2015-2016

SENATE AGRICULTURE/ ENVIRONMENT/ NATURAL RESOURCES

MINUTES

MEMBERSHIP

SENATE AGRICULTURE / ENVIRONMENT / NATURAL RESOURCES COMMITTEE

2015 -2016

Senator Andrew Brock, Co-Chair
Room 523, LOB (919) 715-0690
Judy Edwards

Senator Trudy Wade, Co -Chair
Room 2106, LB (919) 733-5856
Robert Mays, Kathy Hartsell

Senator Chad Barefoot
Room 308, LOB (919)715-3036
Eric Naisbitt

Senator Angela Bryant
Room 520, LOB (919)733-5878
Karon Hardy

Senator Valerie Foushee
Room 517 LOB (919) 733-5804
James Spivey

Senator Brent Jackson
Room 2022, LB (919)733-5705
Ross Barnhardt

Senator Tom McInnis
Rm. 2106, LB (919)733-5953
Libby Spain

Senator Bill Rabon
Room 311, LOB (919) 733-5963
Paula Covington Fields

Senator Erica Smith-Ingram
Room 1121, LB (919)715-3040
Angelicia Simmons

Senator Bill Cook, Co-Chair
Room 525, LOB (919) 715-8293
Jordan Hennessy

Senator John Alexander
Room 2115, LB (919) 733-5850
Danielle Albert

Senator Stan Bingham
Room 625, LOB (919) 733-5665
Maria Kinnaird

Senator Joel Ford
Room 1119, LB (919)733-5955
Jackie Ray

Senator Fletcher Hartsell
Room 627, LOB (919) 733-7223
Gerry Johnson

Senator Jeff Jackson
Room 1104, LB (919) 715-8331
Ted Harrison

Senator Ronald Rabin
Room 411, LOB (919)733-5748
Sherri Hood

Senator Shirley Randleman
Room 628, LOB (919) 733-5743
Jeb Kelly

Senator Tommy Tucker
Room 1127, LB (919) 733-7659
Joey Stansbury

Senate Committee on Agriculture/Environment/Natural Resources

INDEX

DATE	BILL NO.	TITLE OF BILL
Feb. 25, 2015	Cancelled Meeting	
March 4, 2015	No Bills Heard	
March 11, 2015	No Bills Heard	
March 12, 2015	HB157	Amend Environmental Laws
April 1, 2015	Cancelled Meeting	
April 15, 2015	Cancelled Meeting	
April 22, 2015	SB303	Protect Safety/Well Being of NC Citizens
	SB572	Agricultural Regulatory Relief
	SB374	Modify For Hire License Logbook Requirements
	SB 647	Amend Trapping Laws
April 29	SB132	Carteret Fox Trapping
	SB546	Create Inspection Program/Venison Donations
May 6, 2015	HB706	Building Code/Rustic Cabins
	HB65	Wilkes Fox Trapping
	HB601	Sale of Deer Skins
May 12, 2015	SB513	North Carolina Farm Act of 2015
May 13, 2015	Cancelled Meeting	
May 20, 2015	HB574	Opossum Exclusion From Wildlife Laws
	HB795	SEPA Reform
	SB573	Strengthen Oyster Industry
	SB486	NC Trail Expansion/Economic Corridors
May 27, 2015	HB640	Outdoor Heritage Act
June 3, 2015	Cancelled Meeting	
June 10, 2015	SB647	Amend Trapping Laws
	HB44	Cities/Overgrown Vegetation Notice
June 24, 2015	HB255	Building Code Reg. Reform
	HB634	Stormwater/Built-Upon Area Clarification
	HB705	Amend Septic Tank Requirements
June 29, 2015	HB765	Env. Technical Corrections
July 15, 2015	HB186	Cape Fear Water Resources Availability Study
July 22, 2015	HB553	Ordinances Regulating Animals
	HB638	Capitalize on Wetland Mitigation
	HB571	Implementation of Carbon Dioxide Regulations

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Wednesday, February 25, 2015 12:58 PM
To: Judy Edwards (Sen. Andrew Brock)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, February 25, 2015 at 10 minutes after session adjourns - CORRECTED #5
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk
Reading Clerk

Corrected #5: CANCELLED

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 25, 2015	10 minutes after session adjourns	Rm. 643

Secretary Donald R. van der Vaart, Department of Environment and Natural Resources and his DENR Staff will address the committee.

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, February 24, 2015 09:06 PM
To: Judy Edwards (Sen. Andrew Brock)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, February 25, 2015 at 11:00 AM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

Corrected #1: Time and Location Change

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	February 25, 2015	11:00 AM	TBD

Secretary Donald R. van der Vaart, Department of Environment and Natural Resources and his DENR Staff will address the committee.

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Meeting Cancelled

Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, February 25, 2015
Room 544

AGENDA

Welcome and Opening Remarks – Senator Andrew Brock

Introduction of Pages

Presentations:

Secretary Donald R. van der Vaart, Department of Environment and Natural Reources and DENR Staff

Other Business

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, March 4, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations:

Steve Troxler, Commissioner of Agriculture will address the committee

Other Business

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, March 4, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on March 4, 2015 in Room 544 of the Legislative Office Building. Sixteen (16) members were present.

Senator Andrew Brock presided.

Pages for today's meeting were McKayla Robinette of Pinetops sponsored by Senator Brent Jackson and Josh Rogers of Jamestown sponsored by Senator Trudy Wade.

Sgt.-At Arms are Anderson Meadows and Jim Hamilton.

Senator Brock introduced Steve Troxler, Commissioner of Agriculture for a presentation to the committee.

Commissioner Troxler gave an overview of Agriculture which is the No. 1 Industry in North Carolina along with Agri-business. This is a $78 billion dollar industry and continues to grow employing 640,000 people in North Carolina (about 16% of all the jobs in the state)

Commissioner Troxler addressed the bad weather that we had had and the difficulty it had caused Agriculture but all in all considering how bad this was, everybody did a really good job between the government and the private sector and came through this as good as could possibly be expected.

There were a lot of record yields in North Carolina this past year of commodities and record yields for cotton, peanuts, and sweet potatoes. Soybeans did well and there was a very good tobacco crop. There was between 15 and 25 percent more tobacco than was contracted resulting in a reduction in contracts for the coming year because of a supply/demand situation worldwide and they have to work their way through this. The thing that the commissioner is proudest of is that we are now at $3.7 billion in agriculture commodities that are being exported worldwide and if you add in the $1.5 billion in forestry products that we are exporting, we are well over $5 billion in agriculture. We know that 95% of these markets lie outside of the boarders of the United States; therefore, growth in the future has to be concentrated on these international markets and opening more markets for trade, but also exposing people to the goodness of North Carolina agricultural products which has been very successful.

There will be a little different focus this year in the department in that they will focus on trying to help the pollinators. The bees, birds, and bats provide about $168 million worth of products because of the pollination they do. Nationwide, there is a problem with the pollinators. Commissioner Troxler attended a workshop on pollinators and there are a number of reasons

why. They are going to be focusing in the department on a pollinator program that will address the pollinators and what can be done for them at the farm level. At the Research Stations, they have been researching and developing seeds that can be planted on farms that will not become invasive to the crops and provide habitat for especially wild pollinators that have declined. The idea actually came from a trade mission last year while they were in Northern England. On this trip, they saw a farm cooperating with BASF, planting pollinator crops and working on bird habitats. It is important that people understand that agriculture is dependent on pollinators and Commissioner Troxler stated that they were going to do everything they could do to help increase the population of the pollinators. They have private interaction on this project and they are hopeful to announce partnership with other agencies in the coming months. In the department, they actually have the division of Soil and Water Conversation, the Research Stations, and the Forest Service participating. They are taking a three prong approach to this – (1) Recognize the native pollinator habitats that we already have here in North Carolina; (2) Want to help farmers and landowners about the existing farms and land management practices to avoid causing undue harm to pollinators that are already here and (3) Provide the new habitats for native bees only around the farm.

Commission Troxler addressed some of the things the department is looking into for this session. The first thing is going to be Labs. They have got to make investments in the lab infrastructure to support the core missions of our farmers, consumers and fruit supply in North Carolina. The animal diagnostics and food testing labs are quickly turning into antiques. The animal diagnostic lab was built in 1972. This lab has a lot of age on it and is outdated. The food lab was built in 1977 and has had very little attention since that time; in fact, 10 days prior to this, the Raleigh Food Lab had to be closed because the department could not maintain the humidity and warmth levels that are required and protocoled for testing. They have had to go in, redo some heating and air conditioning work as a pass to be able to continue to do the testing that has to be done to protect the consumers and food supply of this state. These labs have to be updated to make sure that the industry is kept strong. Somewhere, money needs to be found, whether it be through bonding or whatever it takes to update these labs. This has got to be a priority for the Department of Agriculture.

There are also other things going on in North Carolina that are going to be budget items:

(1) The Agriculture Development and Farmland Preservation Trust Fund
(2) Forest Service
(3) Food Manufacturing

Commissioner Troxler concluded his presentation and took several questions from members of the committee.

The meeting adjourned at 11:48 AM

Senator Andrew Brock, Presiding Chair

Judy Edwards, Committee Clerk

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 4, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Darci VanderSlik	Humane Society of the US
Jasmine Pinckney	Humane Lobby Days
Cynthia Rosenfeld	Humane Society of the US
Julie Miller Clark	Humane Society of the US
Abigail Crownshaw	HSUS
Beth Cline	HSUS
[illegible]	NCARC
[illegible]	NC WRC
Sara Cnos	HSUS APBF
[illegible]	humane society of US
Karen Loveless	NC Voters for Animal Welfare PAC
Michelle Disney	Humane Society of the United States
Julie Smith	Humane Lobby Day

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 4, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Pam Frueh	50 Rock St., Pittsboro
Donna Clarke	School of Govt.
Penny Hauser	School of Govt
Carol Abken	UNC Chapel Hill
Brooks Rainey Pearson	SELC
Nancy LaPlaca	Consumers Against Rate Hikes
Matthew Cobb	Senate Intern
Austin Pruitt	Perkinson Law
Isabel Villa-Garcia	NC Association of Realtors
Beth Levine	Wake County Schools
Bill Black	Golf
Josh Glassberg	HSUS Humane Lobby Day
Andrea Glassberg	HSUS Humane Lobby Day
Margaret Schneider	Senate Intern
Grady McCallie	NC Conservation Network.
Peter Raabe	American Rivers
Steve Wall	UNC - Institute for Environment

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 4, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCSRB
Delys Ayers	The Humane League
Dick Colton	Law Offices of R H Colton PLLC
Karen Weishaar	Smith Anderson
Jenny Jones	Jordan Price
Scott Cooper	Capitol City Strategies
Rhian Merwald	Williams Mullen
Susanna Davis	NCFA
Phoebe Landon	Brooks Pierce
Lenore Braford, Piedmont Farm Animal Refuge	
Carol Lynn Anderson	citizen.
Josh Ehrich	JDA
Alice Singh	Humane Lobby Day Group
RENÉE BRYANT	HUMANE LOBBY DAY
Anne Privett	Humane Lobby Day
Patricia Norris	Dept Ag
Jim Lanier	NCDA

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 4, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tina Hlabse	NCDACS
David McLeod	Ag. Alliance of NC
Jeff Moore	Commerce / DWS
Monica Soria Czaw	HSUS
Laura L Payne	NC State Grange
George Everett	Duke Energy
Betty Winstead	Humane Day Event
Justin Mclean	HCHS Voices for Animals
Amy Patton	Humane Society of US
Melissa Marino	Humane Society of US
Nancy Lindemeyer	HSUS
Tim Gupta	HSUS
Meghan Cook	OITS
Brad Kutt	DENR
Amy Schaeffer	HSUS
Jenny Schill	NC Fisheries
Doug Lassiter	NC STA

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 4, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Whitney Christianson	Ward & Smith
JEFF BARNHART	MWC
Fred Neumann	Humane society Lobby Day
Debbie Ham	Humane Society Lobby Day
Amy McCoukey	NC Beverage
Kathryn Creasy	Red Barn Puppy Rescue
Justin Carter	Humane Society
Heather Elliott	Humane Lobby Day
michelle Krenrick	Humane Lobby Day
Andrea Norris	Human Lobby Day
Andrea Gunn	The Humane League
Mary Whitmire	Concerned Citizen (factory farming)
Heidi Cope	Humane Lobby Day
Mariah Lopez	Humane Lobby Day
Evelyn A. Moore	Humane Lobby Day
Claudia Lange	Humane Lobby Day
Marcus Williford	Humane Lobby Day

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, March 11, 2015, 10:00 AM
Room 544

AGENDA

Welcome and Opening Remarks – Senator Trudy Wade

Introduction of Pages

Presentations:

Secretary Donald R. van der Vaart, Department of Environment and Natural Resources and DENR Staff

Other Business

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, March 11, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on March 11, 2015 in Room 544 of the Legislative Office Building. Sixteen members were present.

Senator TrudyWade presided.

Senator Wade had all the pages come up and introduce themselves: Reaghan Warb, Raleigh sponsored by Senator Barefoot, Rachel Bass, Raleigh, sponsored by Senator Alexander, Elle Stevens, Mooresville, sponsored by Senator Curtis, Sylvia Craig, Holden Beach, sponsored by Senator Rabon, Kevin Wu, Cary, sponsored by Senator Berger

Senator Wade introduced Sgt. at Arms, Larry Hancock and Ed Kesler

Presentation - Donald R. van der Vaart, Secretary, Department of Environment and Natural Resources

Secretary van der Vaart is the new Secretary of the Department of Environment and Natural Resources. He is a twenty year veteran in DENR with a background in Air Quality. Before that, he did do work for the private sector both in the refining end as well as the electric utility business. He stated that he was an engineer by training and later in life after his kids left home, he went to Law School at night.

Secretary van der Vaart stated that his vision for DENR is going to be a nuts and bolts type of operation because of his background and he will be focusing on inspections and enforcements. He will reduce permit review times because these are DENR functions. He also has the enjoyment of our natural resources attractions for a little longer. The zoo, aquarium, and museums are all great places for people to go and appreciate N.C. This will further be helped by a transfer to DCR to enhance attendance at those wonderful institutions here in North Carolina.

Secretary van der Vaart announced that DENR did levy a large fine on March 10 to Duke Energy Sutton Facility in the amount of a little over twenty five million dollars for violations of North Carolina ground water.

Secretary van der Vaart introduced his staff – John Evans, Executive Secretary; Tom Reeder, Assistant Secretary; Matt Dockham and Brad Knott, Legistative Liaison; Crystal Feldman, Communication Representative; Linda Culpepper, Director Waste Management; Mike Abraczinskas from Air Quality; Michael Ellison from EEP; Tracy Davis from Division of Energy, Mineral, and Land Resources; Jay Zimmerman who is the new Tom Reeder.

Secretary van der Vaart opened the floor for questions. There were many questions from the members for which Secretary van der Vaart and his staff responded.

The meeting adjourned at 11:00 AM

Senator Trudy Wade
Presiding

Judy Edwards, Committee Clerk

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

March 11, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Josh Ehrich	JDA
Hugh Johnson	NCSEA
Jerry Schill	NCFA
PRESTON HOWARD	NCMA
Kathy Hawkins	Duke Energy
George Everett	Duke Energy
Susan Vick	Duke Energy
Donna McCleese	NRC Dept Cout
Scott Cooper	Capitol City Strategies
Patrick Bafflin	NC's electric cooperatives
Rhoan Merwald	Williams Mullen
Tommy Scott	NCDA
TYLER NEWMAN	BASF
David McSwain	NCPC
Tommy Stevens	Stevens Lobby/Consulting
Paul Sherman	NCFB
Henry Jones	Poyner Price, etc

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

March 11, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Miller	Carolina Utility Customers
Cindy Ohms	Carolina Utility Customers
Allen Hardison	CRSWMA
Grady Balentine	NCCN
Destry Chicurel-Barger	Sierra Club
	MWC
Sarada Kuncl	NCDOL
Norton Webster	RES
John Runkle	NC WARN
Nancy Lallemand	NC WARN
Mitch Diggins	Sierra Club
Tomas Beaw	EDF, NCWF, NCSEA
Ashton	NCWRC
Will Morgan	TNC
Cava Townsend	Governor's Office
Mia Bailey	Electricities
Brooks Rainey Pearson	SELC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

March 11, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carr McLamb	Troutman Sanders
John Preyer	Restoration Systems
Iqbal Villa-Lobos	NCAR
McCleas Joe	McCleas Consult
Erin Wynia	NCLM

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

March 11, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	[illegible]
Susanna Davis	NCFA
Rick Zechini	WM

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 12, 2015, 8:00 AM
Room 544

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills:

BILL NO.	SHORT TITLE	SPONSOR
HB 157	Amend Environmental Laws	Representative McElraft Representative Catlin

Other Business

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 12, 2015 at 8:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 8:00 AM on March 12, 2015 in Room 544 of the Legislative Office Building. Fourteen members were present.

Senator Andrew Brock presided.

Senator Brock introduced the pages – Eryn Almo, Holly Springs sponsored by Senator Barringer, Yvonne Lyle, Raleigh sponsored by Sen. Blue, Kaitlin Avery, Winterville sponsored by Sen. Don Davie, and Marisa Bishop, Apex sponsored by Senator Barringer.

Sgt. at Arms – Larry Hancock and Dale Huff.

Bills

HB 157 Amend Environmental Laws. (Representatives McElraft, Catlin)

Representative McElraft was present to present the bill and she asked that staff explain the bill. Jennifer McGinnis and Jeff Hudson of the Research Staff explained the bill. After discussion and questions from the members on the bill, Senator Brent Jackson moved for a Favorable Report on the bill. The motion carried.

Senator Brock opened the floor to public comment on the bill. Cassie Gavin of the Sierra Club spoke on the bill and Representative McElraft responded to Ms. Gavin's comments.

The meeting adjourned at 8:27 AM.

Senator Andrew Brock, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Thursday, March 12, 2015

Senator Brock,
submits the following with recommendations as to passage:

FAVORABLE

HB **157** **(CS#2)** Amend Environmental Laws.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Andrew Brock will handle HB 157

HOUSE BILL 157:
Amend Environmental Laws

2015-2016 General Assembly

Committee:	Senate Agriculture, Environment, and Natural Resources	**Date:**	March 12, 2015
Introduced by:	Reps. McElraft, Catlin	**Prepared by:**	Jeff Hudson and Jennifer McGinnis Committee Counsels
Analysis of:	Third Edition		

SUMMARY: House Bill 157 would amend various environmental laws.

BILL ANALYSIS:

Part I. Interstate Mining Compact Clarification

North Carolina, along with 21 other states, is a member of the Interstate Mining Compact Commission.

Section 1 would authorize the Governor to send an official from the Department of Environment and Natural Resources (DENR) to act on the Governor's behalf at meetings of the Commission.

Part I. Recycled and Recovered Materials

Section 2(a) would exclude steel slag that is a product of the electric arc furnace steelmaking process from the definition of solid waste, provided that the slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

Section 2(b) would clarify requirements for "recovered materials" under the statutes governing the management of solid waste. Under current law, if a material qualifies as "recovered material," it is not subject to regulation as solid waste. The PCS would amend the existing qualifications as follows:

- Provides that materials that are accumulated speculatively (as that term is defined under federal law) do not qualify as a recovered material, and are subject to regulation as solid waste.
- Requires that a recovered material must be managed as a valuable commodity in a manner consistent with the desired use or end use.
- Specifies that ***75%*** of the recovered material stored at a facility at the beginning of a calendar year must be removed from the facility through sale, use, or reuse by the end of the same year. Current law requires that a ***"majority"*** of the material be removed within the year period.
- Requires that operations that process recovered material be conducted in a manner to ensure that recovered material or by-products from processing of the material are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water, emitted into the air, otherwise enter the environment, or pose a threat to public health and safety.
- Requires that the recovered material must not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse.

Section 2(c) would add provisions specifying that construction and demolition debris and garbage diverted from the waste stream or collected as source separated material are subject to solid waste permits for transfer, treatment, and processing in a permitted solid waste management facility.

Section 2(d) would modernize definitions included in the statutes governing management of discarded computer equipment and televisions.

Section 2(e) would require facilities that recover or recycle discarded computer equipment, televisions, or other electronic devices to register annually with DENR.

Part III. Coal Ash Management Technical Corrections and Amendments

Clarify Implementing Agencies

The Coal Ash Management Act of 2014 is implemented by several different State agencies, including the Coal Ash Management Commission, the Environmental Management Commission, and the Utilities Commission.

Sections 3.1(a), (b), and (c); 3.6; and 3.7 would amend several sections of the Coal Ash Management Act of 2014 to clarify which State agencies are responsible for implementing various provisions of the Act.

Technical Corrections

Section 3.2 would correct an incorrect statutory cross reference.

Section 3.3 would repeal an unnecessary reporting deadline.

Structural Fill Moratorium Clarifications

The Coal Ash Management Act of 2014 placed a moratorium on the use of coal combustion products as structural fill until August 1, 2015, in order to allow DENR, the Environmental Management Commission, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill. The Act included two exceptions to the moratorium: structural fill projects that include many of the requirements for solid waste landfills and structural fill projects that are the base of a concrete or asphalt paved road.

Section 3.4(a) would make a correction to the exceptions to the structural fill moratorium to clarify that all of the listed requirements apply.

Section 3.4(b) would make a technical correction to the effective date of the moratorium on the use of coal combustion products as structural fill.

Sections 3.4(a) and (b) would be retroactively effective to September 20, 2014, and apply to the use of coal combustion products as structural fill contracted on or after that date.

Clarify Authority of Secretary of Environment and Natural Resources

Section 3.5 would clarify that certain responsibilities related to corrective action are under the authority of the Secretary of Environment and Natural Resources.

Part IV. Change Name of Ecosystem Enhancement Program to Division of Mitigation Services

The Ecosystem Enhancement Program is a program within DENR that implements programs to protect and mitigate impacts to wetlands and streams.

Sections 4.1 through 4.7 would change the name of the Ecosystem Enhancement Program to the Division of Mitigation Services.

Part V. Energy Policy Council Amendments

The Energy Policy Council is a State agency located within DENR that was created to advise and make recommendations on increasing domestic energy exploration, development, and production within the State and region to promote economic growth and job creation to the Governor and the General Assembly.

Section 5 would provide that the Secretary of Environment and Natural Resources, the Secretary of Commerce, and the Lieutenant Governor may appoint designees to represent them on the Energy Policy Council. Section 5 would also provide that a member of the Energy Policy Council will be automatically removed if he or she fails to attend three successive meetings without just cause and would allow the Governor to remove any member of the Council for misfeasance, malfeasance, or nonfeasance.

Part VI. Clarify Rulemaking Directive

Section 6 would clarify that the Environmental Management Commission would only be required to adopt a rule on air toxics from drilling operations if it determined that the State's current air toxics program, and any applicable federal regulations adopted by the State by reference, were inadequate. Current law provides that the Commission must adopt rules on regulation of air toxics from drilling operations.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

HOUSE BILL 157
Committee Substitute Favorable 3/10/15
Committee Substitute #2 Favorable 3/11/15

Short Title: Amend Environmental Laws. (Public)

Sponsors:

Referred to:

March 5, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.

The General Assembly of North Carolina enacts:

PART I. INTERSTATE MINING COMPACT CLARIFICATION

SECTION 1. G.S. 74-37 reads as rewritten:

"**§ 74-37. Compact enacted into law.**

The Interstate Mining Compact is hereby enacted into law and entered into by this State with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE MINING COMPACT

...

Article V. The Commission

(a) There is hereby created an agency of the party states to be known as the "Interstate Mining Commission," hereinafter called "the Commission." The Commission shall be composed of one commissioner from each party state who shall be Governor thereof. Pursuant to the laws of his party state, each Governor shall have the assistance of an advisory body (including membership from mining industries, conservation interests, and such other public and private interests as may be appropriate) in considering problems relating to mining and in discharging his responsibilities as the commissioner of his state on the Commission. In any instance where a Governor is unable to attend a meeting of the Commission or perform any other function in connection with the business of the Commission, he shall designate an alternate, from among the members of the advisory body required by this ~~paragraph,~~paragraph or an official of the state environmental protection agency with responsibility for protecting and restoring lands affected by mining, who shall represent him and act in his place and stead. The designation of an alternate shall be communicated by the Governor to the Commission in such manner as its bylaws may provide.

(b) The commissioners shall be entitled to one vote each on the Commission. No action of the Commission making a recommendation pursuant to Article IV-3, IV-7, and IV-8 or requesting, accepting or disposing of funds, services, or other property pursuant to this paragraph, Articles V (g), V (h), or VII shall be valid unless taken at a meeting at which a majority of the total number of votes on the Commission is cast in favor thereof. All other action shall be by a majority of those present and voting: Provided that action of the Commission shall be only at a meeting at which a majority of the commissioners, or their alternates, is present. The Commission may establish and maintain such facilities as may be

necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

(c) The Commission shall have a seal.

(d) The Commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The Commission shall appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the Commission. The executive director, the treasurer, and such other personnel as the Commission shall designate shall be bonded. The amount or amounts of such bond or bonds shall be determined by the Commission.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the Commission, shall appoint, remove or discharge such personnel as may be necessary for the performance of the Commission's functions, and shall fix the duties and compensation of such personnel.

(f) The Commission may establish and maintain independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the Commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the Commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The Commission may establish and maintain or participate in such additional programs of employee benefits as it may deem appropriate.

(g) The Commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(h) The Commission may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant or services borrowed and the identity of the donor or lender.

(i) The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The Commission annually shall make to the Governor, legislature and advisory body required by Article V (a) of each party state a report covering the activities of the Commission for the preceding year, and embodying such recommendations as may have been made by the Commission. The Commission may make such additional reports as it may deem desirable.

...."

PART II. RECYCLED AND RECOVERED MATERIALS

SECTION 2.(a) G.S. 130A-290(a) reads as rewritten:

"**§ 130A-290. Definitions.**

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the

treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. Notwithstanding sub-sub-subdivision b.3. of this subdivision, the term includes coal combustion residuals. The term does not include:

a. Fecal waste from fowls and animals other than humans.

b. Solid or dissolved material in:

1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters.

2. Irrigation return flows.

3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Commission, including coal combustion products. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).

e. **(Effective until August 1, 2015)** Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining and Energy Commission (as defined under G.S. 143B-293.1). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

e. **(Effective August 1, 2015)** Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-293.1). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this Article.

f. Recovered material.

g. Steel slag that is a product of the electric arc furnace steelmaking process; provided, that such steel slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

...."

SECTION 2.(b) G.S. 130A-309.05 reads as rewritten:

"**§ 130A-309.05. Regulated wastes; certain exclusions.**

(a) Notwithstanding other provisions of this Article, the following waste shall be regulated pursuant to this Part:

(1) Medical waste; and

(2) Ash generated by a solid waste management facility from the burning of solid waste.

(b) Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the Department for the disposal of the ash. The Department shall work with solid waste management facilities that burn solid waste to identify and develop methods for recycling and reusing incinerator ash or treated ash.

(c) Recovered material is not subject to regulation as solid waste under this Article. In order for a material that would otherwise be regulated as solid waste to qualify as a recovered material, the Department may require any person who owns or has control over the material to demonstrate that the material meets the requirements of this subsection. In order to protect public health and the environment, the Commission may adopt rules to implement this subsection. Materials that are accumulated speculatively, as that term is defined under 40 Code of Federal Regulations § 261 (July 1, 2014 Edition), shall not qualify as a recovered material, and shall be subject to regulation as solid waste. In order to qualify as a recovered ~~material:~~material, the material shall be managed as a valuable commodity in a manner consistent with the desired use or end use, and all of the following conditions shall be met:

(1) ~~A majority~~ Seventy-five percent (75%), by weight or volume, of the recovered material stored at a facility at the beginning of a calendar year commencing January 1, shall be ~~sold, used, or reused within one year;~~removed from the facility through sale, use, or reuse by December 31 of the same year.

(2) The recovered material or the products or by-products of operations that process recovered material shall not be discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that the products or by-products or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters including groundwaters, or otherwise enter the environment or pose a threat to public health and ~~safety; and~~safety. Facilities that process recovered material shall be operated in a manner to ensure compliance with this subdivision.

(3) The recovered material shall not be a hazardous waste or have been recovered from a hazardous waste.

(4) The recovered material shall not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse."

SECTION 2.(c) G.S. 130A-294 is amended by adding two new subsections to read:

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

...

(t) Construction and demolition debris diverted from the waste stream or collected as source separated material is subject to a solid waste permit for transfer, treatment, and processing in a permitted solid waste management facility. The Department may adopt rules to implement this subsection.

(u) Garbage diverted from the waste stream or collected as source separated material is subject to a solid waste permit for transfer, treatment, and processing in a permitted solid waste management facility. The Department may adopt rules to implement this subsection."

SECTION 2.(d) G.S. 130A-309.131 reads as rewritten:

"**§ 130A-309.131. Definitions.**

As used in this Part, the following definitions apply:

(1) Business entity. – Defined in G.S. 55-1-40(2a).

(2) Computer equipment. – Any ~~desktop~~ computer, ~~notebook computer,~~ monitor or video display unit for a computer system, and the ~~keyboard, mice, other~~ peripheral ~~equipment,~~ equipment except keyboards and mice, and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer. Computer equipment does not include an automated typewriter, professional workstation, server, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

...

(6) ~~Desktop computer.~~ Computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a ~~stand-alone~~ keyboard, ~~stand-alone monitor or other~~ display unit, and ~~a stand-alone~~ mouse or other pointing device.

d. Is designed for a single user.

~~e. Has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.~~

...

(9a) Electronic device. – Machinery that is powered by a battery or an electrical cord.

...

~~(11) Notebook computer. An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:~~

~~a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.~~

~~b. Is not designed to exclusively perform a specific type of limited or specialized application.~~

~~c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.~~

~~d. Is able to be carried as one unit by an individual.~~

~~e. Is able to use external power, internal power, or batteries for a power source.~~

~~Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a PDA, or similar specialized device. A notebook computer may also be referred to as a laptop computer.~~

...."

SECTION 2.(e) Part 2H of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-309.142. Registration of facilities recovering or recycling electronics required.**

Facilities that recover or recycle covered devices or other electronic devices diverted from the waste stream for transfer, treatment, or processing shall register annually with the Department on or before August 1 of each year upon such form as the Department may prescribe."

PART III. COAL ASH MANAGEMENT TECHNICAL CORRECTIONS AND AMENDMENTS

SECTION 3.1.(a) G.S. 130A-309.201 reads as rewritten:

"**§ 130A-309.201. Definitions.**

Unless a different meaning is required by the context, the definitions of G.S. 130A-290 and the following definitions apply throughout this Part:

...

(7) "Commission" means the ~~Environmental~~ Coal Ash Management Commission.

...."

SECTION 3.1.(b) G.S. 130A-309.205 is amended by adding a new subsection to read:

"**§ 130A-309.205. Local ordinances regulating management of coal combustion residuals and coal combustion products invalid; petition to preempt local ordinance.**

...

(a1) As used in this section, "Commission" means the Environmental Management Commission.

...."

SECTION 3.1.(c) G.S. 130A-309.220 reads as rewritten:

"**§ 130A-309.220. Design, construction, and siting requirements for projects using coal combustion products for structural fill.**

(a) Design, Construction, and Operation of Structural Fill Sites. –

...

(6) The coal combustion product structural fill project shall be effectively maintained and operated to ensure no violations of groundwater standards adopted by the Environmental Management Commission pursuant to Article 21 of Chapter 143 of the General Statutes due to the project.

...."

SECTION 3.2. Section 3(c) of S.L. 2014-122 reads as rewritten:

"**SECTION 3.(c)** The impoundments identified in subsection (b) of this section shall be closed as follows:

...

(3) If restoration of groundwater quality is degraded as a result of the impoundment, corrective action to restore groundwater quality shall be implemented by the owner or operator as provided in ~~G.S. 130A-309.204.~~ G.S. 130A-309.211."

SECTION 3.3. Section 3(f) of S.L. 2014-122 reads as rewritten:

"**SECTION 3.(f)** This section is effective when it becomes law. G.S. 130A-309.202, as enacted by Section 3(a) of this act, is repealed June 30, 2030. Subpart 3 of Part 2I of Article 9 of the General Statutes, as enacted by Section 3(a) of this act, applies to the use of coal combustion products as structural fill contracted for on or after that date. ~~The first report due under G.S. 130A-309.210, as enacted by Section 3(a) of this act, is due November 1, 2014.~~ Members to be appointed pursuant to G.S. 130A-309.202(b), as enacted by Section 3(a) of this act, shall be appointed no later than October 1, 2014."

SECTION 3.4.(a) Section 4(b) of S.L. 2014-122 reads as rewritten:

"**SECTION 4.(b)** Coal combustion products may be used as structural fill for any of the following types of projects:

(1) A project where the structural fill is used with a base liner, leachate collection system, cap liner, ~~or~~ groundwater monitoring ~~system~~ system, and where the constructor or operator establishes financial assurance, as required by G.S. 130A–309.217.

(2) As the base or sub-base of a concrete or asphalt paved road constructed under the authority of a public entity."

SECTION 3.4.(b) Section 4(f) of S.L. 2014-122 reads as rewritten:

"**SECTION 4.(f)** This section is effective when it becomes law and applies to the use of coal combustion ~~residuals~~ products as structural fill contracted for on or after that date."

SECTION 3.4.(c) This section is effective retroactively to September 20, 2014, and applies to the use of coal combustion products as structural fill contracted for on or after that date.

SECTION 3.5. G.S. 143-215.1(k) reads as rewritten:

"(k) Where operation of a disposal system permitted under this section results in exceedances of the groundwater quality standards at or beyond the compliance boundary, the Commission shall require the permittee to undertake corrective action, without regard to the date that the system was first permitted, to restore the groundwater quality by assessing the cause, significance, and extent of the violation of standards and submit the results of the investigation and a plan and proposed schedule for corrective action to the ~~Director or the Director's designee.~~Secretary. The permittee shall implement the plan as approved by, and in accordance with, a schedule established by the ~~Director or the Director's designee.~~Secretary. In establishing a schedule the ~~Director or the Director's designee~~Secretary shall consider any reasonable schedule proposed by the permittee."

SECTION 3.6. G.S. 62-302.1 reads as rewritten:

"**§ 62-302.1. Regulatory fee for combustion residuals surface impoundments.**

...

(c) When Due. – The fee shall be paid in quarterly installments. The fee is payable to the Coal Ash Management Commission on or before the 15th of the second month following the end of each quarter. Each public utility subject to this fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the Coal Ash Management Commission. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the Coal Ash Management Commission may by rule require. Receipts shall be reported on an accrual basis.

(d) Use of Proceeds. – A special fund in the Office of State Treasurer and the Coal Ash Management Commission is created. The fees collected pursuant to this section and all other funds received by the Coal Ash Management Commission shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly. The Coal Ash Management Commission shall be subject to the provisions of the State Budget

Act, except that no unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the General Fund. All funds credited to the Fund shall be used only to pay the expenses of the Coal Ash Management Commission and the Department of Environment and Natural Resources in providing oversight of coal combustion residuals.

(e) Recovery of Fee. – The North Carolina Utilities Commission shall not allow an electric public utility to recover this fee from the retail electric customers of the State."

SECTION 3.7. G.S. 113-415 reads as rewritten:

"**§ 113-415. Conflicting laws.**

No provision of this Article shall be construed to repeal, amend, abridge or otherwise affect the authority and responsibility (i) vested in the Environmental Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the location, construction, repair, operation and abandonment of wells; (ii) vested in the Environmental Management Commission related to the control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the General Statutes; (iii) vested in the Department and the ~~Environmental Management~~ Commission for Public Health by Article 10 of Chapter 130A of the General Statutes pertaining to public water-supply requirements; or (iv) vested in the Environmental Management Commission related to the management of solid and hazardous waste as provided in Article 9 of Chapter 130A of the General Statutes."

