewell	DEH / DENR
Grover Nicholson	DWM/DENR
John Bailey	NCDOR
Ed Regan	N.C. A.C.C.
Robin Smith	DENR
Calvin H. Sullins	DENR/DWQ
Laura DeVivo	DENR
[illegible]	[illegible]
Carole Lawler	EGHS
Steve Wall	CCNC
Kari Barsness	DENR
David Light	NC Sierra Club, NC Wildlife Fed
Elizabeth Ouzts	NCPIRG
Carol Tingley	NCDENR - Parks
[illegible]	DENR - DPR
Mary Grason	Capitol Group
[illegible]	NCRA

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
S.B. 1211 A BILL TO BE ENTITLED AN ACT TO REMOVE BOONE'S CAVE STATE NATURAL AREA AND A PORTION OF BALDHEAD ISLAND STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE THESE PROPERTIES FROM THE STATE PARKS SYSTEM, TO AUTHORIZE THE TRANSFER OF THESE PROPERTIES FOR LIMITED PURPOSES, AND TO ALLOW CERTAIN PUBLIC ENTITIES TO USE THE FIRE TOWER AT MOUNT JEFFERSON STATE NATURAL AREA FOR PUBLIC COMMUNICATION PURPOSES.

☑ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**

☐ Committee Substitute for
H.B. 1541 A BILL TO BE ENTITLED AN ACT TO DELINEATE THE NOLICHUCKY RIVER BASIN AND TO REQUIRE THAT THE ENVIRONMENTAL MANAGEMENT COMMISSION DEVELOP AND IMPLEMENT A SEPARATE BASINWIDE WATER QUALITY MANAGEMENT PLAN FOR THE NOLICHUCKY RIVER BASIN, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
H.B. 1777 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE ADOPTION OF AND AMENDMENTS TO CERTAIN ADMINISTRATIVE RULES GOVERNING THE SANITATION OF HOSPITALS, NURSING HOMES, REST HOMES, AND OTHER INSTITUTIONS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
S.B. 1253 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CERTAIN ANIMAL WASTE MANAGEMENT SYSTEMS SHALL NOT QUALIFY FOR SPECIAL PROPERTY CLASSIFICATION AND EXCLUSION FROM THE TAX BASE PURSUANT TO G.S. 105-275(8) AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY ISSUES RELATED TO THE TAX EXCLUSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

August 27, 2002

1. Call to Order

2. Agenda Items

   HB 1564 Inactive Hazardous Sites Amendments
   HB 1572 Environmental Reports Amendments

3. Adjournment

ENVIRONMENT & NATURAL RESOURCES

MINUTES
August 27, 2002

The House Environment and Natural Resources Committee met Tuesday, August 27, 2002 at 12:00 noon in Room 643 of the Legislative Office Building. The following members were present Co-Chairmen Gibson and McComas, Vice-Chairs, Representatives Cox, and Weiss, and Representatives Bowie, Culp, Davis, Gulley, Hackney, Hill, Insko, McCombs, Mitchell, Smith, Warner and Weatherly.

Chair Gibson called the meeting to order. Vice-Chair Weiss then presided over the meeting. Action was taken on the following bill:

HB 1572 – AN ACT TO REPEAL, AMEND, AND CODIFY VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Gibson presented the bill to the Committee (Attachment #1). A Proposed Committee Substitute # H1572-PCS4274-SG-52 for HB 1572 was adopted by the Committee (Attachment #2). Staff Counsel George Givens noted the bill was an Environmental Review Commission bill and represents the staffs' annual effort to reduce and consolidate reports. Staff Counsel Rick Zechini explained the bill was recommended for introduction by ERC (attachment #3). Section 1 repeals G.S. 136-203. Section 2 updates a reporting requirement on animal waste management to reflect DENR's new plan on the subject. Section 3 consolidates reports submitted by the Clean Water Management Trust Fund. Section 4 establishes the requirement that DENR report to the Environmental Review Commission by October 1 of each year on the implementation of the State comprehensive hazardous waste management plan. Section 5 changes the frequency of reports from DENR on facilities discharging to surface waters from quarterly to annually on or before October 1. Section 6 changes the frequency of reports from DENR on the Leaking Petroleum Underground Storage Tank Cleanup Program from semiannually to annually on or before September 1. Section 7 provides that the bill is effective when it becomes law. Representative Smith moved for a favorable report for the Proposed Committee Substitute. The motion carried and bill passed.

At this time, Chair Gibson resumed chairing the meeting and action was taken on the following bill:

HB 1564 – AN ACT TO AMEND THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 AND PROVIDE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITH EXPLICIT AUTHORITY TO ASSESS A PENALTY FOR A VIOLATION INVOLVING A VOLUNTARY REMEDIAL ACTION UNDER THE INACTIVE HAZARDOUS SITES PROGRAM CONDUCTED BY A PRIVATE

ENVIRONMENTAL CONSULTING OR ENGINEERING FIRM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Hackney presented the bill to the Committee (See attachment #4). Representative Insko moved Proposed Committee Substitute H1564-PC6475-SG-51 for HB 1564 be adopted by the Committee (Attachment #5). The Committee adopted Proposed Committee Substitute. Representative Hackney stated the Environmental Review Commission recommended the bill and the changes are the ones the Department of Environment and Natural Resources asked the Environmental Review Commission to submit to the legislators for this session (Attachment #6). This bill provides explicit authority to the Secretary of Environment and Natural Resources to assess an administrative penalty of up to $25,000 per day for a violation involving a voluntary remedial action implemented by a registered environmental consultant under the Inactive Hazardous Sites Program.

Following a brief discussion outlining the duties, authority and responsibities of a registered environmental consultant (REC), questions regarding REC's were answered by Staff Counsel Rick Zechini and Mr. Dexter Matthews of the Department of Environment and Natural Resources.

Representative Cox moved for a favorable report for the Proposed Committee Substitute. The motion carried and bill passed.

The meeting adjourned at 12:38 pm.

Representative Pryor Gibson
Chairman

Representative Jennifer Weiss
Vice-Chair

Linda Uzzle
Committee Assistant

8-27-02 ATT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1572*

Short Title:	Environmental Reports Amendments.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO REPEAL, AMEND, AND CODIFY VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

PART I. REPORTING REQUIREMENT REPEALED

SECTION 1.1. G.S. 136-203 is repealed.

PART II. REPORTING REQUIREMENTS AMENDED

SECTION 2.1. Section 13.4 of S.L. 1999-329 reads as rewritten:

"Section 13.4. The ~~Environmental Management Commission~~ Department of Environment and Natural Resources shall report to the Environmental Review Commission on or before 1 September 2002 and on or before 1 September 2003 on its progress in implementing the ~~Lagoon Conversion Plan pursuant to the letter from Governor James B. Hunt, Jr. to Dr. David Moreau, Chairman, Environmental Management Commission, dated 13 May 1999, as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).~~ Two-Year Action Plan for Livestock Operations."

SECTION 2.2. G.S. 113-145.6A reads as rewritten:

"**§ 113-145.6A. Clean Water Management Trust Fund: reporting requirement.**

(a) The Chair of the Trustees shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees regarding the implementation of this Article. A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly by November 1 each year.

(b) ~~No later than November 1, 1997, and quarterly thereafter,~~ On or before November 1 of each year, the Chair of the Trustees shall submit to the Joint Legislative Commission on Governmental Operations, the Environmental Review ~~Commission and~~

Commission, the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations ~~Committees~~ Committees, and the Fiscal Research Division of the General Assembly a list of the projects awarded grants from the Fund that quarter. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. ~~A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly by November 1, 1997, and for each subsequent quarter.~~"

SECTION 2.3. G.S. 130A-294(i) reads as rewritten:

"(i) The Department shall develop a comprehensive hazardous waste management plan for the State. This plan shall be completed by July 1, 1990 and shall be revised at two-year intervals thereafter. The Department shall report to the Environmental Review Commission on or before September 1 of each year on the implementation of the comprehensive hazardous waste management plan. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include ~~make~~ recommendations to the Governor, ~~cognizant~~ State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of."

SECTION 2.4. G.S. 143-215.9A reads as rewritten:

"**§ 143-215.9A. Reports.**

(a) The Department shall ~~submit quarterly status reports~~ report to the Environmental Review Commission and the Fiscal Research Division ~~as required by this section.~~ on or before September 1 of each year on the status of discharges into surface waters. ~~Each~~ The report shall include:

(1) The names and locations of all persons permitted under G.S. 143-215.1(c).

(2) The number of compliance inspections of persons permitted under G.S. 143-215.1(c) that the Department has conducted since the last ~~report and the total number of inspections for that calendar year.~~report.

(3) The number of violations found during each inspection, including the date on which the violation occurred and the nature of the violation; the status of enforcement actions taken and pending; and the penalties imposed, collected, and in the process of being negotiated for each such violation.

(4) Any other information that the Department determines to be appropriate or that is requested by the Environmental Review Commission or the Fiscal Research Division.

(b) The information to be included in the ~~reports~~ report pursuant to subsection (a) of this section shall be itemized by each regional office of the Department, with totals for the State indicated.

~~(c) The Department shall submit the quarterly status reports required by this section for the previous calendar quarter no later than 15 October, 15 January, 15 April, and 15 July.~~"

SECTION 2.5. G.S. 143-215.94M reads as rewritten:

"**§ 143-215.94M. Reports.**

(a) The Secretary shall present ~~a semiannual~~ an annual report to the Environmental Review Commission which shall include at least the following:

(1) A list of all discharges or releases of petroleum from underground storage tanks;

(2) A list of all cleanups requiring State funding through the Noncommercial Fund and a comprehensive budget to complete such cleanups;

(3) A list of all cleanups undertaken by tank owners or operators and the status of these cleanups;

(4) A statement of receipts and disbursements for both the Commercial Fund and the Noncommercial Fund;

(5) A statement of all claims against both the Commercial Fund and the Noncommercial Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations;

(6) The adequacy of both the Commercial Fund and the Noncommercial Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Commercial Fund and the Noncommercial Fund; and

(7) A statement of the condition of the Loan Fund and a summary of all activity under the Loan Fund.