PART IV. CHANGE NAME OF ECOSYSTEM ENHANCEMENT PROGRAM TO DIVISION OF MITIGATION SERVICES

SECTION 4.1. G.S. 143-214.8 reads as rewritten:

"**§ 143-214.8. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: established.**

The ~~Ecosystem Enhancement Program~~Division of Mitigation Services is established within the Department of Environment and Natural Resources. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be developed by the Department as a nonregulatory statewide ~~ecosystem enhancement~~mitigation services program for the acquisition, maintenance, restoration, enhancement, and creation of wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall consist of the following components:

(1) Restoration and perpetual maintenance of wetlands.
(2) Development of restoration plans.
(3) Landowner contact and land acquisition.
(4) Evaluation of site plans and engineering studies.
(5) Oversight of construction and monitoring of restoration sites.
(6) Land ownership and management.
(7) Mapping, site identification, and assessment of wetlands functions.
(8) Oversight of private wetland mitigation banks to facilitate the components of the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services."

SECTION 4.2. G.S. 143-214.9 reads as rewritten:

"**§ 143-214.9. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: purposes.**

The purposes of the ~~program~~ Division of Mitigation Services are as follows:

(1) To restore wetlands functions and values across the State to replace critical functions lost through historic wetlands conversion and through current and future permitted impacts. It is not the policy of the State to destroy upland habitats unless it would further the purposes of the ~~Wetlands Restoration Program.~~Division of Mitigation Services.

(2) To provide a consistent and simplified approach to address mitigation requirements associated with permits or authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344.
(3) To streamline the wetlands permitting process, minimize delays in permit decisions, and decrease the burden of permit applicants of planning and performing compensatory mitigation for wetlands losses.
(4) To increase the ecological effectiveness of compensatory mitigation.
(5) To achieve a net increase in wetland acres, functions, and values in each major river basin.
(6) To foster a comprehensive approach to environmental protection."

SECTION 4.3. G.S. 143-214.10 reads as rewritten:

"**§ 143-214.10. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: development and implementation of basinwide restoration plans.**

Develop Basinwide Restoration Plans. – The Department shall develop basinwide plans for wetlands and riparian area restoration with the goal of protecting and enhancing water quality, flood prevention, fisheries, wildlife habitat, and recreational opportunities within each of the 17 major river basins in the State. The Department shall develop and implement a basinwide restoration plan for each of the 17 river basins in the State in accordance with the basinwide schedule currently established by the Division of Water Resources."

SECTION 4.4. G.S. 143-214.11 reads as rewritten:

"**§ 143-214.11. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: compensatory mitigation.**

(a) Definitions. – The following definitions apply to this section:
(1) Compensatory mitigation. – The restoration, creation, enhancement, or preservation of jurisdictional waters required as a condition of a permit issued by the Department or by the United States Army Corps of Engineers.
(1a) Compensatory mitigation bank. – A private compensatory mitigation bank or an existing local compensatory mitigation bank.
(1b) Existing local compensatory mitigation bank. – A mitigation bank operated by a unit of local government that is a party to a mitigation banking instrument executed on or before July 1, 2011, notwithstanding subsequent amendments to such instrument executed after July 1, 2011.
(2) Government entity. – The State and its agencies and subdivisions, or the federal government. "Government entity" does not include a unit of local government unless the unit of local government was a party to a mitigation banking instrument executed on or before July 1, 2011, notwithstanding subsequent amendments to such instrument executed after July 1, 2011.
(3) Hydrologic area. – An eight-digit Cataloging Unit designated by the United States Geological Survey.
(4) Jurisdictional waters. – Wetlands, streams, or other waters of the State or of the United States.
(4a) Mitigation banking instrument. – The legal document for the establishment, operation, and use of a mitigation bank.
(4b) Private compensatory mitigation bank. – A site created by a private compensatory mitigation provider and approved for mitigation credit by State and federal regulatory authorities through execution of a mitigation banking instrument. No site owned by a government entity or unit of local government shall be considered a "private compensatory mitigation bank."
(5) Unit of local government. – A "local government," "public authority," or "special district" as defined in G.S. 159-7.

(b) Department to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the Department or by the United States Army Corps of Engineers shall be coordinated by the Department consistent with the basinwide restoration plans and rules developed by the Environmental Management Commission. All compensatory mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans. All compensatory mitigation shall be consistent with rules adopted by the Commission for wetland and stream mitigation and for protection and maintenance of riparian buffers.

(c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of compensatory mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services.

(d) Compensatory Mitigation Options Available to Government Entities. – A government entity may satisfy compensatory mitigation requirements by the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the Department or of the United States Army Corps of Engineers, as applicable:

(1) Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12.

(2) Donation of land to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.

(3) Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation.

(4) Preparing and implementing a compensatory mitigation plan.

(d1) Compensatory Mitigation Options Available to Applicants Other than Government Entities. – An applicant other than a government entity may satisfy compensatory mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

(1) Participation in a compensatory mitigation bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one compensatory mitigation bank that has been approved by the United States Army Corps of Engineers.

(2) Payment of a fee established by the Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12. – This option is only available to an applicant who demonstrates that the option under subdivision (1) of this subsection is not available.

(3) Donation of land to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services or to other public or private nonprofit conservation organizations as approved by the Department.

(4) Preparing and implementing a compensatory mitigation plan.

(e) Payment Schedule. – A standardized schedule of compensatory mitigation payment amounts shall be established by the Commission. Compensatory mitigation payments shall be made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. The monetary payment shall be based on the ecological functions and values of wetlands and

streams permitted to be lost and on the cost of restoring or creating wetlands and streams capable of performing the same or similar functions, including directly related costs of wetland and stream restoration planning, long-term monitoring, and maintenance of restored areas. Compensatory mitigation payments for wetlands shall be calculated on a per acre basis. Compensatory mitigation payments for streams shall be calculated on a per linear foot basis.

(f) Mitigation Banks. – State agencies and mitigation banks shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3.

(h) Sale of Mitigation Credits by Existing Local Compensatory Mitigation Bank. – An existing local compensatory mitigation bank shall comply with the requirements of Article 12 of Chapter 160A of the General Statutes applicable to the disposal of property whenever it transfers any mitigation credits to another person.

(i) The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall exercise its authority to provide for compensatory mitigation under the authority granted by this section to use mitigation procurement programs in the following order of preference:

(1) Full delivery/bank credit purchase program. – The ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall first seek to meet compensatory mitigation procurement requirements through the ~~Program's~~ Division's full delivery program or by the purchase of credits from a private compensatory mitigation bank.

(2) Existing local compensatory mitigation bank credit purchase program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) of this subsection shall be procured from an existing local compensatory mitigation bank, provided that the credit purchase is made to mitigate the impacts of a project located within the mitigation bank service area and hydrologic area of the existing local compensatory mitigation bank.

(3) Design/build program. – Any compensatory mitigation procurement requirements that are not fulfillable under subdivision (1) or (2) of this subsection shall be procured under a program in which ~~Ecosystem Enhancement Program~~the Division of Mitigation Services contracts with one private entity to lead or implement the design, construction, and postconstruction monitoring of compensatory mitigation at sites obtained by the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services. Such a program shall be considered the procurement of compensatory mitigation credits.

(4) Design-bid-build program. – Any compensatory mitigation procurement requirements that are not fulfillable under either subdivision (1) or (2) of this subsection may be procured under the ~~Ecosystem Enhancement Program's~~Division of Mitigation Services' design-bid-build program. The ~~Ecosystem Enhancement Program~~Division of Mitigation Services may utilize this program only when procurement under subdivision (1) or (2) of this subsection is not feasible. Any mitigation site design work currently being performed through contracts awarded under the design-bid-build program shall be allowed to continue as scheduled. Contracts for construction of projects with a design already approved by the ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be awarded by

the ~~Ecosystem Enhancement Program~~Division of Mitigation Services by issuing a Request for Proposal (RFP). Only contractors who have prequalified under procedures established by the ~~Ecosystem Enhancement Program~~Division of Mitigation Services shall be eligible to bid on ~~Ecosystem Enhancement Program~~Division of Mitigation Services construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

(j) The regulatory requirements for the establishment, operation, and monitoring of a compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract."

SECTION 4.5. G.S. 143-214.12 reads as rewritten:

"**§ 143-214.12. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: Ecosystem Restoration Fund.**

(a) Ecosystem Restoration Fund. – The Ecosystem Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Ecosystem Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition.

(a1) The Department may distribute funds from the Ecosystem Restoration Fund directly to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. A recipient of funds under this subsection shall grant a conservation easement in the real property or interest in real property acquired with the funds to the Department in a form that is acceptable to the Department. The Department may convey real property or an interest in real property that has been acquired under the ~~Ecosystem Enhancement Program~~ Division of Mitigation Services to a federal or State agency, a local government, or a private, nonprofit conservation organization to acquire, manage, and maintain real property or an interest in real property for the purposes set out in subsection (a) of this section. 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.

(b) Authorized Methods of Payment. – A person subject to a permit or authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 may contribute to the ~~Ecosystem Enhancement Program~~Division of Mitigation Services in order to comply with conditions to, or terms of, the permit or authorization if participation in the ~~Ecosystem Enhancement Program~~Division of Mitigation Services will meet the mitigation requirements of the United States Army Corps of Engineers. The Department shall, at the discretion of the applicant, accept payment into the Ecosystem Restoration Fund in lieu of other compensatory mitigation requirements of any authorizations issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 if the contributions will meet the mitigation requirements of the United States Army Corps of Engineers. Payment may be made in the form of monetary contributions according to a fee schedule established by the Environmental Management

Commission or in the form of donations of real property provided that the property is approved by the Department as a suitable site consistent with the basinwide wetlands restoration plan.

(c) Accounting of Payments. – The Department shall provide an itemized statement that accounts for each payment into the Fund. The statement shall include the expenses and activities financed by the payment."

SECTION 4.6. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. ~~Ecosystem Enhancement Program:~~Division of Mitigation Services: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the ~~Ecosystem Enhancement Program~~Division of Mitigation Services and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's ~~Ecosystem Enhancement Program~~Division of Mitigation Services and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the ~~Ecosystem Enhancement Program.~~Division of Mitigation Services. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4.7. G.S. 143-214.14 reads as rewritten:

"**§ 143-214.14. Cooperative State-local coalition water quality protection plans.**

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

(1) "Basin" means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.

(2) "Coalition plan" means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.

(3) "Local government" means a city, county, special district, authority, or other political subdivision of the State.

(4) "Water quality protection" means management of water use, quantity, and quality.

(b) Legislative Findings. – This section establishes a framework to encourage State-local pollutant reduction strategies for basins under the supervision and coordination of the Commission. The General Assembly finds that:

(1) Water quality conditions and sources of water contamination may vary from one basin to another.

(2) Water quality conditions and sources of water contamination may vary within a basin.

(3) Some local governments have demonstrated greater capacity than others to protect and improve water quality conditions.

(4) In some areas of the State artificial alteration of watercourses by surface water impoundments or other means may have a significant effect on water quality.

(5) Imposition of standard basinwide water quality protection requirements and strategies may not equitably address the varying conditions and needs of all areas.

(6) There is a need to develop distinct approaches to address water quality protection in basins in the State, drawing upon the resources of local governments and the State, under the supervision and coordination of the Commission.

(c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources. Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through the Clean Water Management Trust Fund, the ~~Ecosystem Enhancement Program,~~Division of Mitigation Services, the Ecosystem Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section.

(d) The Commission may, as an alternative method of attaining water quality standards in a basin, approve a coalition plan proposed by a coalition of local governments whose territorial area collectively includes the affected basin in the manner provided by this section. The Commission may approve a coalition plan proposed by a coalition of local governments whose territorial area or water quality protection plan does not include all of an affected basin if the Commission determines that the omission will not adversely affect water quality.

(e) A coalition of local governments choosing to propose a coalition plan to the Commission shall do so through a nonprofit corporation the coalition of local governments incorporates with the Secretary of State.

(f) The Commission may approve a coalition plan only if the Commission first determines that:

(1) The basin under consideration is an appropriate unit for water quality planning.

(2) The coalition plan meets the requirements of subsection (g) of this section.

(3) The coalition of local governments has formed a nonprofit corporation pursuant to subsection (e) of this section.

(4) The coalition plan has been approved by the governing board of each local government that is a member of the coalition of local governments proposing the coalition plan.

(5) The coalition plan will provide a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices in the affected basin.

(g) A coalition plan shall include all of the following:

(1) An assessment of water quality and related water quantity management in the affected basin.

(2) A description of the goals and objectives for protection and improvement of water quality and related water quantity management in the affected basin.

(3) A workplan that describes proposed water quality protection strategies, including point and nonpoint source programs, for achieving the specified goals and objectives; an implementation strategy including specified tasks, timetables for action, implementation responsibilities of State and local agencies; and sources of funding, where applicable.

(4) A description of the performance indicators and benchmarks that will be used to measure progress in achieving the specified goals and objectives, and an associated monitoring framework.

(5) A timetable for reporting to the Commission on progress in implementing the coalition plan.

(h) A coalition plan shall cover a specified period. The coalition plan may provide for the phasing in of specific strategies, tasks, or mechanisms by specified dates within the period covered by the plan. The Commission may approve one or more successive coalition plan periods. The coalition plan may include strategies that vary among the subareas or jurisdictions of the geographic area covered by the coalition plan.

(i) If a local government chooses to withdraw from a coalition of local governments or fails to implement a coalition plan, the remaining members of a coalition of local governments may prepare and submit a revised coalition plan for approval by the Commission. If the Commission determines that an approved coalition plan no longer provides a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices, the Commission may suspend or revoke its approval of the coalition plan.

(j) The Commission may approve one or more amendments to a coalition plan proposed by a coalition of local governments through its nonprofit corporation with the approval of the governing board of each local government that is a member of the coalition of local governments that proposed the coalition plan.

(k) With the approval of the Commission, any coalition of local governments with an approved coalition plan may establish and implement a pollutant trading program for specific pollutants between and among point source dischargers and nonpoint pollution sources.

(l) The Commission shall submit an annual progress report on the implementation of this section to the Environmental Review Commission on or before 1 October of each year."

PART V. ENERGY POLICY COUNCIL AMENDMENTS

SECTION 5. G.S. 113B-3 reads as rewritten:

"**§ 113B-3. Composition of Council; appointments; terms of members; removal; qualifications.**

(a) The Energy Policy Council shall consist of 13 members to be appointed as follows:

(1), (2) Repealed by Session Laws 2013-365, s. 8(c), effective July 29, 2013.

(2a) The Secretary of Environment and Natural ~~Resources.~~Resources, or the Secretary's designee.

(2b) The Secretary of ~~Commerce.~~Commerce, or the Secretary's designee.

(2c) The Lieutenant ~~Governor.~~Governor, or the Lieutenant Governor's designee.

(3) Ten public members who are citizens of the State of North Carolina and who are appointed in accordance with subsection (c) of this section.

(4) Repealed by Session Laws 2009-446, s. 4, effective August 7, 2009.

...

(d) A Council member shall be automatically removed from the Council if he or she fails to attend three successive Council meetings without just cause as determined by the remainder of the Council.

(e) The Governor shall have the power to remove any member of the Council from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973."

PART VI. CLARIFY RULEMAKING DIRECTIVE

SECTION 6.(a) G.S. 113-391(a3) reads as rewritten:

"(a3) The Environmental Management Commission shall adopt rules, after consideration of recommendations from the Mining and Energy Commission, for all of the following purposes:

(1) Stormwater control for sites on which oil and gas exploration and development activities are conducted.

(2) Regulation of toxic air emissions from drilling ~~operations.~~ operations, if it determines that the State's current air toxics program and any federal regulations governing toxic air emissions from drilling operations to be adopted by the State by reference are inadequate to protect public health, safety, welfare, and the environment. In formulating appropriate standards, the Department shall assess emissions from oil and gas exploration and development activities that use horizontal drilling and hydraulic fracturing technologies, including emissions from associated truck traffic, in order to (i) determine the adequacy of the State's current air toxics program to protect landowners who lease their property to drilling operations and (ii) determine the impact on ozone levels in the area in order to determine measures needed to maintain compliance with federal ozone standards."

SECTION 6.(b) This section is effective retroactively to July 2, 2012.

PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 7.1. 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 7.2. Except as otherwise provided, this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

March 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matthew Dockham	NC DENR
Mike Abraczinskas	NC DENR - DAQ
B. [illegible]	DENR
Cassie Gavin	Sierra Club
[illegible]	MWC
Jared Cates	CFSA
Elizabeth Hammond	NCCOB
Linda Culpepper	NCDENR

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

March 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Culpepper	MVK
David McGowan	NCPC
Walter Alcorn	CEA
Tommy C	MWA
Ruian Merwald	williams mullen
George Everett	Duke Energy
PATRICK Buffkin	NC's electric cooperatives
High Tobacco	[illegible]
Jay Hicks	NEDA
[illegible] Thompson	NCMA
Bob Hallie	PCA
Paul Sherman	NCFB
Isabel Villar-Souza	NCTA
Nelson Freeman	POR

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, March 31, 2015 09:32 AM
To: Sen. Harry Brown; Sen. Bill Cook; Sen. Michael Lee
Cc: Elise McDowell (Sen. Harry Brown); Jordan Hennessy (Sen. Bill Cook); Robert Andrews (Sen. Michael Lee)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, April 01, 2015 at 10:00 AM - CANCELLED
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

Cancelled Notice

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will **NOT** meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 1, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 160	Enhance Safety & Commerce for Ports/Inlets.	Senator Lee Senator Brown Senator Cook

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

[redacted]m: Judy Edwards (Sen. Andrew Brock)
Sent: Monday, March 30, 2015 04:41 PM
To: Sen. Harry Brown; Sen. Bill Cook; Sen. Michael Lee
Cc: Elise McDowell (Sen. Harry Brown); Jordan Hennessy (Sen. Bill Cook); Robert Andrews (Sen. Michael Lee)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, April 01, 2015 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

[redacted]e **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 1, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 160	Enhance Safety & Commerce for Ports/Inlets.	Senator Lee Senator Brown Senator Cook

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Principal Clerk _____
Reading Clerk _____

Cancelled Notice

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will **NOT** meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 15, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 173	New Hanover Fox Trapping.	Senator Lee Senator Rabon
SB 225	The Birds and the Bees Act.	Senator Meredith Senator B. Jackson Senator Barringer

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

om: Judy Edwards (Sen. Andrew Brock)
Sent: Wednesday, April 08, 2015 03:16 PM
To: Sen. Shirley B. Randleman; Sen. Norman Sanderson; Sen. Bill Rabon; Sen. Michael Lee; Sen. Brent Jackson; Sen. Wesley Meredith; Sen. Tamara Barringer
Cc: Jeb Kelly (Sen. Shirley B. Randleman); Patrick Limer (Sen. Shirley B. Randleman); Linda Sanderson (Sen. Norman Sanderson); Kathy Voss (Sen. Norman Sanderson); Paula Fields (Sen. Bill Rabon); Robert Andrews (Sen. Michael Lee); Acy Watson (Sen. Brent Jackson); Ross Barnhardt (Sen. Brent Jackson); Debbie Lown (Sen. Wesley Meredith); Gloria Whitehead (Sen. Tamara Barringer); Elizabeth Paul (Sen. Tamara Barringer)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, April 15, 2015 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 15, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 76	Wilkes Fox Trapping.	Senator Randleman
SB 132	Carteret Fox Trapping.	Senator Sanderson
SB 173	New Hanover Fox Trapping.	Senator Lee
		Senator Rabon
SB 225	The Birds and the Bees Act.	Senator Meredith
		Senator B. Jackson
		Senator Barringer

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, April 14, 2015 09:47 AM
To: Sen. Bill Rabon; Sen. Michael Lee; Sen. Brent Jackson; Sen. Wesley Meredith; Sen. Tamara Barringer
Cc: Paula Fields (Sen. Bill Rabon); Robert Andrews (Sen. Michael Lee); Acy Watson (Sen. Brent Jackson); Ross Barnhardt (Sen. Brent Jackson); Debbie Lown (Sen. Wesley Meredith); Gloria Whitehead (Sen. Tamara Barringer); Elizabeth Paul (Sen. Tamara Barringer)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, April 15, 2015 at 10:00 AM - CORRECTED #1
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

Corrected #1: Agenda Change

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	April 15, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 173	New Hanover Fox Trapping.	Senator Lee Senator Rabon
SB 225	The Birds and the Bees Act.	Senator Meredith Senator B. Jackson Senator Barringer

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, April 22, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Bill Cook

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 303	Protect Safety/Well-Being of NC Citizens.	Senator Barefoot Senator J. Davis Senator Hise
SB 572	Agricultural Regulatory Relief.	Senator Cook
SB 647	Amend Trapping Law.	Senator Sanderson Senator B. Jackson
SB 546	Create Inspection Program/Venison Donations.	Senator Hartsell
SB 374	Modify For-Hire License Logbook Requirement.	Senator Cook

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, April 22, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on April 22, 2015 in Room 544 of the Legislative Office Building. Sixteen members were present.

Senator Bill Cook presided.

Senator Cook introduced the Pages - Emily Blair of Raleigh, Nick Mills of Raleigh and AJ Swaim of Wendell.

Sgt. at Arms for today's meeting were Charles Marsalis and Anderson Meadows.

The following bills were discussed:

SB 303 Protect Safety/Well-Being of NC Citizens. (Senators Barefoot, J. Davis, Hise)

There was a PCS for SB303. The committee accepted the PCS. Senator Barefoot and Senator Hise explained the bill. After discussion from members, Senator Bingham made a motion for a Favorable Report on the PCS and the motion carried. This bill had a Sequential Referral to Judiciary 1.

SB 572 Agricultural Regulatory Relief. (Senator Cook)

There was a PCS for SB572. Senator Cook turned the podium over to Sen. Trudy Wade while Senator Cook explained SB572. Senator Brock made a motion to accept the PCS and the motion carried. Senator Cook explained the bill. After questions and discussion from the members, Senator Brock moved for a Favorable Report to the PCS and the motion carried.

SB 374 Modify For-Hire License Logbook Requirement. (Senator Cook)

Sen. Cook explained the bill. There were questions from members which Sen. Cook and staff answered. Senator Bingham moved for a Favorable Report to the bill and the motion carried.

Senator Wade turned the podium over to Senator Cook to continue chairing the committee.

SB 647 Amend Trapping Law. (Senators Sanderson, B. Jackson)

There was a PCS on this bill. The committee accepted the PCS. Senator Sanderson explained the bill. Senator Rabin presented an amendment which was passed by the

committee (was rolled into the PCS). After questions and comments from the members, the floor was open for public comment from the audience. Tony White, President of NC Trappers Association spoke in opposition to the bill and Harry Ennis, President of the Eastern North Carolina Fox Hunters Association spoke in favor of the bill.
Senator Brent Jackson made a motion for a Favorable Report to the PCS. The motion carried.

SB 546 Create Inspection Program/Venison Donations. (Senator Hartsell) (This bill was not heard due to lack of time.

The meeting adjourned at 11:00 AM

Bill Cook

Senator Bill Cook, Presiding Chair

Judy Edwards

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, April 22, 2015

Senator Cook,
submits the following with recommendations as to passage:

FAVORABLE

SB **374** **(CS#1)** Modify For-Hire License Logbook Requirement.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **303** Protect Safety/Well-Being of NC Citizens.

Draft Number:	S303-PCS35267-TA-3
Sequential Referral:	Judiciary I
Recommended Referral:	None
Long Title Amended:	Yes

SB **572** Agricultural Regulatory Relief.

Draft Number:	S572-PCS45354-TA-4
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

SB **647** Amend Trapping Law.

Draft Number:	S647-PCS45353-TQ-12
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 4

Senator Bill Cook will handle SB 374
Senator John Barefoot will handle SB 303
Senator Bill Cook will handle SB 572
Senator Norman Sanderson will handle SB 647

SENATE BILL 303:
Protect Safety/Well-Being of NC Citizens

2015-2016 General Assembly

Committee:	Senate Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Judiciary 1	**Date:**	April 22, 2015
Introduced by:	Sens. Barefoot, J. Davis, Hise	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	PCS to First Edition S303-CSTA-3 [v.6]		

SUMMARY: Senate Bill 303 would prohibit the Environmental Management Commission and the Department of Environment and Natural Resources from issuing rules to implement federal standards for wood heaters and for fuel combustion that is used directly or indirectly to provide heat or hot water to a residence or a business.

The Proposed Committee Substitute (PCS) would also amend the process by which the Environmental Management Commission adopts federal air quality standards by requiring the Commission to affirmatively adopt rules promulgated by the United States Environmental Protection Agency (USEPA).

CURRENT LAW and BILL ANALYSIS:

Section 1: Pursuant to G.S. 143-215.107, the Environmental Management Commission (EMC) is empowered to develop and adopt standards and plans necessary to implement the requirements of the federal Clean Air Act and regulations adopted by the USEPA. **Section 1** of the PCS would provide for the following two exceptions to the EMC's authority to develop and adopt standards and plans to implement federal air quality standards by prohibiting the EMC and the Department of Environment and Natural Resources (DENR) from:

1. Issuing rules to implement regulations adopted by the USEPA after May 1, 2014, to limit emissions from wood heaters or enforce against a manufacturer, distributor, or consumer of a wood heater subject to federal regulation. "*Wood heater*" is defined by this section to mean: a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood.
2. Enforcing any federal air emissions standard adopted by the USEPA for the regulation of fuel combustion that is used directly or indirectly to provide hot water or comfort heating to a residence or a comfort heating to a business.

Sections 2 through 4: The State's rules for air pollution control are found in Subchapter 02D of Title 15A of the North Carolina Administrative Code. Under current rules regulating national emissions standards for hazardous air pollutants, maximum achievable control technology, and new source performance standards (15A NCAC 02D .1110, .1111, and .0524, respectively) the Director of the Division of Air Quality in DENR must state whether a proposed federal standard should be enforced. If

the EMC does not act to exclude or amend a proposed federal standard within 12 months of the proposal being properly noticed, the Director must automatically begin enforcing the proposed standard.

Sections 2 through 4 of the PCS would modify the implementation of the State's air pollution control rules for national emissions standards for hazardous air pollutants, maximum achievable control technology, and new source performance standards (15A NCAC 02D .1110, .1111, and .0524, respectively) to establish a new process by which proposed federal standards are adopted into the Administrative Code. Instead of automatically enforcing new federal standards, the PCS would prohibit the EMC from adopting new standards except by a three-fifths vote of the Commission, to include the new standards in the Administrative Code. Standards adopted according to this process would then be subject to legislative review.

Section 5 of the PCS would prohibit the EMC from enforcing previously adopted federal national emissions standards for hazardous air pollutants, maximum achievable control technology, and new source performance standards until the EMC readopts the standards using the process outlined above.

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

BACKGROUND: On March 16, 2015, the USEPA promulgated final rules for Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces. According to the USEPA, these rules strengthen the emissions standards (which were last updated in 1998) for new wood stoves and establish emissions standards for several types of previously unregulated new wood heaters including outdoor and indoor wood-burning forced air furnaces. The federal standards only apply to new heaters and new stoves and do not affect existing wood stoves or other wood-burning heaters currently in use in people's homes. The rules also do not apply to new or existing heaters that are fueled solely by oil, gas, or coal and would not apply to indoor or outdoor fireplaces, fire pits, pizza ovens, barbeques or chimineas.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 303
PROPOSED COMMITTEE SUBSTITUTE S303-CSTA-3 [v.6]
4/21/2015 4:12:09 PM

Short Title: Protect Safety/Well-Being of NC Citizens. (Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE SAFETY AND WELL-BEING OF CITIZENS FROM REGULATORY OVERREACH BY: (1) PROHIBITING THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM ISSUING RULES IMPLEMENTING FEDERAL STANDARDS FOR WOOD HEATERS OR ENFORCING SUCH RULES, AND BY FORBIDDING THE COMMISSION AND THE DEPARTMENT FROM ENFORCING AIR EMISSIONS STANDARDS LIMITING FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS; AND (2) REQUIRING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AFFIRMATIVELY ADOPT AIR QUALITY MANAGEMENT RULES PROMULGATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

The General Assembly of North Carolina enacts:

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

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

"**§ 143-215.107. Air quality standards and classifications.**

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted by the United States Environmental Protection Agency after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 1.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

SECTION 2.(a) 15A NCAC 02D .0524(c) (New Source Performance Standards). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c) (New Source Performance Standards) as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – Notwithstanding 15A NCAC 02D .0524(c) (New Source Performance Standards), the Commission shall not adopt a new source performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts new source performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source Performance Standards) consistent with Section 2(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(d) Sunset. – Section 2(b) of this act expires on the date that the rule adopted pursuant to Section 2(c) of this act becomes effective.

SECTION 3.(a) 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 3(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 3(b) of this act.

SECTION 3.(b) Implementation. – Notwithstanding 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology), the Commission shall not adopt maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to

legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) consistent with Section 3(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 3(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(d) Sunset. – Section 3(b) of this act expires on the date that the rule adopted pursuant to Section 3(c) of this act becomes effective.

SECTION 4.(a) 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) as provided in Section 4(b) of this act.

SECTION 4.(b) Implementation. – 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) consistent with Section 4(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(d) Sunset. – Section 4(b) of this act expires on the date that the rule adopted pursuant to Section 4(c) of this act becomes effective.

SECTION 5. As of the effective date of this act, the Environmental Management Commission shall not enforce any federal standard that was adopted by reference pursuant to 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such standards are readopted by the Commission as provided in this act.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 6. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 303

Short Title:	Protect Safety/Well-Being of NC Citizens.	(Public)
Sponsors:	Senators Barefoot, J. Davis, Hise (Primary Sponsors); Bingham, Brock, Daniel, B. Jackson, and Sanderson.	
Referred to:	Rules and Operations of the Senate.	

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE SAFETY AND WELL-BEING OF CITIZENS FROM REGULATORY OVERREACH BY PROHIBITING THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM ISSUING RULES IMPLEMENTING FEDERAL STANDARDS FOR WOOD HEATERS OR ENFORCING SUCH RULES, AND BY FORBIDDING THE COMMISSION AND THE DEPARTMENT FROM ENFORCING AIR EMISSIONS STANDARDS LIMITING FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS.

The General Assembly of North Carolina enacts:

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

"**§ 143-215.107. Air quality standards and classifications.**

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 1.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

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

SENATE BILL 572:
Agricultural Regulatory Relief

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	April 22, 2015
Introduced by:	Sen. Cook	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	PCS to First Edition S572-CSTA-4		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 572 would direct the Departments of Transportation and Environment and Natural Resources to study various issues of concern to the agriculture community.***

BILL ANALYSIS: The PCS for Senate Bill 572 would direct the study of the following:

Section 1 would direct the Department of Transportation (DOT) to study:

1. Weight limits that are set by the Board of Transportation for bridges on roads that serve areas of the State with significant agricultural and forestry production. The study must include: impacts due to additional transportation costs required to detour around weight-restricted bridges; a determination of whether those impact is factored into weight limit decisions; and the impacts on safety and transportation infrastructure if accommodations were to be made.
2. The limits and regulatory barriers on the transportation of fuel for use in agricultural or forestry activities, with particular attention to roads and routing in order to comply with vehicle weight limits.

DOT must report its findings and recommendations, including legislative proposals to the Joint Legislative Transportation Oversight Committee and the Agriculture and Forestry Awareness Study Commission (Committee) no later than February 1, 2016.

Section 2 would direct the Department of Environment and Natural Resources (DENR) to study the regulatory barriers farmers face in the coastal counties from diminished drainage from farmland due to increases in coastal sound levels. In its report, DENR must include recommendations for economically viable and environmentally sound methods for sufficient drainage of coastal agricultural lands impacted by declines in drainage from the coastal sounds.

DENR must report its findings and recommendations, including legislative proposals to the Environmental Review Commission and the Commission no later than February 1, 2016.

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

O. Walker Reagan
Director

★S572-SMTA-9 CSTA-4 -V2★

Research Division
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 572
PROPOSED COMMITTEE SUBSTITUTE S572-CSTA-4 [v.1]

4/20/2015 4:55:34 PM

Short Title: Agricultural Regulatory Relief. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF TO FARMERS BY REQUIRING THE DEPARTMENT OF TRANSPORTATION TO STUDY BRIDGE WEIGHT RESTRICTIONS IN AGRICULTURAL AREAS AND THE REGULATIONS GOVERNING TRANSPORT OF FUEL FOR AGRICULTURAL USE BY FARM VEHICLES; AND BY REQUIRING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY REGULATORY BARRIERS TO INCREASING DRAINAGE OF AGRICULTURAL LANDS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) DOT Study. – The Department of Transportation shall study the following:

(1) Weight limits set by the Board of Transportation for bridges on roads serving areas of the State with significant agricultural and forestry production, including (i) the impact on transport of agricultural and forestry products due to additional transportation costs required to detour around weight restricted bridges, (ii) whether this impact is factored into bridge weight limit decisions, and (iii) the impacts on safety and transportation infrastructure were accommodations to be made for agricultural and forest product transport in areas of the State where bridge weight restrictions cause a significant hardship either due to the volume of farm or forest products transportation traffic impacted or the length of detours caused by the weight restriction.

(2) Limits and regulatory barriers on the transportation of fuel for use in agricultural or forestry activities to farms or forestry areas and from one farm or forestry area to another farm or forestry area, focusing on restrictions with respect to roads and routing in order to comply with vehicle weight limits.

SECTION 1.(b) Report. – The Department shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Transportation Oversight Committee and the Agriculture and Forestry Awareness Study Commission no later than February 1, 2016.

SECTION 2.(a) DENR Study. – The Department of Environment and Natural Resources shall study regulatory barriers faced by farmers in counties regulated under Article 7 of Chapter 113A of the General Statutes. The General Assembly finds that these farmers are impacted by diminished drainage from their farmland due to increases in coastal sound levels as the inlets connecting those sounds to the Atlantic Ocean have experienced increased

shoaling and a resulting decrease in freshwater throughput. As a result, there is an increasing need to pump this non-draining surface water into canals and other man-made drainage structures in order to continue the use of the land for agricultural activity. The report shall include the Department's recommendations for economically viable and environmentally sound methods for sufficient drainage of coastal agricultural lands impacted by declines in drainage from North Carolina's coastal sounds.

SECTION 2.(b) Report. – The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Agriculture and Forestry Awareness Study Commission no later than February 1, 2016.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 572

Short Title:	Agricultural Regulatory Relief.	(Public)
Sponsors:	Senators Cook (Primary Sponsor); and B. Jackson.	
Referred to:	Rules and Operations of the Senate.	

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF TO FARMERS BY REQUIRING THE DEPARTMENT OF TRANSPORTATION TO STUDY BRIDGE WEIGHT RESTRICTIONS IN AGRICULTURAL AREAS AND THE REGULATIONS GOVERNING TRANSPORT OF FUEL FOR AGRICULTURAL USE BY FARM VEHICLES; AND BY REQUIRING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY REGULATORY BARRIERS TO INCREASING DRAINAGE OF AGRICULTURAL LANDS IMPACTED BY SEA LEVEL CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) DOT Study. – The Department of Transportation shall study the following:

(1) Weight limits set by the Board of Transportation for bridges on roads serving agricultural areas of the State, including (i) the impact on transport of agricultural products from farms due to additional transportation costs required to detour around weight restricted bridges, (ii) whether this impact is factored into bridge weight limit decisions, and (iii) the impacts on safety and transportation infrastructure were accommodations to be made for agricultural transport in areas of the State where bridge weight restrictions cause a significant hardship either due to the volume of farm products transportation traffic impacted or the length of detours caused by the weight restriction.

(2) Limits and regulatory barriers on the transportation of fuel for use in agricultural activities to farms and from one farm to another farm, focusing on restrictions with respect to roads and routing in order to comply with vehicle weight limits.

SECTION 1.(b) Report. – The Department shall report its findings and recommendations, including any legislative proposals, to the Joint Legislative Transportation Oversight Committee no later than February 1, 2016.

SECTION 2.(a) DENR Study. – The Department of Environment and Natural Resources shall study regulatory barriers faced by farmers in counties regulated under Article 7 of Chapter 113A of the General Statutes who are impacted by diminished drainage from farmland due to rising sea level and therefore need to increase the pumping of surface water into canals and other man-made drainage structures in order to continue the use of the land for agricultural activity. The report shall include the Department's recommendations for economically viable and environmentally sound methods for sufficient drainage of coastal agricultural lands impacted by rising sea levels.

SECTION 2.(b) Report. – The Department shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than February 1, 2016.