(b) The ~~semiannual reports~~ report required by this section shall be made by the Secretary on or before ~~1 March and~~ 1 September of each ~~year beginning 1 March 1992.~~year."

PART III. EFFECTIVE DATE

SECTION 3.1. This act is effective when it becomes law.

8-27-02 ATT 2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1572
PROPOSED COMMITTEE SUBSTITUTE H1572-PCS4274-SG-52

Short Title: Environmental Reports Amendments. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-203 is repealed.

SECTION 2. Section 13.4 of S.L. 1999-329 reads as rewritten:

"Section 13.4. The ~~Environmental Management Commission~~ Department of Environment and Natural Resources shall report to the Environmental Review Commission on or before 1 October 2002 and on or before 1 October 2003 on its progress in implementing the ~~Lagoon Conversion Plan pursuant to the letter from Governor James B. Hunt, Jr. to Dr. David Moreau, Chairman, Environmental Management Commission, dated 13 May 1999, as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b).~~ Two-Year Action Plan for Livestock Operations."

SECTION 3. G.S. 113-145.6A reads as rewritten:

"**§ 113-145.6A. Clean Water Management Trust Fund: reporting requirement.**

~~(a)~~ The Chair of the Board of Trustees shall report each year by ~~November~~ 1 December to the Joint Legislative Commission on Governmental Operations, the Environmental Review ~~Commission and~~ Commission, the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations ~~Committees~~ Committees, and the Fiscal Research Division of the General Assembly regarding the implementation of this Article. ~~A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly by November 1 each year.~~

~~(b) No later than November 1, 1997, and quarterly thereafter, the Chair of the Trustees shall submit to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and~~

~~Economic Resources of the House of Representatives and Senate Appropriations Committees~~ The report shall include a list of the projects awarded grants from the Fund ~~that quarter.~~ for the previous 12-month period. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. ~~A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly by November 1, 1997, and for each subsequent quarter.~~"

SECTION 4. G.S. 130A-294(i) reads as rewritten:

"(i) The Department shall develop a comprehensive hazardous waste management plan for the ~~State. This plan shall be completed by July 1, 1990 and shall be revised at two-year intervals thereafter.~~ State and shall revise the plan on or before 1 July of even-numbered years. The Department shall report to the Environmental Review Commission on or before 1 October of each year on the implementation of the comprehensive hazardous waste management plan. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include ~~make~~ recommendations to the Governor, ~~cognizant~~ State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of."

SECTION 5. G.S. 143-215.9A reads as rewritten:

"**§ 143-215.9A. Reports.**

(a) The Department shall ~~submit quarterly status reports~~ report to the Environmental Review Commission and the Fiscal Research Division ~~as required by this section.~~ on or before 1 October of each year on the status of facilities discharging into surface waters during the previous fiscal year. ~~Each~~ The report shall include:

(1) The names and locations of all persons permitted under G.S. 143-215.1(c).

(2) The number of compliance inspections of persons permitted under G.S. 143-215.1(c) that the Department has conducted since the last ~~report and the total number of inspections for that calendar year.~~ report.

(3) The number of violations found during each inspection, including the date on which the violation occurred and the nature of the violation; the status of enforcement actions taken and pending; and the penalties imposed, collected, and in the process of being negotiated for each ~~such~~ violation.

(4) Any other information that the Department determines to be appropriate or that is requested by the Environmental Review Commission or the Fiscal Research Division.

(b) The information to be included in the ~~reports~~ report pursuant to subsection (a) of this section shall be itemized by each regional office of the Department, with totals for the State indicated.

~~(c) The Department shall submit the quarterly status reports required by this section for the previous calendar quarter no later than 15 October, 15 January, 15 April, and 15 July.~~"

SECTION 6. G.S. 143-215.94M reads as rewritten:

"**§ 143-215.94M. Reports.**

(a) The Secretary shall present ~~a semiannual~~ an annual report to the Environmental Review Commission which shall include at least the following:

(1) A list of all discharges or releases of petroleum from underground storage tanks;

(2) A list of all cleanups requiring State funding through the Noncommercial Fund and a comprehensive budget to complete such cleanups;

(3) A list of all cleanups undertaken by tank owners or operators and the status of these cleanups;

(4) A statement of receipts and disbursements for both the Commercial Fund and the Noncommercial Fund;

(5) A statement of all claims against both the Commercial Fund and the Noncommercial Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations;

(6) The adequacy of both the Commercial Fund and the Noncommercial Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Commercial Fund and the Noncommercial Fund; and

(7) A statement of the condition of the Loan Fund and a summary of all activity under the Loan Fund.

(b) The ~~semiannual reports~~ report required by this section shall be made by the Secretary on or before ~~1 March and~~ 1 September of each ~~year beginning 1 March 1992.~~ year."

SECTION 7. This act is effective when it becomes law.

8-27-02 ATT 3

HOUSE BILL 1572:
Environmental Reports Amendments

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Representative Gibson
		Summary by:	Rick Zechini Committee Counsel
Date:	August 27, 2002		
Version:	Proposed Committee Substitute		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1572 repeals a duplicative air quality statute and its reporting requirement and amends several other environmental reporting requirements. The bill was recommended for introduction by the Environmental Review Commission.***

BILL ANALYSIS:

Section 1

Section 1 of the PCS repeals G.S. 136-203. This statute was enacted in 1999 and was intended to encourage consistent transportation and air quality strategies among metropolitan planning organizations (MPOs) in areas of the State designated as nonattainment areas under the federal Clean Air Act. G.S. 136-203 also contains a requirement that the Department of Transportation (DOT) and the Department of Environment and Natural Resources (DENR) report annually to the Environmental Review Commission and the Joint Legislative Transportation Oversight Committee on the implementation of the statute. In 2000 the General Assembly enacted G.S. 136-200.4, which addresses the same issue in a more comprehensive and structured manner (e.g., it requires the affected MPOs to adopt and implement a single, unified plan for achieving conformity or risk losing road construction funding). G.S. 136-200.4 requires MPOs in nonattainment areas to report to DOT. Both DOT and DENR have requested that G.S. 136-203 be repealed. In addition, the Joint Legislative Transportation Oversight Committee recommended for introduction legislation (House Bill 1516 and Senate Bill 1205) to repeal the statute as well.

Section 2

Section 2 updates a reporting requirement on animal waste management to reflect DENR's new plan on the subject. The amended reporting requirement directs DENR to report by October 1 of 2002 and 2003 to the Environmental Review Commission on the implementation of the Two-Year Action Plan for Livestock Operations.

Section 3

Section 3 consolidates reports submitted by the Clean Water Management Trust Fund. Currently the Chair of the Board of Trustees of the Fund reports once a year by November 1 on the implementation of the Article creating the Fund and once a quarter on projects that are awarded grants from the Fund. This section consolidates the reports into one report due once a year by December 1.

Section 4

Section 4 establishes the requirement that DENR report to the Environmental Review Commission by October 1 of each year on the implementation of the State comprehensive hazardous waste management plan. The report must include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste.

Section 5

Section 5 changes the frequency of reports from DENR on facilities discharging to surface waters from quarterly to annually on or before October 1.

Section 6

Section 6 changes the frequency of reports from DENR on the Leaking Petroleum Underground Storage Tank Cleanup Program from semiannually to annually on or before September 1.

Section 7

Section 7 provides that the bill is effective when it becomes law.

8-27-02 ATT 4

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

HOUSE BILL 1564

Short Title:	Inactive Hazardous Sites Amendments.	(Public)
Sponsors:	Representatives Hackney; and Blue.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 AND PROVIDE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITH EXPLICIT AUTHORITY TO ASSESS A PENALTY FOR A VIOLATION INVOLVING A VOLUNTARY REMEDIAL ACTION UNDER THE INACTIVE HAZARDOUS SITES PROGRAM CONDUCTED BY A PRIVATE ENVIRONMENTAL CONSULTING OR ENGINEERING FIRM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-22(a) reads as rewritten:

"(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars ($5,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed twenty-five thousand dollars ($25,000) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed twenty-five thousand dollars ($25,000) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any

county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 2. G.S. 130A-310.3(e) reads as rewritten:

"(e) For any removal or remedial action conducted entirely on-site under this Part, to the extent that a permit would not be required under 42 U.S.C. § 9621(e) for a removal or remedial action conducted entirely on-site under CERCLA/SARA, the Secretary may grant a waiver from any State law or rule that requires that an environmental permit be obtained from the Department. The Secretary shall not waive any requirement that a permit be obtained unless the removal or remediation action is being conducted pursuant to G.S. 130A-310.5 or G.S. 130A-310.6, or unless the owner, operator, or other responsible party has entered into an agreement with the Secretary to implement a voluntary remedial action plan under G.S. 130A-310.3 or G.S. 130A-310.9(b). ~~Prior to granting a permit waiver,~~ Except for removal or remediation actions conducted pursuant to G.S. 130A-310.5 by a responsible party or the State, the Secretary shall invite public participation in the development of the remedial action plan in the manner set out in G.S. 130A-310.4."