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

SENATE BILL 374:
Modify For-Hire License Logbook Requirement

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	April 22, 2015
Introduced by:	Sen. Cook	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: Senate Bill 374 would make voluntary the requirement that for-hire coastal recreational fishing licensees maintain a logbook of catch and effort statistical data; delay implementation of the logbook reporting provision; require the North Carolina Division of Marine Fisheries (Division) of the Department of Environment and Natural Resources to conduct a 12-month implementation process of the reporting requirement, including forming a stakeholder advisory group; and prohibit the Director of the Division (Fisheries Director) from entering into a Joint Enforcement Agreement (JEA) with the National Marine Fisheries Service (NMFS).

CURRENT LAW: The 2013 Appropriations Act established a new reporting requirement that for-hire coastal recreational fishing licensees submit logbooks summarizing catch and effort statistical data to the Division. The 2014 Appropriations Act authorized the Fisheries Director to enter into an agreement with NMFS allowing marine inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of NMFS.

BILL ANALYSIS:

Section 1 would make the requirement for logbook reporting of catch and effort statistical data by for-hire coastal recreational fishing licensees voluntary.

Section 2 would delay the implementation for logbook reporting of catch and effort statistical data by for-hire coastal recreational fishing licensees until January 1, 2016.

Section 3 would require the Division to conduct a 12-month implementation process that would include seeking input from stakeholders by forming a stakeholder advisory group with regard to the logbook reporting requirement and holding public workshops for persons subject to the logbook reporting requirement. The Division would establish a stakeholder advisory group with representation from all major recreational fishing areas on the North Carolina coast. The Division would provide written responses to any issues raised by the advisory group and would report to the Environmental Review Commission no later than January 15, 2016.

Section 4 would prohibit the Fisheries Director from entering into a JEA with the National Marine Fisheries Service (NMFS) allowing marine inspectors to accept delegation of law enforcement powers over matters within the jurisdiction of NMFS. Section 4 would also make a conforming change by repealing a provision allowing marine inspectors to assume such law enforcement powers.

EFFECTIVE DATE: This act would become effective when it becomes law.

Layla Cummings, counsel to Senate Commerce, substantially contributed to this summary.

O. Walker Reagan
Director

S374-SMSB-14-E2-V3

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 2

SENATE BILL 374
Commerce Committee Substitute Adopted 4/21/15

Short Title: Modify For-Hire License Logbook Requirement. (Public)

Sponsors:

Referred to:

March 25, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE VOLUNTARY THE REQUIREMENT THAT A HOLDER OF A FOR-HIRE COASTAL RECREATIONAL FISHING LICENSE MAINTAIN A LOGBOOK SUMMARIZING CATCH AND EFFORT STATISTICAL DATA, TO DELAY IMPLEMENTATION TO ALLOW THE DIVISION OF MARINE FISHERIES TO CONDUCT A STAKEHOLDER INPUT AND EDUCATION PROCESS, AND TO FORBID THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM ENTERING INTO A JOINT ENFORCEMENT AGREEMENT WITH THE NATIONAL MARINE FISHERIES SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-174.3(e), as enacted by subsection 14.8(o) of S.L. 2013-360, reads as rewritten:

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

SECTION 2. Section 14.8(ab) of S.L. 2013-360 reads as rewritten:

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

SECTION 3. Prior to any further implementation of subsection 14.8(o) of S.L. 2013-360, the Division of Marine Fisheries shall conduct a 12-month implementation process to include seeking input from stakeholders with regard to the requirement and public workshops to provide education for persons subject to the requirement. The process shall also include the establishment of a stakeholder advisory group that includes persons who are for-hire license holders representing all major recreational fishing areas on the North Carolina coast. The Division shall review and provide a written response to any issues raised by the advisory group and shall report to the Environmental Review Commission no later than January 15, 2016, regarding the implementation process required by this section.

SECTION 4.(a) G.S. 113-224 reads as rewritten:

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

(a) ~~The~~ Except as otherwise provided in this section, the Department is empowered to enter into cooperative agreements with public and private agencies and individuals respecting the matters governed in this Subchapter. Pursuant to such agreements the Department may expend funds, assign employees to additional duties within or without the State, assume

additional responsibilities, and take other actions that may be required by virtue of such agreements, in the overall best interests of the conservation of marine and estuarine resources.

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

SECTION 4.(b) G.S. 128-1.1(c2) is repealed.

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

SENATE BILL 647:
Amend Trapping Law

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	April 22, 2015
Introduced by:	Sens. Sanderson, B. Jackson	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 647 would amend the laws governing trapping to allow conibear-type traps to be set on dry land only under specific conditions, and to require a trapper education course for licensed trappers.***

CURRENT LAW: G.S. 113-291.6 regulates the trapping of wild animals. The statute prohibits trapping on the land of another without having written permission from the landowner and prevents an animal from being taken by trapping with any steel-jaw, leg hold, or conibear-type trap unless certain conditions are met.

With regard to conibear traps, the statute provides that no one may take wild animals by such a trap unless it: (1) has a jaw spread of not more than 7.5 inches; (2) is horizontally offset with closed jaw spread of at least 3/16 of an inch for a trap with a jaw spread of more than 5.5 inches (except if the trap is set in the water with quick-drown type of set); (3) is smooth edged and without teeth or spikes; and (4) has a weather-resistant permanent tag attached legibly giving the trapper's name and address. **In addition, such traps with an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped.**

A person who violates G.S. 113-291.6 is guilty of a Class 2 misdemeanor[1].

BACKGROUND: Body-gripping traps are designed to kill animals quickly. They are often called "conibear" traps after Canadian inventor Frank Conibear, who began their manufacture in the late 1950s. Animals that are caught squarely on the neck by such a trap are killed quickly, and are therefore not left to suffer or given a chance to escape.

BILL ANALYSIS: Senate Bill 647 would amend the laws governing conibear traps to:

- Prohibit "bucket sets."
- Provide that conibear type traps set with bait and having an inside jaw spread or opening (width or height) greater than 5.5 inches and no more than 7.5 inches may be set on dry land only under the following restrictions:

[1] The presumptive range of punishment for a Class 2 misdemeanor when there are no prior convictions is 1 to 30 days of community punishment.

O. Walker Reagan
Director

S647-SMTQ-25 E1 -V2

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(1) Within an enclosure approved by the rules of the North Carolina Wildlife Resources Commission (Commission) subject to the following minimum requirements: no openings on the enclosure may exceed 60 square inches, the trap trigger must be recessed at least 8 inches from all openings, and the top surface of the enclosure entrance must include an overhang such that the trigger recess distance and the overhang distance are no less than 12 inches in combination.
(2) In an elevated position of at least 4 feet above ground level.

- Provide that conibear type traps set without an enclosure as previously described and without bait may be set on dry land only under the following restrictions:
  (1) On public lands (i) traps having an inside jaw spread or opening (width or height) greater than 5.5 inches and no more than 6.5 inches must be set such that the top of the trap is no more than 8 inches above the ground or (ii) the bottom of the trap shall be elevated at least 5 feet above the ground.
  (2) On private lands (i) traps may not have an inside jaw spread or opening (width or height) greater than 6.5 inches or (ii) traps having an inside jaw spread or opening (width or height) no more than 7.5 inches may be set in buildings and structures or as authorized by a depredation permit issued by the Commission.

In addition, the bill would:

- Provide that individuals receiving a trapping license from the Commission after October 1, 2016, must complete a trapper education course approved by the Commission.
- Direct the Commission to adopt rules requiring the reporting of domestic animals taken by trapping.

EFFECTIVE DATE: This bill would be effective December 1, 2015, and apply to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 647

Short Title:	Amend Trapping Law.	(Public)
Sponsors:	Senators Sanderson and B. Jackson (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate.	

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRAPPING LAW RELATING TO CONIBEAR TYPE TRAPS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-291.6 reads as rewritten:

"...

(d) Conibear type traps that have an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped. For the purposes of this section:

(1) A water-set trap is one totally covered by water with the anchor secured in water deep enough to drown the animal trapped quickly.

(2) In areas of tidal waters, the mean high water is considered covering water.

(3) In reservoir areas, covering water is the low water level prevailing during the preceding 24 hours.

(4) Marshland, as defined in G.S. 113-229(n)(3), is not considered dry land.

(d1) "Bucket sets" are prohibited.

(d2) Conibear type traps set with bait and having an inside jaw spread or opening (width or height) greater than five and one-half inches and no more than seven and one-half inches may be set on dry land only under the following restrictions:

(1) Within an enclosure approved by the rules of the North Carolina Wildlife Resources Commission subject to the following minimum requirements: no openings on the enclosure may exceed 60 square inches, the trap trigger shall be recessed at least eight inches from all openings, and the top surface of the enclosure entrance shall include an overhang such that the trigger recess distance and the overhang distance are no less than 12 inches in combination.

(2) In an elevated position of at least four feet above ground level.

(d3) Conibear type traps set without an enclosure as described in this section and without bait may be set on dry land only under the following restrictions:

(1) On public lands, (i) traps having an inside jaw spread or opening (width or height) greater than five and one-half inches and no more than six and one-half inches must be set such that the top of the trap is no more than eight inches above the ground or (ii) the bottom of the trap shall be elevated at least five feet above the ground.

(2) On private lands, (i) traps may not have an inside jaw spread or opening (width or height) greater than six and one-half inches or (ii) traps having an

inside jaw spread or opening (width or height) no more than seven and one-half inches may be set in buildings and structures or as authorized by a depredation permit issued by the North Carolina Wildlife Resources Commission."

SECTION 2. G.S. 113-270.5(a) reads as rewritten:

"(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. All individuals licensed under this section after October 1, 2016, shall complete a trapper education course approved by the North Carolina Wildlife Resources Commission. When the trapping license is required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply."

SECTION 3. The North Carolina Wildlife Resources Commission shall adopt rules to require the reporting of domestic animals taken by trapping.

SECTION 4. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 647

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

S647-ATQ-12 [v.1]

Amends Title [NO]
First Edition

Date _____,2015

Senator _____

moves to amend the bill on page 1, line 27, by deleting that line; and

on page 1, lines 32 through 34, by rewriting those lines to read:

"one-half inches must be set such that the top of the trap is at least four feet above the ground.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

April 22, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Matthew Dacklan	NC DENR
BRAD KNOTT	NC DENR
Phoebe Landon	Brooks Pierce
Jim Mark	Policy Group
Daniel Hunt	NCTA
David Denton	WRDC
Tonnie Quin	NCTA
Brooks Rainey Pearson	SELC
Meg Malloy Ashcraft	SELC
Tony White	North Carolina Trappers Assoc.
Trent Womble	DHHS
Laurie Payne	NC Grange
Michael Sykes	NC Trappers Association
Lee Allen	NC Assoc of Realtors
Dick Johnson	NC Assoc of Realtors
Laurie Ridenhour	NC Assn of Realtors

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

April 22, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Meredith B	Barefoot Int.
Kathy Jess	Sanderson
Danielle Albert	Alexander
Jerry Schill	NCFB
Allen Hardison	CRSWMA
George Everett	Duke Energy
Preston Howard	NCMA
	NCWPC
Gordon Myers	NCWRC
Amwood	NS
David McLeod	Ag. Alliance
Laura Daugusk	Sen Binghams, Intern
Harry	ENCEHA
Jeffrey Williams	ENCEHA
Randy Sherman	NCFB
John Cooper	CCS
Stephen Kaiser	CCS

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

April 22, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David McGowan	NCPC
Walter Alcorn	Consumer Electronics Association
Tommy Scott	MWI
Andy Walsh	SA
Scott Laster	SSG AC
	MWC
Mary Helen Moore	UNC
Caroline Daly	DENR
Edgar Miller	CTNC
Carr McLamb	TSS
Terry Lawler	ENCORE

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

April 22, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	Duke Energy
	CSS
Rick Zechini	WR

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, April 29, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Andrew Brock

Introduction of Pages and Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 546	Create Inspection Program/Venison Donations.	Senator Hartsell
SB 132	Carteret Fox Trapping.	Senator Sanderson

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, April 29, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on April 29, 2015 in Room 544 of the Legislative Office Building. Fourteen members were present.

Senator Andrew Brock, presided.

Senator Brock introduced the pages – Molly Zuidema from Garner sponsored by Senator Barefoot, Caroline Gorman of New Bern sponsored by Senator Sanderson, Hailey Hughes of Trent Woods sponsored by Senator Sanderson, Courtney Thomas of Clayton sponsored by Senator Van Duyn, and Aubria Battle of Raleigh sponsored by Senator Van Duyn.

Sgt at Arms were Terry Barnhardt and Jim Hamilton.

The following bills were discussed:

SB 132 Carteret Fox Trapping. (Senator Sanderson)

There was a PCS for SB132. Senator Jackson made a motion to accept the PCS. The motion carried. Senator Sanderson explained the bill. After questions from members, Senator Bingham made a motion for a Favorable Report to the PCS and the motion carried.

SB 546 Create Inspection Program/Venison Donations. (Senator Hartsell)

There was a PCS for SB546. Senator Hartsell explained the bill. Senator Hartsell presented an amendment. Jennifer McGinnis, Staff explained that there was a technical correction to strike through the term "fallow deer" and "red deer" and the word or. This will be done as a perfecting amendment to the amendment before the committee so the only deer that would be subject to the provisions of this bill would be "white –tailed deer". There was much discussion and questions from members of the committee. Joy Hicks, Legislative Liaison and Alan Wade, Director of Poultry Inspection Division from the Department of Agriculture spoke on the bill. Larry Michael, Chief Environmental Section with the Division of Public Health spoke on the bill. Senator Jackson made a motion to accept the amendment and the motion carried. Senator Tucker moved for a Favorable Report to the PCS. The motion carried. This bill has a Serial Referral to Health.

The meeting adjourned at 10:55 AM

Senator Andrew Brock, Presiding Chair

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, April 29, 2015

Senator Brock,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **132** Carteret Fox Trapping.

Draft Number:	S132-PCS15243-LL-3
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

SB **546** Create Inspection Program/Venison Donations.

Draft Number:	S546-PCS15244-TAf-6
Sequential Referral:	Health Care
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Norman Sanderson will handle SB 132
Senator Fletcher Hartsell will handle SB 546

SENATE BILL 132:
Carteret Fox Trapping

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	April 29, 2015
Introduced by:	Sen. Sanderson	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	PCS to First Edition S132-CSLL-3 [v.2]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 132 would permit fox trapping in Carteret County during the trapping season set by the Wildlife Resources Commission (WRC) and allow for the sale of foxes legally taken by trapping.***

The PCS prohibits the sale of live foxes taken by trapping and adds a sunset provision.

CURRENT LAW: Fox trapping currently is not permitted in Carteret County. Fox hunting with weapons is permitted from November 17 to January 1 of each year. Fox trapping is allowed in 38 counties. In some counties, trappers are exempt from tagging requirements, and in some counties, the sale of foxes is prohibited.

BILL ANALYSIS: The PCS would allow fox trapping in Carteret County during the general trapping season set by the WRC, which runs from December 1 to February 28 in that county. There would be no bag limit on foxes taken by trapping. The act also directs the WRC to provide for the sale of foxes taken legally pursuant to this act, except that live foxes may not be bought or sold. There would be no tagging requirements before or after sale.

The PCS would apply only to Carteret County.

EFFECTIVE DATE: This act would become effective October 1, 2015, and expire September 30, 2017.

O. Walker Reagan
Director

S132-SMTG-34 CSLL-3 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 132
PROPOSED COMMITTEE SUBSTITUTE S132-PCS15243-LL-3

Short Title: Carteret Fox Trapping. (Local)

Sponsors:

Referred to:

March 3, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act, except that live foxes taken pursuant to this act may not be bought or sold.

SECTION 4. This act applies only to Carteret County.

SECTION 5. This act becomes effective October 1, 2015, and expires September 30, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 132
PROPOSED COMMITTEE SUBSTITUTE S132-CSLL-3 [v.2]

4/14/2015 10:02:46 AM

Short Title: Carteret Fox Trapping. (Local)

Sponsors:

Referred to:

March 3, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act, except that live foxes taken pursuant to this act may not be bought or sold.

SECTION 4. This act applies only to Carteret County.

SECTION 5. This act becomes effective October 1, 2015, and expires September 30, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 132

Short Title:	Carteret Fox Trapping.	(Local)
Sponsors:	Senator Sanderson (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate.	

March 3, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 4. This act applies only to Carteret County.

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

SENATE BILL 546:
Create Inspection Program/Venison Donations

2015-2016 General Assembly

Committee:	Senate Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Health Care	**Date:**	April 22, 2015
Introduced by:	Sen. Hartsell	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 546 would direct the Department of Health and Human Services to establish regulations governing the sanitation of deer processing establishments that make charitable donations of venison for human consumption to food banks and other nonprofit organizations and would make conforming changes to the related sanitation statutes.***

BILL ANALYSIS: Senate Bill 546 would:

- Define *"establishment that processes and donates deer"* to mean an establishment that processes and donates to nonprofit organizations in this State fallow deer or red deer capable of use as human food **(Section 3.(j))**.
- For the protection of the public health would direct the Commission for Public Health to adopt rules governing the sanitation of establishments that process and donate deer **(Section 4)**.
- Direct the Secretary of Health and Human Services to inspect each establishment that processes and donates deer at least once annually **(Section 5)**.
- Make technical and conforming changes to the related statutes governing sanitation **(Sections 1, 2, and 3.(a) through 3.(i))**.

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

BACKGROUND: The Department of Agriculture and Consumer Services does not require the inspection of processing of deer and other wild game. According to the Department, there are approximately 50 deer processing facilities in North Carolina. The meats derived from wildlife in this State are not legal to be sold and must be processed for the individual hunter only.

O. Walker Reagan
Director

S546-SMTA-10 E1 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 546
PROPOSED COMMITTEE SUBSTITUTE S546-PCS15244-TAf-6

Short Title: Create Inspection Program/Venison Donations. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH REGULATIONS GOVERNING THE SANITATION OF DEER PROCESSING ESTABLISHMENTS THAT MAKE CHARITABLE DONATIONS OF VENISON FOR HUMAN CONSUMPTION TO FOOD BANKS AND OTHER NONPROFIT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-39(b) reads as rewritten:

"(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Public Health or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Public Health or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in ~~G.S. 130A-247(1),~~ G.S. 130A-247, and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c)."

SECTION 2. G.S. 130A-138 reads as rewritten:

"**§ 130A-138. Operators of restaurants and other food or drink establishments to report.**

An operator of a restaurant or other establishment where food or drink is prepared or served for pay, as defined in ~~G.S. 130A-247(4) and (5),~~ G.S. 130A-247, shall report information required by the Commission to the local health director of the county or district in which the restaurant or food establishment is located when the operator has reason to suspect an outbreak of food-borne illness in its customers or employees or when it has reason to suspect that a food handler at the establishment has a food-borne disease or food-borne condition required by the Commission to be reported."

SECTION 3.(a) G.S. 130A-247(1) is recodified as G.S. 130A-247(3) and reads as rewritten:

"~~(1)~~(3) "Establishment" means (i) an establishment that prepares or serves drink, (ii) an establishment that prepares or serves food, (iii) an establishment that provides lodging, (iv) a bed and breakfast inn, ~~or~~ (v) an establishment that prepares and sells meat food products as defined in G.S. 106-549.15(14) or poultry products as defined in ~~G.S. 106-549.51(26).~~G.S. 106-549.51(26), or (vi) an establishment that processes and donates deer."

SECTION 3.(b) G.S. 130A-247(1a) is recodified as G.S. 130A-247(8).
SECTION 3.(c) G.S. 130A-247(2) is recodified as G.S. 130A-247(9).
SECTION 3.(d) G.S. 130A-247(3) is recodified as G.S. 130A-247(10).
SECTION 3.(e) G.S. 130A-247(4) is recodified as G.S. 130A-247(5).
SECTION 3.(f) G.S. 130A-247(5) is recodified as G.S. 130A-247(6).
SECTION 3.(g) G.S. 130A-247(5a) is recodified as G.S. 130A-247(1).
SECTION 3.(h) G.S. 130A-247(6) is recodified as G.S. 130A-247(2).
SECTION 3.(i) G.S. 130A-247(8) is recodified as G.S. 130A-247(11).
SECTION 3.(j) G.S. 130A-247 is amended by adding a new subdivision to read:
"(4) "Establishment that processes and donates deer" means an establishment that processes and donates to nonprofit organizations in this State white-tailed deer capable of use as human food."

SECTION 4. G.S. 130A-248 reads as rewritten:

"**§ 130A-248. Regulation of food and lodging establishments.**

(a) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay and establishments that prepare and sell meat food products or poultry products. However, any establishment that prepares or serves food or drink to the public, regardless of pay, shall be subject to the provisions of this Article if the establishment that prepares or serves food or drink holds an ABC permit, as defined in G.S. 18B-101, meets any of the definitions in G.S. 18B-1000, and does not meet the definition of a private club as provided in ~~G.S. 130A-247(2).~~G.S. 130A-247.

...

(a6) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that process and donate deer.

...."

SECTION 5. G.S. 130A-249 reads as rewritten:

"**§ 130A-249. Inspections; report and grade card.**

The Secretary may enter any establishment that is subject to the provisions of G.S. 130A-248 for the purpose of making inspections. The Secretary shall inspect each food service establishment at a frequency established by the Commission. The Secretary shall inspect each establishment that processes and donates deer at least once annually. The Secretary shall establish a fee to support the inspection of establishments that process and donate deer. In establishing a schedule for inspections, the Commission shall consider the risks to the population served by the establishment and the type of food or drink served by the establishment. The person responsible for the management or control of an establishment shall permit the Secretary to inspect every part of the establishment and shall render all aid and assistance necessary for the inspection. The Secretary shall leave a copy of the inspection form and a card or cards showing the grade of the establishment with the responsible person. The Secretary shall post the grade card in a conspicuous place as determined by the Secretary where it may be readily observed by the public upon entering the establishment or upon picking up food prepared inside but received and paid for outside the establishment through delivery windows or other delivery devices. If a single establishment has one or more outside delivery service stations and an internal delivery system, that establishment shall have a grade card posted where it may be readily visible upon entering the establishment and one posted where it may be readily visible in each delivery window or delivery device upon picking up the food outside the establishment. The grade card or cards shall not be removed by anyone, except by or upon the instruction of the Secretary."

SECTION 6. This act becomes effective October 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 546

Short Title:	Create Inspection Program/Venison Donations.	(Public)
Sponsors:	Senator Hartsell (Primary Sponsor).	
Referred to:	Rules and Operations of the Senate.	

March 30, 2015

A BILL TO BE ENTITLED

AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH REGULATIONS GOVERNING THE SANITATION OF DEER PROCESSING ESTABLISHMENTS THAT MAKE CHARITABLE DONATIONS OF VENISON FOR HUMAN CONSUMPTION TO FOOD BANKS AND OTHER NONPROFIT ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-39(b) reads as rewritten:

"(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Public Health or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Public Health or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in ~~G.S. 130A-247(1),~~ G.S. 130A-247, and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c)."

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SECTION 3.(f) G.S. 130A-247(5) is recodified as G.S. 130A-247(6).
SECTION 3.(g) G.S. 130A-247(5a) is recodified as G.S. 130A-247(1).
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SECTION 3.(i) G.S. 130A-247(8) is recodified as G.S. 130A-247(11).
SECTION 3.(j) G.S. 130A-247 is amended by adding a new subdivision to read:
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…

(a6) For the protection of the public health, the Commission shall adopt rules governing the sanitation of establishments that process and donate deer.

…."

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The Secretary may enter any establishment that is subject to the provisions of G.S. 130A-248 for the purpose of making inspections. The Secretary shall inspect each food service establishment at a frequency established by the Commission. The Secretary shall inspect each establishment that processes and donates deer at least once annually. In establishing a schedule for inspections, the Commission shall consider the risks to the population served by the establishment and the type of food or drink served by the establishment. The person responsible for the management or control of an establishment shall permit the Secretary to inspect every part of the establishment and shall render all aid and assistance necessary for the inspection. The Secretary shall leave a copy of the inspection form and a card or cards showing the grade of the establishment with the responsible person. The Secretary shall post the grade card in a conspicuous place as determined by the Secretary where it may be readily observed by the public upon entering the establishment or upon picking up food prepared inside but received and paid for outside the establishment through delivery windows or other delivery devices. If a single establishment has one or more outside delivery service stations and an internal delivery system, that establishment shall have a grade card posted where it may be readily visible upon entering the establishment and one posted where it may be readily visible in each delivery window or delivery device upon picking up the food outside the establishment. The grade card or cards shall not be removed by anyone, except by or upon the instruction of the Secretary."

SECTION 6. This act becomes effective October 1, 2015.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 546

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

S546-ATAf-11 [v.1]

Amends Title [NO]
First Edition

Date _____,2015

Senator Hartsell

moves to amend the bill on page 2, lines 10 through 12
by rewriting those lines to read:

"(4) "Establishment that processes and donates deer" means an establishment that processes and donates to nonprofit organizations in this State ~~fallow deer, red deer, or~~ white-tailed deer capable of use as human food."

and on page 2, line 31,
by rewriting that line to read:

"inspect each establishment that processes and donates deer at least once annually. The Secretary shall establish a fee to support the inspection of establishments that process and donate deer. In".

SIGNED ~~ED~~ _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

S546-ATAF-11-V-1

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

4/29/2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hayden Bourgeois	FSP
Susan Vick	Duke Energy
Andy Walsh	SA
Maggie Schneider	senate Intern
Joey Stansbury	Sen. Tucker's office
Alex Miller	KCG

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

4/29/2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joy Hicks	NCDA&CS
Alan Wade	"
Larry Michael	DHHS
Mike Smallwood	SOG
Cara Tuma	Gov. Office
A GC	NCWRC
Ralph Belk	Durham Co.
Trent Womble	DHHS
Jillian D Tolman	MWC LLC

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 6, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 65	Wilkes Fox Trapping.	Representative Elmore Representative Stevens Representative Zachary
HB 601	Sale of Deer Skins.	Representative Elmore
HB 706	Building Code/Rustic Cabins.	Representative McGrady Representative Whitmire Representative Jordan Representative Harrison

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 6, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 6, 2015 in Room 544 of the Legislative Office Building. Eleven (11) members were present.

Senator Trudy Wade presided.

Senator Wade introduced the pages: Matthew Jones from Salisbury sponsored by Senator McInnis; William Jones from Salisbury sponsored by Senator McInnis; Sarah Boone from Warrenton sponsored by Senator Bryant; Shion Whitaker from Cary sponsored by Senator Stein.

The Sgt-at-Arms for today's meeting were Donna Blake, Marcus Kitts and Giles Jeffreys.

The following bills were discussed:

HB 706 Building Code/Rustic Cabins. (Representatives McGrady, Whitmire, Jordan, Harrison

Representative McGrady was recognized to discuss the bill. There were follow up questions from Senator Alexander, Senator Rabin, and Senator McInnis with Representative McGrady responding to the questions. There was a Favorable Report motion by Senator Joel Ford. The motion carried.

HB 65 Wilkes Fox Trapping. (Representatives Elmore, Stevens, Zachary)

There was an amendment to the bill. Senator Shirley Randleman presented an amendment. The original bill allowed to establish a season for Fox Trapping in Wilkes County. The amendment adds on Cherokee County and New Hanover County. Senator Alexander made a motion to accept the amendment. The motion carried.

Representative Elmore explained the bill. Senator McInnis had a question regarding the bag limit which Senator Randleman answered. Senator McInnis had a follow up question for which Senator Randleman answered. Senator Alexander made a motion for a Favorable Report for the bill with the amendment which will be rolled into a new PCS. The motion carried.

HB 601 Sale of Deer Skins. (Representative Elmore)

Representative Elmore explained the bill. There were no questions from committee members. Senator Rabin moved for a Favorable Report. The motion carried.

The meeting adjourned at 10:15 AM.

Trudy Wade
Senator Trudy Wade, Presiding

Judy Edwards
Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, May 06, 2015

Senator Wade,
submits the following with recommendations as to passage:

FAVORABLE

HB **601** Sale of Deer Skins.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **706** Building Code/Rustic Cabins.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **65** Wilkes Fox Trapping.

Draft Number:	H65-PCS10378-TQ-3
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 3

Senator Shirley Randleman will handle HB 601
Senator Tom Apodaca will handle HB 706
Senator Shirley Randleman will handle HB 65

HOUSE BILL 706:
Building Code/Rustic Cabins

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 6, 2015
Introduced by:	Reps. McGrady, Whitmire, Jordan, Harrison	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 706 would require the Building Code Council to modify certain Building Code requirements with respect to open air camp cabins.

BILL ANALYSIS:

House Bill 706 would modify the regulation of open air camp cabins under the North Carolina Building Code. The bill defines "open air camp cabin" to mean a single-story structure that (i) has three walls consisting of at least twenty percent (20%) screened openings no more than 44 inches above the floor; (ii) has no heating or cooling system; (iii) is occupied for no more than 150 days within any rolling 365-day time span; and (iv) accommodates 36 or fewer persons.

The bill provides that for open air camp cabins, the Building Code Council must not enforce requirements more stringent than the following:

- The open air camp cabin must have at least two remote unimpeded exits, but lighted exit signs are not required.
- The open air camp cabin will not be required to have plumbing or electrical systems, but if the cabin has these systems, then the provisions of the Building Code otherwise applicable to those systems apply.
- Smoke detectors and handheld fire extinguishers may be required as otherwise provided in the Building Code, but no requirement for a sprinkler system may be imposed.

The Building Code Council must amend the Building Code to be consistent with these provisions.

EFFECTIVE DATE: This act would become effective when it becomes law.

O. Walker Reagan
Director

H706-SMSB-19-E2-V1

Research Division
(919) 733-2578

HOUSE BILL 706
Second Edition Engrossed 4/28/15

Short Title:	Building Code/Rustic Cabins.	(Public)
Sponsors:	Representatives McGrady, Whitmire, Jordan, and Harrison (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Regulatory Reform.	

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE BUILDING CODE COUNCIL TO AMEND THE NORTH CAROLINA BUILDING CODE TO EXEMPT OPEN AIR CAMP CABINS FROM CERTAIN REQUIREMENTS OF THE CODE.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – As used in this act, "Council" means the Building Code Council, "Code" means the current North Carolina Building Code as adopted by the Council, and "open air camp cabin" means a single-story structure that (i) has three walls consisting of at least twenty percent (20%) screened openings no more than 44 inches above the floor; (ii) has no heating or cooling system; (iii) is occupied for no more than 150 days within any rolling 365-day time span; and (iv) accommodates 36 or fewer persons.

SECTION 2. New Code amendment. – Until the effective date of the Code amendment that the Council is required to adopt pursuant to Section 4 of this act, the Council and local governments enforcing the Code shall follow the provisions of Section 3 of this act with respect to open air camp cabins.

SECTION 3. Implementation. – Notwithstanding any provision of the Code to the contrary, the Council shall not enforce any requirements more stringent than the following for open air camp cabins:

(1) The open air camp cabin shall have at least two remote unimpeded exits, but lighted exit signs shall not be required.

(2) The open air camp cabin shall not be required to have plumbing or electrical systems, but if the cabin has these systems, then the provisions of the Code otherwise applicable to those systems shall apply.

(3) Smoke detectors and handheld fire extinguishers may be required as otherwise provided in the Code, but no requirement for a sprinkler system shall be imposed.

SECTION 4. Rule-making authority. – Notwithstanding G.S. 150B-19(4), the Commission shall adopt rules establishing a new residential occupancy category under Section 310 of the Code for open air camp cabins that are substantively identical to the provisions of Section 3 of this act.

SECTION 5. Sunset. – Section 3 of this act expires on the date that rules adopted pursuant to Section 4 of this act become effective.

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 65:
Wilkes Fox Trapping

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 6, 2015
Introduced by:	Reps. Elmore, Stevens, Zachary	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 65 would permit fox trapping in Wilkes County during the trapping season set by the Wildlife Resources Commission (WRC) and allow for the sale of foxes legally taken by trapping.***

[As introduced, this bill was identical to S76, as introduced by Sen. Randleman, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW: Fox trapping currently is not permitted in Wilkes County, but year-round fox hunting with weapons is permitted. Fox trapping is allowed in 38 counties, including Ashe, Alleghany, and Surry. In some counties, trappers are exempt from tagging requirements, and in some counties, the sale of foxes is prohibited.

BILL ANALYSIS: House Bill 65 would allow fox trapping in Wilkes County during the general trapping season set by the WRC, which runs from November 1 to February 28. There would be no bag limit. The act also directs the WRC to provide for the sale of foxes taken legally pursuant to this act. The act would impose no tagging requirements before or after sale. This act would apply only to Wilkes County.

EFFECTIVE DATE: The act would become effective when it becomes law.

BACKGROUND:

More information on fox trapping seasons for different counties can be found at:

http://www.ncwildlife.org/Regs/documents/fox_seasons_dates.pdf

H 1

HOUSE BILL 65*

Short Title:	Wilkes Fox Trapping.	(Local)
Sponsors:	Representatives Elmore, Stevens, and Zachary (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Wildlife Resources.	

February 11, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN WILKES COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 4. This act applies only to Wilkes County.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 65*
PROPOSED SENATE COMMITTEE SUBSTITUTE H65-PCS10378-TQ-3

Short Title: Wilkes Fox Trapping. (Local)

Sponsors:

Referred to:

February 11, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN WILKES COUNTY, CHEROKEE COUNTY, AND NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 2. No bag limit applies to foxes taken under this act.

SECTION 3. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 4. This act applies only to the Counties of Wilkes, Cherokee, and New Hanover.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 65*

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

H65-ATQ-27 [v.1]

Amends Title [YES]
First Edition

Date _____,2015

Senator _____

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

"AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN WILKES COUNTY, CHEROKEE COUNTY, AND NEW HANOVER COUNTY.";

and on page 1, line 10 by rewriting the line to read:

"**SECTION 4.** This act applies only to the Counties of Wilkes, Cherokee, and New Hanover.".

SIGNED Shirley Randleman
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 601:
Sale of Deer Skins

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 6, 2015
Introduced by:	Rep. Elmore	**Prepared by:**	Chris Saunders
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 601 would allow the sale of skin of deer lawfully taken by hunting, subject to tagging and reporting requirements and season limits set by the Wildlife Resources Commission (WRC).

CURRENT LAW: Wildlife, in whole or in part, generally may not be bought or sold in North Carolina. The following exceptions apply:

- Lawfully taken wildlife may be sold to individuals who have licenses or permits from WRC authorizing them to buy wildlife, such as licensed fur dealers.
- Dead rabbits and squirrels and their edible parts may be sold if not sold for resale.
- Foxes taken with a depredation permit may be sold to a licensed fur dealer, provided they are properly tagged.
- Lawfully taken non-game animals (feral swine, nutria, armadillos, striped skunks, groundhogs, and coyotes) and lawfully taken non-game fish may be sold. The only open season for non-game birds is crow and the sale of crow is illegal under federal law.
- Lawfully taken furbearing animals and their parts, including furs and pelts, may be sold to licensed fur dealers, subject to any tagging and reporting requirements. Processed furs acquired through lawful channels within or without the State by persons other than fur dealers may be bought and sold.
- Mounted specimens of non-game animals and furbearers taken accidentally, may be bought or sold provided the proper documentation is available.

BACKGROUND: Upon harvesting a deer and before moving the animal from the site of kill, the hunter must validate the Big Game Harvest Report Card and report the kill within 24 hours to WRC.

BILL ANALYSIS: House Bill 601 would allow the sale of the skin of deer taken lawfully by hunting, subject to reporting and tagging requirements and any season limits set by the WRC.

EFFECTIVE DATE: This act would become effective October 1, 2015, and would apply to deer lawfully taken on or after that date.

O. Walker Reagan
Director

H601-SMTQ-37 E1 -V1

Research Division
(919) 733-2578

HOUSE BILL 601

Short Title:	Sale of Deer Skins.	(Public)
Sponsors:	Representative Elmore (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Wildlife Resources.	

April 9, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LAWFUL SALE OF DEER SKINS SUBJECT TO TAGGING AND REPORTING REQUIREMENTS AND SEASON LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-291.3(b) reads as rewritten:

"(b) With respect to dead wildlife:

...

(5) Lawfully taken fur-bearing animals and their parts, including furs and pelts, may, subject to any tagging and reporting requirements, be possessed, transported, bought, sold, given or received as a gift, or otherwise disposed of without restriction. The skin of deer lawfully taken by hunting may be possessed, transported, bought, or sold, subject to tagging and reporting requirements and any season limits set by the Wildlife Resources Commission. The Wildlife Resources Commission may regulate the importation of wildlife from without the State by fur dealers, and may regulate the sale of fox fur and other wildlife hides taken within the State if sale of them is authorized. Fox furs lawfully taken without the State may be imported, possessed, transported, bought, sold, and exported in accordance with reasonable rules of the Wildlife Resources Commission. Processed furs acquired through lawful channels within or without the State by persons other than fur dealers are not subject to rule.

...."

SECTION 2. This act becomes effective October 1, 2015, and applies to deer lawfully taken on or after that date.

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/ NATURAL RESOURCES — 5-6-15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	K. M. A
Rob Wellspuke	CFSA
Penny Griffin	SOA
J GOODMAN	NC CHAMBER
Martha Babcock	NC Chamber
Joy Hicks	NCDA&CS
John Cooper	GCS
Fred Boone	Boone Assoc
Andy Walsh	SA
Sam Morris	Administration
Paul Sherman	NCSBA
Jake Parker	NCFB
Stevie Webb	NCHBA

VISITOR REGISTRATION SHEET

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES — 5-6-15

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joyce Peters	CSS
J Reams	CSS
[illegible]	WRC
Andy Chase	KMA
Steve Mange	NCRLA
Susan Kirk	Duke Energy
Preston Howard	NCMA
Allen Hardison	CRSWMA/SWANA

Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, May 12, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Trudy Wade

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 513	North Carolina Farm Act of 2015.	Senator Brock Senator B. Jackson

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, May 12, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 12, 2015 in Room 544 of the Legislative Office Building. Thirteen members were present.

Senator Trudy Wade presided.

Senator Wade introduced the pages: Davis Beeman from Washington sponsored by Senator Cook; Corey Goss from Roper sponsored by Senator Smith-Ingram; Robbie Blankenship from Raleigh sponsored by Senator Alexander; Kaylah Mock from Winston-Salem sponsored by Senator Lowe; Matthew Anderson from Hays sponsored by Senator Randleman; Haley Phillips from Angier sponsored Senator Rabin; Will Whittington from Raleigh sponsored by Senator Alexander.

Senate Sgt-At-Arms for today's meeting: Steve McKaig, Marcus Kitts, and Larry Hancock

The following bill was discussed:

SB 513 North Carolina Farm Act of 2015. (Senators Brock, B. Jackson)

There was a PCS to this bill. Senator Brock moved to accept the PCS. The motion carried. Senator Jackson and Senator Brock explained the bill. The floor was opened for public comments:

Shawn Schafer, Executive Director at North American Deer Farmers Association
Spoke in support of Sec. 13 of the Farm Bill – Transfer Captive Cervid Program to the Department of Agriculture and Consumer Services.

Brad Hoxit, President Elect, NC Deer and Elk Farmers Association
Spoke in support of the bill and the farming operation moving to the Department of Agriculture and Consumer Services.

Henry Hampton, Vice-President. NC Deer and Elk Farmers Association
Spoke in support of the bill and Sec. 13 – Transfer Captive Cervid Program to the Department of Agriculture and Consumer Services.

Bob Brown, Vice Chair of NC Wildlife Federation
Spoke against Sec. 13 – Transfer Captive Cervid Program to the Department of Agriculture and Consumer Services.

Jim Cogdell, Chairman of the State Wildlife Board, representing a total of 19 members
Spoke in support of Sec. 13 – Transfer Captive Cervid Program to the Department Of Agriculture and Consumer Services.

Gordon Myers, Executive Director of Wildlife Resources Commission
Spoke in support of Sec. 13 – Transfer Captive Cervid Program to the Department Of Agriculture and Consumer Services.

Senator Wade opened the floor for questions from the committee members. Members asking questions were Senator Tucker, Senator Bryant, Senator McInnis, Senator Rabin, Senator Alexander and Senator Randleman. After much discussion, Senator Rabin moved for a Favorable Report to the PCS. The motion carried. This bill has a Sequential Referral to Transportation.

Senator Wade introduced Steve Troxler, Commissioner of NC Department of Agriculture to briefly discuss Avian Influenza.

The meeting adjourned at 11:00 AM

Senator Trudy Wade, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Tuesday, May 12, 2015

Senator Wade,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **513** North Carolina Farm Act of 2015.

Draft Number:	S513-PCS25262-TQf-16
Sequential Referral:	Transportation
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator W. Jackson will handle SB 513

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 513
PROPOSED COMMITTEE SUBSTITUTE S513-CSTQf-16 [v.3]

5/11/2015 11:06:05 PM

Short Title: North Carolina Farm Act of 2015. (Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF TO THE AGRICULTURAL COMMUNITY OF NORTH CAROLINA BY PROVIDING FOR VARIOUS TRANSPORTATION AND ENVIRONMENTAL REFORMS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

REVISE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT

SECTION 1. G.S. 106-823 reads as rewritten:

"**§ 106-823. Referendum.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed ~~two dollars ($2.00)~~four dollars ($4.00) per ton of commercial horse feed.

(2) The period for which the assessment shall be levied, not to exceed ~~three~~10 years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

...."

CONFORM COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER TO FEDERAL WAGE WITHHOLDING STANDARDS

SECTION 2.(a) G.S. 105-163.3(b) reads as rewritten:

"(b) Exemptions. – The withholding requirement does not apply to the following:

(1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.

(2) Compensation paid to an ordained or licensed member of the clergy.

(3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.

(4) Compensation paid to an alien, as described by 8 U.S.C. 1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding under section 1441 of the Code."

SECTION 2.(b) This section is effective for taxable years beginning on or after July 1, 2015.

ESTABLISH POLICY SUPPORTING SUSTAINABLE AGRICULTURE

SECTION 3. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-26.3. Declaration of policy supporting sustainable agriculture.**

The General Assembly hereby finds and declares that it shall be the policy of this State to support and promote sustainable agriculture. For purposes of this section, "sustainable agriculture" means the use of science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, including such critical outcomes as increasing agricultural productivity and improving human health through access to safe, nutritious, affordable food and other agricultural products, while enhancing agricultural and surrounding environmental conditions through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat. Further, the General Assembly finds and declares that it is in the interest of the people of this State to use sustainable agriculture to meet the needs of the present and to improve the ability of future generations to meet their own needs, while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities."

MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS

SECTION 4.(a) 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations). – Until the effective date of the revised permanent rule that the Department of Transportation is required to adopt pursuant to Section 4(d) of this act, the Department shall implement 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) as provided in Sections 4(b) and 4(c) of this act.

SECTION 4.(b) Implementation. – Notwithstanding subdivision (h)(1) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall allow movement of a permitted oversize vehicle between sunrise and sunset Monday through Sunday. However, a 16 foot-wide mobile or modular home unit with a maximum three-inch gutter edge is restricted to travel from 9:00 A.M. to 2:30 P.M. Monday through Sunday. A 16 foot-wide unit is authorized to continue operation after 2:30 P.M., but not beyond sunset, when traveling on an approved route as determined by an engineering study and the unit is being exported out-of-state.

SECTION 4.(c) Implementation. – Notwithstanding subdivision (h)(2) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall only prohibit movement of a permitted oversize vehicle and vehicle combination after noon on the weekday preceding the three holidays of Independence Day, Thanksgiving Day, and Christmas Day until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday until 12:00 noon on the following Monday.

SECTION 4.(d) Additional Rule-Making Authority. – The Department of Transportation shall adopt rules to amend 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) consistent with Sections 4(b) and 4(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Department pursuant to this section shall be substantively identical to the provisions of Sections 4(b) and 4(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(e) Effective Date. – Sections 4(b) and 4(c) of this act expire on the date that rules adopted pursuant to Section 4(d) of this act become effective.

ALLOW OVERSIZE TRANSPORTATION OF HAY BALES

SECTION 5. G.S. 20-116 is amended by adding a new subsection to read:

"**§ 20-116. Size of vehicles and loads.**

...

(o) Any vehicle carrying baled hay from place to place on the same farm, from one farm to another, from farm to market, or from market to farm, that does not exceed 12 feet in width may be operated on the highways of this State. Vehicles carrying baled hay that exceed 10 feet in width may only be operated under the following conditions:

(1) The vehicle may only be operated during daylight hours.

(2) The vehicle shall display a red flag or a flashing warning light on both the rear and front ends. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet."

AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES

SECTION 6.(a) G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width on any highway, unless the operation violates a provision of this subsection. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

(1) The equipment may only be operated during daylight hours.

(2) The equipment must display a red flag on front and rear ends or a flashing warning light. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.

(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags or lights referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every piece of equipment so operated shall operate to the right of the center line ~~when meeting traffic coming from the opposite direction and at all other times when possible and practical.~~ unless the combined width of the traveling lane and the accessible shoulder is less than the width of the equipment.

...."

SECTION 6.(b) G.S. 20-146 is amended by adding a new subsection to read:

"**§ 20-146. Drive on right side of highway; exceptions.**

(a) Upon all highways of sufficient width a vehicle shall be driven upon the right half of the highway except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) Upon a highway divided into three marked lanes for traffic under the rules applicable thereon; or

(4) Upon a highway designated and signposted for one-way traffic.

(a1) Self-propelled grain combines or other self-propelled farm equipment shall be operated to the right of the center line except as provided in G.S. 20-116(j)(4).

(b) Upon all highways any vehicle proceeding at less than the legal maximum speed limit shall be driven in the right-hand lane then available for thru traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

..."

AMEND DEFINITION OF "AGRICULTURAL SPREADER VEHICLE," INCREASE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES, AND EXEMPT ALL-TERRAIN VEHICLES AND UTILITY VEHICLES USED FOR AGRICULTURAL PURPOSES FROM REGISTRATION AND CERTIFICATE OF TITLE REQUIREMENTS

SECTION 7. G.S. 20-51 reads as rewritten:

"**§ 20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

...

(16) A vehicle that meets all of the following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.

a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle" is a vehicle that is designed for off-highway use on a farm to spread feed, fertilizer, seed, lime, or other agricultural ~~products on a field.~~products.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of ~~35~~45 miles per hour.

d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.

e. Is driven by a person who has a license appropriate for the class of the vehicle.

f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.

g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds.

....

(18) An all-terrain vehicle or utility vehicle, when used for agricultural purposes."

CLARIFY THE ROAD WEIGHT LIMITATION EXCEPTIONS FOR TRANSPORTATION OF AGRICULTURAL PRODUCTS AND SUPPLIES

SECTION 8.(a) G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:

a. Is transporting any of the following items within 150 miles of the point of origination:

1. ~~Agriculture~~ Agriculture, dairy, and crop products transported from a farm to a processing plant or market.
2. Water, fertilizer, pesticides, seeds, fuel, or animal waste transported to or from a ~~farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).~~farm.
3. Meats, livestock, or live poultry transported from the farm where they were raised to a processing plant or market.

3a. Feed or feed ingredients that ~~is~~are used in the feeding of poultry or livestock and transported from a storage facility, holding facility, or mill to a farm.

4. Forest products originating and transported from a farm or woodlands to market with delay interruption or delay for further packaging or processing after initiating transport.
5. Wood residuals, including wood chips, sawdust, mulch, or tree bark from any site.
6. Raw logs to market.
7. Trees grown as Christmas trees from field, farm, stand, or grove to a processing point.

...."

SECTION 8.(b) This section becomes effective July 1, 2015.

ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR METEOROLOGICAL TOWERS

SECTION 9.(a) Chapter 63 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Marking and Notice of Meteorological Towers.

"**§ 63-110. Marking of meteorological towers.**

(a) As used in this Article, the term:

(1) "Height" means the distance from the base of a tower to the highest point of the tower.

(2) "Meteorological tower" means a structure that is either self-standing or supported by guy wires and ground anchors, and has guy wires and accessory facilities on which equipment used to measure wind speed and direction is mounted. "Meteorological tower" does not include a structure that is affixed or located adjacent to a building, house, or barn.

(b) Except as required by federal law, rule, or regulation, any meteorological tower over 50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall also comply with the following additional requirements:

(1) A meteorological tower shall be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower.

(2) One marker ball shall be attached to the top third of each outside guy wire.

(3) Guy wires shall have a seven-foot long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point.

"**§ 63-111. Registration; notification; tower database; penalty.**

(a) The Department of Transportation shall adopt rules requiring any person proposing to construct a meteorological tower to register with the Department. The person proposing to construct the tower shall notify the Department of the proposal, the location and height of the proposed tower, and any other information the Department may require to ensure aviation safety, and shall pay a registration fee of three hundred fifty dollars ($350.00). The rules shall require the owner of a meteorological tower to notify the Department upon removal or destruction of a tower.

(b) The Department of Transportation shall establish and maintain an electronic database that contains the location of all meteorological towers in the State by January 1, 2017. The Department may contract with a governmental entity or private entity to create and maintain the database. The Department shall make the contents of the database available on its Web site.

"**§ 63-112. Penalties.**

The Secretary of Transportation may assess a civil penalty of not more than ten thousand dollars ($10,000) per violation against any person who violates any provision of this Article."

SECTION 9.(b) This section becomes effective January 1, 2017, and applies to meteorological towers erected on or after that date.

ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING SUBMERGED AQUATIC VEGETATION

SECTION 10.(a) G.S. 113-202(b) reads as rewritten:

"(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes. The Secretary shall not exclude any area from leasing solely on the basis that the area contains submerged aquatic vegetation and shall make specific findings based on the standards set forth in subsection (a) of this section prior to reaching a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged aquatic vegetation."

SECTION 10.(b) This section becomes effective July 1, 2015, and applies to any new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or after that date.

PRESENT USE VALUE MODIFICATIONS

SECTION 11.(a) G.S. 105-277.2 reads as rewritten:

"**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. For purposes of this definition, the commercial production or growing of animals includes the rearing, feeding, training, caring, and managing of horses. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland,

then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

...

(4) Individually owned. – Owned by one of the following:

a. An individual.

b. A business entity that meets all of the following conditions:

1. Its principal business is farming agricultural land, horticultural land, or forestland. When determining whether an applicant under G.S. 105-277.4 has as its principal business farming agricultural land, horticultural land, or forestland, the assessor shall presume the applicant's principal business to be farming agricultural land, horticultural land, or forestland if the applicant has been approved by another county for present-use value taxation for a qualifying property located within the other county; provided, however, the presumption afforded the applicant may be rebutted by the assessor and shall have no bearing on the determination of whether the individual parcel of land meets one or more of the classes defined in G.S. 105-277.3(a)(1). If the assessor is able to rebut the presumption, this shall not invalidate the determination that the applicant's principal business is farming agricultural land, horticultural land, or forestland in the other county.

2. All of its members are, directly or indirectly, individuals who are actively engaged in farming agricultural land, horticultural land, or forestland or a relative of one of the individuals who is actively engaged. An individual is indirectly a member of a business entity that owns the land if the individual is a member of a business entity or a beneficiary of a trust that is part of the ownership structure of the business entity that owns the land.

3. It is not a corporation whose shares are publicly traded, and none of its members are corporations whose shares are publicly traded.

4. If it leases the land, all of its members are individuals and are relatives. Under this condition, "principal business" and "actively engaged" include leasing.

c. A trust that meets all of the following conditions:

1. It was created by an individual who owned the land and transferred the land to the trust.

2. All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust that owns the land if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust that owns the land.

d. A testamentary trust that meets all of the following conditions:

1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.
2. At the date of the creator's death, the creator had no relatives.
3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).

e. Tenants in common, if each tenant would qualify as an owner if the tenant were the sole owner. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity or a trust.

...."

SECTION 11.(b) G.S. 105-277.4 is amended by adding a new subsection to read:

"**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.**

...

(f) The Department shall publish a present-use value program guide annually and make the guide available electronically on its Web site. When making decisions regarding the qualifications or appraisal of property under this section, the assessor shall adhere to the Department's present-use value program guide."

SECTION 11.(c) Section 11(a) is effective July 1, 2015, and applies to taxes imposed for taxable years beginning on or after that date. The remainder of this section is effective when it becomes law.

PROCEDURE FOR TERMINATION OR SUBSTANTIAL MODIFICATION OF CONSERVATION AGREEMENTS

SECTION 12.(a) Article 4 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-39A. Termination or substantial modification of agreements.**

(a) For any conservation agreement subject to Council of State approval for termination or substantial modification, the Council shall deny any request for termination or substantial modification that is made for the purpose of economic development, including, but not limited to, instances where some or all of the property subject to the conservation agreement is to be commercially developed by a third party. For purposes of this section, "substantial modification" means a change to the terms of a conservation agreement that would result in a diminishment to the conservation restrictions applicable to the property contained in the agreement that would affect more than five percent (5%) of the property subject to the agreement.

(b) Notwithstanding any authority given to a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, or municipal or public corporation, or any instrumentality of any of the foregoing, to release or terminate conservation easements under other law, this section shall apply to conservation agreements that are intended to be effective perpetually or that are terminated or substantially modified prior to the period of time stipulated in the agreement, and where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, or municipal or public corporation, or any

instrumentality of any of the foregoing. This section shall not apply to a condemnation action initiated by a public condemnor governed by Article 6 of Chapter 40A of the General Statutes.

(c) Parties to a conservation agreement may include a provision at the time an agreement is executed requiring the consent of the grantor or the grantor's successors in interest to terminate or substantially modify the agreement for any purpose.

(d) Any agency managing a conservation agreement program may adopt rules governing its procedure for termination or substantial modification of a conservation agreement, provided that any such rules may be no less stringent than the requirements of this section."

SECTION 12.(b) G.S. 106-737.1 reads as rewritten:

"**§ 106-737.1. Revocation of conservation agreement.**

(a) ~~By~~For conservation agreements between private parties, by written notice to the county, the landowner may revoke this conservation agreement. Such revocation shall result in loss of qualifying farm status.

(b) For conservation agreements where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district, or other political subdivision or municipal or public corporation, the procedure set forth in G.S. 121-39A shall apply."

SECTION 12.(c) G.S. 106-743.2 reads as rewritten:

"**§ 106-743.2. Conservation agreements for farmland in enhanced voluntary agricultural districts; limitation.**

A conservation agreement entered into between a county or city and a landowner pursuant to G.S. 106-743.1(a)(2) shall be irrevocable for a period of at least 10 years from the date the agreement is executed. At the end of its term, a conservation agreement shall automatically renew for a term of three years, unless notice of termination is given in a timely manner by either party as prescribed in the ordinance establishing the enhanced voluntary agricultural district. Notice of termination at the end of a term under this section shall not trigger the procedure set forth in G.S. 121-39A. The benefits set forth in this Part shall be available to the farmland that is the subject of the conservation agreement for the duration of the conservation agreement."

SECTION 12.(d) G.S. 106-744 reads as rewritten:

"**§ 106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.**

(a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106-737.

(b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:

(1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations;

(1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and

(2) Shall be perpetual in ~~duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.~~duration.

..."

SECTION 12.(e) G.S. 121-39A(c) is effective July 1, 2015, and applies to conservation agreements executed on or after that date. The remainder of this section is effective July 1, 2015, and applies to agreements in effect on that date, and executed on or after that date.

TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 13.(a) Article 49H of Chapter 106 reads as rewritten:

"Article 49H.

"~~Production and Sale~~Production, Sale, and Transportation of ~~Fallow Deer and Red Deer.~~Farmed Cervids.

"**§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of ~~certain~~farmed cervids produced and sold for commercial purposes; ~~certain authority of North Carolina Wildlife Resources Commission not affected;~~ definitions.**

~~(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.~~

(a1) The following definitions apply in this Article:

(1) Commission. – The North Carolina Wildlife Resources Commission.

(2) Department. – The North Carolina Department of Agriculture and Consumer Services.

(3) Farmed Cervid. – Any cervid, as defined by the USDA Standards, that is susceptible to Chronic Wasting Disease, or any other member of the Cervidae family that is not susceptible to Chronic Wasting Disease, that is held in captivity and produced, bought, or sold for commercial purposes. With regard to cervids that are susceptible to Chronic Wasting Disease, the term "farmed cervid" shall only include any cervid that was bred in captivity and has been continuously maintained within a herd that is enrolled in and complies with a USDA-approved Herd Certification Program. Any animal registered or tagged in any licensed captive cervid facility existing within the State as of July 1, 2015, is deemed to be a farmed cervid.

(4) Non-Farmed Cervid. – All animals in the family Cervidae other than farmed cervids.

(5) USDA. – The United States Department of Agriculture.

(6) USDA Standards. – The United States Department of Agriculture's Chronic Wasting Disease Program Standards, May 2014 edition, and subsequent updates.

(a2) The Department of Agriculture and Consumer Services shall regulate the production, sale, possession, and transportation, including importation and exportation, of farmed cervids. The Department shall have sole authority with regard to farmed cervids, including administration of the North Carolina Captive Cervid Herd Certification Program. The Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part, including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive populations of farmed cervids. The Department shall follow the USDA Standards and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may adopt rules to implement this Article, including, but not limited to, requirements for captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits.

The Department may issue new captivity licenses or permits for farmed cervid facilities that will hold cervids susceptible to Chronic Wasting Disease only if Chronic Wasting Disease-susceptible source animals are from a certified herd in accordance with USDA Standards from an existing licensed facility. Nothing in this section shall limit the Department's ability to issue new captivity licenses and permits for farmed cervid facilities that will hold cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or suspect farmed cervid facility. Until such time as the USDA has adopted an approved method of testing for Chronic Wasting Disease in living cervids, cervids susceptible to Chronic Wasting Disease shall not be imported into North Carolina.

(a3) All free-ranging cervids shall be removed from any new captive cervid facility prior to stocking the facility with farmed cervids.

(a4) Hunt facilities as defined by USDA Standards are prohibited. Any farmed cervid killed on the premises of a licensed facility shall be killed only by the licensee, the owner of the facility, an employee of the facility, or a qualified veterinarian administering euthanasia.

(b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, of non-farmed cervids pursuant to G.S. 113-272.6. No action taken by the Department shall in any way limit the authority of the Commission to regulate non-farmed cervids as wildlife resources of the State belonging to the people of the State as a whole. Nothing in this Article shall authorize the Department to regulate hunting or any activity related to hunting.

~~(c) The following definitions apply in this Article:~~

~~(1) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(2) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(3) Cervid or Cervidae. All animals in the Family Cervidae (elk and deer).~~

~~(4) Farmed Cervid. Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.~~

~~(5) White-tailed deer. A member of the species Odocoileus virginianus.~~

(d) No county, municipality, or any other unit of local government may adopt any ordinance, regulation, or law that is inconsistent with or more restrictive than the provisions of this Article. Any ordinance, regulation, or law that is currently enacted that is inconsistent with or more restrictive than the provisions of this Article is hereby repealed.

(e) In order to carry out the authority granted by this Article, the Department may enforce the rules adopted by the Wildlife Resources Commission under its prior authority pursuant to G.S. 150B-21.7, including the rules governing issuance of captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits, until such time as the Department adopts rules for the implementation of this Article.

(f) The provisions of G.S. 113-129 shall not apply to the production, sale, transportation, importation, or exportation of farmed cervids under this Article, whether alive or dead, whole or in part.

(g) No live farmed cervid shall be transported on a public road within the State unless the cervid has an official form of identification approved by the State Veterinarian for this purpose and the appropriate transportation, importation, or exportation permit issued by the Department.

(h) Any live farmed cervid that is transported on a public road within the State shall be subject to inspection by a wildlife law enforcement officer to ensure that each farmed cervid has official identification required under this Article and that the appropriate permit has been obtained from the Department.

(i) Any person transporting a live farmed cervid on a public road within the State without the appropriate farmed cervid identification and permit may be subject to a civil

penalty by the Department under this Article. Each cervid that fails to meet the tagging and transportation requirements of the Department shall constitute a separate violation.

(j) The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars ($5,000) per animal against any person who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"~~**§ 106-549.98. Inspection fees.**~~

~~The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of fallow deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of red deer as required by Article 49B of Chapter 106 of the General Statutes.~~"

SECTION 13.(b) G.S. 113-272.6 reads as rewritten:

"**§ 113-272.6. ~~Transportation~~ Possession, Transportation, Importation, and Exportation of non-farmed ~~cervids and licensing of captive cervid facilities.~~cervids.**

(a) The Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, ~~and possession~~ of non-farmed cervids, including game carcasses and parts of game carcasses extracted by ~~hunters.~~hunters and carcasses and parts of carcasses imported from hunt facilities as defined by USDA Standards. For purposes of this section, the term "non-farmed cervid" has the same meaning as in G.S. 106-549.97. ~~The Commission shall allow the sale of antlers, antler velvet, or hides from captive populations of cervids.~~ The Commission shall follow the USDA Standards as defined in G.S. 106-549.97 and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this section, and shall not adopt any rule or standard that is in conflict with, in lieu of, or more restrictive than the USDA Standards. The Commission shall adopt rules to implement this section, including requirements for ~~captivity licenses, captivity permits, and transportation permits.~~transportation, importation, and exportation permits. ~~The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities.~~ Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars ($50.00) for the processing of applications for ~~captivity licenses, captivity permits, and transportation~~transportation, importation, and exportation permits, and the renewal or modification of those ~~licenses and~~ permits. The fees collected shall be applied to the costs of administering this section.

(b) The Wildlife Resources Commission shall notify every applicant for a ~~transportation~~ permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.

(c) The Department of Agriculture and Consumer Services shall regulate the ~~production and sale~~production, sale, and transportation, including importation and exportation, of farmed cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to G.S. 106-549.97. No action taken by the Wildlife Resources Commission shall in any way limit the authority of the Department of Agriculture and Consumer Services to regulate farmed cervids.

~~(d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any~~

~~person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.~~

~~(e) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2.~~"

ALLOW ALTERNATE DISPOSAL OF BIODEGRADABLE AGRICULTURAL PLASTICS

SECTION 14. G.S. 106-950 reads as rewritten:

"**§ 106-950. Exempt fires; no permit fees.**

(a) This Article shall not apply and no air quality permit shall be required for any of the following:

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

(2) The burning of polyethylene agricultural plastic used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, when the burning is conducted as quickly as possible and in a manner that will minimize total emissions.

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

AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM" AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS

SECTION 15. Section 21 of S.L. 2013-413 reads as rewritten:

"**SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions).~~(Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards). – Until the effective date of the revised permanent ~~rule~~ rules that the Environmental Management Commission is required to adopt pursuant to Section 21(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided in Section 21(b) of this act.

"**SECTION 21.(b)** Implementation. – Notwithstanding 15A NCAC 02T .1302 (Definitions), "new animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed ~~previously, where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service,~~previously or where a permit for a system has been rescinded, and is then reissued when the permittee confines animals in excess of the thresholds established in G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards), the Swine Waste Management System Performance Standards shall:

(1) Apply to any farm facility that receives a permit for its animal waste management system that allows a level of production at the farm, as measured by steady state live weight, greater than the largest production for which the farm has received a permit in the past, and so that they also apply to any other animal waste management system otherwise subject to regulation under G.S. 143-215.10I.

(2) Not apply to any facility that meets all of the following conditions:
a. Has had no animals on site for five continuous years or more.
b. Notifies the Division of Water Resources in writing at least 60 days prior to bringing any animals back on to the site.
c. The system depopulated after January 1, 2005, and the system ceased operation no longer than 10 years prior to the current date.
d. At the time the system ceased operation, the system was in compliance with an individual permit or a general permit issued pursuant to G.S. 143-215.10C.
e. The Division of Water Resources issues an individual permit or certificate of coverage under a general permit issued pursuant to G.S. 143-215.10C for operation of the system before any animals are brought on the facility.
f. The permit for the animal waste management system does not allow production, measured by steady state live weight, to exceed the greatest steady state live weight previously permitted for the system under G.S. 143-215.10C.
g. No component of the animal waste management system and swine farm, other than an existing swine house or land application site, shall be constructed on land that is located within the 100-year floodplain.
h. The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost-share agreement, or grant condition.

"**SECTION 21.(c)** Additional Rule-Making Authority. – The Environmental Management Commission shall adopt ~~a rule~~rules as promptly as practicable to amend 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the ~~rule~~ rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 21.(d)** Sunset. – Section 21(b) of this act expires on the date that rules adopted pursuant to Section 21(c) of this act become effective."

NO ODOR NUISANCE FOR ANIMAL WASTE USED FOR ENERGY PRODUCTION.

SECTION 16.(a) Article 21 of Chapter 143 of the General Statutes amended by adding a new section to read::

"**§ 143-215.10U. Use of animal waste for energy production; nuisance.**

(a) The Department shall certify an animal waste management system as an energy-producing animal operation if it meets the following criteria:

(1) It is an animal operation or dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system.
(2) It is a renewable energy facility as defined by G.S. 62-133.8(7) that generates energy through the use of swine or poultry waste resources.
(3) The energy produced is used to comply with the Renewable Energy Portfolio Standards (REPS) in accordance with G.S. 62-133.8(e) or G.S. 133.8(f).

(4) The animal waste management system decreases waste volumes by anaerobic digestion or shipment of waste offsite for energy generation or closes off waste lagoons to the open atmosphere by impervious lagoon cover. Activities conducted pursuant to this sub-subdivision shall be performed in compliance with all statutes and rules governing closure and conversion of animal waste management sytems.

(b) No certified energy-producing animal operation shall be or become a nuisance, private or public, in or about the locality outside of the operation for odor.

(c) The Commission shall adopt rules to establish a certification program to implement the provisions of this section."

SECTION 16.(b) G.S. 143-215.10U(a) and (b) as enacted by this section are effective December 1, 2015. The remainder of this section is effective when it becomes law.

SECTION 16.1.(a) Definitions. – "Control of Odors From Animal Operations Rule" means 15A NCAC 02D .1802 (Air Pollution Control Requirements: Control of Odors From Animal Operations) for purposes of this section and its implementation.

SECTION 16.1.(b) Control of Odors From Animal Operations Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 16.1(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Control of Odor From Animal Operations Rule, as provided in Section 16.1(c) of this act.

SECTION 16.1.(c) Implementation. – Notwithstanding subsection (g) of the Control of Odors From Animal Operations Rule, the Commission shall not determine an odor to be objectionable from an energy-producing animal operation certified by the Department in accordance with G.S. 143-215.10U(a).

SECTION 16.1.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Control of Odors From Animal Operations Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be consistent the provisions of Section 5.1(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

AMEND DEFINITION OF MINING RELATIVE TO AGRICULTURAL ACTIVITIES

SECTION 17. G.S. 74-49(7) reads as rewritten:

"**§ 74-49. Definitions.**

Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

...

(7) "Mining" ~~means:~~means any of the following:

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

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

~~c.~~ ~~The~~ location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include:

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

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

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

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

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

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

1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
2. The affected land, including nonpublic access roads, does not exceed five acres.
3. The excavation or grading is completed within one year.
4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
5. The excavation or grading is not in violation of any local ordinance.
6. An erosion and sedimentation control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.

g. Excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt, pursuant to G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes."

AMEND THE HOLDING AND ADVERTISING PERIOD FOR UNCLAIMED LIVESTOCK

SECTION 18.(a) G.S. 68-20 reads as rewritten:

"**§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.**

If the owner fails to redeem his livestock within three days after the notice and demand as provided in G.S. 68-18 is received or within three days after the determination of the costs and damages as provided in G.S. 68-19, ~~then, upon written notice fully describing the livestock, stating the place, date, and hour of sale posted at the courthouse door and three or more public places in the township where the owner resides, and after~~the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, ~~30~~three days after publication of the notice required by G.S. 68-18.1, the impounder shall ~~post at the courthouse door and three public~~

~~places in the township where the livestock is impounded a written notice fully describing the livestock, and stating the place, date, and hour of sale.~~ notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After ~~20~~10 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded."

SECTION 18.(b) This section is effective when it becomes law and applies to livestock impounded on or after that date.

MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS

SECTION 19.(a) G.S. 106-815 is repealed.

SECTION 19.(b) G.S. 19A-62(c) reads as rewritten:

"(c) Report. – In ~~February~~ March of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

PRESCRIBED BURNING ACT MODIFICATIONS

SECTION 20. G.S. 106-968 reads as rewritten:

"**§ 106-968. Prescribed burning.**

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

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

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

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.

(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.

(3) Any applicable local ordinances relating to open burning.

(4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.

(5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.

(d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article."

MODIFY PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN

SECTION 21. G.S. 14-140.1 reads as rewritten:

"**§ 14-140.1. Certain fire to be guarded by watchman.**

Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other material whereby any property may be endangered or destroyed, without keeping and maintaining a careful watchman in charge of the burning, shall be guilty of ~~a Class 3 misdemeanor~~an infraction which may include a fine of not ~~less than ten dollars ($10.00) or~~ more than fifty dollars ($50.00). Fire escaping from the brush, grass, or other material while burning shall be prima facie evidence of violation of this provision."

ESTABLISH FARM WINERY PERMIT

SECTION 22.(a) G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.

(2) Off-premises malt beverage permit – $400.00.

(3) On-premises unfortified wine permit – $400.00.

(4) Off-premises unfortified wine permit – $400.00.

(5) On-premises fortified wine permit – $400.00.

(6) Off-premises fortified wine permit – $400.00.

(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.

(8) Special occasion permit – $400.00.

(9) Limited special occasion permit – $50.00.

(10) Mixed beverages permit – $1,000.

(11) Culinary permit – $200.00.

(12) Unfortified winery permit – $300.00.

(13) Fortified winery permit – $300.00.

(14) Limited winery permit – $300.00.

(15) Brewery permit – $300.00.

(16) Distillery permit – $300.00.

(17) Fuel alcohol permit – $100.00.

(18) Wine importer permit – $300.00.

(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
(37) Wine shop permit – $100.00.
(38) Winemaking on premises permit – $400.00.
(39) Wine shipper packager permit – $100.00.
(40) Malt beverage special event permit – $200.00.
(41) Malt beverage tasting permit – $100.00.
(42) Spirituous liquor tasting permit – $100.00.
(43) Farm winery permit. – $150.00.
(44) Farm winery on-premises unfortified wine permit. – $100.00."

SECTION 22.(b) G.S. 18B-1001 is amended by adding a new subsection to read:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(20) Farm winery on-premises unfortified wine permit. – A farm winery unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another farm winery on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee,

the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued only for wineries holding a farm winery permit pursuant to G.S. 18B-1103A."

SECTION 22.(c) G.S. 18B-1100 is amended by adding a new subdivision to read:

"**§ 18B-1100. Commercial permits.**

...

(21) Farm winery."

SECTION 22.(d) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1103A. Authorization of farm winery permit.**

(a) Special Qualifications. – Except as provided in subsection (b) of this section, any winery that produces at least seventy-five percent (75%) of its wine from honey, grapes, or other fruit or grain grown in this State may obtain a farm winery permit.

(b) In the event that the Commissioner of Agriculture determines that a natural disaster, act of God, or continued adverse weather condition has destroyed no less than forty percent (40%) of a certain grape varietal grown or produced in this State and used for winemaking, the Commissioner, in consultation with the Chairman of the Alcoholic Beverage Control Commission, may give authorization to a duly licensed farm winery to manufacture or sell wine produced from grapes grown outside the State. No such authorization shall be granted to a farm winery permittee unless such permittee certifies to the Commissioner the quantity of North Carolina grown grapes unavailable to the licensee due to the natural disaster, act of God, or continuing adverse weather condition, and satisfies the Commissioner that reasonable efforts were made to obtain grapes from a North Carolina source for the purpose of making wine. No farm winery shall exceed the amount of out-of-State grown grapes or juice authorized by the Commissioner.

(c) Authorized Acts. – The holder of a farm winery permit may:

(1) Manufacture unfortified wine.

(2) Sell, deliver, and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State.

(3) Ship its wine in closed containers to individual purchasers inside and outside this State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2, and other applicable provisions of this Chapter.

(4) Furnish or sell "short-filled" packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State. A sale under this subdivision shall not be considered a retail or wholesale sale under the ABC laws.

(5) Regardless of the results of any local wine election, sell the wine owned by the winery at the winery for on- or off-premise consumption, upon obtaining the appropriate permit under G.S. 18B-1001.

(6) Sell the wine manufactured by the winery for on- or off-premise consumption at no more than six other locations in the State, upon obtaining the appropriate permit under G.S. 18B-1001.

(7) Receive, in closed containers, and sell at the winery, unfortified wine produced inside North Carolina under contract with the winery. Such contract wine must have the winery's name clearly displayed on each bottle.