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

8-27-02 ATT 5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H D

HOUSE BILL 1564
PROPOSED COMMITTEE SUBSTITUTE H1564-PCS6475-SG-51

Short Title: Inactive Hazardous Sites Amendments. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITH EXPLICIT AUTHORITY TO ASSESS A CIVIL PENALTY FOR A VIOLATION INVOLVING A VOLUNTARY REMEDIAL ACTION UNDER THE INACTIVE HAZARDOUS SITES PROGRAM CONDUCTED BY A PRIVATE ENVIRONMENTAL CONSULTING OR ENGINEERING FIRM AND TO EXPAND THE ENVIRONMENTAL PERMIT WAIVER AUTHORITY UNDER THE PROGRAM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-22(a) reads as rewritten:

"(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars ($5,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed twenty-five thousand dollars ($25,000) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed twenty-five thousand dollars ($25,000) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural

Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 2. G.S. 130A-310.3(e) reads as rewritten:

"(e) For any removal or remedial action conducted entirely on-site under this Part, to the extent that a permit would not be required under 42 U.S.C. § 9621(e) for a removal or remedial action conducted entirely on-site under CERCLA/SARA, the Secretary may grant a waiver from any State law or rule that requires that an environmental permit be obtained from the Department. The Secretary shall not waive any requirement that a permit be obtained unless either the removal or remedial action is being conducted pursuant to G.S. 130A-310.3(c), 130A-310.5, or 130A-310.6, or the owner, operator, or other responsible party has entered into an agreement with the Secretary to implement a voluntary remedial action plan under G.S. 130A-310.9(b). ~~Prior to granting a permit waiver, the~~ The Secretary shall invite public participation in the development of the remedial action plan in the manner set out in G.S. ~~130A-310.4~~130A-310.4 prior to granting a permit waiver, except for a removal or remedial action conducted pursuant to G.S. 130A-310.5."

SECTION 3. Section 1 of this act becomes effective October 1, 2002. The remainder of this act is effective when it becomes law.

8-27-02 ATT 6

HOUSE BILL 1564:
Inactive Hazardous Sites Amendments

BILL ANALYSIS

Committee:	House Environment and Natural Resources Committee	**Introduced by:**	Representative Joe Hackney
		Summary by:	Rick Zechini Committee Counsel
Date:	August 27, 2002		
Version:	Proposed Committee Substitute		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1564 provides explicit authority to the Secretary of Environment and Natural Resources (Secretary) to assess an administrative penalty of up to $25,000 per day for a violation involving a voluntary remedial action implemented by a registered environmental consultant under the Inactive Hazardous Sites Program and expands the environmental permit waiver authority under the Inactive Hazardous Sites Program. House Bill 1564 was recommended for introduction by the Environmental Review Commission.***

CURRENT LAW: The Inactive Hazardous Sites Program (Program) is responsible for locating, cataloging, and monitoring all of the inactive hazardous substance or waste disposal sites in the State. The Program's other mission is to facilitate the cleanup of those sites that are not being addressed by the federal Environmental Protection Agency as a National Priorities List site under federal law or by a State agency under a separate State program. Cleanups under the Inactive Hazardous Sites Program may be commenced under one of three possible scenarios:

- Responsible parties may enter into agreements to voluntarily remediate the site.
- The Secretary may order the responsible party to remediate the site if the site endangers the public health or the environment.
- The Secretary may order the responsible party to immediately take action necessary to eliminate and correct the condition if the site is an imminent hazard (i.e., it is causing serious harm to the public health or environment or is likely to cause such harm).

In either of the last two scenarios the Secretary may also initiate the remediation of the site by the Department of Environment and Natural Resources (subject to a reimbursement action against the responsible party).

BILL ANALYSIS: The PCS for House Bill 1564 provides explicit authority to the Secretary to assess an administrative penalty of up to $25,000 per day for a violation involving a voluntary remedial action implemented by a registered environmental consultant (REC). Current law allows a responsible party to employ a REC for the remediation of lower priority voluntary remedial actions. A REC is an environmental consulting and engineering firm that has been approved by the Department of Environment and Natural Resources (DENR) to implement and oversee the remediation and certify its compliance in lieu of a review by DENR staff. The use of RECs is designed to encourage more cleanups by allowing DENR staff to focus on the supervision of the cleanups of high concern sites. Under current law, the administrative penalty authority with respect to RECs is unclear and DENR has asked for this explicit authority. This part of the bill is effective October 1, 2002.

The PCS also expands the environmental permit waiver authority under the Inactive Hazardous Sites Program. If the cleanup of a site would be exempt from environmental permitting requirements if the site were being cleaned-up under the federal Superfund Program, then State law allows the Secretary to grant a waiver from any State law or rule that requires an environmental permit. Federal law waives

environmental permitting requirements where the cleanup is conducted entirely onsite. This waiver seeks to eliminate the incentive for responsible parties to landfill, and not necessarily treat, the waste off-site to avoid permitting requirements that would be applicable for onsite remediation. The waiver is also intended to expedite cleanups.

Currently, the State environmental permitting waiver provision only applies to voluntary cleanups and not ordered cleanups or cleanups conducted by the State. The PCS would expand the applicability of the State provision to all cleanups conducted under the Program. A conforming change provides that except for imminent hazard cleanups, the requirement to obtain environmental permits may be waived only if public participation in the development of the remedial action plan is provided. This exception is added because when the Secretary determines that a site is an imminent hazard he or she may order cleanup or have DENR perform the cleanup "without notice or hearing". These changes are effective when the bill becomes law.

VISITOR REGISTRATION SHEET

DATE 8-27-02

ENR -

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
Jerry Hawley	NC Pork Council	
John Cyrus	N.C. State Grange	
Letitia Williams	NC State Water	
Doug Howey	NCPMA	
Kim Hibbard	NCLM	
Preston Howard	MCIC	
Lucius Pullen	Counsel NCMA	
Dan Holman	CWMTF	
Laura DeVivo	DENR	
Robin Smith	DENR	
Molly Diggins	Sierra Club	
Kari Barkess	DENR	
Charlotte Jessen	DENR	
Dexter Matthews	DENR	
Steve Neal	CCNC	

VISITOR REGISTRATION SHEET

DATE_____

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
Jim Blackburn	Association of County Commissioners	7152893
Bob Alley	Alley Associates Inc	8324771
Elizabeth Ouzts	NCPIRG	9335769

BILL ACTION WORKSHEET FOR COMMITTEE MEETINGS

Bill	H 1564	Sponsor	Hackney, Blue
Favorable	as to CS	Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill	unfav.		
Re-referred		Motion by	
Other Action			

****

Bill	H 1572	Sponsor	Gibson
Favorable		Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

****

Bill		Sponsor	
Favorable		Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

****

Bill		Sponsor	
Favorable		Motion by	
Unfavorable		Motion by	
Amended		Motion by	
Comm. Sub.		Motion by	
Original Bill			
Re-referred		Motion by	
Other Action			

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1564 A BILL TO BE ENTITLED AN ACT TO AMEND THE INACTIVE HAZARDOUS SITES RESPONSE ACT OF 1987 AND PROVIDE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES WITH EXPLICIT AUTHORITY TO ASSESS A PENALTY FOR A VIOLATION INVOLVING A VOLUNTARY REMEDIAL ACTION UNDER THE INACTIVE HAZARDOUS SITES PROGRAM CONDUCTED BY A PRIVATE ENVIRONMENTAL CONSULTING OR ENGINEERING FIRM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☑ Committee Substitute for
H.B. 1572 A BILL TO BE ENTITLED AN ACT TO REPEAL, AMEND, AND CODIFY VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

Meeting Agenda

September 25, 2002
12:00 noon

1. **Call to Order – Representative McComas, Presiding**

2. **Bills to be considered:**

HB 1537	EXT. ANIMAL WASTE MGMT. SYSTEM INSPCT. PILOT
SB 204	REPEAL FISHERIES SUNSETS/EXTEND CORE SOUND MOR.
SB 1211	NAT. & HIST. PRESERVE AND PARK SYSTEM REMOVALS
SB 1252	LAND CONSERVATION STATUTES AMENDMENTS

3. **Adjourn**

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

September 25, 2002

MINUTES

The House Committee on Environment and Natural Resources met September 25, 2002, in Room 643 of the Legislative Office Building at 1:00 pm. Pryor Gibson and Danny McComas, Chairs, were present. Other members attending were Vice Chair Jennifer Weiss, and Committee members Gordon Allen, Arlie Culp, Jim Gulley, Dewey Hill, Verla Insko, Eugene McCombs, Frank Mitchell, Jean Preston, and John Weatherly. A Visitor Registration is attached and made part of these minutes.

Chair McComas called the meeting to order at 1:07 pm. The following bills were discussed:

HB 1537 – Ext. Animal Waste Mgmt. System Inspct. Pilot (Attachments 1, 2) Representative Hill moved to put H1537-PCS4323-RT-120 properly before the Committee. He said the bill would extend a good program for one year. Chief Counsel George Givens discussed the other major points (Attachment 3). Representative Weiss asked how much money was in the General Water Supply Revolving Loan and Grant Account and the Emergency Water Supply Revolving Loan Account.

Robin Smith, Assistant Secretary of DENR, said that there was $6 million in the General Account and $1 million in the Emergency Account. No monies were earmarked for transference to drought relief, but the bill would give DENR the authority to do so.

Representative Culp moved for a favorable report for the PCS, unfavorable to the original bill. Passed.

SB 204 – Repeal Fisheries Sunsets/Extend Core Sound Mor. (Attachments 4, 5, 6) – Representative Crawford moved to put S204-PCS5853-RT-117 properly before the Committee, and he said that the bill would set up a bi-state commission and advisory group to take better care of the Roanoke River Basin. Representative Mitchell moved for a favorable report, unfavorable to the original bill. Passed.

SB 1211 – Nat. & Hist. Preserve and Park System Removals (Attachments 7, 8, 9) – Representative Insko moved to put S1211-PCS5851-SG-54 properly before the Committee. Representative Gibson said that this bill had been before the Committee earlier; the Bald Head Island piece had been removed. Representative Hill moved for a favorable report, unfavorable to the original bill. Passed.

SB 1252 – Land Conservation Statutes Amendments (Attachments 10, 11, 12) – Representative Culp moved to put S1252-PC4768 properly before the Committee. Representative Gibson called on Counsel Rick Zichini to explain the bill, which was recommended by DENR (Attachment 12). Representative Allen moved for a favorable report, unfavorable to the original bill. Passed.

Chair McComas adjourned the meeting at 1:24 pm.

Danny McComas, Chair

Shirlyn MacPherson

Shirlyn MacPherson, Committee Assistant

9-25-02 ATT 1

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H 1

HOUSE BILL 1537*

Short Title:	Ext. Animal Waste Mgmt. System Inspct. Pilot.	(Public)
Sponsors:	Representatives Hill, Warwick, and Gibson.	
Referred to:	Environment and Natural Resources.	