The contract wine may be sold also at affiliated retail outlets of the winery physically located on or adjacent to the winery. Any wine received by a winery under this provision must be made available for sale by the winery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the wine were being imported by the winery.

(8) Allow winemaking on premises as allowed by a permit issued pursuant to G.S. 18B-1001(17).

(9) Give visitors free tasting samples of the wine manufactured at the farm winery. The Commission may issue rules regulating these tastings.

(10) Affix to the bottle a label certifying that the wine originates from a permitted farm winery. The North Carolina Department of Agriculture and Consumer Services may issue rules regulating the certification label. Nothing in this subdivision shall be construed as altering or superseding any other State or federal wine labeling laws."

SECTION 22.(e) G.S. 18B-1112 reads as rewritten:

"**§ 18B-1112. Authorization of vendor representative permit.**

(a) Authorized Acts. – The holder of a vendor representative permit may represent an unfortified winery, fortified winery, limited winery, farm winery, brewery, bottler, importer, nonresident malt beverage vendor, or nonresident wine vendor, either as an employee or an agent, to solicit orders for that commercial permittee's product. The vendor representative may sell, deliver, and ship alcoholic beverages in this State only to permittees to whom the commercial permittee he represents may sell, deliver, or ship.

(b) Number of Permits. – A vendor representative shall secure a separate permit for each commercial permittee he represents. A permit may not be issued without the approval of the commercial permittee."

SECTION 22.(f) G.S. 18B-1114.1 reads as rewritten:

"**§ 18B-1114.1. Authorization of winery special event permit.**

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a farm winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

SECTION 22.(g) G.S. 18B-1201 reads as rewritten:

"**§ 18B-1201. Definitions.**

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

(1) "Agreement" means a commercial relationship between a wine wholesaler and a winery. The agreement may be of a definite or indefinite duration and is not required to be in writing. Any of the following constitutes prima facie evidence of an "agreement" within the meaning of this definition:

a. A relationship whereby the wine wholesaler is granted the right to offer and sell a brand offered by a winery;

b. A relationship whereby the wine wholesaler, as an independent business, constitutes a component of a winery's distribution system;

c. A relationship whereby the wine wholesaler's business is substantially associated with a brand offered by a winery;

d. A relationship whereby the wine wholesaler's business is substantially reliant on a winery for the continued supply of wine;

e. The shipment, preparation for shipment, or acceptance of any order by any winery or its agent for any wine or beverages to a wine wholesaler within this State;

f. The payment by a wine wholesaler and the acceptance of payment by any winery or its agent for the shipment of any order of wine or beverages intended for sale within this State.

(2) "Territory" or "sales territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between any wine wholesaler and winery for a brand offered by any winery.

(3) "Wine wholesaler" means any holder of a wine wholesaler permit, wine importer permit, or bottler permit issued under the authority of this Chapter.

(4) "Winery" means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, farm winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least 1,250 cases of wine in North Carolina per year."

SECTION 22.(h) The North Carolina Department of Agriculture and Consumer Services shall study ways to promote farm wineries within the State, including the development of a "passport" program where customers visiting a given number of farm wineries may receive a form of special recognition, such as a special sticker for their car. The Department shall report its findings and recommendations, including any legislative proposals, to the Agriculture and Forestry Awareness Study Commission no later than February 1, 2016.

SECTION 22.(i) Section 22(h) is effective when it becomes law. The remainder of this section becomes effective July 1, 2016, and applies to permits issued on or after that date.

LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS

SECTION 23. G.S. 106-24.1 reads as rewritten:

"**§ 106-24.1. Confidentiality of information collected and published.**

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All USDA-generated information received pursuant to this Part ~~from individual farm operators~~ that is confidential under federal law shall be held confidential by the Department and its employees. All information collected by the Department from ~~individual farm operators~~farm owners or animal owners~~, for the purposes of its animal health programs,~~ including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory ~~reports,~~ reports received or generated from samples submitted for analysis, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health, or the disclosure is necessary in the implementation of these animal health programs."

TECHNICAL CORRECTIONS

SECTION 24.(a) G.S. 14-137 reads as rewritten:

"**§ 14-137. Willfully or negligently setting fire to woods and fields.**

If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2 misdemeanor. This section shall apply only in those counties under the protection of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services in its work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be

fired, his own open, nonwooded lands, or fields in connection with farming or building operations at the time and in the manner now provided by law: Provided, he shall have confined the fire at his own expense to said open lands or fields."

SECTION 24.(b) G.S. 143-166.13 reads as rewritten:

"**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

(1) State Government Security Officers, Department of Administration;
(2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
(3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
(4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
(5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the Department of Justice;
(6) State Highway Patrol Officers, Department of Public Safety;
(7) General Assembly Special Police, General Assembly;
(8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
(9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
(10) Insurance Investigators, Department of Insurance;
(11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
(12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
(14) Utilities Commission Transportation Inspectors and Special Investigators;
(15) North Carolina Ports Authority Police, Department of Transportation;
(16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
(17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
(19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
(20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

(1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
(2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section."

EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 25.(a) 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 25.(b) Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 513
PROPOSED COMMITTEE SUBSTITUTE S513-PCS25262-TQf-16

Short Title: North Carolina Farm Act of 2015. (Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF TO THE AGRICULTURAL COMMUNITY OF NORTH CAROLINA BY PROVIDING FOR VARIOUS TRANSPORTATION AND ENVIRONMENTAL REFORMS AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

REVISE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT

SECTION 1. G.S. 106-823 reads as rewritten:

"**§ 106-823. Referendum.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed ~~two dollars ($2.00)~~four dollars ($4.00) per ton of commercial horse feed.

(2) The period for which the assessment shall be levied, not to exceed ~~three~~10 years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

...."

CONFORM COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER TO FEDERAL WAGE WITHHOLDING STANDARDS

SECTION 2.(a) G.S. 105-163.3(b) reads as rewritten:

"(b) Exemptions. – The withholding requirement does not apply to the following:

(1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.

(2) Compensation paid to an ordained or licensed member of the clergy.

(3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.

(4) Compensation paid to an alien, as described by 8 U.S.C. § 1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding under section 1441 of the Code."

SECTION 2.(b) This section is effective for taxable years beginning on or after July 1, 2015.

ESTABLISH POLICY SUPPORTING SUSTAINABLE AGRICULTURE

SECTION 3. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-26.3. Declaration of policy supporting sustainable agriculture.**

The General Assembly hereby finds and declares that it shall be the policy of this State to support and promote sustainable agriculture. For purposes of this section, "sustainable agriculture" means the use of science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, including such critical outcomes as increasing agricultural productivity and improving human health through access to safe, nutritious, affordable food and other agricultural products, while enhancing agricultural and surrounding environmental conditions through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat. Further, the General Assembly finds and declares that it is in the interest of the people of this State to use sustainable agriculture to meet the needs of the present and to improve the ability of future generations to meet their own needs, while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities."

MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS

SECTION 4.(a) 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations). – Until the effective date of the revised permanent rule that the Department of Transportation is required to adopt pursuant to Section 4(d) of this act, the Department shall implement 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) as provided in Sections 4(b) and 4(c) of this act.

SECTION 4.(b) Implementation. – Notwithstanding subdivision (h)(1) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall allow movement of a permitted oversize vehicle between sunrise and sunset Monday through Sunday. However, a 16-foot-wide mobile or modular home unit with a maximum three-inch gutter edge is restricted to travel from 9:00 A.M. to 2:30 P.M. Monday through Sunday. A 16-foot-wide unit is authorized to continue operation after 2:30 P.M., but not beyond sunset, when traveling on an approved route as determined by an engineering study and the unit is being exported out-of-state.

SECTION 4.(c) Implementation. – Notwithstanding subdivision (h)(2) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall only prohibit movement of a permitted oversize vehicle and vehicle combination after noon on the weekday preceding the three holidays of Independence Day, Thanksgiving Day, and Christmas Day until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday until 12:00 noon on the following Monday.

SECTION 4.(d) Additional Rule-Making Authority. – The Department of Transportation shall adopt rules to amend 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) consistent with Sections 4(b) and 4(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Department pursuant to this section shall be substantively identical to the provisions of Sections 4(b) and 4(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(e) Effective Date. – Sections 4(b) and 4(c) of this act expire on the date that rules adopted pursuant to Section 4(d) of this act become effective.

ALLOW OVERSIZE TRANSPORTATION OF HAY BALES

SECTION 5. G.S. 20-116 is amended by adding a new subsection to read:

"**§ 20-116. Size of vehicles and loads.**

...

(o) Any vehicle carrying baled hay from place to place on the same farm, from one farm to another, from farm to market, or from market to farm that does not exceed 12 feet in width may be operated on the highways of this State. Vehicles carrying baled hay that exceed 10 feet in width may only be operated under the following conditions:

(1) The vehicle may only be operated during daylight hours.

(2) The vehicle shall display a red flag or a flashing warning light on both the rear and front ends. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet."

AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES

SECTION 6.(a) G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width on any highway, unless the operation violates a provision of this subsection. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

(1) The equipment may only be operated during daylight hours.

(2) The equipment must display a red flag on front and rear ends or a flashing warning light. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.

(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags or lights referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every piece of equipment so operated shall operate to the right of the center line ~~when meeting traffic coming from the opposite direction and at all other times when possible and practical.~~ unless the combined width of the traveling lane and the accessible shoulder is less than the width of the equipment.

...."

SECTION 6.(b) G.S. 20-146 is amended by adding a new subsection to read:

"**§ 20-146. Drive on right side of highway; exceptions.**

(a) Upon all highways of sufficient width a vehicle shall be driven upon the right half of the highway except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
(3) Upon a highway divided into three marked lanes for traffic under the rules applicable thereon; or
(4) Upon a highway designated and signposted for one-way traffic.

(a1) Self-propelled grain combines or other self-propelled farm equipment shall be operated to the right of the center line except as provided in G.S. 20-116(j)(4).

(b) Upon all highways any vehicle proceeding at less than the legal maximum speed limit shall be driven in the right-hand lane then available for thru traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

...."

AMEND DEFINITION OF "AGRICULTURAL SPREADER VEHICLE," INCREASE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES, AND EXEMPT ALL-TERRAIN VEHICLES AND UTILITY VEHICLES USED FOR AGRICULTURAL PURPOSES FROM REGISTRATION AND CERTIFICATE OF TITLE REQUIREMENTS

SECTION 7. G.S. 20-51 reads as rewritten:

"**§ 20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

...

(16) A vehicle that meets all of the following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.
a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle" is a vehicle that is designed for off-highway use on a farm to spread feed, fertilizer, seed, lime, or other agricultural ~~products on a field.~~products.
b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.
c. Does not exceed a speed of ~~35~~45 miles per hour.
d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.
e. Is driven by a person who has a license appropriate for the class of the vehicle.
f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.
g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds.

...

(18) An all-terrain vehicle or utility vehicle, when used for agricultural purposes."

CLARIFY THE ROAD WEIGHT LIMITATION EXCEPTIONS FOR TRANSPORTATION OF AGRICULTURAL PRODUCTS AND SUPPLIES

SECTION 8.(a) G.S. 20-118(c)(12) reads as rewritten:

"(12) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions set out below:

a. Is transporting any of the following items within 150 miles of the point of origination:

1. ~~Agriculture~~ Agriculture, dairy, and crop products transported from a farm to a processing plant or market.
2. Water, fertilizer, pesticides, seeds, fuel, or animal waste transported to or from a ~~farm by a farm vehicle as defined in G.S. 20-37.16(e)(3).~~ farm.
3. Meats, livestock, or live poultry transported from the farm where they were raised to a processing plant or market.

3a. Feed or feed ingredients that ~~is~~are used in the feeding of poultry or livestock and transported from a storage facility, holding facility, or mill to a farm.

4. Forest products originating and transported from a farm or woodlands to market with delay interruption or delay for further packaging or processing after initiating transport.
5. Wood residuals, including wood chips, sawdust, mulch, or tree bark from any site.
6. Raw logs to market.
7. Trees grown as Christmas trees from field, farm, stand, or grove to a processing point."

SECTION 8.(b) This section becomes effective July 1, 2015.

ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR METEOROLOGICAL TOWERS

SECTION 9.(a) Chapter 63 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Marking and Notice of Meteorological Towers.

"**§ 63-110. Marking of meteorological towers.**

(a) As used in this Article, the term:

(1) "Height" means the distance from the base of a tower to the highest point of the tower.

(2) "Meteorological tower" means a structure that is either self-standing or supported by guy wires and ground anchors and has guy wires and accessory facilities on which equipment used to measure wind speed and direction is mounted. "Meteorological tower" does not include a structure that is affixed or located adjacent to a building, house, or barn.

(b) Except as required by federal law, rule, or regulation, any meteorological tower over 50 feet in height shall be marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than 2,000 feet. Meteorological towers shall also comply with the following additional requirements:

(1) A meteorological tower shall be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower.

(2) One marker ball shall be attached to the top third of each outside guy wire.

(3) Guy wires shall have a seven-foot-long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point.

"**§ 63-111. Registration; notification; tower database; penalty.**

(a) The Department of Transportation shall adopt rules requiring any person proposing to construct a meteorological tower to register with the Department. The person proposing to construct the tower shall notify the Department of the proposal, the location and height of the proposed tower, and any other information the Department may require to ensure aviation safety and shall pay a registration fee of three hundred fifty dollars ($350.00). The rules shall require the owner of a meteorological tower to notify the Department upon removal or destruction of a tower.

(b) The Department of Transportation shall establish and maintain an electronic database that contains the location of all meteorological towers in the State by January 1, 2017. The Department may contract with a governmental entity or private entity to create and maintain the database. The Department shall make the contents of the database available on its Web site.

"**§ 63-112. Penalties.**

The Secretary of Transportation may assess a civil penalty of not more than ten thousand dollars ($10,000) per violation against any person who violates any provision of this Article."

SECTION 9.(b) This section becomes effective January 1, 2017, and applies to meteorological towers erected on or after that date.

ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING SUBMERGED AQUATIC VEGETATION

SECTION 10.(a) G.S. 113-202(b) reads as rewritten:

"(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes. The Secretary shall not exclude any area from leasing solely on the basis that the area contains submerged aquatic vegetation and shall make specific findings based on the standards set forth in subsection (a) of this section prior to reaching a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged aquatic vegetation."

SECTION 10.(b) This section becomes effective July 1, 2015, and applies to any new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or after that date.

PRESENT-USE VALUE MODIFICATIONS

SECTION 11.(a) G.S. 105-277.2 reads as rewritten:

"**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. For purposes of this definition, the commercial production or growing of animals includes the rearing, feeding, training, caring, and managing of horses. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland,

then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

...

(4) Individually owned. – Owned by one of the following:

a. An individual.

b. A business entity that meets all of the following conditions:

1. Its principal business is farming agricultural land, horticultural land, or forestland. When determining whether an applicant under G.S. 105-277.4 has as its principal business farming agricultural land, horticultural land, or forestland, the assessor shall presume the applicant's principal business to be farming agricultural land, horticultural land, or forestland if the applicant has been approved by another county for present-use value taxation for a qualifying property located within the other county; provided, however, the presumption afforded the applicant may be rebutted by the assessor and shall have no bearing on the determination of whether the individual parcel of land meets one or more of the classes defined in G.S. 105-277.3(a)(1). If the assessor is able to rebut the presumption, this shall not invalidate the determination that the applicant's principal business is farming agricultural land, horticultural land, or forestland in the other county.

2. All of its members are, directly or indirectly, individuals who are actively engaged in farming agricultural land, horticultural land, or forestland or a relative of one of the individuals who is actively engaged. An individual is indirectly a member of a business entity that owns the land if the individual is a member of a business entity or a beneficiary of a trust that is part of the ownership structure of the business entity that owns the land.

3. It is not a corporation whose shares are publicly traded, and none of its members are corporations whose shares are publicly traded.

4. If it leases the land, all of its members are individuals and are relatives. Under this condition, "principal business" and "actively engaged" include leasing.

c. A trust that meets all of the following conditions:

1. It was created by an individual who owned the land and transferred the land to the trust.

2. All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust that owns the land if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust that owns the land.

d. A testamentary trust that meets all of the following conditions:

1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.
2. At the date of the creator's death, the creator had no relatives.
3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).

e. Tenants in common, if each tenant would qualify as an owner if the tenant were the sole owner. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity or a trust.

...."

SECTION 11.(b) G.S. 105-277.4 is amended by adding a new subsection to read:

"**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.**

...

(f) The Department shall publish a present-use value program guide annually and make the guide available electronically on its Web site. When making decisions regarding the qualifications or appraisal of property under this section, the assessor shall adhere to the Department's present-use value program guide."

SECTION 11.(c) Section 11(a) of this act becomes effective July 1, 2015, and applies to taxes imposed for taxable years beginning on or after that date. The remainder of this section is effective when this act becomes law.

PROCEDURE FOR TERMINATION OR SUBSTANTIAL MODIFICATION OF CONSERVATION AGREEMENTS

SECTION 12.(a) Article 4 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-39A. Termination or substantial modification of agreements.**

(a) For any conservation agreement subject to Council of State approval for termination or substantial modification, the Council shall deny any request for termination or substantial modification that is made for the purpose of economic development, including, but not limited to, instances where some or all of the property subject to the conservation agreement is to be commercially developed by a third party. For purposes of this section, "substantial modification" means a change to the terms of a conservation agreement that would result in a diminishment to the conservation restrictions applicable to the property contained in the agreement that would affect more than five percent (5%) of the property subject to the agreement.

(b) Notwithstanding any authority given to a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, or municipal or public corporation, or any instrumentality of any of the foregoing, to release or terminate conservation easements under other law, this section shall apply to conservation agreements that are intended to be effective perpetually or that are terminated or substantially modified prior to the period of time stipulated in the agreement, and where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, or municipal or public corporation, or any

instrumentality of any of the foregoing. This section shall not apply to a condemnation action initiated by a public condemnor governed by Article 6 of Chapter 40A of the General Statutes.

(c) Parties to a conservation agreement may include a provision at the time an agreement is executed requiring the consent of the grantor or the grantor's successors in interest to terminate or substantially modify the agreement for any purpose.

(d) Any agency managing a conservation agreement program may adopt rules governing its procedure for termination or substantial modification of a conservation agreement, provided that any such rules may be no less stringent than the requirements of this section."

SECTION 12.(b) G.S. 106-737.1 reads as rewritten:

"**§ 106-737.1. Revocation of conservation agreement.**

(a) ~~By~~For conservation agreements between private parties, by written notice to the county, the landowner may revoke this conservation agreement. Such revocation shall result in loss of qualifying farm status.

(b) For conservation agreements where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district, or other political subdivision, or municipal or public corporation, the procedure set forth in G.S. 121-39A shall apply."

SECTION 12.(c) G.S. 106-743.2 reads as rewritten:

"**§ 106-743.2. Conservation agreements for farmland in enhanced voluntary agricultural districts; limitation.**

A conservation agreement entered into between a county or city and a landowner pursuant to G.S. 106-743.1(a)(2) shall be irrevocable for a period of at least 10 years from the date the agreement is executed. At the end of its term, a conservation agreement shall automatically renew for a term of three years, unless notice of termination is given in a timely manner by either party as prescribed in the ordinance establishing the enhanced voluntary agricultural district. Notice of termination at the end of a term under this section shall not trigger the procedure set forth in G.S. 121-39A. The benefits set forth in this Part shall be available to the farmland that is the subject of the conservation agreement for the duration of the conservation agreement."

SECTION 12.(d) G.S. 106-744 reads as rewritten:

"**§ 106-744. Purchase of agricultural conservation easements; establishment of North Carolina Agricultural Development and Farmland Preservation Trust Fund and Advisory Committee.**

(a) A county may, with the voluntary consent of landowners, acquire by purchase agricultural conservation easements over qualifying farmland as defined by G.S. 106-737.

(b) For purposes of this section, "agricultural conservation easement" means a negative easement in gross restricting residential, commercial, and industrial development of land for the purpose of maintaining its agricultural production capability. Such easement:

(1) May permit the creation of not more than three lots that meet applicable county zoning and subdivision regulations;

(1a) May permit agricultural uses as necessary to promote agricultural development associated with the family farm; and

(2) Shall be perpetual in ~~duration, provided that, at least 20 years after the purchase of an easement, a county may agree to reconvey the easement to the owner of the land for consideration, if the landowner can demonstrate to the satisfaction of the county that commercial agriculture is no longer practicable on the land in question.~~duration.

...."

SECTION 12.(e) G.S. 121-39A(c) becomes effective July 1, 2015, and applies to conservation agreements executed on or after that date. The remainder of this section becomes

effective July 1, 2015, and applies to agreements in effect on that date and executed on or after that date.

TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 13.(a) Article 49H of Chapter 106 of the General Statutes reads as rewritten:

"Article 49H.

"~~Production and Sale~~Production, Sale, and Transportation of ~~Fallow Deer and Red Deer.~~Farmed Cervids.

"**§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of ~~certain~~farmed cervids produced and sold for commercial purposes; ~~certain authority of North Carolina Wildlife Resources Commission not affected;~~ definitions.**

~~(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.~~

(a1) The following definitions apply in this Article:

(1) Commission. – The North Carolina Wildlife Resources Commission.

(2) Department. – The North Carolina Department of Agriculture and Consumer Services.

(3) Farmed Cervid. – Any cervid, as defined by the USDA Standards, that is susceptible to Chronic Wasting Disease, or any other member of the Cervidae family that is not susceptible to Chronic Wasting Disease, that is held in captivity and produced, bought, or sold for commercial purposes. With regard to cervids that are susceptible to Chronic Wasting Disease, the term "farmed cervid" shall only include any cervid that was bred in captivity and has been continuously maintained within a herd that is enrolled in and complies with a USDA-approved Herd Certification Program. Any animal registered or tagged in any licensed captive cervid facility existing within the State as of July 1, 2015, is deemed to be a farmed cervid.

(4) Non-Farmed Cervid. – All animals in the family Cervidae other than farmed cervids.

(5) USDA. – The United States Department of Agriculture.

(6) USDA Standards. – The United States Department of Agriculture's Chronic Wasting Disease Program Standards, May 2014 edition, and subsequent updates.

(a2) The Department of Agriculture and Consumer Services shall regulate the production, sale, possession, and transportation, including importation and exportation, of farmed cervids. The Department shall have sole authority with regard to farmed cervids, including administration of the North Carolina Captive Cervid Herd Certification Program. The Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part, including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive populations of farmed cervids. The Department shall follow the USDA Standards and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may adopt rules to implement this Article, including, but not limited to, requirements for captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits.

The Department may issue new captivity licenses or permits for farmed cervid facilities that will hold cervids susceptible to Chronic Wasting Disease only if Chronic Wasting Disease-susceptible source animals are from a certified herd in accordance with USDA Standards from an existing licensed facility. Nothing in this section shall limit the Department's ability to issue new captivity licenses and permits for farmed cervid facilities that will hold cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or suspect farmed cervid facility. Until such time as the USDA has adopted an approved method of testing for Chronic Wasting Disease in living cervids, cervids susceptible to Chronic Wasting Disease shall not be imported into North Carolina.

(a3) All free-ranging cervids shall be removed from any new captive cervid facility prior to stocking the facility with farmed cervids.

(a4) Hunt facilities as defined by USDA Standards are prohibited. Any farmed cervid killed on the premises of a licensed facility shall be killed only by the licensee, the owner of the facility, an employee of the facility, or a qualified veterinarian administering euthanasia.

(b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, of non-farmed cervids pursuant to G.S. 113-272.6. No action taken by the Department shall in any way limit the authority of the Commission to regulate non-farmed cervids as wildlife resources of the State belonging to the people of the State as a whole. Nothing in this Article shall authorize the Department to regulate hunting or any activity related to hunting.

~~(c) The following definitions apply in this Article:~~

~~(1) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(2) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(3) Cervid or Cervidae. All animals in the Family Cervidae (elk and deer).~~

~~(4) Farmed Cervid. Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.~~

~~(5) White-tailed deer. A member of the species Odocoileus virginianus.~~

(d) No county, municipality, or any other unit of local government may adopt any ordinance, regulation, or law that is inconsistent with or more restrictive than the provisions of this Article. Any ordinance, regulation, or law that is currently enacted that is inconsistent with or more restrictive than the provisions of this Article is hereby repealed.

(e) In order to carry out the authority granted by this Article, the Department may enforce the rules adopted by the Wildlife Resources Commission under its prior authority pursuant to G.S. 150B-21.7, including the rules governing issuance of captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits, until such time as the Department adopts rules for the implementation of this Article.

(f) The provisions of G.S. 113-129 shall not apply to the production, sale, transportation, importation, or exportation of farmed cervids under this Article, whether alive or dead, whole or in part.

(g) No live farmed cervid shall be transported on a public road within the State unless the cervid has an official form of identification approved by the State Veterinarian for this purpose and the appropriate transportation, importation, or exportation permit issued by the Department.

(h) Any live farmed cervid that is transported on a public road within the State shall be subject to inspection by a wildlife law enforcement officer to ensure that each farmed cervid has official identification required under this Article and that the appropriate permit has been obtained from the Department.

(i) Any person transporting a live farmed cervid on a public road within the State without the appropriate farmed cervid identification and permit may be subject to a civil

penalty by the Department under this Article. Each cervid that fails to meet the tagging and transportation requirements of the Department shall constitute a separate violation.

(j) The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars ($5,000) per animal against any person who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"~~**§ 106-549.98. Inspection fees.**~~

~~The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of fallow deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of red deer as required by Article 49B of Chapter 106 of the General Statutes.~~"

SECTION 13.(b) G.S. 113-272.6 reads as rewritten:

"**§ 113-272.6. ~~Transportation~~ Possession, Transportation, Importation, and Exportation of non-farmed ~~cervids and licensing of captive cervid facilities.~~cervids.**

(a) The Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, ~~and possession~~ of non-farmed cervids, including game carcasses and parts of game carcasses extracted by ~~hunters.~~hunters and carcasses and parts of carcasses imported from hunt facilities as defined by USDA Standards. For purposes of this section, the term "non-farmed cervid" has the same meaning as in G.S. 106-549.97. ~~The Commission shall allow the sale of antlers, antler velvet, or hides from captive populations of cervids.~~ The Commission shall follow the USDA Standards as defined in G.S. 106-549.97 and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this section and shall not adopt any rule or standard that is in conflict with, in lieu of, or more restrictive than the USDA Standards. The Commission shall adopt rules to implement this section, including requirements for ~~captivity licenses, captivity permits, and transportation permits.~~transportation, importation, and exportation permits. ~~The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities.~~ Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars ($50.00) for the processing of applications for ~~captivity licenses, captivity permits, and transportation~~transportation, importation, and exportation permits, and the renewal or modification of those ~~licenses and~~ permits. The fees collected shall be applied to the costs of administering this section.

(b) The Wildlife Resources Commission shall notify every applicant for a ~~transportation~~ permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.

(c) The Department of Agriculture and Consumer Services shall regulate the ~~production and sale~~production, sale, and transportation, including importation and exportation, of farmed cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to G.S. 106-549.97. No action taken by the Wildlife Resources Commission shall in any way limit the authority of the Department of Agriculture and Consumer Services to regulate farmed cervids.

~~(d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any~~

~~person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.~~

~~(c) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2.~~"

ALLOW ALTERNATE DISPOSAL OF BIODEGRADABLE AGRICULTURAL PLASTICS

SECTION 14. G.S. 106-950 reads as rewritten:

"**§ 106-950. Exempt fires; no permit fees.**

(a) This Article shall not apply and no air quality permit shall be required for any of the following:

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

(2) The burning of polyethylene agricultural plastic used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops when the burning is conducted as quickly as possible and in a manner that will minimize total emissions.

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

AMEND THE DEFINITION OF "NEW ANIMAL WASTE MANAGEMENT SYSTEM" AND THE APPLICATION OF SWINE WASTE MANAGEMENT SYSTEM PERFORMANCE STANDARDS

SECTION 15. Section 21 of S.L. 2013-413 reads as rewritten:

"**SECTION 21.(a)** 15A NCAC 02T .1302 ~~(Definitions).~~(Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards). – Until the effective date of the revised permanent ~~rule~~ rules that the Environmental Management Commission is required to adopt pursuant to Section 21(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) as provided in Section 21(b) of this act.

"**SECTION 21.(b)** Implementation. – Notwithstanding 15A NCAC 02T .1302 (Definitions), "new animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed ~~previously, where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service,~~previously or where a permit for a system has been rescinded, and is then reissued when the permittee confines animals in excess of the thresholds established in G.S. 143-215.10B. Notwithstanding subsection (a) of 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards), the Swine Waste Management System Performance Standards shall:

(1) Apply to any farm facility that receives a permit for its animal waste management system that allows a level of production at the farm, as measured by steady state live weight, greater than the largest production for which the farm has received a permit in the past, and so that they also apply to any other animal waste management system otherwise subject to regulation under G.S. 143-215.10I.

(2) Not apply to any facility that meets all of the following conditions:
a. Has had no animals on site for five continuous years or more.
b. Notifies the Division of Water Resources in writing at least 60 days prior to bringing any animals back on to the site.
c. The system depopulated after January 1, 2005, and the system ceased operation no longer than 10 years prior to the current date.
d. At the time the system ceased operation, the system was in compliance with an individual permit or a general permit issued pursuant to G.S. 143-215.10C.
e. The Division of Water Resources issues an individual permit or certificate of coverage under a general permit issued pursuant to G.S. 143-215.10C for operation of the system before any animals are brought on the facility.
f. The permit for the animal waste management system does not allow production, measured by steady state live weight, to exceed the greatest steady state live weight previously permitted for the system under G.S. 143-215.10C.
g. No component of the animal waste management system and swine farm, other than an existing swine house or land application site, shall be constructed on land that is located within the 100-year floodplain.
h. The inactive animal waste management system was not closed using the expenditure of public funds and was not closed pursuant to a settlement agreement, court order, cost share agreement, or grant condition.

"**SECTION 21.(c)** Additional Rule-Making Authority. – The Environmental Management Commission shall adopt ~~a rule~~rules as promptly as practicable to amend 15A NCAC 02T .1302 (Definitions) and 15A NCAC 02T .1307 (Swine Waste Management System Performance Standards) consistent with Section 21(b) of this act. Notwithstanding G.S. 150B-19(4), the ~~rule~~ rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 21(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 21.(d)** Sunset. – Section 21(b) of this act expires on the date that rules adopted pursuant to Section 21(c) of this act become effective."

NO ODOR NUISANCE FOR ANIMAL WASTE USED FOR ENERGY PRODUCTION

SECTION 16.(a) Article 21 of Chapter 143 of the General Statutes amended by adding a new section to read:

"**§ 143-215.10U. Use of animal waste for energy production; nuisance.**

(a) The Department shall certify an animal waste management system as an energy-producing animal operation if it meets the following criteria:

(1) It is an animal operation or dry litter poultry facility that is subject to a permit under G.S. 143-215.10C for an animal waste management system.
(2) It is a renewable energy facility as defined by G.S. 62-133.8(7) that generates energy through the use of swine or poultry waste resources.
(3) The energy produced is used to comply with the Renewable Energy Portfolio Standards (REPS) in accordance with G.S. 62-133.8(e) or G.S. 133.8(f).

(4) The animal waste management system decreases waste volumes by anaerobic digestion or shipment of waste offsite for energy generation or closes off waste lagoons to the open atmosphere by impervious lagoon cover. Activities conducted pursuant to this subdivision shall be performed in compliance with all statutes and rules governing closure and conversion of animal waste management systems.

(b) No certified energy-producing animal operation shall be or become a nuisance, private or public, in or about the locality outside of the operation for odor.

(c) The Commission shall adopt rules to establish a certification program to implement the provisions of this section."

SECTION 16.(b) G.S. 143-215.10U(a) and (b) as enacted by this section become effective December 1, 2015. The remainder of this section is effective when this act becomes law.

SECTION 16.1.(a) Definitions. – "Control of Odors From Animal Operations Rule" means 15A NCAC 02D .1802 (Air Pollution Control Requirements: Control of Odors From Animal Operations) for purposes of this section and its implementation.

SECTION 16.1.(b) Control of Odors From Animal Operations Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 16.1(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Control of Odor From Animal Operations Rule, as provided in Section 16.1(c) of this act.

SECTION 16.1.(c) Implementation. – Notwithstanding subsection (g) of the Control of Odors From Animal Operations Rule, the Commission shall not determine an odor to be objectionable from an energy-producing animal operation certified by the Department in accordance with G.S. 143-215.10U(a).

SECTION 16.1.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Control of Odors From Animal Operations Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be consistent with the provisions of Section 16.1(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

AMEND DEFINITION OF MINING RELATIVE TO AGRICULTURAL ACTIVITIES

SECTION 17. G.S. 74-49(7) reads as rewritten:

"**§ 74-49. Definitions.**

Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

...

(7) "Mining" ~~means:~~means any of the following:

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

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

~~c.~~ ~~The~~ location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include:

a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.
b. Mining operations where the affected land does not exceed one acre in area.
c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.
d. Excavation or grading when conducted solely ~~in aid of on-site farming or of~~for on-site construction for purposes other than mining.
e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.
f. Excavation or grading where all of the following apply:
    1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
    2. The affected land, including nonpublic access roads, does not exceed five acres.
    3. The excavation or grading is completed within one year.
    4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
    5. The excavation or grading is not in violation of any local ordinance.
    6. An erosion and sedimentation control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
g. Excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt, pursuant to G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes."

AMEND THE HOLDING AND ADVERTISING PERIOD FOR UNCLAIMED LIVESTOCK

SECTION 18.(a) G.S. 68-20 reads as rewritten:

"**§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.**

If the owner fails to redeem his livestock within three days after the notice and demand as provided in G.S. 68-18 is received or within three days after the determination of the costs and damages as provided in G.S. 68-19, ~~then, upon written notice fully describing the livestock, stating the place, date, and hour of sale posted at the courthouse door and three or more public places in the township where the owner resides, and after~~the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the

place, date, and hour of sale on the Web site of the Sheriff's department. After 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, ~~30~~ three days after publication of the notice required by G.S. 68-18.1, the impounder shall ~~post at the courthouse door and three public places in the township where the livestock is impounded a written notice fully describing the livestock, and stating the place, date, and hour of sale.~~ notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After ~~20~~10 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded."

SECTION 18.(b) This section is effective when this act becomes law and applies to livestock impounded on or after that date.

MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS

SECTION 19.(a) G.S. 106-815 is repealed.

SECTION 19.(b) G.S. 19A-62(c) reads as rewritten:

"(c) Report. – In ~~February~~ March of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

PRESCRIBED BURNING ACT MODIFICATIONS

SECTION 20. G.S. 106-968 reads as rewritten:

"**§ 106-968. Prescribed burning.**

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

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

(b) The prescribed burning shall be conducted by a certified prescribed burner in accordance with a prescription that satisfies subsection (a) of this section. The certified prescribed burner shall be present on the site and shall be in charge of the burning throughout

the period of the burning. A landowner may conduct a prescribed burning and be in compliance with this Article without being a certified prescribed burner if the landowner is burning a tract of forestland of 50 acres or less owned by that landowner and is following all conditions established in a prescription prepared by a certified prescribed burner.

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.

(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.

(3) Any applicable local ordinances relating to open burning.

(4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.

(5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.

(d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article."

MODIFY PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN

SECTION 21. G.S. 14-140.1 reads as rewritten:

"**§ 14-140.1. Certain fire to be guarded by watchman.**

Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other material whereby any property may be endangered or destroyed, without keeping and maintaining a careful watchman in charge of the burning, shall be guilty of ~~a Class 3 misdemeanor~~an infraction which may include a fine of not ~~less than ten dollars ($10.00) or~~ more than fifty dollars ($50.00). Fire escaping from the brush, grass, or other material while burning shall be prima facie evidence of violation of this provision."

ESTABLISH FARM WINERY PERMIT

SECTION 22.(a) G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.

(2) Off-premises malt beverage permit – $400.00.

(3) On-premises unfortified wine permit – $400.00.

(4) Off-premises unfortified wine permit – $400.00.

(5) On-premises fortified wine permit – $400.00.

(6) Off-premises fortified wine permit – $400.00.

(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.

(8) Special occasion permit – $400.00.

(9) Limited special occasion permit – $50.00.

(10) Mixed beverages permit – $1,000.

(11) Culinary permit – $200.00.

(12) Unfortified winery permit – $300.00.

(13) Fortified winery permit – $300.00.

(14) Limited winery permit – $300.00.

(15) Brewery permit – $300.00.
(16) Distillery permit – $300.00.
(17) Fuel alcohol permit – $100.00.
(18) Wine importer permit – $300.00.
(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
(37) Wine shop permit – $100.00.
(38) Winemaking on premises permit – $400.00.
(39) Wine shipper packager permit – $100.00.
(40) Malt beverage special event permit – $200.00.
(41) Malt beverage tasting permit – $100.00.
(42) Spirituous liquor tasting permit – $100.00.
(43) Farm winery permit. – $150.00.
(44) Farm winery on-premises unfortified wine permit. – $100.00."

SECTION 22.(b) G.S. 18B-1001 is amended by adding a new subdivision to read:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(20) Farm winery on-premises unfortified wine permit. – A farm winery unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another farm winery on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the

wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued only for wineries holding a farm winery permit pursuant to G.S. 18B-1103A."

SECTION 22.(c) G.S. 18B-1100 is amended by adding a new subdivision to read:

"**§ 18B-1100. Commercial permits.**

...

(21) Farm winery."

SECTION 22.(d) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1103A. Authorization of farm winery permit.**

(a) Special Qualifications. – Except as provided in subsection (b) of this section, any winery that produces at least seventy-five percent (75%) of its wine from honey, grapes, or other fruit or grain grown in this State may obtain a farm winery permit.

(b) Exceptions to Special Qualifications. – In the event that the Commissioner of Agriculture determines that a natural disaster, act of God, or continued adverse weather condition has destroyed no less than forty percent (40%) of a certain grape varietal grown or produced in this State and used for winemaking, the Commissioner, in consultation with the Chairman of the Alcoholic Beverage Control Commission, may give authorization to a duly licensed farm winery to manufacture or sell wine produced from grapes grown outside the State. No such authorization shall be granted to a farm winery permittee unless such permittee certifies to the Commissioner the quantity of North Carolina grown grapes unavailable to the licensee due to the natural disaster, act of God, or continuing adverse weather condition and satisfies the Commissioner that reasonable efforts were made to obtain grapes from a North Carolina source for the purpose of making wine. No farm winery shall exceed the amount of out-of-state grown grapes or juice authorized by the Commissioner.

(c) Authorized Acts. – The holder of a farm winery permit may:

(1) Manufacture unfortified wine.

(2) Sell, deliver, and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State.

(3) Ship its wine in closed containers to individual purchasers inside and outside this State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter.

(4) Furnish or sell "short-filled" packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State. A sale under this subdivision shall not be considered a retail or wholesale sale under the ABC laws.

(5) Regardless of the results of any local wine election, sell the wine owned by the winery at the winery for on- or off-premise consumption, upon obtaining the appropriate permit under G.S. 18B-1001.

(6) Sell the wine manufactured by the winery for on- or off-premise consumption at no more than six other locations in the State, upon obtaining the appropriate permit under G.S. 18B-1001.

(7) Receive, in closed containers, and sell at the winery, unfortified wine produced inside North Carolina under contract with the winery. Such contract wine must have the winery's name clearly displayed on each bottle. The contract wine may be sold also at affiliated retail outlets of the winery physically located on or adjacent to the winery. Any wine received by a winery under this provision must be made available for sale by the winery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the wine were being imported by the winery.

(8) Allow winemaking on premises as allowed by a permit issued pursuant to G.S. 18B-1001(17).

(9) Give visitors free tasting samples of the wine manufactured at the farm winery. The Commission may issue rules regulating these tastings.

(10) Affix to the bottle a label certifying that the wine originates from a permitted farm winery. The North Carolina Department of Agriculture and Consumer Services may issue rules regulating the certification label. Nothing in this subdivision shall be construed as altering or superseding any other State or federal wine labeling laws."

SECTION 22.(e) G.S. 18B-1112 reads as rewritten:

"**§ 18B-1112. Authorization of vendor representative permit.**

(a) Authorized Acts. – The holder of a vendor representative permit may represent an unfortified winery, fortified winery, limited winery, farm winery, brewery, bottler, importer, nonresident malt beverage vendor, or nonresident wine vendor, either as an employee or an agent, to solicit orders for that commercial permittee's product. The vendor representative may sell, deliver, and ship alcoholic beverages in this State only to permittees to whom the commercial permittee he represents may sell, deliver, or ship.

(b) Number of Permits. – A vendor representative shall secure a separate permit for each commercial permittee he represents. A permit may not be issued without the approval of the commercial permittee."

SECTION 22.(f) G.S. 18B-1114.1 reads as rewritten:

"**§ 18B-1114.1. Authorization of winery special event permit.**

(a) Authorization. – The holder of an unfortified winery permit, a limited winery permit, a farm winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.

(b) Limitation. – A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

SECTION 22.(g) G.S. 18B-1201 reads as rewritten:

"**§ 18B-1201. Definitions.**

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

(1) "Agreement" means a commercial relationship between a wine wholesaler and a winery. The agreement may be of a definite or indefinite duration and is not required to be in writing. Any of the following constitutes prima facie evidence of an "agreement" within the meaning of this definition:

a. A relationship whereby the wine wholesaler is granted the right to offer and sell a brand offered by a winery;

b. A relationship whereby the wine wholesaler, as an independent business, constitutes a component of a winery's distribution system;
c. A relationship whereby the wine wholesaler's business is substantially associated with a brand offered by a winery;
d. A relationship whereby the wine wholesaler's business is substantially reliant on a winery for the continued supply of wine;
e. The shipment, preparation for shipment, or acceptance of any order by any winery or its agent for any wine or beverages to a wine wholesaler within this State;
f. The payment by a wine wholesaler and the acceptance of payment by any winery or its agent for the shipment of any order of wine or beverages intended for sale within this State.

(2) "Territory" or "sales territory" means the area of primary sales responsibility expressly or implicitly designated by any agreement between any wine wholesaler and winery for a brand offered by any winery.

(3) "Wine wholesaler" means any holder of a wine wholesaler permit, wine importer permit, or bottler permit issued under the authority of this Chapter.

(4) "Winery" means any holder of an unfortified winery permit, fortified winery permit, limited winery permit, farm winery permit, or nonresident wine vendor permit issued under the authority of this Chapter who sells at least 1,250 cases of wine in North Carolina per year."

SECTION 22.(h) The North Carolina Department of Agriculture and Consumer Services shall study ways to promote farm wineries within the State, including the development of a "passport" program where customers visiting a given number of farm wineries may receive a form of special recognition, such as a special sticker for their car. The Department shall report its findings and recommendations, including any legislative proposals, to the Agriculture and Forestry Awareness Study Commission no later than February 1, 2016.

SECTION 22.(i) Section 22(h) of this act is effective when this act becomes law. The remainder of this section becomes effective July 1, 2016, and applies to permits issued on or after that date.

LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS

SECTION 23. G.S. 106-24.1 reads as rewritten:

"**§ 106-24.1. Confidentiality of information collected and published.**

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All USDA-generated information received pursuant to this Part ~~from individual farm operators~~ that is confidential under federal law shall be held confidential by the Department and its employees. All information collected by the Department from ~~individual farm operators~~farm owners or animal owners, ~~for the purposes of its animal health programs,~~ including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory ~~reports,~~ reports received or generated from samples submitted for analysis, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health, or the disclosure is necessary in the implementation of these animal health programs."

TECHNICAL CORRECTIONS

SECTION 24.(a) G.S. 14-137 reads as rewritten:

"**§ 14-137. Willfully or negligently setting fire to woods and fields.**

If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2 misdemeanor. This section shall apply only in those counties under the protection of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services in its work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be fired, his own open, nonwooded lands, or fields in connection with farming or building operations at the time and in the manner now provided by law: Provided, he shall have confined the fire at his own expense to said open lands or fields."

SECTION 24.(b) G.S. 143-166.13 reads as rewritten:

"**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

(1) State Government Security Officers, Department of Administration;
(2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
(3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
(4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
(5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the Department of Justice;
(6) State Highway Patrol Officers, Department of Public Safety;
(7) General Assembly Special Police, General Assembly;
(8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
(9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
(10) Insurance Investigators, Department of Insurance;
(11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
(12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
(14) Utilities Commission Transportation Inspectors and Special Investigators;
(15) North Carolina Ports Authority Police, Department of Transportation;
(16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
(17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
(19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
(20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:

(1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;

(2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section."

EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 25.(a) 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 25.(b) Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 513

Short Title:	North Carolina Farm Act of 2015.	(Public)
Sponsors:	Senators Brock, B. Jackson (Primary Sponsors); Bryant, Clark, Cook, D. Davis, Foushee, Hise, McInnis, Pate, Rabin, Tarte, and Woodard.	
Referred to:	Rules and Operations of the Senate.	

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO (1) REVISE THE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT; (2) EXEMPT COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER FROM STATE INCOME TAX WITHHOLDING TO THE EXTENT THE COMPENSATION IS EXEMPT FROM FEDERAL INCOME TAX WITHHOLDING; (3) ESTABLISH A POLICY OF SUPPORTING SUSTAINABLE AGRICULTURE IN THE STATE; (4) MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS; (5) ALLOW OVERSIZE TRANSPORTATION OF HAY BALES; (6) AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES; (7) INCREASE THE PERMISSIBLE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES THAT ARE EXEMPT FROM REGISTRATION AND CERTIFICATE OF TITLE; (8) ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR METEOROLOGICAL TOWERS; (9) ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING SUBMERGED AQUATIC VEGETATION; (10) MODIFY THE PRESENT USE VALUE PROGRAM; (11) ESTABLISH A PROCEDURE FOR THE TERMINATION OF CONSERVATION AGREEMENTS; (12) TRANSFER THE WILDLIFE RESOURCES COMMISSION CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES; (13) PROHIBIT THE IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND ENFORCEMENT OF AIR EMISSIONS STANDARDS THAT WOULD LIMIT FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS; (14) MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS; (15) MODIFY THE PRESCRIBED BURNING ACT; (16) MODIFY THE PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN; (17) LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS; AND (18) MAKE VARIOUS TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

REVISE HORSE INDUSTRY PROMOTION ACT TO INCREASE CAPS ON DURATION AND AMOUNT OF AN ASSESSMENT

SECTION 1. G.S. 106-823 reads as rewritten:

"**§ 106-823. Referendum.**

(a) The Council may conduct a referendum among horse owners upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Council shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed ~~two dollars ($2.00)~~four dollars ($4.00) per ton of commercial horse feed.

(2) The period for which the assessment shall be levied, not to exceed ~~three~~10 years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

...."

EXEMPT COMPENSATION PAID TO AN H-2A AGRICULTURAL WORKER FROM STATE INCOME TAX WITHHOLDING TO THE EXTENT THE COMPENSATION IS EXEMPT FROM FEDERAL INCOME TAX WITHHOLDING

SECTION 2.(a) G.S. 105-163.3(b) reads as rewritten:

"(b) Exemptions. – The withholding requirement does not apply to the following:

(1) Compensation that is subject to the withholding requirement of G.S. 105-163.2.

(2) Compensation paid to an ordained or licensed member of the clergy.

(3) Compensation paid to an entity exempt from tax under G.S. 105-130.11.

(4) Compensation paid to an alien, as described by 8 U.S.C. 1101(a)(15)(H)(ii)(a), that is not subject to federal income tax withholding under section 1441 of the Code."

SECTION 2.(b) This section is effective for taxable years beginning on or after July 1, 2015.

ESTABLISH POLICY OF SUPPORTING SUSTAINABLE AGRICULTURE

SECTION 3. Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-26.3. Declaration of policy of supporting sustainable agriculture.**

The General Assembly hereby finds and declares that it shall be the policy of this State to support and promote sustainable agriculture. For purposes of this section, "sustainable agriculture" means the use of science-based agricultural practices, technologies, or biological systems supported by research or otherwise demonstrated to lead to broad outcomes-based improvements, including such critical outcomes as increasing agricultural productivity and improving human health through access to safe, nutritious, affordable food and other agricultural products, while enhancing agricultural and surrounding environmental conditions through the stewardship of water, soil, air quality, biodiversity, and wildlife habitat. Further, the General Assembly finds and declares that it is in the interest of the people of this State to use sustainable agriculture to meet the needs of the present and to improve the ability of future generations to meet their own needs, while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities."

MODIFY OVERSIZE VEHICLE PERMIT TIME RESTRICTIONS

SECTION 4.(a) 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations). – Until the effective date of the revised permanent rule that the Department of Transportation is required to adopt pursuant to Sections 4(b) and 4(c) of this act, the Department shall implement 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) as provided in Sections 4(b) and 4(c) of this act.

SECTION 4.(b) Implementation. – Notwithstanding subdivision (h)(1) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall only prohibit movement of a permitted oversize vehicle as follows:

Movement shall be made between sunrise and sunset Monday through Sunday. Exception: A 16 foot-wide mobile or modular home unit with a maximum three-inch gutter edge is restricted to travel from 9:00 A.M. to 2:30 P.M. Monday through Sunday. A 16 foot-wide unit is authorized to continue operation after 2:30 P.M., but not beyond sunset, when traveling on an approved route as determined by an engineering study and the unit is being exported out-of-state.

SECTION 4.(c) Implementation. – Notwithstanding subdivision (h)(2) of 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations), the Secretary of Transportation shall only prohibit movement of a permitted oversize vehicle as follows:

No movement is permitted for a vehicle and vehicle combination after noon on the weekday preceding the three holidays of Independence Day, Thanksgiving Day, and Christmas Day until noon on the weekday following a holiday. If the observed holiday falls on the weekend, travel is restricted from 12:00 noon on the preceding Friday until 12:00 noon on the following Monday.

SECTION 4.(d) Additional Rule-Making Authority. – The Department of Transportation shall adopt a rule to amend 19A NCAC 02D .0607 (Permits-Weight, Dimensions and Limitations) consistent with Sections 4(b) and 4(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Department pursuant to this section shall be substantively identical to the provisions of Sections 4(b) and 4(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(e) Effective Date. – Sections 4(b) and 4(c) of this act expire on the date that rules adopted pursuant to Section 4(d) of this act become effective.

ALLOW OVERSIZE TRANSPORTATION OF HAY BALES

SECTION 5. G.S. 20-119(g) reads as rewritten:

"(g) The Department of Transportation shall issue annual overwidth permits for the following:

(1) A vehicle carrying agricultural equipment or machinery from the dealer to the farm or from the farm to the dealer that does not exceed 14 feet in width. A permit issued under this subdivision is valid for unlimited movement without escorts on all State highways where the overwidth vehicle does not exceed posted bridge and load limits.

(1a) A vehicle carrying baled hay from place to place on the same farm, from one farm to another, from farm to market, or from market to farm, that does not exceed 12 feet in width. A permit issued under this subdivision is valid for unlimited movement without escorts on all State highways where the overwidth vehicle does not exceed posted bridge and load limits. A permit issued under this subdivision must restrict a vehicle carrying baled hay to operation during daylight hours only.

(2) A boat or boat trailer whose outside width equals or exceeds 120 inches. A permit issued under this subdivision must restrict a vehicle's towing of the boat or boat trailer to daylight hours only."

AMEND RIGHT-OF-CENTER REQUIREMENTS FOR CERTAIN AGRICULTURAL VEHICLES

SECTION 6. G.S. 20-116(j) reads as rewritten:

"(j) Nothing in this section shall be construed to prevent the operation of self-propelled grain combines or other self-propelled farm equipment with or without implements, not exceeding 25 feet in width on any highway, unless the operation violates a provision of this subsection. Farm equipment includes a vehicle that is designed exclusively to transport compressed seed cotton from a farm to a gin and has a self-loading bed. Combines or equipment which exceed 10 feet in width may be operated only if they meet all of the conditions listed in this subsection. A violation of one or more of these conditions does not constitute negligence per se.

(1) The equipment may only be operated during daylight hours.

(2) The equipment must display a red flag on front and rear ends or a flashing warning light. The flags or lights shall be attached to the equipment as to be visible from both directions at all times while being operated on the public highway for not less than 300 feet.

(3) Equipment covered by this section, which by necessity must travel more than 10 miles or where by nature of the terrain or obstacles the flags or lights referred to in subdivision (2) of this subsection are not visible from both directions for 300 feet at any point along the proposed route, must be preceded at a distance of 300 feet and followed at a distance of 300 feet by a flagman in a vehicle having mounted thereon an appropriate warning light or flag. No flagman in a vehicle shall be required pursuant to this subdivision if the equipment is being moved under its own power or on a trailer from any field to another field, or from the normal place of storage of the vehicle to any field, for no more than ten miles and if visible from both directions for 300 feet at any point along the proposed route.

(4) Every piece of equipment so operated shall operate to the right of the center line ~~when meeting traffic coming from the opposite direction and at all other times when possible and practical.~~ unless the combined width of the traveling lane and the accessible shoulder is less than the width of the equipment.

...."

INCREASE SPEED LIMIT FOR AGRICULTURAL SPREADER VEHICLES THAT ARE EXEMPT FROM REGISTRATION AND CERTIFICATE OF TITLE

SECTION 7. G.S. 20-51 reads as rewritten:

"**§ 20-51. Exempt from registration.**

The following shall be exempt from the requirement of registration and certificate of title:

...

(16) A vehicle that meets all of the following conditions is exempt from the requirement of registration and certificate of title. The provisions of G.S. 105-449.117 continue to apply to the vehicle and to the person in whose name the vehicle would be registered.

a. Is an agricultural spreader vehicle. An "agricultural spreader vehicle" is a vehicle that is designed for off-highway use on a farm to spread fertilizer, seed, lime, or other agricultural products on a field.

b. Is driven on the highway only for the purpose of going from the location of its supply source for fertilizer or other products to and from a farm.

c. Does not exceed a speed of ~~35~~45 miles per hour.

d. Does not drive outside a radius of 50 miles from the location of its supply source for fertilizer and other products.
e. Is driven by a person who has a license appropriate for the class of the vehicle.
f. Is insured under a motor vehicle liability policy in the amount required under G.S. 20-309.
g. Displays a valid federal safety inspection decal if the vehicle has a gross vehicle weight rating of at least 10,001 pounds.

...."

ESTABLISH MARKING AND NOTICE REQUIREMENTS FOR METEOROLOGICAL TOWERS

SECTION 8.(a) Chapter 63 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Marking and Notice of Meteorological Towers.

"**§ 63-110. Marking of meteorological towers.**

(a) As used in this Article, the term:

(1) "Height" means the distance from the original grade at the base of a tower to the highest point of the tower.

(2) "Meteorological tower" means a structure that is either self-standing or supported by guy wires and ground anchors, and has guy wires and accessory facilities on which equipment used to measure wind speed and direction is mounted. "Meteorological tower" does not include a structure that is affixed or located adjacent to a building, house, or barn.

(b) Except as required by federal law, rule, or regulation, any meteorological tower over 50 feet in height must be marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than 2,000 feet. Meteorological towers must also comply with the following additional requirements:

(1) A meteorological tower shall be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower.

(2) One marker ball shall be attached to the top third of each outside guy wire.

(3) Guy wires shall have a seven-foot long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point.

"**§ 63-111. Registration; notification; tower database; penalty.**

(a) The Department of Transportation shall adopt rules requiring any person proposing to construct a meteorological tower to register with the Department. The person proposing to construct the tower shall notify the Department of the proposal, the location and height of the proposed tower, and any other information the Department may require to ensure aviation safety, and shall pay a registration fee of three hundred fifty dollars ($350.00). The rules shall require the owner of a meteorological tower to notify the Department upon removal or destruction of a tower.

(b) The Department of Transportation shall establish and maintain an electronic database containing the location of all meteorological towers in the State by January 1, 2016. The Department may contract with a governmental entity or private entity to create and maintain the database.

"**§ 63-112. Penalties.**

The Secretary of Transportation may assess a civil penalty of not more than ten thousand dollars ($10,000) per violation against any person who violates any provision of this Article."

SECTION 8.(b) Any meteorological tower that was completely erected prior to the effective date of this section is not required to comply with the provisions of this section. Any meteorological tower that is erected on or after the effective date of this section shall be marked in accordance with G.S. 63-110 as enacted by Section 8(a) of this act at the time it is erected.

SECTION 8.(c) This section becomes effective January 1, 2017, and applies to meteorological towers erected on or after that date.

ALLOW SHELLFISH CULTIVATION LEASES IN AREAS CONTAINING SUBMERGED AQUATIC VEGETATION

SECTION 9.(a) G.S. 113-202(b) reads as rewritten:

"(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes. The Secretary shall not exclude any area from leasing solely on the basis that the area contains submerged aquatic vegetation and shall make specific findings based on the standards set forth in subsection (a) of this section prior to reaching a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged aquatic vegetation."

SECTION 9.(b) This section becomes effective July 1, 2015, and applies to any new shellfish cultivation leases or renewals of existing shellfish cultivation leases issued on or after that date.

PRESENT USE VALUE MODIFICATIONS

SECTION 10.(a) G.S. 105-277.2 reads as rewritten:

"**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. For purposes of this definition, the commercial production or growing of animals includes the rearing, feeding, training, caring, and managing of horses. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

...

(4) Individually owned. – Owned by one of the following:

a. An individual.

b. A business entity that meets all of the following conditions:

1. Its principal business is farming agricultural land, horticultural land, or forestland. When determining whether an applicant under G.S. 105-277.4 has as its principal business farming agricultural land, horticultural land, or forestland, the assessor shall presume the applicant's principal

business to be farming agricultural land, horticultural land, or forestland if the applicant has been approved by another county for present-use value taxation for a qualifying property located within the other county. The assessor may rebut this presumption by showing clear and convincing evidence that the applicant's principal business is not farming agricultural land, horticultural land, or forestland.

2. All of its members are, directly or indirectly, individuals who are actively engaged in farming agricultural land, horticultural land, or forestland or a relative of one of the individuals who is actively engaged. An individual is indirectly a member of a business entity that owns the land if the individual is a member of a business entity or a beneficiary of a trust that is part of the ownership structure of the business entity that owns the land.
3. It is not a corporation whose shares are publicly traded, and none of its members are corporations whose shares are publicly traded.
4. If it leases the land, all of its members are individuals and are relatives. Under this condition, "principal business" and "actively engaged" include leasing.

c. A trust that meets all of the following conditions:
1. It was created by an individual who owned the land and transferred the land to the trust.
2. All of its beneficiaries are, directly or indirectly, individuals who are the creator of the trust or a relative of the creator. An individual is indirectly a beneficiary of a trust that owns the land if the individual is a beneficiary of another trust or a member of a business entity that has a beneficial interest in the trust that owns the land.

d. A testamentary trust that meets all of the following conditions:
1. It was created by an individual who transferred to the trust land that qualified in that individual's hands for classification under G.S. 105-277.3.
2. At the date of the creator's death, the creator had no relatives.
3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).

e. Tenants in common, if each tenant would qualify as an owner if the tenant were the sole owner. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is an individual, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity or a trust.

...."

SECTION 10.(b) G.S. 105-277.4 is amended by adding a new subsection to read:

"**§ 105-277.4. Agricultural, horticultural and forestland – Application; appraisal at use value; appeal; deferred taxes.**

...

(f) The Department shall publish a present-use value program guide annually and make the guide available electronically on its Web site. When making decisions regarding the qualifications or appraisal of property under this section, the assessor shall adhere to the Department's present-use value program guide."

SECTION 10.(c) Section 10(a) is effective July 1, 2015, and applies to taxes imposed for taxable years beginning on or after that date.

PROCEDURE FOR TERMINATION OF CONSERVATION AGREEMENTS

SECTION 11.(a) Article 4 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-39A. Termination of agreements.**

(a) Any time after a conservation agreement is acquired, the parties to the agreement may petition the Council of State to request termination of the agreement on the grounds that the agreement is no longer capable of achieving the conservation purposes for which it was executed. The request for termination shall: (i) be in writing, (ii) contain supporting documentation including the agreement in question, and (iii) contain findings of fact sufficient to demonstrate the impossibility of meeting the agreement's original conservation purposes. The request for termination shall be signed by both parties.

(b) Not later than the 60th day after the date the Council receives the request, the Council shall make a determination whether to grant or deny the request for termination and notify the parties. The approval of such a transaction by the Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and said certificate may be recorded as a part thereof, and the same shall be conclusive evidence of review and approval of the subject transaction by the Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such transactions as the Governor deems advisable. Either party may appeal the decision in district court not later than the 45th day after the date of the notification.

(c) Upon termination of a conservation agreement pursuant to this section:

(1) The deferred taxes for the current year and preceding three fiscal years are due and payable in accordance with G.S. 105-277.1F.

(2) The owner of the property shall pay a penalty to the Department of Administration equal to twenty-five percent (25%) of the fair market value of the property.

(3) Other real property of at least equal fair market value and of as nearly as equivalent usefulness and location for conservation use shall be substituted for the terminated property within a reasonable period not exceeding three years. Property substituted is subject to the provisions of this Chapter.

(d) This section shall apply to:

(1) Conservation agreements that are intended to be effective perpetually or that are terminated prior to the period of time stipulated in the agreement.

(2) Conservation agreements where at least one party to the agreement is a public body of this State, including the State, any of its agencies, any city, county, district or other political subdivision, or municipal or public corporation, or any instrumentality of any of the foregoing."

SECTION 11.(b) This section is effective July 1, 2015, and applies to taxes imposed for taxable years beginning on or after that date.

TRANSFER CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 12.(a) Article 49H of Chapter 106 reads as rewritten:

"Article 49H.

"~~Production and Sale~~Production, Sale, and Transportation of ~~Fallow Deer and Red Deer.~~Farmed Cervids.

"§ 106-549.97. Regulation by Department of Agriculture and Consumer Services of ~~certain~~farmed cervids produced and sold for commercial purposes; ~~certain authority of North Carolina Wildlife Resources Commission not affected;~~ definitions.

~~(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.~~

(a1) The following definitions apply in this Article:

(1) Commission. – The North Carolina Wildlife Resources Commission.

(2) Department. – The North Carolina Department of Agriculture and Consumer Services.

(3) Farmed Cervid. – Any cervid, as defined by the USDA Standards, that is susceptible to Chronic Wasting Disease, or any other member of the Cervidae family that is not susceptible to Chronic Wasting Disease, that is held in captivity and produced, bought, or sold for commercial purposes. Farmed Cervid shall only include any cervid that was bred in captivity and has been continuously maintained within a herd that is enrolled in and complies with a USDA-approved Herd Certification Program. Any animal registered or tagged in any captive cervid facility existing within the State as of July 1, 2015, is deemed to be a farmed cervid.

(4) Non-Farmed Cervid. – All animals in the family Cervidae other than Farmed Cervids.

(5) USDA. – The United States Department of Agriculture.

(6) USDA Standards. – The United States Department of Agriculture's Chronic Wasting Disease Program Standards, May 2014 edition, and subsequent updates.

(a2) The Department of Agriculture and Consumer Services shall regulate the production, sale, possession, and transportation, including importation and exportation, of farmed cervids. The Department shall have sole authority with regard to farmed cervids, including administration of the North Carolina Captive Cervid Herd Certification Program. The Department shall allow the sale of farmed cervids, whether alive or dead, whole or in part, including, but not limited to, the sale of antlers, antler velvet, hides, or meat from captive populations of farmed cervids. The Department shall follow the USDA Standards and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this Article with regard to cervids susceptible to Chronic Wasting Disease. The Department may adopt rules to implement this Article, including, but not limited to, requirements for captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits. Until such time as the USDA has adopted an approved method of testing for Chronic Wasting Disease in living cervids, the Department may issue new captivity licenses or permits for cervid facilities that will hold cervids susceptible to Chronic Wasting Disease only if the source animals are located within the State and are from a certified herd in accordance with USDA Standards from an existing licensed facility. Nothing in this section shall limit the Department's ability to issue new captivity licenses and permits for farmed cervid facilities that will hold cervids that are not susceptible to Chronic Wasting Disease. The Department shall not issue an

importation permit for any farmed cervid from a Chronic Wasting Disease-positive, exposed, or suspect farmed cervid facility.

(a3) All free-ranging cervids shall be removed from any new captive cervid facility prior to stocking the facility with farmed cervids.

(a4) Hunt facilities as defined by USDA Standards are prohibited. Any farmed cervid killed on the premises of a licensed facility shall be killed only by the licensee, the owner of the facility, an employee of the facility, or a qualified veterinarian administering euthanasia.

(b) The North Carolina Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, of non-farmed cervids pursuant to G.S. 113-272.6. No action taken by the Department shall in any way limit the authority of the Commission to regulate non-farmed cervids as wildlife resources of the State belonging to the people of the State as a whole. Nothing in this Article shall authorize the Department to regulate hunting or any activity related to hunting.

~~(c) The following definitions apply in this Article:~~

~~(1) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(2) Repealed by Session Laws 2003-344, s. 11, effective July 27, 2003.~~

~~(3) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer).~~

~~(4) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.~~

~~(5) White-tailed deer. – A member of the species Odocoileus virginianus.~~

(d) No county, municipality, or any other unit of local government may adopt any ordinance, regulation, or law that is inconsistent with or more restrictive than the provisions of this Article. Any ordinance, regulation, or law that is currently enacted that is inconsistent with or more restrictive than the provisions of this Article is hereby repealed.

(e) In order to carry out the authority granted by this Article, the Department may enforce the rules adopted by the Wildlife Resources Commission under its prior authority pursuant to G.S. 150B-21.7, including the rules governing issuance of captivity licenses, captivity permits, transportation permits, importation permits, and exportation permits, until such time as the Department adopts rules for the implementation of this Article.

(f) The provisions of G.S. 113-129 shall not apply to the production, sale, transportation, importation, or exportation of farmed cervids under this Article, whether alive or dead, whole or in part.

(g) No live farmed cervid shall be transported on a public road within the State unless the cervid has an official form of identification approved by the State Veterinarian for this purpose and the appropriate transportation, importation, or exportation permit issued by the Department.

(h) Any live farmed cervid that is transported on a public road within the State shall be subject to inspection by a wildlife law enforcement officer to ensure that each farmed cervid has official identification required under this Article and that the appropriate permit has been obtained from the Department.

(i) Any person transporting a live farmed cervid on a public road within the State without the appropriate farmed cervid identification and permit may be subject to a civil penalty by the Department under this Article. Each cervid that fails to meet the tagging and transportation requirements of the Department shall constitute a separate violation.

(j) The Commissioner of Agriculture may assess a civil penalty of not more than five thousand dollars ($5,000) per animal against any person who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"~~§ 106-549.98. Inspection fees.~~

~~The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of fallow deer as required by Article 49B of Chapter 106 of the General Statutes. The Commissioner may establish a fee at an hourly rate to be paid by the owner, proprietor, or operator of each slaughtering, meat canning, salting, packing, rendering, or similar establishment for the purpose of defraying the expenses incurred in the inspection of red deer as required by Article 49B of Chapter 106 of the General Statutes.~~"

SECTION 12.(b) G.S. 113-272.6 reads as rewritten:

"**§ 113-272.6. ~~Transportation~~ Possession, Transportation, Importation, and Exportation of non-farmed ~~cervids and licensing of captive cervid facilities.~~cervids.**

(a) The Wildlife Resources Commission shall regulate the possession and transportation, including importation and exportation, ~~and possession~~ of non-farmed cervids, including game carcasses and parts of game carcasses extracted by ~~hunters.~~hunters and carcasses and parts of carcasses imported from hunt facilities as defined by USDA Standards. For purposes of this section, the term "non-farmed cervid" has the same meaning as in G.S. 106-549.97. ~~The Commission shall allow the sale of antlers, antler velvet, or hides from captive populations of cervids.~~ The Commission shall follow the USDA Standards as defined in G.S. 106-549.97 and the provisions set forth in 9 C.F.R. Part 55 and 9 C.F.R. Part 81 in the implementation of this section, and shall not adopt any rule or standard that is in conflict with, in lieu of, or more restrictive than the USDA Standards. The Commission shall adopt rules to implement this section, including requirements for ~~captivity licenses, captivity permits, and transportation permits.~~transportation, importation, and exportation permits. ~~The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities.~~ Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars ($50.00) for the processing of applications for ~~captivity licenses, captivity permits, and transportation~~transportation, importation, and exportation permits, and the renewal or modification of those ~~licenses and~~ permits. The fees collected shall be applied to the costs of administering this section.

(b) The Wildlife Resources Commission shall notify every applicant for a ~~transportation~~ permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.

(c) The Department of Agriculture and Consumer Services shall regulate the ~~production and sale~~production, sale, and transportation, including importation and exportation, of farmed cervids for commercial purposes and the licensing of farmed cervid facilities pursuant to G.S. 106-549.97. No action taken by the Commission shall in any way limit the authority of the Department of Agriculture and Consumer Services to regulate farmed cervids.

~~(d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.~~

~~(e) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2.~~"

PROHIBIT THE IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND ENFORCEMENT OF AIR EMISSIONS STANDARDS THAT WOULD LIMIT FUEL SOURCES PROVIDING HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 13.(a) G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither ~~the~~ Commission nor the Department shall enforce any federal air emissions standard adopted after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 13.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

MODIFY DEPARTMENT OF AGRICULTURE REPORTING REQUIREMENTS

SECTION 14.(a) G.S. 106-815 is repealed.

SECTION 14.(b) G.S. 19A-62(c) reads as rewritten:

"(c) Report. – In ~~February~~ March of each year, the Department must report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division. The report must contain information regarding all revenues and expenditures of the Spay/Neuter Account."

PRESCRIBED BURNING ACT MODIFICATIONS

SECTION 15.(a) G.S. 106-967 reads as rewritten:

"**§ 106-967. Immunity from liability.**

(a) Any prescribed burning conducted in compliance with G.S. 106-968 is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or the landowner's agent who conducts a prescribed burning in compliance with G.S. 106-968 shall not be liable in any civil action for any damage or injury caused by or resulting from ~~smoke.~~smoke or fire.

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

SECTION 15.(b) G.S. 106-968 reads as rewritten:

"**§ 106-968. Prescribed burning.**

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

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

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

(c) Prior to conducting a prescribed burning, the landowner or the landowner's agent shall obtain an open-burning permit under Article 78 of this Chapter from the North Carolina Forest Service of the Department of Agriculture and Consumer Services. This open-burning permit must remain in effect throughout the period of the prescribed burning. The prescribed burning shall be conducted in compliance with all the following:

(1) The terms and conditions of the open-burning permit under Article 78 of this Chapter.
(2) The State's air pollution control statutes under Article 21 and Article 21B of Chapter 143 of the General Statutes and any rules adopted pursuant to these statutes.
(3) Any applicable local ordinances relating to open burning.
(4) The ~~voluntary~~ smoke management guidelines adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services.
(5) Any rules adopted by the North Carolina Forest Service of the Department of Agriculture and Consumer Services, to implement this Article.

(d) The North Carolina Forest Service may accept prescribed burner certification from another State or other entity for the purpose of prescribed burning under this Article."

MODIFY PENALTY FOR FAILURE TO GUARD A FIRE BY WATCHMAN

SECTION 16. G.S. 14-140.1 reads as rewritten:

"**§ 14-140.1. Certain fire to be guarded by watchman.**

Any person, firm, corporation, or other legal entity who shall burn any brush, grass, or other material whereby any property may be endangered or destroyed, without keeping and maintaining a careful watchman in charge of the burning, shall be guilty of ~~a Class 3 misdemeanor~~an infraction which may include a fine of not ~~less than ten dollars ($10.00) or~~ more than fifty dollars ($50.00). Fire escaping from the brush, grass, or other material while burning shall be prima facie evidence of violation of this provision."

LIMIT THE PERSONALLY IDENTIFYING INFORMATION THAT THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES MAY DISCLOSE ABOUT ITS ANIMAL HEALTH PROGRAMS

SECTION 17. G.S. 106-24.1 reads as rewritten:

"**§ 106-24.1. Confidentiality of information collected and published.**

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information received pursuant to this Part from individual farm operators shall be held confidential by the Department and its employees. All information collected by the Department from ~~individual farm operators~~farm owners or animal owners, ~~for the purposes of its animal health programs,~~ including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory ~~reports,~~ reports received or generated from samples submitted for analysis, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health, or the disclosure is necessary in the implementation of these animal health programs."