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS BY THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329 and Section 5 of S.L. 2001-254, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2002,~~2003, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these three counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these three counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the three counties are used for the quick response to complaints and reported problems previously referred

only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 2. Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254, reads as rewritten:

"Section 3.3. The Department of Environment and Natural Resources, in consultation with both the Division of Water Quality and the Division of Soil and Water Conservation, shall submit interim reports no later than 15 October 1999, 15 April 2000, 15 October 2000, 15 April 2001, 15 October 2001, and 15 April 2002 and shall submit a final report no later than 15 October 2002 to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. <u>These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F.</u> The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the 2003 General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals."

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

9-25-02 ATT 2

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H D

HOUSE BILL 1537
PROPOSED COMMITTEE SUBSTITUTE H1537-PCS4323-RT-120

Short Title: Amend Environmental Laws 2002. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS TO: (1) EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS AND TO AMEND THE REPORTING REQUIREMENT FOR THE PILOT PROGRAM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION; (2) PROVIDE THAT MEMBERS OF THE SOIL AND WATER CONSERVATION COMMISSION MAY HOLD CONCURRENT OFFICES CONSISTENT WITH THE PROVISIONS OF THE CONSTITUTION OF NORTH CAROLINA; (3) AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO APPROVE GRANTS FOR SMALL WATERSHED PROJECTS RELATED TO DAM REHABILITATION AND IMPROVEMENT; (4) PROVIDE THAT MEMBERS OF THE ENVIRONMENTAL REVIEW COMMISSION WHO ARE NOT REELECTED TO THE GENERAL ASSEMBLY MAY COMPLETE THEIR TERM OF SERVICE ON THE COMMISSION; (5) PROVIDE THAT THE EASTERN BAND OF CHEROKEE INDIANS IN NORTH CAROLINA MAY RECEIVE FUNDS FROM THE CLEAN WATER REVOLVING LOAN AND GRANT FUND; (6) AUTHORIZE THE STATE INFRASTRUCTURE COUNCIL TO MEET IN THE LEGISLATIVE BUILDING AND LEGISLATIVE OFFICE BUILDING IN CERTAIN CIRCUMSTANCES; AND (7) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO TRANSFER FUNDS FROM THE GENERAL WATER SUPPLY REVOLVING LOAN AND GRANT ACCOUNT TO THE EMERGENCY WATER SUPPLY REVOLVING LOAN ACCOUNT IN ORDER TO ASSIST WATER SUPPLY SYSTEMS EXPERIENCING A DROUGHT EMERGENCY.

The General Assembly of North Carolina enacts:

SECTION 1.1. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329 and Section 5 of S.L. 2001-254, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2002,~~2003, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these three counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these three counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the three counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 1.2. Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254, reads as rewritten:

"Section 3.3. The Department of Environment and Natural Resources, in consultation with both the Division of Water Quality and the Division of Soil and Water Conservation, shall submit interim reports no later than 15 October 1999, 15 April 2000, 15 October 2000, 15 April 2001, 15 October 2001, ~~and~~ 15 April ~~2002~~2002, and 15 April 2003 and shall submit a final report no later than ~~15 October 2002~~1 October 2003 to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F. The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the 2003 General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals."

SECTION 2. G.S. 143B-295 reads as rewritten:

"§ 143B-295. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.

(a) The Soil and Water Conservation Commission of the Department of Environment and Natural Resources shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members:

(1) The president, first vice-president, and immediate past president of the North Carolina Association of Soil and Water Conservation Districts. Vacancies arising in any of these positions shall be filled through appointment by the Governor upon the nomination by the executive committee of the North Carolina Association of Soil and Water Conservation Districts;

(2) Three supervisor members nominated by the North Carolina Association of Soil and Water Conservation Districts from its own membership representing the three major geographical regions of the State and appointed by the Governor;

(3) One member appointed at large by the Governor.

(b) ~~The initial members of the Commission shall be the members of the Soil Conservation Committee who shall serve for a period equal to the remainder of their current terms on the Soil Conservation Committee. At the end of the respective terms of office of the initial members of the Commission, their successors,~~ The members of the Commission, except those members serving in an ex officio capacity, shall be appointed for terms of three years and shall serve until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(c) The office of member of the Soil and Water Conservation Commission may be held concurrently with any other elected or appointed office, as authorized by G.S. 128-1.1 and Article VI, Section 9, of the Constitution of North Carolina.

(d) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of ~~G.S. 143B-13 of the Executive Organization Act of 1973.~~G.S. 143B-13.

(e) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the Commission shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources."

SECTION 3. G.S. 139-54 reads as rewritten:

"§ 139-54. Purposes for which grants may be requested.

Applications for grants may be made for the nonfederal share of small watershed projects for the following purposes in amounts not to exceed the percentage of the nonfederal costs indicated:

(1) Land rights acquisition for impounding or retarding water – fifty percent ~~(50%);~~(50%).
(2) Engineering fees – fifty percent ~~(50%);~~(50%).
(3) Anticipated future and present water supply needs in conjunction with watershed improvement works or projects as described in G.S. 139-37.1 – fifty percent ~~(50%);~~(50%).
(4) Installation of recreational facilities and services (to include land acquisition) as described in G.S. 139-46 – fifty percent ~~(50%);~~(50%).
(5) Construction costs for water management (drainage or irrigation) purposes, including utility and road relocations not funded by the State Department of Transportation – sixty-six and two-thirds percent ~~(66 2/3%);~~(66 2/3%).
(6) Conservation and replacement of fish and wildlife habitat as described in G.S. 139-46 – seventy-five percent (75%).
(7) Rehabilitation or improvement of water resources structural measures in accordance with criteria established by the Natural Resources Conservation Service of the United States Department of Agriculture pursuant to the Watershed Protection and Flood Prevention Act of 1954, as amended by the Small Watershed Rehabilitation Amendments of 2000 (Pub. L. No. 106-472, 114 Stat. 2007), codified at 16 U.S.C. § 1001, et. seq.; the Dam Safety Law of 1967, G.S. 143-215.23, et. seq.; and rules adopted pursuant thereto – fifty percent (50%)."

SECTION 4. G.S. 120-70.42 reads as rewritten:

"**§ 120-70.42. Membership; cochairs; vacancies; quorum.**

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair of the Senate Committee on ~~Environment~~ Agriculture, Environment, and Natural ~~Resources,~~ Resources or the equivalent committee, and the Chair of the House of Representatives Committee on ~~the Environment.~~ Environment and Natural Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy ~~which~~ that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of eight members."

SECTION 5. G.S. 159G-3(10) reads as rewritten:

"(10) 'Local government unit' means a county, city, town, incorporated village, consolidated city-county, as defined by G.S. 160B-2(1), including such a consolidated city-county acting with respect to an urban service district defined by a consolidated city-county, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, joint agency authorized by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that also provided water and wastewater services off the airport premises before January 1, 1995, ~~or~~ joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General ~~Statutes.~~Statutes, or the Eastern Band of Cherokee Indians in North Carolina."

SECTION 6. G.S. 143B-344.32 reads as rewritten:

"**§ 143B-344.32. Staff and offices.**

The Department of Environment and Natural Resources shall provide office space and staff for the State Infrastructure Council as requested by the Council. Upon the request of a chair of the State Infrastructure ~~Council,~~ Council who is also a member of the General Assembly, the Legislative Services Office shall also provide professional staff services to the Council. Upon the request of a chair of the State Infrastructure Council who is also a member of the General Assembly, the Council may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission."

SECTION 7. G.S. 159G-6(c) reads as rewritten:

"(c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to applicants as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the ~~Division of Environmental Health.~~Secretary of Environment and Natural Resources.

(1) General Water Supply Revolving Loan and Grant Account. – The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.

(2) High-Unit Cost Water Supply Account. – The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

(3) Emergency Water Supply Revolving Loan Account. – The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the ~~Division~~

~~of Environmental Health~~Secretary of Environment and Natural Resources certifies either that a serious public health hazard, related to the water supply system, or that a drought emergency is present or imminent in a community.

(4) Inter-Account Transfers. – The Department of Environment and Natural Resources may transfer funds from the General Water Supply Revolving Loan and Grant Account to the Emergency Water Supply revolving Loan Account in the event that the Secretary of Environment and Natural Resources certifies that a drought emergency exists and that additional emergency funds are needed to assist water supply systems that are experiencing a drought emergency."

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

9-23-02 ATT 3

HOUSE BILL 1537:
Amend Environmental Laws 2002.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Representative Gibson
Date:	September 25, 2002	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (H1537-PCS4323-RT-120)		

SUMMARY: ***The Proposed Committee Substitute (PCS) for HB 1537 does the following:***

- ***Extends the pilot program for inspection of animal waste management systems and amends the reporting requirement for the pilot program.***
- ***Provides that members of the Soil and Water Conservation Commission may hold concurrent offices consistent with the provisions of the Constitution of North Carolina.***
- ***Authorizes the Soil and Water Conservation Commission to approve grants for small watershed projects related to dam rehabilitation and improvement.***
- ***Provides that members of the Environmental Review Commission who are not reelected to the General Assembly may complete their term of service on the Commission.***
- ***Provides that the Eastern Band of the Cherokee Indians in North Carolina may receive funds from the Clean Water Revolving Loan and Grant Fund.***
- ***Authorizes the State Infrastructure Council to meet in the Legislative Building and the Legislative Office Building in certain circumstances.***
- ***Authorizes the Department of Environment and Natural Resources (DENR) to transfer funds from the General Water Supply Revolving Loan and Grant Account to the Emergency Water Supply Revolving Loan Account in the event of a drought emergency.***

The PCS would become effective when it becomes law.

BILL ANALYSIS: The PCS for HB 1537 amends the General Statutes for various environmental laws, programs, and commissions The PCS would make the following changes:

Animal Waste Management System Inspection Pilot Program: Section 1.1 of the PCS extends the animal operation inspection pilot program being conducted in three counties from September 1, 2002 to September 1, 2003. Under the pilot program, the Division of Soil and Water Conservation of DENR may perform the required annual inspection of animal operations permitted under Article 21 of Chapter 143 of the General Statutes. Section 1.2 of the PCS directs DENR to include a comparison of the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections in the standard program. The Environmental Review Commission recommended the language in Sections 1.1 and 1.2.

Soil and Water Conservation Commission Membership: Section 2 of the PCS amends G.S. 143B-295 to allow the members of the Soil and Water Conservation Commission to hold concurrent offices, as authorized by G.S. 128-1.1 and Article VI, Section 9, of the Constitution of North Carolina.

Watershed Improvement Grants: Section 3 of the PCS authorizes the Soil and Water Conservation Commission to approve grants for small watershed projects related to dam rehabilitation and improvement. The federal Small Watershed Rehabilitation Amendments of 2000 (PL 106-472) authorized the Unites States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) to provide grants for restoration and rehabilitation of aging dams. The federal grant program provides up to 65 percent (65%) of the total cost of the rehabilitation project. The bill would allow the Soil and Water Conservation Commission to approve grants that can be used to cover the up to half (50%) of the remaining 35 percent (35%). Local sponsors may also provide the remaining portion through "in kind" costs for the value of land rights, project administration, and other planning and implementation costs associated with the project.

Environmental Review Commission Membership: Section 4 of the PCS amends G.S. 120-70.42 to allow members of the Environmental Review Commission who are not reelected to the General Assembly to complete their term of service on the Commission. Similar language exists for most standing legislative committees and commissions.

Eligibility for Clean Water Revolving Fund Grants: Section 5 of the PCS amends the definition of "local government unit" in G.S. 159G-3(10) to include the Eastern Band of the Cherokee Indians in North Carolina. Inclusion in the definition of local government unit in the section authorizes the Eastern Band of the Cherokee Indians to apply for loans or grants from the Clean Water Revolving Loan and Grant Fund.

State Infrastructure Council: Section 6 of the PCS authorizes the State Infrastructure Council, upon the request of the chair of the Council and upon approval of the Legislative Services Commission, to meet in the Legislative Building or the Legislative Office Building.

Water Supply Accounts: Section 7 of the PCS provides that funds in the Emergency Water Supply Revolving Loan Account may be used to provide revolving emergency loans for communities facing a drought emergency, in addition to communities that face a serious public health hazard related to their water supply system. The PCS also authorizes DENR to transfer funds from the General Water Supply Revolving Loan and Grant Account to the Emergency Water Supply Revolving Loan Account in the event that the Secretary of Environment and Natural Resources certifies that a drought emergency exists and that additional funds are needed to assist water supply systems.

Effective Date: The PCS would become effective when it becomes law.

9-25-02 ATT 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S 1

SENATE BILL 204*

Short Title:	Repeal Fisheries Sunsets/ Extend Core Sound Mor.	(Public)
Sponsors:	Senators Albertson; and Shaw of Guilford.	
Referred to:	Agriculture/Environment/Natural Resources.	

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.15 of S.L. 1997-400 reads as rewritten:

"Section 6.15. Sections 1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 5.5, 5.6, 5.8, 6.2, 6.7, 6.10, 6.11, 6.12, 6.13, and 6.15 of this act are effective when this act becomes law. Sections 2.1, 4.4, 5.3, 6.3, 6.4, 6.5, 6.6, and 6.8 of this act become effective 1 September 1997. Sections 4.1, 4.2, and 4.3 of this act become effective 1 September 1997 and apply to violations and offenses on or after 1 September 1997. Section 1.2 of this act is effective retroactively as of 1 March 1997. Sections 6.1 and 6.14 of this act become effective 15 August 1997. Sections 3.1, 3.2, 3.3, 3.4, 3.5, and 6.9 of this act become effective 1 July 1998. Sections 2.2, 5.1, 5.2, 5.4, and 5.7 of this act become effective 1 July 1999. Section 4.5 of this act becomes effective 1 July 1999 and applies to violations and offenses on or after 1 July 1999. ~~Sections 5.1 and 5.2 of this act expire 1 September 2003.~~"

SECTION 2. Section 5.6 of S.L. 1998-225 reads as rewritten:

"Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6,

4.7, and 4.8 are effective retroactively to September 1, 1997. ~~Section 4.15 expires September 1, 2003.~~"

SECTION 3. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; and Section 1 of S.L. 1999-209, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2001.~~October 1, 2002."

SECTION 4. This act becomes effective July 1, 2001.

9-25-02 ATT #5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 204
PROPOSED HOUSE COMMITTEE SUBSTITUTE S204-PCS5853-RT-117

Short Title: Roanoke River Basin Bi-State Commission. (Public)

Sponsors:

Referred to:

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE ROANOKE RIVER BASIN BI-STATE COMMISSION AND ROANOKE RIVER BASIN ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 7.

"Roanoke River Basin Bi-State Commission; Roanoke River Basin Advisory Committee.

"Part 1. Roanoke River Basin Bi-State Commission.

"**§ 77-90. Definitions.**

The following definitions apply in this Article:

(1) 'Commission' means the Roanoke River Basin Bi-State Commission.

(2) 'Roanoke River Basin' or 'Basin' means that land area designated as the Roanoke River Basin by the North Carolina Department of Environment and Natural Resources pursuant to G.S. 143-215.8B and the Virginia State Water Control Board pursuant to Code of Virginia § 62.1-44.38.

"**§ 77-91. Commission established; purposes.**

There is established the Roanoke River Basin Bi-State Commission. The Commission shall be composed of members from the State of North Carolina and the Commonwealth of Virginia. The purposes of the Commission shall be to:

(1) Provide guidance and make recommendations to local, state, and federal legislative and administrative bodies, and to others as it deems necessary and appropriate, for the use, stewardship, and enhancement of the water, and other natural resources, for all citizens within the Basin.

(2) Provide a forum for discussion of issues affecting the Basin's water quantity and water quality and issues affecting other natural resources.
(3) Promote communication, coordination, and education among stakeholders within the Basin.
(4) Identify problems and recommend appropriate solutions.
(5) Undertake studies and prepare, publish, and disseminate information through reports, and in other forms, related to water quantity, water quality, and other natural resources of the Basin.

"**§ 77-92. Membership; terms of office; eligibility for appointment.**

(a) The Roanoke River Basin Bi-State Commission shall consist of 18 members with each state appointing nine members. The North Carolina delegation to the Commission shall consist of the six members of the General Assembly of North Carolina appointed to the North Carolina Roanoke River Basin Advisory Committee and three nonlegislative members of the North Carolina Roanoke River Basin Advisory Committee, established pursuant to G.S. 77-103, who represent different geographical areas of the North Carolina portion of the Basin, to be appointed by the Governor of North Carolina. The Virginia delegation to the Commission shall be appointed as determined by the Commonwealth of Virginia.

(b) All members appointed to the Commission from the State of North Carolina and the Commonwealth of Virginia shall reside within the Basin's watershed. Members of the North Carolina House of Representatives, the North Carolina Senate, the Virginia House of Delegates, the Virginia Senate, and federal legislators, who have not been appointed to the Commission and whose districts include any portion of the Basin, may serve as nonvoting ex officio members of the Commission.

(c) Except as provided in this subsection, members of the North Carolina delegation to the Commission shall serve at the pleasure of the Governor of North Carolina. The Governor of North Carolina may not remove a legislative member of the North Carolina delegation to the Commission during the legislator's term of office, except that the Governor may remove any member of the North Carolina delegation to the Commission for misfeasance, malfeasance, or nonfeasance as provided in G.S. 143B-13. A legislative member of the North Carolina delegation to the Commission who ceases to be a member of the General Assembly of North Carolina shall cease to be a member of the Commission. The terms of members of the Virginia delegation to the Commission shall be determined by the Commonwealth of Virginia.

(d) Each state's delegation to the Commission may meet separately to discuss Basin-related issues affecting their state and may report their findings independently of the Commission.

"**§ 77-93. Powers and duties.**

(a) The Commission shall have no regulatory authority.

(b) To perform its duties and objectives, the Commission shall have the following powers:

(1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, selecting a chairman and vice-chairman,

rotating chairmanships, calling meetings, and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the Commission members.

(2) To establish standing and ad hoc advisory committees pursuant to G.S. 77-94 in addition to the North Carolina Roanoke River Basin Advisory Committee established pursuant to Part 2 of this Article and the Virginia Roanoke River Basin Advisory Committee established pursuant to Chapter 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a manner to ensure a balance between recognized interests. The Commission shall determine the purpose of each advisory committee.

(3) To seek, apply for, accept, and expend gifts, grants and donations, services, and other aid from public or private sources. With the exception of funds provided by the planning district commissions, councils of governments, and commissions and funds appropriated by the General Assemblies of Virginia and North Carolina, the Commission may accept funds only after an affirmative vote by a majority of the members of the Commission or by following any other procedures that are established by the Commission for the conduct of its business.

(4) To establish a nonprofit corporation to assist in the details of administering its affairs and in raising funds.

(5) To enter into contracts and execute all instruments necessary or appropriate.

(6) To perform any lawful acts necessary or appropriate for the furtherance of its work.

"**§ 77-94. Standing and ad hoc committees.**

To facilitate communication among stakeholders in the Basin, and to maximize participation by all interested parties, the Commission shall establish both standing and ad hoc committees. The Commission shall appoint the members of the standing and ad hoc committees in accordance with guidelines adopted by the Commission. The standing committees shall include all of the following:

(1) Permit holders. – The Commission shall identify those entities that hold permits issued by a federal, state, or local regulatory agency pertaining to the water of the Basin. The entities may recommend representatives to be appointed to the committees by the Commission.

(2) Roanoke River Basin interest groups. – The Commission shall identify interest groups that may recommend representatives to be appointed to the committees by the Commission.

(3) Public officials and governmental entities. – The committees shall be composed of representatives of each county, city, and town located completely or partially within the Basin. Also, other governmental entities that the Commission deems appropriate may recommend one

member to be appointed to the committees by the Commission. The committees may also include the United States Senators from North Carolina and Virginia or their designees, and any member of the United States House of Representatives or the Representative's designee, whose district includes any portion of the Basin, if the members elect to serve on the committees.