TECHNICAL CORRECTIONS

SECTION 18.(a) G.S. 14-137 reads as rewritten:

"**§ 14-137. Willfully or negligently setting fire to woods and fields.**

If any person, firm or corporation shall willfully or negligently set on fire, or cause to be set on fire, any woods, lands or fields, whatsoever, every such offender shall be guilty of a Class 2 misdemeanor. This section shall apply only in those counties under the protection of the Department of ~~Environment and Natural Resources~~Agriculture and Consumer Services in its work of forest fire control. It shall not apply in the case of a landowner firing, or causing to be fired, his own open, nonwooded lands, or fields in connection with farming or building operations at the time and in the manner now provided by law: Provided, he shall have confined the fire at his own expense to said open lands or fields."

SECTION 18.(b) G.S. 143-166.13 reads as rewritten:

"**§ 143-166.13. Persons entitled to benefits under Article.**

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

(1) State Government Security Officers, Department of Administration;
(2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
(3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
(4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
(5) Sworn Law Enforcement Officers in the Medicaid Fraud Unit of the Department of Justice;
(6) State Highway Patrol Officers, Department of Public Safety;
(7) General Assembly Special Police, General Assembly;

(8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
(9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
(10) Insurance Investigators, Department of Insurance;
(11) State Bureau of Investigation Officers and Alcohol Law Enforcement Agents, Department of Public Safety;
(12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
(14) Utilities Commission Transportation Inspectors and Special Investigators;
(15) North Carolina Ports Authority Police, Department of Transportation;
(16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
(17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Public Safety.
(18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
(19) Sworn State Law-Enforcement Officers with the power of arrest, University System.
(20) Sworn State Law-Enforcement Officers with the power of arrest, Department of Agriculture and Consumer Services.

(b) The following persons are entitled to benefits under this Article regardless of whether they are subject to the Criminal Justice Training and Standards Act:
(1) Driver License Examiners injured by accident arising out of and in the course of giving a road test, Division of Motor Vehicles, Department of Transportation;
(2) Employees of the Division of Adult Correction of the Department of Public Safety injured by a direct and deliberate act of an offender supervised by the Division or while performing supervisory duties over offenders which place the employees at risk of such injury.

(c) As used in this Article, the term "eligible person" or "person" shall mean any individual listed under subsection (a) or (b) of this section."

EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 19.(a) 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 19.(b) Except as otherwise provided, this act is effective when it becomes law.

RESOLUTION IN OPPOSITION TO PROPOSED LEGISLATION THAT WOULD TRANSFER THE WILDLIFE RESOURCES COMMISSION CAPTIVE CERVID PROGRAM TO THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

WHEREAS, pursuant to G.S. 106-549.97(a), the regulation of the production and sale of farmed cervids is delegated to the North Carolina Department of Agriculture and Consumer Services; and

WHEREAS, pursuant to G.S. 106-549.97(b), the regulation of the possession, transportation, importation and exportation of all cervids is delegated to the North Carolina Wildlife Resources Commission; and

WHEREAS, pursuant to G.S. 106-549.97(c)(3), the term "cervid" is defined as "all animals in the family Cervidae (deer and elk)"; and

WHEREAS, pursuant to G.S. 106-549.97(c)(4), the term "farmed cervid" is defined as "any member of the Cervidae family other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought or sold for commercial purposes"; and

WHEREAS, legislation is currently pending in the North Carolina General Assembly under Senate Bill 513, Section 12, which would expand the definition of farmed cervids to include white-tailed deer, elk, mule deer, or black-tailed deer, and which would transfer the regulation of possession, transportation, importation and exportation of farmed cervids from the Wildlife Resources Commission to the Department of Agriculture and Consumer Services; and

WHEREAS, it has been demonstrated that the captivity of cervids increases the spread of Chronic Wasting Disease, a highly infectious disease which is always fatal to an infected cervid, and it is known that once an area is impacted by Chronic Wasting Disease, it is impossible to contain or eradicate; and

WHEREAS, although prevalent in many states, Chronic Wasting Disease has not been detected in any samples from cervids tested from within North Carolina, thus the Wildlife Resources Commission has a proven track record of maintaining control over the spread of Chronic Wasting Disease in non-captive cervids, including white-tailed deer, within our state; and

WHEREAS, the proposed expansion of farmed cervids to include captivity of white-tailed deer will greatly increase the likelihood of Chronic Wasting Disease in the non-captive population of white-tailed deer in our state; and

WHEREAS, the transfer of the regulation of the possession and transportation of farmed cervids away from the Wildlife Resources Commission is unnecessary and unfounded given the proven record of the Commission; and

WHEREAS, the hunting of white-tailed deer has a substantial history in both the culture and economy of northeastern North Carolina generally, and Halifax County in particular; and

WHEREAS, the introduction of Chronic Wasting Disease in the population of white-tailed deer in our region would have a tremendous impact on deer hunting as a pastime and as a source of tourism for our area;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF HALIFAX COUNTY RESOLVES:

1. That we wholeheartedly oppose the passage of any legislation that would expand the practice of farmed cervids to include the white-tailed deer;

2. That we wholeheartedly oppose the passage of any legislation that would transfer the regulation of possession and transportation of farmed cervids away from the North Carolina Wildlife Resources Commission;

3. That this resolution be forwarded to our legislative delegation and to the leadership of both houses in the General Assembly; and

4. That this resolution shall be effective upon passage.

Adopted this 4th day of May, 2015.

_____

Vernon L. Bryant, Chairman
Halifax County Board of Commissioners

ATTEST:

_____

Andrea H. Wiggins, MMC

SENATOR ANGELA R. BRYANT
NORTH CAROLINA SENATE - 4TH DISTRICT
HALIFAX, VANCE, NASH, WILSON & WARREN COUNTIES
KARON HARDY, LEGISLATIVE ASSISTANT

STATE LEGISLATIVE OFFICE BUILDING
300 N. SALISBURY STREET, ROOM 516
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ANGELAB@NCLEG.NET

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ROCKY MOUNT, NC 27803
(252) 442-4022
(703) 783-8553 FAX

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Bean	NCWF
Hal Atkinson	NC Sportsman
	Misc
Tim Kent	NC Beer & Wine
Asuka	NCWRC
Gordan Myers	
jim Cogdell	
Clayton Dellinger	NCDA Intern
Wynde Ring	NCDA
Jon Lanier	NCDA
R. D. Meckes	NCDA
Jae Reardon	NCDA
Zane Hedgecock	NCDA&CS
Joy Hicks	NCDA&CS
Commissioner Troxler	NCDA&CS
Geoff Carroll	NC WRC
Sam Craft	NCWRC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dill Carlton	Ag Office of ROC
Hugh Johnson	NCACC
David McLeod	NC Ag. Alliance
Tim Hunt	Crop protection Assoc. NC
Laura Payne	GRANGE
Jeff Barnhardt	MWC
Alex Bowen	CLS
Lex Morgan	NCRMA
Larry Potts	Deer Farmer
[illegible]	Deer Farmer
Tommy Hall	Deer Farmer
Deans Eatman	NCPC
Henry Hampton	Deer Farmer
Beverly Hampton	
Angie Maier	NCPC
Peters	CSS

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Preston Pech	Toxic Free NC
Rhian Merwald	Williams Mullen
Phoebe Landon	Brooks Pierce
	MWC
Susan Vick	Duke Energy
Kara Weishaar	SA
George Everett	Duke Energy
Mia Englichm	NC Metro Mayors

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brooks Rainey Pearson	SELC
Butch Gunnells	NC Bev
[illegible]	NCCN
Will Morgan	TNC
[illegible]	UNC Dept Govt
Sarah McQuillan	Southern Strategy Group
Kristen Laster	Southern Strategy Group
Susanna Davis	NCFA
Anne Lamm Joyce	Neighbor to Neighbor
Dan Crawford	NCCN
Sue Gray	NCHC
[illegible] Cooper	CCS
[illegible]	CCS
[illegible]	CCS
[illegible]	Office of Gov, Leg Affairs
Amanda [illegible]	NCDA
Matthew Dockham	NCDENR

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Maclean Asbill	SELC
Bob Brown	NCWF
Wooten Jones	Rocky Mount QDMA NWTF
Tom Hunt	Crop Protection Assoc NC
Shawn Schafer	North American Deer Farmers
Brad Hoxit	NC Deer FELK
Rochelle Sparks	CFSA
C Gavin	Sierra Club.
James Robinson	RAFI
Anne Link	CFSA
Edgar Miller	CTNC
Jon Hill	CTNC
Andy Chase	KMA
Erin Wynia	NCLM
Vicki Pope	NC DMV
Boston Jones	NC DOT
Paul Tofleman	HTGAC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 12, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
STEVEN WEBB	NCDACS

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, May 12, 2015 08:47 PM
To: Rep. Marvin Lucas; Rep. Roger West; Rep. Pat McElraft; Rep. Mike Hager; Sen. Jerry W. Tillman; Sen. Norman Sanderson; Sen. Bill Cook
Cc: Thelma Utley (Rep. Marvin Lucas); Linda C. Johnson (Rep. Roger West); Nancy Fox (Rep. Pat McElraft); Baxter Knight (Rep. Mike Hager); Suzanne Castleberry (Sen. Jerry Tillman); Linda Sanderson (Sen. Norman Sanderson); Kathy Voss (Sen. Norman Sanderson); Jordan Hennessy (Sen. Bill Cook)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, May 13, 2015 at 10:00 AM - CANCELLED
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

Cancelled Notice

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will **NOT** meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 13, 2015	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 574	Opossum Exclusion From Wildlife Laws.	Representative West Representative Hager Representative McElraft Representative Lucas
SB 573	Strengthen Oyster Industry.	Senator Cook Senator Tillman Senator Sanderson

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

m: Judy Edwards (Sen. Andrew Brock)
Sent: Thursday, May 07, 2015 04:13 PM
To: Rep. Marvin Lucas; Rep. Roger West; Rep. Pat McElraft; Rep. Mike Hager; Sen. Jerry W. Tillman; Sen. Norman Sanderson; Sen. Bill Cook
Cc: Thelma Utley (Rep. Marvin Lucas); Linda C. Johnson (Rep. Roger West); Nancy Fox (Rep. Pat McElraft); Baxter Knight (Rep. Mike Hager); Suzanne Castleberry (Sen. Jerry Tillman); Linda Sanderson (Sen. Norman Sanderson); Kathy Voss (Sen. Norman Sanderson); Jordan Hennessy (Sen. Bill Cook)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, May 13, 2015 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
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AND
BILL SPONSOR NOTICE

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Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 20, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Trudy Wade

Introduction of Pages

Introduction of Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 574	Opossum Exclusion From Wildlife Laws.	Representative West Representative Hager Representative McElraft Representative Lucas
SB 573	Strengthen Oyster Industry.	Senator Cook Senator Tillman Senator Sanderson
SB 486	NC Trail Expansion/Economic Corridors.	Senator Brock Senator Barringer Senator Alexander
HB 795	SEPA Reform.	Representative Torbett Representative Hager Representative Millis

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 20, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 20, 2015 in Room 544 of the Legislative Office Building. Fifteen (15) members were present.

Senator Trudy Wade presided.

Senator Wade introduced the pages: Spencer Amos from Morganton sponsored by Senator Daniels; Korbin Cummings from Harrisburg sponsored by Senator Ford; Mattie Mitchell from Morganton sponsored by Senator Daniel; Katie Bonaminio from Mitchell County sponsored by Senator Hise; Meredith Stogner from Hamlet sponsored by Senator McInnis; Sarah Cochrane from Winston-Salem sponsored by Senator Lowe; Emma Stogner from Hamlet sponsored by Senator McInnis.

Sgt-At-Arms for the meeting were Marcus Kitts and Larry Hancock.

The following bills were heard:

HB 574 Opossum Exclusion From Wildlife Laws. (Representatives West, Hager, McElraft, Lucas)

There was a PCS for this bill. Senator Bingham moved for acceptance of the PCS and the motion carried.

Representative Roger West explained the bill.

Senator Wade turned the floor over to the members for questions. Senator Bryant, Senator McInnis, Senator Ford and Senator Smith-Ingram all had questions. After much discussion, Senator Bingham made a motion for Unfavorable Report to the Original bill and a Favorable Report to the PCS. The motion carried.

HB 795 SEPA Reform. (Representatives Torbett, Hager, Millis)

There was a PCS for this bill. Senator Randleman made a motion to accept the PCS and the motion carried.

Representative Torbett and Representative Hager explained the bill. Questions were asked by Senator Foushee and Senator Bryant. Tom Reeder from DENR commented on the bill. Senator Hartsell presented an amendment but after comments from Representative Torbett and questions from Senator Bryant and Senator Tucker, Senator Hartsell withdrew the amendment. Senator Smith-Ingram had a question which Representative Hager responded.

Public Comment on the bill:

Molly Diggins from the Sierra Club spoke against the bill. Senator Tucker had questions for Ms. Diggins regarding her comments for which Ms. Diggins responded.
There was a question from Sen. Ford and Jennifer McGinnis from Staff responded.

Senator Bingham made a motion for an Unfavorable Report to the Original Bill and a Favorable Report for the PCS. The motion carried.

SB 573 Strengthen Oyster Industry. (Senators Cook, Tillman, Sanderson)

There is a PCS to the bill. Senator McInnis made a motion to accept the PCS. The motion carried.

Senator Cook explained the bill.

Senator Wade opened the floor for public comment. The following people spoke:

Jay Styron, President of NC Shellfish Growers Association spoke in support of the bill. Senator Jackson had a question for Mr. Styron for which he responded. Senator Jackson had a follow-up question and Senator Cook responded.

Brad Knott with DENR spoke in support of the bill.

There were follow-up questions from Senator Bryant and Senator Jackson.

Senator McInnis made a motion for an Unfavorable Report to the Original Bill and a Favorable Report to the PCS. The motion carried. This bill (according to Sen. Wade) will go to Finance. The report has it going to Commerce.

SB 486 NC Trail Expansion/Economic Corridors. (Senators Brock, Barringer, Alexander)

There is a PCS for the bill. Senator Tucker made a motion to accept the PCS. The motion carried.

Senator Brock explained the bill. There was an amendment to the bill and Senator Hartsell moved to adopt the amendment. The motion carried. Senator Bingham made a motion for an Unfavorable Report to the Original bill and a Favorable Report to the PCS as amended rolled into a new PCS. The motion carried. There were follow up questions from Senator Jackson which Senator Brock answered. Senator Ford had a follow-up question and Senator Brock responded. This bill has a referral to Appropriations/Base Budget.

The meeting adjourned at 11:05 AM

Trudy Wade
Senator Trudy Wade, Presided

Judy Edwards
Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, May 20, 2015

Senator Wade,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **486** NC Trail Expansion/Economic Corridors.

Draft Number:	S486-PCS25265-SBf-8
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	No

SB **573** Strengthen Oyster Industry.

Draft Number:	S573-PCS45369-SB-11
Sequential Referral:	Commerce
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **574** Opossum Exclusion From Wildlife Laws.

Draft Number:	H574-PCS40459-TQ-15
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **795** **(CS#1)** SEPA Reform.

Draft Number:	H795-PCS40460-SB-13
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 4

Wednesday, May 20, 2015
Senator Andrew Brock will handle SB 486
Senator Bill Cook will handle SB 573
Senator James Davis will handle HB 574
Senator Andrew Brock will handle HB 795

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 574
PROPOSED SENATE COMMITTEE SUBSTITUTE H574-PCS40459-TQ-15

Short Title: Opossum Exclusion From Wildlife Laws. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT STATE WILDLIFE LAWS DO NOT APPLY TO OPOSSUMS BETWEEN THE DATES OF DECEMBER 29 AND JANUARY 2.

The General Assembly of North Carolina enacts:

SECTION 1. No State or local statutes, rules, regulations, or ordinances related to the capture, captivity, treatment, or release of wildlife shall apply to the Virginia opossum (Didelphis virginiana) between the dates of December 29 of each year and January 2 of each subsequent year.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 574
PROPOSED SENATE COMMITTEE SUBSTITUTE H574-CSTQ-15 [v.5]

5/12/2015 6:05:35 PM

Short Title: Opossum Exclusion from Wildlife Laws. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT STATE WILDLIFE LAWS DO NOT APPLY TO OPOSSUMS BETWEEN THE DATES OF DECEMBER 29 AND JANUARY 2.

The General Assembly of North Carolina enacts:

SECTION 1. No State or local statutes, rules, regulations, or ordinances related to the capture, captivity, treatment, or release of wildlife shall apply to the Virginia opossum (Didelphis virginiana) between the dates of December 29 of each year and January 2 of each subsequent year.

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

HOUSE BILL 574:
Opossum Exclusion from Wildlife Laws.

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 20, 2015
Introduced by:	Reps. West, Hager, McElraft, Lucas	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	PCS to First Edition H574-CSTQ-15 [v.5]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 574 would provide that no State or local statutes, rules, regulations, or ordinances related to wildlife apply to the Virginia opossum between December 29 and January 2 of each year.***

The PCS adds an exemption from local ordinances.

BILL ANALYSIS: The PCS would provide that no State or local statutes, rules, regulations, or ordinances governing the capture, captivity, treatment, or release of wildlife apply to the Virginia opossum between December 29 of each year and January 2 of each subsequent year.

EFFECTIVE DATE: This act would be effective when it becomes law.

O. Walker Reagan
Director

H574-SMTQ-43 CSTQ-15 -V5

Research Division
(919) 733-2578

H 1

HOUSE BILL 574

Short Title:	Opossum Exclusion From Wildlife Laws.	(Public)
Sponsors:	Representatives West, Hager, McElraft, and Lucas (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Wildlife Resources.	

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT STATE WILDLIFE LAWS DO NOT APPLY TO OPOSSUMS BETWEEN THE DATES OF DECEMBER 29 AND JANUARY 2.

The General Assembly of North Carolina enacts:

SECTION 1. No State statutes, rules, or regulations related to the capture, captivity, treatment, or release of wildlife shall apply to the Virginia opossum (Didelphis virginiana) between the dates of December 29 of each year and January 2 of each subsequent year.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 795
Committee Substitute Favorable 4/23/15
Third Edition Engrossed 4/29/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H795-PCS40460-SB-13

Short Title: SEPA Reform. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM AND AMEND THE STATE ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-4 reads as rewritten:

"**§ 113A-4. Cooperation of agencies; reports; availability of information.**

The General Assembly authorizes and directs that, to the fullest extent possible:

...

(2) Every State agency shall include in every recommendation or report on any action involving significant expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

a. The direct environmental impact of the proposed action;
b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
c. Mitigation measures proposed to minimize the impact;
d. Alternatives to the proposed action;
e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

For purposes of this subdivision, a direct environmental impact does not include impacts that are speculative, secondary, or cumulative with other previous actions or that occur outside of the State.

(2a) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. The failure of an agency to provide comments within the comment period established under this subdivision or to request an extension for a specific period of time set forth in the request shall be treated by the responsible official as a conclusion by that agency that there is no significant environmental impact. Any unit of local government or other interested party that may be adversely affected by the proposed action may submit

written comment. The responsible official shall consider written comment from units of local government and interested parties that is received within the established comment period. Copies of such detailed statement and such comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Secretary of Administration, shall be placed in the public file of the agency and shall accompany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to counties, municipalities, institutions and individuals, upon request.

...."

SECTION 2. G.S. 113A-9 reads as rewritten:

"**§ 113A-9. Definitions.**

As used in this Article, unless the context indicates otherwise, the term:

...

(7) "Public land" means all land and interests therein, title of which is vested in the State of North Carolina, in any State agency, or in the State for the use of any State agency or political subdivision of the State, and includes all vacant and unappropriated land, swampland, submerged land, land acquired by the State by virtue of being sold for ~~taxes, escheated land, and acquired land.~~taxes or by any other manner of acquisition, or escheated land.

(7a) "Significant expenditure of public moneys" means expenditures of public funds greater than twenty million dollars ($20,000,000) for a single project or action or related group of projects or actions. For purposes of this subdivision, contributions of funds or in-kind contributions by municipalities, counties, regional or special-purpose government agencies, and other similar entities created by an act of the General Assembly and in-kind contributions by a non-State entity shall not be considered an expenditure of public funds for purposes of calculating whether such an expenditure is significant.

...

(11) "Use of public land" means land-disturbing activity of greater than 20 acres that results in substantial, permanent changes in the natural cover or topography of those lands that includes:

a. The grant of a lease, easement, or permit authorizing private use of public land; or

b. The use of privately owned land for any project or program if (i) the State or any agency of the State has agreed to purchase the property or to exchange the property for public ~~land.~~land and (ii) the use meets the other requirements of this subdivision."

SECTION 3. G.S. 113A-10 reads as rewritten:

"**§ 113A-10. Provisions supplemental.**

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental document or to comment on an environmental document under provisions of federal law, no separate environmental document shall be required to be prepared or published under this Article so long as the environmental document or comment ~~shall meet~~ meets the provisions of this Article."

SECTION 4. G.S. 113A-11 reads as rewritten:

"**§ 113A-11. Adoption of rules.**

(a) The Department of Administration shall adopt rules to implement this Article.

(b) Each State agency ~~may~~ shall adopt rules that establish minimum criteria. An agency may include a particular action or class of actions in its minimum criteria only if the agency makes a specific finding that the action or class of actions has no significant long-term impact on the environment. Rules establishing minimum criteria shall be consistent with rules adopted by the Department of Administration. ~~In addition to all other rule-making requirements, rules establishing minimum criteria are subject to approval by the Secretary of Administration.~~"

SECTION 5. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

~~No~~ Notwithstanding any other provision in this Article, no environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, ~~or~~ natural gas ~~line~~ line, or similar infrastructure project within or across the right-of-way of any street or highway.

(2) An action approved ~~under a~~ under:

a. A general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

b. A Coastal Habitat Protection Plan under G.S. 143B-279.8.

c. A special order pursuant to G.S. 143-215.2 or G.S. 143-215.110.

d. An action taken to address an emergency under G.S. 143-215.3 or other similar emergency conditions.

e. A remedial or similar action to address contamination under Chapter 130A or 143 of the General Statutes, including a brownfield agreement entered into under G.S. 130A-310.32.

f. A certificate of convenience and necessity under G.S. 62-110.

g. An industrial or pollution control project approval by the Secretary of Commerce under Chapter 159C of the General Statutes.

h. A project approved as a water infrastructure project under Chapter 159G of the General Statutes.

i. A certification issued by the Division of Water Resources of the Department of Environment and Natural Resources under the authority granted to the Environmental Management Commission by G.S. 143B-282(a)(1)u.

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line or other structures or uses on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

d. A facility for the use or benefit of The University of North Carolina System, the North Carolina community college system, the North Carolina public school systems, or one or more constituent institutions of any of those systems.

e. A health care facility financed pursuant to Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes.

(4) The construction of a driveway connection to a public roadway.

(5) ~~A~~ Any State action in connection with a project for which public lands are used and/or public monies are expended if the land or expenditure is ~~solely for the payment of incentives~~ provided as an incentive for the project

pursuant to an agreement that makes the ~~incentive payments~~ incentives contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment.

(6) A major development as defined in G.S. 113A-118 that receives a permit issued under Article 7 of Chapter 113A of the General Statutes.

...

(9) Facilities created in the course of facilitating closure activities under Part 2I of Article 9 of Chapter 130A of the General Statutes.

(10) Any project or facility specifically required or authorized by an act of the General Assembly.

(11) Any project undertaken as mitigation for the impacts of an approved project or to mitigate or avoid harm from natural environmental change, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects."

SECTION 6. G.S. 159G-38 reads as rewritten:

"**§ 159G-38. Environmental assessment and public hearing.**

(a) Establish Environmental Assessment Process; Required Information. – ~~An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.~~The Division shall establish an environmental assessment process for projects funded from the CWSRF and DWSRF programs that is sufficient to meet federal environmental assessment requirements for such projects. Projects funded by the CWSRF or DWSRF shall meet the requirements of the environmental assessment process established pursuant to this subsection.

~~(b) Division Review. – If, after reviewing an application, the Division of Water Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.~~

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

SECTION 7. G.S. 143-215.22L(d) reads as rewritten:

"(d) Environmental Documents. – ~~The~~ Except as provided in this subsection, the definitions set out in G.S. 113A-9 apply to this section. ~~The~~ Notwithstanding the thresholds for significant expenditure of public monies or use of public land set forth in G.S. 113A-9, the

Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. Notwithstanding G.S. 113A-4(2), the study shall include secondary and cumulative impacts. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer."

SECTION 8. This act is effective when it becomes law and applies to State agency action occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 795
Committee Substitute Favorable 4/23/15
Third Edition Engrossed 4/29/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H795-CSSB-13 [v.3]

5/19/2015 6:25:06 PM

Short Title: SEPA Reform. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM AND AMEND THE STATE ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-4 reads as rewritten:

"**§ 113A-4. Cooperation of agencies; reports; availability of information.**

The General Assembly authorizes and directs that, to the fullest extent possible:

...

(2) Every State agency shall include in every recommendation or report on any action involving significant expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

a. The direct environmental impact of the proposed action;
b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
c. Mitigation measures proposed to minimize the impact;
d. Alternatives to the proposed action;
e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

For purposes of this subdivision, a direct environmental impact does not include impacts that are speculative, secondary, or cumulative with other previous actions or that occur outside of the State.

(2a) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. The failure of an agency to provide comments within the comment period established under this subdivision or to request an extension for a specific period of time set forth in the request shall be treated by the responsible official as a conclusion by that agency that there is no significant environmental impact. Any unit of local government or other interested party that may be adversely affected by the proposed action may submit

written comment. The responsible official shall consider written comment from units of local government and interested parties that is received within the established comment period. Copies of such detailed statement and such comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Secretary of Administration, shall be placed in the public file of the agency and shall accompany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to counties, municipalities, institutions and individuals, upon request.

...."

SECTION 2. G.S. 113A-9 reads as rewritten:

"**§ 113A-9. Definitions.**

As used in this Article, unless the context indicates otherwise, the term:

...

(7) "Public land" means all land and interests therein, title of which is vested in the State of North Carolina, in any State agency, or in the State for the use of any State agency or political subdivision of the State, and includes all vacant and unappropriated land, swampland, submerged land, land acquired by the State by virtue of being sold for ~~taxes, escheated land, and acquired land.~~taxes or by any other manner of acquisition, or escheated land.

(7a) "Significant expenditure of public moneys" means expenditures of public funds greater than twenty million dollars ($20,000,000) for a single project or action or related group of projects or actions. For purposes of this subdivision, contributions of funds or in-kind contributions by municipalities, counties, regional or special-purpose government agencies, and other similar entities created by an act of the General Assembly and in-kind contributions by a non-State entity shall not be considered an expenditure of public funds for purposes of calculating whether such an expenditure is significant.

...

(11) "Use of public land" means land-disturbing activity of greater than 20 acres that results in substantial, permanent changes in the natural cover or topography of those lands that includes:

a. The grant of a lease, easement, or permit authorizing private use of public land; or

b. The use of privately owned land for any project or program if (i) the State or any agency of the State has agreed to purchase the property or to exchange the property for public ~~land.~~land and (ii) the use meets the other requirements of this subdivision."

SECTION 3. G.S. 113A-10 reads as rewritten:

"**§ 113A-10. Provisions supplemental.**

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental document or to comment on an environmental document under provisions of federal law, no separate environmental document shall be required to be prepared or published under this Article so long as the environmental document or comment ~~shall meet~~meets the provisions of this Article."

SECTION 4. G.S. 113A-11 reads as rewritten:

"**§ 113A-11. Adoption of rules.**

(a) The Department of Administration shall adopt rules to implement this Article.

(b) Each State agency ~~may~~ shall adopt rules that establish minimum criteria. An agency may include a particular action or class of actions in its minimum criteria only if the agency makes a specific finding that the action or class of actions has no significant long-term impact on the environment. Rules establishing minimum criteria shall be consistent with rules adopted by the Department of Administration. ~~In addition to all other rule-making requirements, rules establishing minimum criteria are subject to approval by the Secretary of Administration.~~"

SECTION 5. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

~~No~~ Notwithstanding any other provision in this Article, no environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, ~~or~~ natural gas ~~line~~line, or similar infrastructure project within or across the right-of-way of any street or highway.

(2) An action approved ~~under~~ under:

a. ~~A~~a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

b. A Coastal Habitat Protection Plan under G.S. 143B-279.8.

c. A special order pursuant to G.S. 143-215.2 or G.S. 143-215.110.

d. An action taken to address an emergency under G.S. 143-215.3 or other similar emergency conditions.

e. A remedial or similar action to address contamination under Chapter 130A or 143 of the General Statutes, including a brownfield agreement entered into under G.S. 130A-310.32.

f. A certificate of convenience and necessity under G.S. 62-110.

g. An industrial or pollution control project approval by the Secretary of Commerce under Chapter 159C of the General Statutes.

h. A project approved as a water infrastructure project under Chapter 159G of the General Statutes.

i. A certification issued by the Division of Water Resources of the Department of Environment and Natural Resources under the authority granted to the Environmental Management Commission by G.S. 143B-282(a)(1)u.

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line or other structures or uses on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

d. A facility for the use or benefit of The University of North Carolina System, the North Carolina community college system, the North Carolina public school systems, or one or more constituent institutions of any of those systems.

e. A health care facility financed pursuant to Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes.

(4) The construction of a driveway connection to a public roadway.

(5) ~~A~~ Any State action in connection with a project for which public lands are used and/or public monies are expended if the land or expenditure is ~~solely for the payment of incentives~~ provided as an incentive for the project

pursuant to an agreement that makes the ~~incentive payments~~incentives contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment.

(6) A major development as defined in G.S. 113A-118 that receives a permit issued under Article 7 of Chapter 113A of the General Statutes.

...

(9) Facilities created in the course of facilitating closure activities under Part 2I of Article 9 of Chapter 130A of the General Statutes.

(10) Any project or facility specifically required or authorized by an act of the General Assembly.

(11) Any project undertaken as mitigation for the impacts of an approved project or to mitigate or avoid harm from natural environmental change, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects."

SECTION 6. G.S. 159G-38 reads as rewritten:

"**§ 159G-38. Environmental assessment and public hearing.**

(a) Establish Environmental Assessment Process; Required Information. – ~~An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.~~ The Division shall establish an environmental assessment process for projects funded from the CWSRF and DWSRF programs that is sufficient to meet federal environmental assessment requirements for such projects. Projects funded by the CWSRF or DWSRF shall meet the requirements of the environmental assessment process established pursuant to this subsection.

~~(b) Division Review. – If, after reviewing an application, the Division of Water Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.~~

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

SECTION 7. G.S. 143-215.22L(d) reads as rewritten:

"(d) Environmental Documents. – ~~The~~ Except as provided in this subsection, the definitions set out in G.S. 113A-9 apply to this section. ~~The~~ Notwithstanding the thresholds for significant expenditure of public monies or use of public land set forth in G.S. 113A-9, the

Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. Notwithstanding G.S. 113A-4(2), the study shall include secondary and cumulative impacts. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer."

SECTION 8. This act is effective when it becomes law and applies to State agency action occurring on or after that date.

HOUSE BILL 795: SEPA Reform

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 20, 2015
Introduced by:	Reps. Torbett, Hager, Millis	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to Third Edition H795-CSSB-13 [v.3]		

SUMMARY: ***The Proposed Committee Substitute for House Bill 795 (PCS) would increase the thresholds for when the State Environmental Policy Act applies, increase the number of exemptions from the Act, and otherwise amend the Act.***

CURRENT LAW:

Under the State Environmental Policy Act (SEPA), a State agency must include in its recommendation on any action involving (i) expenditure of public moneys or (ii) use of public land for projects and programs significantly affecting the quality of the environment of the State, a detailed statement that sets out the following:

- The environmental impact of the proposed action.
- Significant adverse environmental effects that cannot be avoided if the proposal is implemented.
- Mitigation measures proposed to minimize the impact.
- Alternatives to the proposed action.
- The relationship between the short term uses of the environment involved in the proposed action and the maintenance and enhancement of long term productivity.
- Any irreversible and irretrievable environmental changes which would be involved in the proposed action if it is implemented.

Several types of projects are exempted from this requirement, including:

- The construction, maintenance, or removal of certain utility lines within or across the right of way of any street or highway.
- An action approved under a general permit issued by the Coastal Resources Commission for certain types of coastal development or by the Environmental Management Commission for certain activities related to water and air quality.
- A lease or easement granted by a State agency for the use of an existing building or facility, placement of a wastewater line on or under submerged lands, or a shellfish cultivation lease.
- The construction of a driveway connection to a public roadway.
- A project for which public monies are expended if the expenditure is solely for the payment of incentives for job creation or capital investment.

- Coastal development that receives a Coastal Resources Commission major development permit.
- Certain coastal road and bridge projects when an executive order is issued waiving the environmental impact statement requirement.

BILL ANALYSIS:

The PCS would increase the thresholds for when the State Environmental Policy Act (SEPA) applies, increase the number of exemptions from the Act, and otherwise amend the Act as follows:

- SEPA requirements would only apply when there are significant expenditures of public moneys. The bill defines "significant expenditure of public moneys" as expenditures of public funds greater than $20,000,000.
- An environmental impact statement for a project would only include the direct environmental impacts of an action. The bill provides that "direct environmental impact" does not include impacts that are speculative, secondary, or cumulative.
- Provides that failure of an agency to provide comments on an action within the comment period or to request an extension of the comment period will be treated as a conclusion by the agency that there is no significant environmental impact.
- Provides the "use of public land" means land-disturbing activity of greater than 20 acres that results in substantial, permanent changes in the natural cover or topography of those lands. Under current law, "use of public land" means activity that results in changes in the natural cover or topography of those lands.
- Provides that each State agency must adopt minimum criteria that include actions that have no significant long-term impact to the environment and to which the SEPA requirements will not apply. Under current law, each State agency may adopt minimum criteria that include actions that have no significant impact to the environment and to which SEPA requirements will not apply.
- Expands existing and creates new exemptions from SEPA requirements as follows:
    - Expands the current utility line exemption to include "similar infrastructure projects".
    - Expands the current action under a general permit exemption to include actions approved under the following:
        - A Coastal Habitat Protection Plan.
        - A special order to stop water or air pollution
        - An action to address an environmental emergency.
        - Remedial action under the waste, water, air, and Brownfields programs.
        - A certificate of convenience for a public utility.
        - Industrial or pollution control project financing approved by the Secretary of Commerce.
        - Water and sewer infrastructure project financing approval.
        - A water quality certification.
    - Expands the lease or easement exemption as follows:

- Expands the submerged lands lease or easement exemption to exempt placement of other wastewater structures or uses on or under submerged lands.
- Exempts the granting of a lease or easement for a facility for the use or benefit of a public education institution.
- Exempts the granting of a lease or easement for a health care facility financed under the State Health Care Facilities Finance Act or receiving a certificate of need.

- Expands the public incentives exemption to include use of public lands.
- Adds an exemption for facilities related to the closure of coal ash impoundments.
- Adds an exemption for any project or facility specifically required or authorized by the General Assembly.
- Adds an exemption for mitigation projects, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects.

The PCS would also:

- Direct the Division of Water Resources of the Department of Environment and Natural Resources to establish an environmental assessment process for projects funded from certain State water and sewer infrastructure loan and grant funds that is sufficient to meet federal environmental assessment requirements for such projects.
- Clarify that the changes to the SEPA statutes don't affect the requirements to prepare environmental documents for interbasin transfers.

EFFECTIVE DATE:

The PCS would become effective when it becomes law and apply to State agency action occurring on or after that date.

HOUSE BILL 795
Committee Substitute Favorable 4/23/15
Third Edition Engrossed 4/29/15

Short Title: SEPA Reform. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM AND AMEND THE STATE ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-4 reads as rewritten:

"**§ 113A-4. Cooperation of agencies; reports; availability of information.**

The General Assembly authorizes and directs that, to the fullest extent possible:

...

(2) Every State agency shall include in every recommendation or report on any action involving significant expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

a. The direct environmental impact of the proposed action;
b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;
c. Mitigation measures proposed to minimize the impact;
d. Alternatives to the proposed action;
e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and
f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

For purposes of this subdivision, a direct environmental impact does not include impacts that are speculative, secondary, or cumulative with other previous actions or that occur outside of the State.