(4) Agriculture, forestry, and soil and water conservation districts. – The Commission shall identify persons who represent agricultural and forestry interests throughout the Basin and representatives from the soil and water conservation districts within the Basin and shall appoint representatives from these groups to the committees.

"**§ 77-95. Staffing and support.**

(a) The North Carolina Department of Environment and Natural Resources and the Virginia Department of Environmental Quality shall provide staff support to the Commission. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission, within available resources.

(b) All agencies of the State of North Carolina and the Commonwealth of Virginia shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources and the Virginia Secretary of Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the Commission.

"**§ 77-96. Funding.**

(a) The Commission shall annually adopt a budget that shall include the Commission's estimated expenses. Funding for the Commission shall be shared and apportioned between the State of North Carolina and the Commonwealth of Virginia. The appropriation of public funds to the Commission shall be provided through each state's regular process for appropriating public funds. The North Carolina councils of governments and commissions named in G.S. 77-103(b)(5) shall bear a proportion of North Carolina's share of the expenses, which may be in the form of in-kind contributions.

(b) The Commission shall designate a fiscal agent.

(c) The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the North Carolina Auditor and the Virginia Auditor of Public Accounts prescribe, provided that the accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the North Carolina Auditor and the Virginia Auditor of Public Accounts or their legal representatives, and the costs of the audit services shall be borne by the Commission. The results of the audits shall be delivered to the Joint Legislative Commission on Governmental Operations of the General Assembly of North Carolina and as provided by the Commonwealth of Virginia.

"**§ 77-97. Compensation and expenses of Commission members.**

(a) The appointed members of the North Carolina delegation to the Commission shall receive per diem, subsistence, and travel expenses as follows:

(1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.

(3) All other Commission members at the rate established in G.S. 138-5.

(b) The members of the Virginia delegation to the Commission shall receive compensation as provided by the Commonwealth of Virginia.

(c) All expenses shall be paid from funds appropriated or otherwise available to the Commission.

"**§ 77-98. Annual report.**

The Commission shall submit an annual report, including any recommendations, to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of Virginia, and the General Assembly of Virginia.

"**§ 77-99. Termination.**

The General Assembly of North Carolina may terminate the Commission by repealing this Part. The Commission shall terminate if the General Assembly of Virginia repeals the provisions of the Code of Virginia that are comparable to this Part.

"Part 2. Roanoke River Basin Advisory Committee.

"**§ 77-103. Committee established; membership; terms; vacancies.**

(a) The North Carolina Roanoke River Basin Advisory Committee is established as an advisory committee to the North Carolina delegation to the Roanoke River Basin Bi-State Commission. The purpose of the Advisory Committee is to assist the delegation in achieving the purposes of the Commission as set out in G.S. 77-91 and in fulfilling the powers and duties set out in G.S. 77-93.

(b) The Advisory Committee shall be composed of 21 members as follows:

(1) Three members of the House of Representatives whose districts include a part of the North Carolina portion of the Basin, to be appointed by the Speaker of the House of Representatives.

(2) Three members of the Senate whose districts include a part of the North Carolina portion of the Basin, to be appointed by the President Pro Tempore of the Senate.

(3) The member of the United States House of Representatives who represents North Carolina Congressional District 1, if the Representative elects to serve on the Advisory Committee, or that Representative's designee.

(4) The member of the United States House of Representatives who represents North Carolina Congressional District 13, if the Representative elects to serve on the Advisory Committee, or that Representative's designee.

(5) Twelve persons who reside within the North Carolina portion of the Basin, who represent the diversity of interests in the Basin, and who

have demonstrated interest, experience, or expertise in water-related Basin issues, appointed as provided in this subdivision. The chief executive officer of each of the following councils and commissions shall each appoint two persons, one of whom may be the chief executive officer and at least one of whom shall reside in the area served by the council or commission, as members of the Advisory Committee:

a. Piedmont Triad Council of Governments.
b. Northwest Piedmont Council of Governments.
c. Kerr-Tar Regional Council of Governments.
d. Upper Coastal Plain Council of Governments.
e. Mid-East Commission.
f. Albemarle Economic Development Commission.

(6) The Secretary of Environment and Natural Resources or the Secretary's designee.

(c) The terms of each member of the Advisory Committee appointed as provided in subdivision (5) of subsection (b) of this section shall be two years. The term of one of these members shall expire on 1 January of even-numbered years, and the term of the other member shall expire on 1 January of odd-numbered years. A member who is appointed pursuant to subdivision (5) of subsection (b) of this section who attends at least one-half of the meetings of the Advisory Committee held during the member's term may be reappointed to another term, but no member shall serve more than three consecutive terms. The terms of all other members of the Advisory Committee shall begin when the member is appointed and end when the member's term as Representative, Senator, United States Representative, or Secretary ends. An appointment to fill a vacancy on the Advisory Committee shall be for the unexpired balance of the term. A vacancy on the Advisory Committee shall be filled in the same manner as the original appointment.

"**§ 77-104. Cochairs; meetings.**

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one member of the Advisory Committee as Cochair. The Advisory Committee shall meet upon the call of the Cochairs.

"**§ 77-105. Expenses of members.**

Members of the Advisory Committee shall receive no salary or per diem as a result of service on the Advisory Committee but shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable.

"**§ 77-106. Staffing; meeting facilities; assistance by agencies.**

The Department of Environment and Natural Resources shall provide staffing and meeting facilities for the Advisory Committee. All agencies of the State shall cooperate with the Advisory Committee and, upon request, shall assist the Advisory Committee in fulfilling its responsibilities."

SECTION 2. In making initial appointments to the Roanoke River Basin Advisory Committee pursuant to G.S. 77-103(b)(5), as enacted by Section 1 of this act,

the chief executive officer of each council and commission listed in G.S. 77-103(b)(5) shall designate one member to serve a term that begins at the time of appointment and expires on 1 January 2004 and another member to serve a term that begins at the time of appointment and expires on 1 January 2005. Thereafter, all appointments shall be for terms of two years and shall expire as provided in G.S. 77-103(c).

SECTION 3. This act becomes effective 1 October 2002.

9-25-02 ATT # 6

SENATE BILL 204:
Roanoke River Basin Bi-State Commission.

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Albertson
Date:	September 25, 2002	**Summary by:**	Tim Dodge Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (S204-PCS5853-RT-117)		

SUMMARY: ***The Proposed Committee Substitute (PCS) for SB 204 establishes the North Carolina Roanoke River Basin Bi-State Commission and the Roanoke River Basin Advisory Committee. The Commission, with the assistance of the Advisory Committee, would provide guidance and make recommendations to various government bodies in the use, stewardship, and enhancement of water and other natural resources in the basin. The PCS would become effective October 1, 2002.***

BILL ANALYSIS: The PCS for SB 204 establishes the North Carolina Roanoke River Basin Bi-State Commission (Commission) and the Roanoke River Basin Advisory Committee (Committee). The Commission is composed of 18 members, with nine members representing North Carolina and nine members representing Virginia. The North Carolina delegation to the Commission includes three members of the Senate and three members of the House of Delegates, whose districts include a portion of the Roanoke River Basin, and three nonlegislative members of the Advisory Committee. State and federal legislators from both states, who are not appointed to the Commission, may be nonvoting, ex-officio members of the Commission. All persons appointed to the Commission must live within the Basin's watershed.

The Commission has no regulatory authority. Its purposes include:

(i) To provide guidance and make recommendations to local, state, and federal legislative and administrative bodies on the use, stewardship, and enhancement of the water and other natural resources within the Basin.

(ii) To provide a forum for discussion of issues affecting the Basin's water quality, water quantity, and natural resources.

(iii) To promote communication, coordination, and education among stakeholders.

(iv) To identify problems and recommend solutions.

(v) To undertake studies and prepare, publish, and disseminate information through reports, and other communications, related to water quantity, water quality and other natural resources of the Basin.

To facilitate communication and maximize participation by interested parties in the Basin, the Commission will also establish standing and ad-hoc committees that include the following stakeholders:

- Permit holders.
- Public officials and government entities.
- Agriculture, forestry, and soil and water conservation districts.

- Other Roanoke River Basin interest groups.

The Advisory Committee is composed of 21 members and will advise and assist the North Carolina delegation to the Commission in performing its duties. The Advisory Committee would consist of:

- Three members of the Senate and three members of the House of Representatives whose districts include a part of the North Carolina portion of the Roanoke River Basin.
- The member of the U.S. House of Representatives who represents North Carolina Congressional District 1 or the Representative's designee.
- The member of the U.S. House of Representatives who represents North Carolina Congressional District 13 or the Representative's designee.
- The Secretary of Environment and Natural Resources of the Secretary's designee.
- Twelve members, two of which are recommended by each of the following local planning councils and commissions:
  - Piedmont Triad Council of Governments.
  - Northwest Piedmont Council of Governments.
  - Kerr-Tar Regional Council of Governments.
  - Upper Coastal Plain Council of Governments.
  - Mid-East Commission.
  - Albemarle Economic Development Commission.

This PCS provides that the Department of Environment and Natural Resources (DENR) and the Virginia Department of Environment and Environmental Quality shall provide staff support to the Commission. DENR shall provide staffing and meeting facilities for the Advisory Committee. The PCS also directs the Commission to submit an annual report, including any recommendations, to the Governor of North Carolina, the Environmental Review Commission of North Carolina, the Governor of Virginia, and the General Assembly of Virginia.

Background:

The Commonwealth of Virginia enacted legislation in 2002 that created the Virginia Roanoke River Basin Bi-State Commission and the Virginia Roanoke River Basin Advisory Committee. The PCS parallels the legislation enacted in Virginia.

Effective Date:

The PCS would become effective October 1, 2002.

9-25-02 AM 7

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 3

SENATE BILL 1211

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/22/02

Third Edition Engrossed 7/24/02

Short Title: Nat & Hist Preserve and Park System Removals. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO REMOVE BOONE'S CAVE STATE NATURAL AREA AND A PORTION OF BALDHEAD ISLAND STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE THESE PROPERTIES FROM THE STATE PARKS SYSTEM, TO AUTHORIZE THE TRANSFER OF THESE PROPERTIES FOR LIMITED PURPOSES, AND TO ALLOW CERTAIN PUBLIC ENTITIES TO USE THE FIRE TOWER AT MOUNT JEFFERSON STATE NATURAL AREA FOR PUBLIC COMMUNICATION PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: ~~Baldhead Island State Natural Area,~~ Bay Tree Lake State Park, ~~Boone's Cave State Natural Area,~~ Bullhead Mountain State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, ~~Mount Jefferson State Natural Area,~~ Mount Mitchell State Park, Occoneechee

Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

...

(16) All lands and waters located within the boundaries of Baldhead Island State Natural Area as of April 3, 2001, with the exception of the southern one-quarter of the appurtenant easement on that certain tract or parcel of property at Baldhead Island State Natural Area in Brunswick County, Smithville Township, described in Deed Book 401, Page 602, and more particularly described as follows: the tract beginning at a point having North Carolina Grid Coordinates y=40000.00, x=2315685.00; thence due west 510 feet to a point in the high water mark of the marsh having North Carolina Grid Coordinates y=40000.00, x=2315175.00; thence with the high water mark of the marsh in a northerly direction to a point intersecting the northern boundary of the tract, which is represented by a line running due east and west and intersecting North Carolina Grid Coordinates y=40750.00, x=2315685.00; thence along the northern boundary to a point intersecting the mean high water line of the Atlantic Ocean; thence in a southerly direction with the mean high water line of the Atlantic Ocean to the point of beginning. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Baldhead Island State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(17) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of April 3, 2001. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communication purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communication purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is

necessary for the proper operation of the communication devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes."

SECTION 2. Boone's Cave State Natural Area is deleted from the State Parks System pursuant to G.S. 113-44.14. The State may transfer this property to Davidson County for management as a park. The instrument transferring this property shall provide that the State retains a possibility of reverter and shall provide that in the event that Davidson County ceases to manage the property as a park the property shall revert to the State. The State may not otherwise sell or exchange the property.

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

9-25-02 ATT # 8

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S D

SENATE BILL 1211
Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/22/02
Third Edition Engrossed 7/24/02
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1211-PCS5851-SG-54

Short Title: Nat & Hist Preserve and Park System Removals. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO REMOVE BOONE'S CAVE STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE AND THE STATE PARKS SYSTEM, TO AUTHORIZE THE TRANSFER OF THIS PROPERTY TO DAVIDSON COUNTY FOR MANAGEMENT AS A PARK, AND TO ALLOW CERTAIN PUBLIC ENTITIES TO USE THE FIRE TOWER AT MOUNT JEFFERSON STATE NATURAL AREA FOR PUBLIC COMMUNICATIONS PURPOSES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

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

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

(1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: Baldhead Island State Natural Area, Bay Tree Lake State Park, ~~Boone's Cave State Natural Area,~~ Bullhead Mountain State Natural Area, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural Area, Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond

State Park, Mitchells Millpond State Natural Area, ~~Mount Jefferson State Natural Area,~~ Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

...

(16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of April 3, 2001. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes."

SECTION 2. Boone's Cave State Natural Area is deleted from the State Parks System pursuant to G.S. 113-44.14. The State may transfer this property to Davidson County for management as a park. The instrument transferring this property shall provide that the State retains a possibility of reverter and shall provide that, in the event that Davidson County ceases to manage the property as a park, the property shall revert to the State. The State may not otherwise sell or exchange the property.

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

9-25-02 ATT 9

SENATE BILL 1211: Nature and Historic Preserve and Park System Removals

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Horton
		Summary by:	Rick Zechini Committee Counsel
Date:	September 25, 2002		
Version:	Proposed Committee Substitute for the Third Edition		

SUMMARY: ***The Proposed Committee Substitute (PCS) for the Third Edition of Senate Bill 1211 removes Boone's Cave State Natural Area from the State Nature and Historic Preserve and the State Parks System and authorizes the State to transfer this property to Davidson County for management as a park. The PCS also authorizes the use of the communications tower site on the top of Mount Jefferson at the Mount Jefferson State Natural Area by State public safety and emergency management agencies and local governments in Ashe County. The PCS is effective when it becomes law. Senate Bill 1211 was recommended for introduction by the Environmental Review Commission.***

CURRENT LAW: Article XIV, Section 5 of the North Carolina Constitution establishes the State Nature and Historic Preserve (Preserve). The Preserve is intended to insure that lands and waters acquired and preserved by the State of North Carolina or its political subdivisions for 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.[1] 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:

Boone's Cave State Natural Area

The PCS for Senate Bill 1211 removes Boone's Cave State Natural Area from the State Nature and Historic Preserve and the State Parks System and authorizes the transfer of this property to Davidson County for management as a park. The instrument transferring this property must provide that the State retains a possibility of reverter and shall provide that in the event that Davidson County ceases to manage the property as a park the property shall revert to the State. The State may not otherwise sell or exchange the property.

Mount Jefferson State Natural Area

Some time ago DENR erected a fire tower on the top of Mount Jefferson. In addition to using the structure as a fire tower, DENR placed radio repeaters on the tower for use by the Division of Forest

[1] Section 4 of S.L. 1999-268, as amended by Section 3 of S.L. 2001-18 and Section 1 of S.L. 2002-3 (2002 Extra Session), provides for a vote at the next statewide general election on amending the North Carolina Constitution to provide that properties may be accepted into the Preserve through the enactment of a bill alone.

Resources and the Division of Parks and Recreation. Over the years DENR allowed the State Highway Patrol, the Department of Transportation, and Ashe County to install repeaters or antennas on the fire tower and on a neighboring tower.

As stated above, once land is dedicated into the Preserve any use of the land for other than park, recreation, conservation, and historic preservation purposes must be authorized by a law enacted by a vote of three-fifths of the members of each house. The PCS for Senate Bill 1211 explicitly authorizes the use of the site by State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communication purposes. The PCS also authorizes, notwithstanding G.S. 146-29.2, the State to lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communication purposes. G.S. 146-29.2 prohibits the State from leasing lands of the State Parks System for the construction and placement of communications towers or the placement of antennas on State-owned structures. Thus, the PCS provides a limited exemption to the prohibition set out in G.S. 146-29.2.

The PCS is effective when it becomes law.

9-25-02 ATT #10

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S 2

SENATE BILL 1252

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/25/02

Short Title: Land Conservation Statutes Amendments. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program that uses conservation tax credits as a prominent tool to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real property: donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 2. G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by that Department. The purpose of the Fund is to stimulate the use of conservation ~~easements,~~ easements and conservation tax credits, to improve the capacity of private nonprofit land ~~trusts~~ trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase ~~citizen~~ landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the

General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for ~~land~~ real property or an interest in real property to be the subject of a grant under this Article, the ~~land~~ real property or interest in real property must possess or have a high potential to possess ecological value, must be reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of the Internal Revenue Code.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.

(2) Conservation grants made in accordance with this Article.

(3) To establish an endowment account, the interest from which will be used for a purpose described in ~~G.S. 113A-233(a)(3) or (a)(5).~~ G.S. 113A-233(a)."

SECTION 3. G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for donations of real property or an interest in real property from individuals or corporations satisfying either of the following:

a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.

b. Insufficient tax burdens to allow these costs to be offset by the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by charitable deductions.

(2) Management support, including initial baseline inventory and planning.

(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.

(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.

(5) Stewardship of land.

(6) Transaction ~~costs,~~ costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.

(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price ~~for any interest in land.~~ of real property or an interest in real property."

SECTION 4. G.S. 113A-234 reads as rewritten:

"**§ 113A-234. Administration of grants.**

(a) Grant Procedures and Criteria. – The Secretary of Environment and Natural Resources shall establish the procedures and criteria for awarding grants from the Conservation Grant Fund. The criteria shall focus grants on those areas, approaches, and techniques that are likely to provide the optimum positive effect on environmental protection. The Secretary shall make the final decision on the award of grants and shall announce the award publicly in a timely manner.

(b) Grant Administration. – The Secretary may administer the grants under this Article or may contract for selected activities under this Article. If administrative services are contracted, the Department shall establish guidance and criteria for its operation and contract with a statewide nonprofit land trust service organization."

SECTION 5. G.S. 113A-235 reads as rewritten:

"**§ 113A-235. Conservation easements.**

(a) Acquisition and Protection of Conservation Easements. – Ecological systems and appropriate public use of these systems may be protected through conservation easements, including conservation agreements under Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act, and conservation easements under the Conservation Reserve Enhancement Program. The Department of Environment and Natural Resources shall work cooperatively with State and local agencies and qualified nonprofit organizations to monitor compliance with conservation easements and conservation agreements and to ensure the continued viability of the protected ecosystems. Soil and water conservation districts established under Chapter 139 of the General Statutes may acquire easements under the Conservation Reserve Enhancement Program by purchase or gift.

(b) Conveyance of Conservation Lands. – The Department may convey real property or an interest in real property that has been acquired ~~under the Conservation Reserve Enhancement Program~~ for conservation in perpetuity to a federal ~~or~~ agency, State agency, a local government, or a ~~private,~~ private nonprofit conservation ~~organization to acquire, manage,~~ organization in accordance with State law governing the conveyance of real property. The grantee of real property or an interest in real property shall manage and maintain the real property or ~~an~~ interest in real property for the purposes set out in subsection (a) of this section. When conveying real property or an interest in real property under this subsection, the Department shall retain a possibility of reverter, a right of entry, or other appropriate property interest. ~~A grantee of real property or an interest in real property under this subsection shall grant a conservation easement in the real property or interest in real property to the Department in a form that is acceptable to the Department.~~

(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 November of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

SECTION 6. This act is effective when it becomes law.

9-25-02 ATT 11

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S D

SENATE BILL 1252

Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/25/02

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1252-PCS4768-SG-55

Short Title: Land Conservation Statutes Amendments. (Public)

Sponsors:

Referred to:

June 6, 2002

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE OF NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-231 reads as rewritten:

"**§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environment and Natural Resources shall develop a nonregulatory program that uses conservation tax credits as a prominent tool to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real property: donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the use of other financial incentives; or, conserved through nonregulatory programs. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program."

SECTION 2. G.S. 113A-232 reads as rewritten:

"**§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environment and Natural Resources. The Fund shall be administered by that Department. The purpose of the Fund is to stimulate the use of conservation ~~easements,~~ easements and conservation tax credits, to improve the capacity of private nonprofit land ~~trusts~~ trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase ~~citizen~~ landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public monies for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any monies appropriated to it by the General Assembly and any monies received from public or private sources. Unexpended monies in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended monies in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Property Eligibility. – In order for ~~land~~ real property or an interest in real property to be the subject of a grant under this Article, the ~~land~~ real property or interest in real property must possess or have a high potential to possess ecological value, must be reasonably restorable, and must qualify for tax credits under G.S. 105-130.34 or G.S. 105-151.12.

(c1) Grant Eligibility. – State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be certified under section 501(c)(3) of the Internal Revenue Code.

(d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the following purposes:

(1) The administrative costs of the Department in administering the Fund.

(2) Conservation grants made in accordance with this Article.

(3) To establish an endowment account, the interest from which will be used for a purpose described in ~~G.S. 113A-233(a)(3) or (a)(5).~~ G.S. 113A-233(a)."

SECTION 3. G.S. 113A-233 reads as rewritten:

"**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

(a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to pay for one or more of the following costs:

(1) Reimbursement for total or partial transaction costs for a ~~donations~~ donation of real property or an interest in real property from an ~~individuals~~ individual or ~~corporations~~ corporation satisfying either of the following:

a. Insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.

b. Insufficient tax burdens to allow these costs to be offset by the value of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by charitable deductions.

(2) Management support, including initial baseline inventory and planning.

(3) Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.

(4) Education on conservation, including information materials intended for landowners and education for staff and volunteers.
(5) Stewardship of land.
(6) Transaction ~~costs,~~ costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
(7) Administrative costs for short-term growth or for building capacity.

(b) Prohibition. – The Fund shall not be used to pay the purchase price ~~for any interest in land.~~ of real property or an interest in real property."

SECTION 4. G.S. 113A-234 reads as rewritten:

"**§ 113A-234. Administration of grants.**

(a) Grant Procedures and Criteria. – The Secretary of Environment and Natural Resources shall establish the procedures and criteria for awarding grants from the Conservation Grant Fund. The criteria shall focus grants on those areas, approaches, and techniques that are likely to provide the optimum positive effect on environmental protection. The Secretary shall make the final decision on the award of grants and shall announce the award publicly in a timely manner.

(b) Grant Administration. – The Secretary may administer the grants under this Article or may contract for selected activities under this Article. If administrative services are contracted, the Department shall establish guidance and criteria for its operation and contract with a statewide nonprofit land trust service organization."

SECTION 5. G.S. 113A-235 reads as rewritten:

"**§ 113A-235. Conservation easements.**

(a) Acquisition and Protection of Conservation Easements. – Ecological systems and appropriate public use of these systems may be protected through conservation easements, including conservation agreements under Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act, and conservation easements under the Conservation Reserve Enhancement Program. The Department of Environment and Natural Resources shall work cooperatively with State and local agencies and qualified nonprofit organizations to monitor compliance with conservation easements and conservation agreements and to ensure the continued viability of the protected ecosystems. Soil and water conservation districts established under Chapter 139 of the General Statutes may acquire easements under the Conservation Reserve Enhancement Program by purchase or gift.

(b) Conveyance of Conservation Lands. – The Department may convey real property or an interest in real property that has been acquired ~~under the Conservation Reserve Enhancement Program~~ for conservation in perpetuity to a federal ~~or~~ agency, State agency, a local government, or a ~~private,~~ private nonprofit conservation ~~organization to acquire, manage,~~ organization in accordance with State law governing the conveyance of real property. The grantee of real property or an interest in real property shall manage and maintain the real property or ~~an~~ interest in real property for the purposes set out in subsection (a) of this section. When conveying real property or an interest in real property under this subsection, the Department shall retain a possibility of reverter, a right of entry, or other appropriate property interest to ensure

that the real property or interest in real property will continue to be managed and maintained in a manner that protects ecological systems and the appropriate public use of these systems. ~~A grantee of real property or an interest in real property under this subsection shall grant a conservation easement in the real property or interest in real property to the Department in a form that is acceptable to the Department.~~

(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 November of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

SECTION 6. This act is effective when it becomes law.

9-23-02 ATT 2

SENATE BILL 1252:
Land Conservation Statutes Amendments

BILL ANALYSIS

Committee:	House Environment and Natural Resources	**Introduced by:**	Senator Odom
Date:	September 25, 2002	**Summary by:**	Rick Zechini Committee Counsel
Version:	Proposed Committee Substitute for the Second Edition		

SUMMARY: ***The Proposed Committee Substitute for the Second Edition of Senate Bill 1252 clarifies that the Department of Environment and Natural Resources (DENR) shall exercise its powers to protect real property and interests in real property donated for tax credit, conserved with the use of other financial incentives, or conserved through nonregulatory programs; provides that DENR shall call upon the Attorney General for legal assistance in developing and implementing the conservation tax credit program; clarifies that State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund (Fund); expands the purposes for which monies from the Fund's endowment account may be used; requires DENR to retain a possibility of reverter, a right of entry, or other appropriate property interest when conveying property acquired for conservation in perpetuity to a federal agency, State agency, local government, or a private nonprofit conservation organization; and makes technical changes. Senate Bill 1252 was recommended for introduction by the Environmental Review Commission.***

CURRENT LAW: The General Assembly directed DENR to establish the conservation tax credit program (program) to promote the conservation of lands that possess ecological value. One of the main goals of the program is to facilitate the use of conservation tax credits to conserve property. Conservation tax credits are available to businesses and individuals that donate an interest in real property located in North Carolina that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes. The credit allowed is equal to 25% of the fair market value of the donated property interest. To be eligible for this credit, the interest in real property must be donated to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions.[1]

The General Assembly established the Conservation Grant Fund (Fund) in DENR as the main tool of the program. Although the Fund has never received an appropriation from the General Assembly, any revenue in the Fund may be used for the administrative costs of DENR in administering the Fund, conservation grants, and to establish an endowment account for specified purposes. Grants from the Fund may be used for the following:

- Reimbursement for transaction costs for donations from individuals or corporations that have insufficient financial ability or insufficient tax burdens.
- Management support, including initial baseline inventory and planning.

[1] The taxpayer must file with the income tax return a certification by DENR that the property donated is suitable for one or more of the valid public benefits. The credit may not exceed the amount of tax imposed for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. Any unused portion of this credit may be carried forward for the next succeeding five years.

- Monitoring compliance with conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
- Education on conservation, including information materials intended for landowners and education for staff and volunteers.
- Stewardship of land.
- Transaction costs, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
- Administrative costs for short-term growth or for building capacity.

Grants cannot be used to pay the purchase price of property.

BILL ANALYSIS:

Section 1

Section 1 of the Proposed Committee Substitute clarifies that DENR shall exercise its powers to protect real property and interests in real property:

- Donated for tax credit.
- Conserved with the use of other financial incentives.
- Conserved through nonregulatory programs.

This section also provides that DENR shall call upon the Attorney General for legal assistance in developing and implementing the program.

Section 2

Section 2 clarifies that State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Fund. In addition, Section 2 expands the purposes for which monies from the endowment account may be used. Section 2 also contains technical changes.

Sections 3 and 4

Sections 3 and 4 make technical changes.

Section 5

Section 5 provides that whenever DENR conveys real property or an interest in real property acquired for conservation in perpetuity to a federal agency, State agency, a local government, or a private nonprofit conservation organization, DENR is required to retain a possibility of reverter, a right of entry, or other appropriate property interest to ensure that the real property or interest in real property will continue to be managed and maintained in a manner that protects ecological systems and the appropriate public use of these systems. Section 5 also makes technical changes.

Section 6

Section 6 provides that the bill is effective when it becomes law.

VISITOR REGISTRATION SHEET

ENVIRONMENTAL & NATURAL RES. 9/25/02
Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Vogel	DENR Div. Soil + Water Conservation
Robin Smith	DENR
Laura DeVivo	DENR
[illegible]	CWMTF
Steve Wall	Conservation Council
Kim Hibbard	NCLM
Ed Regan	N.C.A.C.C
Angie [illegible]	The Nature Conservancy
Steve Woodson	NC Farm Bureau
Julie Woodson	NCCBL
Doug Howey	NCPMA

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ Committee Substitute for
H.B. 1537 A BILL TO BE ENTITLED AN ACT TO EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS BY THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
S.B. 204 A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998 AND TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND BY ONE YEAR TO OCTOBER 1, 2002, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES.**.

☐ Committee Substitute for
S.B. 1211 A BILL TO BE ENTITLED AN ACT TO REMOVE BOONE'S CAVE STATE NATURAL AREA AND A PORTION OF BALDHEAD ISLAND STATE NATURAL AREA FROM THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE THESE PROPERTIES FROM THE STATE PARKS SYSTEM, TO AUTHORIZE THE TRANSFER OF THESE PROPERTIES FOR LIMITED PURPOSES, AND TO ALLOW CERTAIN PUBLIC ENTITIES TO USE THE FIRE TOWER AT MOUNT JEFFERSON STATE NATURAL AREA FOR PUBLIC COMMUNICATION PURPOSES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Gibson, McComas, Warwick** (Chair/Chairs) for the Committee on **ENVIRONMENT AND NATURAL RESOURCES..**

☐ ~~Committee~~ HOUSE Substitute for
S.B. 1252 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAND CONSERVATION STATUTES OF THE STATE OF NORTH CAROLINA.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

5/13/02