(2a) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. The failure of an agency to provide comments within the comment period established under this subdivision or to request an extension for a specific period of time set forth in the request shall be treated by the responsible official as a conclusion by that agency that there is no significant environmental impact. Any unit of local government or other interested party that may be adversely affected by the proposed action may submit written comment. The responsible official shall consider written comment

from units of local government and interested parties that is received within the established comment period. Copies of such detailed statement and such comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Secretary of Administration, shall be placed in the public file of the agency and shall accompany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to counties, municipalities, institutions and individuals, upon request.

...."

SECTION 2. G.S. 113A-9 reads as rewritten:

"**§ 113A-9. Definitions.**

As used in this Article, unless the context indicates otherwise, the term:

...

(7) "Public land" means all land and interests therein, title of which is vested in the State of North Carolina, in any State agency, or in the State for the use of any State agency or political subdivision of the State, and includes all vacant and unappropriated land, swampland, submerged land, land acquired by the State by virtue of being sold for ~~taxes, escheated land, and acquired land.~~taxes or by any other manner of acquisition, or escheated land.

(7a) "Significant expenditure of public moneys" means expenditures of public funds greater than ten million dollars ($10,000,000) for a single project or action or related group of projects or actions. For purposes of this subdivision, contributions of funds or in-kind contributions by municipalities, counties, regional or special-purpose government agencies, and other similar entities created by an act of the General Assembly and in-kind contributions by a non-State entity shall not be considered an expenditure of public funds for purposes of calculating whether such an expenditure is significant.

...

(11) "Use of public land" means activity that affects more than 5 acres of upland property and results in changes in the natural cover or topography ~~that includes:~~of those lands or would be inconsistent with the approved management plan for a State park. The term includes:

a. The grant of a lease, easement, or permit authorizing private use of public land; or

b. The use of privately owned land for any project or program if (i) the State or any agency of the State has agreed to purchase the property or to exchange the property for public ~~land.~~land and (ii) the use meets the other requirements of this subdivision."

SECTION 3. G.S. 113A-10 reads as rewritten:

"**§ 113A-10. Provisions supplemental.**

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental document or to comment on an environmental document under provisions of federal law, no separate environmental document shall be required to be prepared or published under this Article so long as the environmental document or comment ~~shall meet~~meets the provisions of this Article."

SECTION 4. G.S. 113A-11 reads as rewritten:

"**§ 113A-11. Adoption of rules.**

(a) The Department of Administration shall adopt rules to implement this Article.

(b) Each State agency ~~may~~ shall adopt rules that establish minimum criteria. An agency may include a particular action or class of actions in its minimum criteria only if the agency makes a specific finding that the action or class of actions has no significant long-term impact on the environment. Rules establishing minimum criteria shall be consistent with rules adopted by the Department of Administration. ~~In addition to all other rule making requirements, rules establishing minimum criteria are subject to approval by the Secretary of Administration.~~"

SECTION 5. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

~~No~~ Notwithstanding any other provision in this Article, no environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, ~~or~~ natural gas ~~line~~line, or similar infrastructure project within or across the right-of-way of any street or highway.

(2) An action approved ~~under~~ under:

a. ~~A~~a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

b. A Coastal Habitat Protection Plan under G.S. 143B-279.8.

c. A special order pursuant to G.S. 143-215.2 or G.S. 143-215.110.

d. An action taken to address an emergency under G.S. 143-215.3 or other similar emergency conditions.

e. A remedial or similar action to address contamination under Chapter 130A or 143 of the General Statutes, including a brownfield agreement entered into under G.S. 130A-310.32.

f. A certificate of convenience and necessity under G.S. 62-110.

g. An industrial or pollution control project approval by the Secretary of Commerce under Chapter 159C of the General Statutes.

h. A project approved as a water infrastructure project under Chapter 159G of the General Statutes.

i. A certification issued by the Division of Water Resources of the Department of Environment and Natural Resources under the authority granted to the Environmental Management Commission by G.S. 143B-282(a)(1)u.

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line or other structures or uses on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

d. A facility for the use or benefit of The University of North Carolina System, the North Carolina community college system, the North Carolina public school systems, or one or more constituent institutions of any of those systems.

e. A health care facility financed pursuant to Chapter 131A of the General Statutes or receiving a certificate of need under Article 9 of Chapter 131E of the General Statutes.

(4) The construction of a driveway connection to a public roadway.

(5) ~~A~~ Any State action in connection with a project for which public lands are used and/or public monies are expended if the land or expenditure is ~~solely for the payment of incentives~~ provided as an incentive for the project

pursuant to an agreement that makes the ~~incentive payments~~incentives contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment.

(6) A major development as defined in G.S. 113A-118 that receives a permit issued under Article 7 of Chapter 113A of the General Statutes.

...

(9) Facilities created in the course of facilitating closure activities under Part 2I of Article 9 of Chapter 130A of the General Statutes.

(10) Any project or facility specifically required or authorized by an act of the General Assembly.

(11) Any project undertaken as mitigation for the impacts of an approved project or to mitigate or avoid harm from natural environmental change, including wetlands and buffer mitigation projects and banks, coastal protections and mitigation projects, and noise mitigation projects."

SECTION 6. G.S. 159G-38 reads as rewritten:

"**§ 159G-38. Environmental assessment and public hearing.**

(a) Establish Environmental Assessment Process; Required Information. – ~~An application submitted under this Article for a loan or grant for a project must state whether the project requires an environmental assessment. If the application indicates that an environmental assessment is not required, it must identify the exclusion in the North Carolina Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, that applies to the project. If the application does not identify an exclusion in the North Carolina Environmental Policy Act, it must include an environmental assessment of the project's probable impacts on the environment.~~ The Division shall establish an environmental assessment process for projects funded from the CWSRF and DWSRF programs that is sufficient to meet federal environmental assessment requirements for such projects. Projects funded by the CWSRF or DWSRF shall meet the requirements of the environmental assessment process established pursuant to this subsection.

~~(b) Division Review. – If, after reviewing an application, the Division of Water Infrastructure determines that a project requires an environmental assessment, the assessment must be submitted before the Division continues its review of the application. If, after reviewing an environmental assessment, the Division concludes that an environmental impact statement is required, the Division may not continue its review of the application until a final environmental impact statement has been completed and approved as provided in the North Carolina Environmental Policy Act.~~

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

SECTION 7. G.S. 143-215.22L(d) reads as rewritten:

"(d) Environmental Documents. – ~~The~~ Except as provided in this subsection, the definitions set out in G.S. 113A-9 apply to this section. ~~The~~ Notwithstanding the thresholds for significant expenditure of public monies or use of public land set forth in G.S. 113A-9, the

Department shall conduct a study of the environmental impacts of any proposed transfer of water for which a certificate is required under this section. The study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. An environmental assessment shall be prepared for any petition for a certificate under this section. The determination of whether an environmental impact statement shall also be required shall be made in accordance with the provisions of Article 1 of Chapter 113A of the General Statutes; except that an environmental impact statement shall be prepared for every proposed transfer of water from one major river basin to another for which a certificate is required under this section. The applicant who petitions the Commission for a certificate under this section shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A of the General Statutes. An environmental impact statement prepared pursuant to this subsection shall include all of the following:

(1) A comprehensive analysis of the impacts that would occur in the source river basin and the receiving river basin if the petition for a certificate is granted.

(2) An evaluation of alternatives to the proposed interbasin transfer, including water supply sources that do not require an interbasin transfer and use of water conservation measures.

(3) A description of measures to mitigate any adverse impacts that may arise from the proposed interbasin transfer."

SECTION 8. This act is effective when it becomes law and applies to State agency action occurring on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 795

W/drawn

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

H795-ASB-48 [v.2]

Amends Title [NO]
H795-CSSB-13 [v.3]

Date _____,2015

Senator Hartsell

moves to amend the bill on page 1, lines 23 through 25,
by rewriting the lines to read:

"For purposes of this subdivision, a direct environmental impact may include impacts that are secondary or cumulative with other previous actions only if such impacts are reasonably predictable and not speculative, but shall not include impacts that occur outside of the State.";

~~on page 2, lines 22 through 30,~~
~~by rewriting the lines to read:~~

~~"(7a) "Significant expenditure of public moneys" means expenditures of public funds greater than ten million dollars ($10,000,000) for a single project or action or related group of projects or actions.";~~

on page 2, lines 32 through 40,
by rewriting the lines to read;

"(11) "Use of public land" means activity that affects more than 5 acres of upland property and results in changes in the natural cover or topography ~~that includes:~~of those lands or would be inconsistent with the approved management plan for a State park. The term includes

~~a. The~~the grant of a lease, easement, or permit authorizing private use of public ~~land; or~~

~~b. The~~or the use of privately owned land for any project or program if (i) the State or any agency of the State has agreed to purchase the property or to exchange the property for public ~~land.~~land and (ii) the use meets the other requirements of this subdivision. The term does not include the sale of public land or other property unless the sale is for a definite specified use that meets the other requirements of this subdivision."; and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 795

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

H795-ASB-48 [v.2]

on page 3, line 49 through page 4, line 4,
by rewriting the lines to read:

"(5) ~~A~~ Any State action in connection with a project for which public lands are used and/or public monies are expended if the land or expenditure is ~~solely for the payment of incentives~~ provided as an incentive for the project pursuant to an agreement that makes the ~~incentive payments~~incentives contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital ~~investment.~~investment and if the project receiving the incentive will be subject to environmental permits that require consideration of impacts substantially equivalent to that required under this Chapter.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 573
PROPOSED COMMITTEE SUBSTITUTE S573-PCS45369-SB-11

Short Title: Strengthen Oyster Industry. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE AND PROMOTE THE AQUACULTURE AND OYSTER CULTIVATION INDUSTRIES.

The General Assembly of North Carolina enacts:

PART I. CREATE SHELLFISH PLANNING AND PROMOTION ENTITY WITHIN NC ECONOMIC DEVELOPMENT PARTNERSHIP

SECTION 1.1. G.S. 143B-431.01 reads as rewritten:

"**§ 143B-431.01. Department of Commerce – contracting of functions.**

...

(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

...

(2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

a. The board shall be composed of 17 voting members as follows: eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

1. Agribusiness, as recommended by the Commissioner of Agriculture.

1a. Shellfish or other aquaculture.
2. Financial services.
3. Information technology.
4. Biotechnology or life sciences.
5. Energy.
6. Manufacturing.
7. Military or defense.
8. Tourism, as recommended by the North Carolina Travel and Tourism Coalition.
9. Tourism, as recommended by the North Carolina Travel Industry Association.

...

(e) Mandatory Contract Terms. – Any contract entered into under this section must include all of the following:

...

(17) A provision requiring the nonprofit corporation to create an entity within the corporation responsible for developing a strategic plan to further economic development of and otherwise providing continuing assistance to the shellfish and other aquaculture industries in the State.

...."

SECTION 1.2. The Department of Commerce shall take all necessary steps to ensure the contract required under G.S. 143B-431.01(e) is amended to comply with the requirements of Section 1.1 of this act.

PART II. REGULATORY REFORM FOR SHELLFISH CULTIVATION LEASES

SECTION 2.1. G.S. 113-201.1(5) reads as rewritten:

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

SECTION 2.2. G.S. 113-202 reads as rewritten:

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

...

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

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the ~~fifth~~ tenth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~five~~ 10 years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after that~~

~~date, the rental is ten dollars ($10.00) per acre per year.~~ fifty dollars ($50.00). The rental for initial leases is fifty cents ($0.50) per acre until the first day of July following the first anniversary of the lease, and five dollars ($5.00) per acre thereafter. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of ~~one dollar ($1.00)~~ five dollars ($5.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full ~~year.~~year at the rate specified in this subsection.

...

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

SECTION 2.3. G.S. 113-202.1 reads as rewritten:

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

...

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

(1) The leaseholder submits an application, accompanied by a nonrefundable application fee of ~~one hundred dollars ($100.00),~~ fifty dollars ($50.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;

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

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

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

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

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

(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for a new or renewal water column amendment is ~~one hundred dollars ($100.00)~~ fifty dollars ($50.00) an acre. If a water column amendment is issued for less than a 12-month period, the rental shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202.

...."

SECTION 2.4. Sections 2.1, 2.2, and 2.3 of this act are effective July 1, 2015, and apply to applications for shellfish lease applications received by the Department of Environment and Natural Resources on or after that date.

PART III. DEVELOP PROPOSAL TO END CORE SOUND SHELLFISH LEASING MORATORIUM

SECTION 3. The Division of Marine Fisheries of the Department of Environment and Natural Resources shall, in consultation with representatives of the commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant federal agencies,

create a proposal to open to shellfish cultivation leasing certain areas of Core Sound that are currently subject to a moratorium on shellfish leasing. The Division will report regarding the plan no later than May 1, 2016, to the Joint Legislative Commission on Governmental Operations.

PART IV. AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY LEGISLATION

SECTION 4. Section 44 of S.L. 2014-120 reads as rewritten:

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

"**SECTION 44.(a)** It is the intent of the General Assembly ~~to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitat within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water quality, and the economy. This will be achieved through the establishment of a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of Senator Jean Preston and will be called the "Senator Jean Preston Oyster Sanctuary Network."

"**SECTION 44.(b)** The Division of Marine Fisheries of the Department of Environment and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes~~ develop a plan to construct and manage additional oyster habitat. The new sanctuaries, along with selected existing oyster sanctuaries, will be included in the Senator Jean Preston Oyster Sanctuary Network. The plan will include the following components:

(1) Location and delineation of ~~the sanctuary.~~ oyster sanctuaries. – The plan should include ~~a location~~ locations for ~~the sanctuary~~ sanctuary network components that ~~minimizes~~ minimize the impact on commercial trawling. ~~In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.~~The location of sanctuaries shall take into account connectivity to existing oyster sanctuaries and proposed oyster enhancement sites. New oyster sanctuaries shall be designed to provide hook-and-line fishing while allowing the development of complex fish habitat and brood-stock oysters that will enhance recruitment in the surrounding reefs. The plan should outline a 10-year development project to accomplish the expansion.

~~(2) Administration. – The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.~~

(3) Enhancement of oyster habitat restoration. – The General Assembly finds that the lack of a reliable State-based supply of oyster seed and inadequate funding for cultch planting are limitations to the expansion of oyster

harvesting and the restoration of wild oyster habitat in North Carolina. Therefore, the plan should include the following:

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

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

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

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

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

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

~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient ~~to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.~~for Division staff to expand oyster restoration and monitoring activities for 10 years. The plan should provide that, whenever possible, public-private partnerships are employed to meet the construction, seeding, and outreach requirements of the plan.

~~(4) Commercial fisherman relief. To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty percent (50%) of their income from commercial fishing with those licenses.~~

~~(5)~~(8) Recommendations. – The plan ~~should~~ shall include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, provide enhanced recreational and commercial fishing opportunities, and expand the coastal economy.

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

"~~**SECTION 44.(c)** No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.~~"

PART V. SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING

SECTION 5.(a) The Division of Marine Fisheries and Division of Coastal Management of the Department of Environment and Natural Resources shall, in consultation with representatives of nongovernmental conservation organizations working on oyster restoration, create a new permitting process specifically designed for oyster restoration projects that would apply to oyster restoration projects instead of a major development permit under G.S. 113A-118. The Department will submit its report, including recommended legislation, to the Environmental Review Commission no later than May 1, 2016.

SECTION 5.(b) Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to Section 5(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in Section 5(c) of this act.

SECTION 5.(c) Notwithstanding 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or educational activity permit for approved activities conducted by or under the direction of a nongovernmental conservation organization in addition to a scientific or educational institution. For purposes of this section, a nongovernmental conservation organization is defined as an organization whose primary mission is the conservation of natural resources.

SECTION 5.(d) The Environmental Management Commission shall adopt rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with Section 5(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 5(c) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 5.(e) This section is effective when it becomes law. Section 5(c) of this act expires on the date that rules adopted pursuant to Section 5(d) of this act become effective.

PART VI. SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER

SECTION 6. G.S. 113-169.2 reads as rewritten:

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

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

shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

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

...

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

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

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

PART VII. EFFECTIVE DATE

SECTION 7. Except as otherwise noted, the remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 573
PROPOSED COMMITTEE SUBSTITUTE S573-CSSB-11 [v.2]

5/13/2015 1:14:50 PM

Short Title: Strengthen Oyster Industry. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE AND PROMOTE THE AQUACULTURE AND OYSTER CULTIVATION INDUSTRIES.

The General Assembly of North Carolina enacts:

PART I. CREATE SHELLFISH PLANNING AND PROMOTION ENTITY WITHIN NC ECONOMIC DEVELOPMENT PARTNERSHIP

SECTION 1.1. G.S. 143B-431.01 reads as rewritten:

"**§ 143B-431.01. Department of Commerce – contracting of functions.**

...

(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

...

(2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

a. The board shall be composed of 17 voting members as follows: eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

1. Agribusiness, as recommended by the Commissioner of Agriculture.

1a. Shellfish or other aquaculture.
2. Financial services.
3. Information technology.
4. Biotechnology or life sciences.
5. Energy.
6. Manufacturing.
7. Military or defense.
8. Tourism, as recommended by the North Carolina Travel and Tourism Coalition.
9. Tourism, as recommended by the North Carolina Travel Industry Association.

...

(e) Mandatory Contract Terms. – Any contract entered into under this section must include all of the following:

...

(17) A provision requiring the nonprofit corporation to create an entity within the corporation responsible for developing a strategic plan to further economic development of and otherwise providing continuing assistance to the shellfish and other aquaculture industries in the State.

...."

SECTION 1.2. The Department of Commerce shall take all necessary steps to ensure the contract required under G.S. 143B-431.01(e) is amended to comply with the requirements of Section 1.1 of this act.

PART II. REGULATORY REFORM FOR SHELLFISH CULTIVATION LEASES

SECTION 2.1. G.S. 113-201.1(5) reads as rewritten:

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

SECTION 2.2. G.S. 113-202 reads as rewritten:

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

...

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

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the ~~fifth~~ tenth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~five~~ ten years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after that~~

~~date, the rental is ten dollars ($10.00) per acre per year.~~fifty dollars ($50.00). The rental for initial leases is fifty cents ($0.50) per acre until the first day of July following the first anniversary of the lease, and five dollars ($5.00) per acre thereafter. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of ~~one dollar ($1.00)~~five dollars ($5.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full ~~year.~~year at the rate specified in this subsection.

...

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

SECTION 2.3. G.S. 113-202.1 reads as rewritten:

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

...

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

(1) The leaseholder submits an application, accompanied by a nonrefundable application fee of ~~one hundred dollars ($100.00),~~fifty dollars ($50.00), which conforms to the standards for lease applications in G.S. 113-202(d) and the duly adopted rules of the Commission;

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

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

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

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

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

(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for a new or renewal water column amendment is ~~one hundred dollars ($100.00)~~ fifty dollars ($50.00) an acre. If a water column amendment is issued for less than a 12-month period, the rental shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202.

...."

SECTION 2.4. Sections 2.1, 2.2, and 2.3 of this act are effective July 1, 2015, and apply to applications for shellfish lease applications received by the Department of Environment and Natural Resources on or after that date.

PART III. DEVELOP PROPOSAL TO END CORE SOUND SHELLFISH LEASING MORATORIUM

SECTION 3. The Division of Marine Fisheries of the Department of Environment and Natural Resources shall, in consultation with representatives of the commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core Sound that are currently subject to a moratorium on shellfish leasing. The Division will report regarding the plan no later than May 1, 2016, to the Joint Legislative Commission on Governmental Operations.

PART IV. AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY LEGISLATION

SECTION 4. Section 44 of S.L. 2014-120 reads as rewritten:

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

"**SECTION 44.(a)** It is the intent of the General Assembly ~~to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitat within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water quality, and the economy. This will be achieved through the establishment of a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of Senator Jean Preston and will be called the "Senator Jean Preston Oyster Sanctuary Network."

"**SECTION 44.(b)** The Division of Marine Fisheries of the Department of Environment and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes~~ develop a plan to construct and manage additional oyster habitat. The new sanctuaries, along with selected existing oyster sanctuaries, will be included in the Senator Jean Preston Oyster Sanctuary Network. The plan will include the following components:

(1) Location and delineation of ~~the sanctuary. —~~oyster sanctuaries. – The plan should include ~~a location~~locations for ~~the sanctuary~~sanctuary network components that ~~minimizes~~ minimize the impact on commercial trawling. ~~In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.~~The location of sanctuaries shall take into account connectivity to existing oyster sanctuaries and proposed oyster enhancement sites. New oyster sanctuaries shall be designed to provide hook-and-line fishing while allowing the development of complex fish habitat and brood-stock oysters that will enhance recruitment in the surrounding reefs. The plan should outline a 10-year development project to accomplish the expansion.

~~(2) Administration. — The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.~~

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

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

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

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

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

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

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

~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient ~~to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.~~for Division staff to expand oyster restoration and monitoring activities for 10 years. The plan should provide that, whenever possible, public-private partnerships are employed to meet the construction, seeding and outreach requirements of the plan.

~~(4) Commercial fisherman relief. To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty percent (50%) of their income from commercial fishing with those licenses.~~

~~(5)~~(8) Recommendations. – The plan ~~should~~ shall include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, provide enhanced recreational and commercial fishing opportunities, and expand the coastal economy.

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

"~~**SECTION 44.(c)** No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.~~"

PART V. SIMPLIFY OYSTER RESTORATION PROJECT PERMITTING

SECTION 5.(a) The Division of Marine Fisheries and Division of Coastal Management of the Department of Environment and Natural Resources shall, in consultation with representatives of nongovernmental conservation organizations working on oyster restoration, create a new permitting process specifically designed for oyster restoration projects that would apply to oyster restoration projects instead of a major development permit under G.S. 113A-118. The Department will submit its report, including recommended legislation, to the Environmental Review Commission no later than May 1, 2016.

SECTION 5.(b) Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to Section 5(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit) as provided in Section 5(c) of this act.

SECTION 5.(c) Notwithstanding 15A NCAC 03O .0503(g) (Scientific or Educational Activity Permit), the Division of Marine Fisheries may issue a scientific or educational activity permit for approved activities conducted by or under the direction of a nongovernmental conservation organization in addition to a scientific or educational institution. For purposes of this section, a nongovernmental conservation organization is defined as an organization whose primary mission is the conservation of natural resources.

SECTION 5.(d) The Environmental Management Commission shall adopt rules to amend 15A NCAC 03O .0503(g) and any other cross-referenced rules consistent with Section 5(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 5(c) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 5.(e) This section is effective when it becomes law. Section 5(c) of this act expires on the date that rules adopted pursuant to Section 5(d) of this act become effective.

PART VI. SCFL EXEMPTION FOR EMPLOYEES OF LEASEHOLDER

SECTION 6. G.S. 113-169.2 reads as rewritten:

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

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

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

...

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

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

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

PART VII. EFFECTIVE DATE

SECTION 7. Except as otherwise noted, the remainder of this act is effective when it becomes law.

SENATE BILL 573:
Strengthen Oyster Industry

2015-2016 General Assembly

Committee:	Senate Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Commerce	**Date:**	May 20, 2015
Introduced by:	Sens. Cook, Tillman, Sanderson	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition S573-CSMH-11 [v.2]		

SUMMARY: The Proposed Committee Substitute for Senate Bill 573 (PCS) would amend the laws governing marine aquaculture in the State.

BILL ANALYSIS:

Sections 1.1. and 1.2. would require the North Carolina Economic Development Partnership to include an entity responsible for developing a strategic plan to further economic development of and otherwise provide assistance to the shellfish and other aquaculture industries in the State.

Sections 2.1. through 2.4. would make several changes to the statues governing shellfish cultivation leases, including:

- Provide that a lease applicant could provide information other than a survey to define the bounds of the lease.
- Generally, increase the term of leases and decrease the fees for leases.
- Provide that bottom leases can include devices or equipment that extend up to 18 inches from the bottom.

These provisions would become effective July 1, 2015.

Section 3 would direct the Division of Marine Fisheries, in consultation with representatives of the commercial fishing industry, shellfish aquaculture industry, and relevant federal agencies, to create a proposal to open to shellfish cultivation leasing certain areas of Core Sound that are currently subject to a moratorium on shellfish leasing.

Section 4 would make several changes to the law establishing the Senator Jean Preston Marine Shellfish Sanctuary, including:

- Change the name to the Senator Jean Preston Oyster Sanctuary Network.
- Provide that the Sanctuary will be a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture.
- Provide that the plan to establish the Sanctuary include provisions to facilitate the availability of oyster seed and support and enhance production hatcheries.

Section 5 would direct the Division of Marine Fisheries and the Division of Coastal Management to develop a special coastal permitting process for oyster restoration projects.

O. Walker Reagan
Director

S573-SMSB-23 CSMH-11 V2 -V1

Research Division
(919) 733-2578

Section 6 would allow employees of a shellfish leaseholder to harvest from the leased area without having to hold a Standard Commercial Fishing License (SCFL).

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SENATE BILL 573

Short Title:	Strengthen Oyster Industry.	(Public)
Sponsors:	Senators Cook, Tillman, Sanderson (Primary Sponsors); Brock, McInnis, and Newton.	
Referred to:	Rules and Operations of the Senate.	

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE AND PROMOTE THE AQUACULTURE AND OYSTER CULTIVATION INDUSTRIES BY CREATING AN ENTITY WITHIN THE NORTH CAROLINA ECONOMIC DEVELOPMENT PARTNERSHIP FOCUSED ON SHELLFISH AND AQUACULTURE, BY REDUCING REGULATORY BARRIERS TO SHELLFISH LEASING THROUGH REMOVAL OF OUTDATED REQUIREMENTS FOR SHELLFISH LEASING, AND EXTENSION OF LEASE TERMS, BY REQUIRING THE DIVISION OF MARINE FISHERIES TO DEVELOP A PROPOSAL TO REPEAL THE CORE SOUND SHELLFISH LEASING MORATORIUM, BY CREATING A PROGRAM FOR THE PERMITTING OF MARINE AQUACULTURE ACTIVITIES IN THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, AND BY CLARIFYING THE SCOPE OF AUTHORITY OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE MARINE FISHERIES COMMISSION WITH RESPECT TO MARINE AQUACULTURE ACTIVITIES.

The General Assembly of North Carolina enacts:

PART I. CREATE SHELLFISH PLANNING AND PROMOTION ENTITY WITHIN NC ECONOMIC DEVELOPMENT PARTNERSHIP

SECTION 1.1. G.S. 143B-431.01 reads as rewritten:

"**§ 143B-431.01. Department of Commerce – contracting of functions.**

...

(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

...

(2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

a. The board shall be composed of 17 voting members as follows: eight members and the chair appointed by the Governor, four members appointed by the Speaker of the House of Representatives, and four members appointed by the President Pro Tempore of the Senate. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall each use best efforts to select members so as to reflect the diversity of the State's geography. The Speaker of the House and the President Pro Tempore shall each

select their appointed members so that one-fourth come from a development tier one area, one-fourth come from a development tier two area, and no two members come from the same Collaboration for Prosperity Zone. The Governor shall select appointed members so that two-ninths come from a development tier one area, two-ninths come from a development tier two area, and no more than two members come from the same Collaboration for Prosperity Zone. The Governor shall use best efforts to ensure that each member appointed by the Governor has expertise in one or more of the following areas:

1. Agribusiness, as recommended by the Commissioner of Agriculture.
1a. Shellfish or other aquaculture.
2. Financial services.
3. Information technology.
4. Biotechnology or life sciences.
5. Energy.
6. Manufacturing.
7. Military or defense.
8. Tourism, as recommended by the North Carolina Travel and Tourism Coalition.
9. Tourism, as recommended by the North Carolina Travel Industry Association.

...

(e) Mandatory Contract Terms. – Any contract entered into under this section must include all of the following:

...

(17) A provision requiring the nonprofit corporation to create an entity within the corporation responsible for developing a strategic plan to further economic development of and otherwise providing continuing assistance to the shellfish and other aquaculture industries in the State.

...."

SECTION 1.2. The Department of Commerce shall take all necessary steps to ensure the contract required under G.S. 143B-431.01(e) is amended to comply with the requirements of Section 1.1 of this act.

PART II. REGULATORY REFORM FOR SHELLFISH CULTIVATION LEASES

SECTION 2.1. G.S. 113-202(i) reads as rewritten:

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

...

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

SECTION 2.2. G.S. 113-202(j) reads as rewritten:

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

PART III. DEVELOP PROPOSAL TO END CORE SOUND SHELLFISH LEASING MORATORIUM

SECTION 3. The Division of Marine Fisheries of the Department of Environment and Natural Resources shall, in consultation with representatives of the commercial fishing industry, representatives of the shellfish aquaculture industry, and relevant federal agencies, create a proposal to open to shellfish cultivation leasing certain areas of Core Sound that are currently subject to a moratorium on shellfish leasing. The Division will report regarding the plan no later than May 1, 2016, to the Joint Legislative Commission on Governmental Operations.

PART IV. MARINE AQUACULTURE PERMITTING

SECTION 4.1. G.S. 106-758 reads as rewritten:

"**§ 106-758. Definitions.**

In addition to the definitions in G.S. 113-129, the following definitions shall apply as used in this Article,

(1) ~~"Aquaculture" means the~~Aquaculture. – The propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ~~ranching;~~ranching, marine hatcheries and other deep water fish farming operations in the coastal and ocean waters of the State.

(2) ~~"Aquaculture facility" means any~~ Aquaculture facility. – Any land, structure or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, floating cage, or other equipment used in aquaculture;

(3) ~~"Aquatic species" means any~~Aquatic species. – Any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant, and including, but not limited to, "fish" and "fishes" as defined in G.S. 113-129(7);

(4) ~~"Commissioner" means the~~Commissioner. – The Commissioner of Agriculture;

(5) ~~"Department" means the~~ Department. – The North Carolina Department of Agriculture and Consumer Services."

SECTION 4.2. G.S. 106-761 reads as rewritten:

"**§ 106-761. Aquaculture facility registration and licensing.**

(a) Authority. The North Carolina Department of Agriculture and Consumer Services shall regulate the production and sale of commercially raised ~~freshwater fish and freshwater crustacean species.~~freshwater and saltwater fish and crustacean species. The Board of

Agriculture shall promulgate rules for the registration of facilities for the production and sale of ~~freshwater~~ freshwater and saltwater aquaculturally raised species. The Board may prescribe standards under which commercially reared fish may be transported, possessed, bought, and sold. The Department and Board of Agriculture authority shall be limited to commercially reared fish and shall not include authority over the wild fishery resource which is managed under the authority of the North Carolina Wildlife Resources ~~Commission.~~Commission or the Marine Fisheries Commission. The authority granted herein to regulate facilities licensed pursuant to this section does not authorize the Department of Agriculture and Consumer Services or the Board of Agriculture to promulgate rules that (i) are inconsistent with rules adopted by any other State agency; or (ii) exempt such facilities from the rules adopted by any other State agency.

...

(c1) The Board of Agriculture shall by rule designate the species of fish, crustaceans, and shellfish that may be produced and sold under a Marine Aquaculture Propagation and Production Facility license as set forth in subsection (d1) of this section. The Board shall take into account all of the following factors in its designation of species:

(1) The potential market for the species, both domestic and export.

(2) If the species is not native to State waters or is a genetically engineered variant of a native species, the potential for genetic contamination of or undesired interbreeding with wild stocks of the species.

(3) Whether public access and use of waters of the State would be unduly impacted by the private leasing of public submerged lands and the superjacent water column necessary to support propagation or production facilities for the species, when compared to the potential economic impact of those facilities.

...

(d1) Marine Aquaculture Propagation and Production Facility License. – The Board of Agriculture may, by rule, authorize and license the operation of fish hatcheries and production facilities for species of fish listed in subsection (c1) of this section. The Board shall (i) consult with the Marine Fisheries Commission and the National Marine Fisheries Service regarding appropriate measures to protect wild stocks from disease or genetic contamination; and (ii) enter into memoranda of agreement with the United States Army Corps of Engineers and any other appropriate state or federal regulatory agencies regarding appropriate standards and markings for marine aquaculture structures to avoid impairment of navigation. Marine aquaculture facilities that require the use of public bottom lands underlying waters of the State or the superjacent water column will also require a lease from the Department of Environment and Natural Resources pursuant to Article 16A of Chapter 113 of the General Statutes. The Board may prescribe standards of operation, qualifications of operators, and the conditions under which fish may be commercially reared, transported, possessed, bought, and sold. Marine Aquaculture Propagation and Production Licenses issued by the Department shall be valid for a period of five years.

(d2) Protection of Private Marine Aquaculture Rights. – It is unlawful for any person, other than the holder of a Marine Aquaculture Propagation and Production Facility License and associated lease under Article 16A of Chapter 113 of the General Statutes, to take or attempt to take marine species being produced under the license and associated lease from any privately leased, franchised, or deeded marine aquaculture operation without written authorization of the holder and with actual knowledge it is a marine aquaculture leased area. Actual knowledge will be presumed when the marine species are taken or attempted to be taken under the following circumstances:

(1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted; or

(2) When the area has been regularly posted and identified and the person knew the area to be the subject of private marine aquaculture rights.

A violation of this section shall constitute a Class A1 misdemeanor, which may include a fine of not more than five thousand dollars ($5,000). The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the marine aquaculture rights. Identification signs shall include the lease number or deed reference and the name of the holder."

SECTION 4.3. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 16A.

"Leasing of Bottom Land and Waters of the State for Marine Aquaculture.

"**§ 113-215. Legislative findings and declaration of policy.**

The General Assembly finds that development of a marine aquaculture industry in the State provides increased seafood production and long-term economic and employment opportunities. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial marine aquaculture in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

"**§ 113-216. New leases for marine aquaculture.**

(a) To increase the use of suitable areas underlying coastal fishing waters for establishment of marine aquaculture operations, the Secretary may grant marine aquaculture leases for the public bottom under the terms of this section to persons who reside in North Carolina and who have obtained a Marine Aquaculture Propagation and Production Facility License under Article 63 of Chapter 106 of the General Statutes when the Secretary determines, in accordance with the Secretary's duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for marine aquaculture shall meet the following minimum standards:

(1) The area leased must not contain a natural shellfish bed.

(2) The marine aquaculture operation in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing and recreation.

(3) The operation of a marine aquaculture operation in the leased area will not impinge upon the rights of riparian owners.

(4) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.

(5) The area leased must not include an area that the State Health Director has recommended be closed to shellfish harvest by reason of pollution.

(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes.

(c) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If, on the basis of the application information and map or diagram, the Secretary deems that granting the lease would benefit the marine aquaculture industry of North Carolina, the Secretary must order

an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or the Secretary's authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section, with the terms of the Marine Aquaculture Propagation and Production Facility License issued by the Department of Agriculture and Consumer Services and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of two hundred dollars ($200.00).

(e) The area of bottom applied for must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any other marine aquaculture operations or shellfish leases.

(f) Within a reasonable time after receipt of an application that complies with subsection (d) of this section, the Secretary shall notify the applicant of the intended action on the lease application. If the intended action is approval of the application as submitted, or approval with a modification to which the applicant agrees, the Secretary shall conduct a public hearing in the county where the proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease in a newspaper of general circulation in the county in which the proposed leasehold lies. The first publication must precede the public hearing by more than 20 days; the second publication must follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient description of the area of the proposed leasehold that its boundaries may be established with reasonable ease and certainty and must also contain the date, hour and place of the hearing.

(g) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision or another person aggrieved by the decision may commence a contested case by filing a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary.

(h) After a lease application is approved by the Secretary, the applicant shall submit to the Secretary information sufficient to define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The information shall conform to standards prescribed by the Secretary concerning accuracy of survey and the amount of detail to be shown. When information is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased.

(i) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of one hundred dollars ($100.00). The rental for initial leases is ten dollars ($10.00) per acre

per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of ten dollars ($10.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year.

(j) Except as restricted by this Subchapter, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished to the Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.

(k) Upon receipt of notice by the Secretary of any of the following occurrences, the Secretary must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.

(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.

(5) Failure to utilize the leasehold on a continuing basis for marine aquaculture purposes.

(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.

(7) Substantial breach of compliance with the provisions of this Article, of the Marine Aquaculture Propagation and Production Facility License issued under Article 63 of Chapter 106 of the General Statutes or of rules of the Marine Fisheries Commission governing use of the leasehold.

(l) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based, and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks and by posting the notices on the Commission's Web site. The format for notice by publication shall be approved by the Attorney General.

(m) Upon final termination of any leasehold, the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and the State may bring suit to recover the costs thereof.

(n) Every year between January 1 and February 15, the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by the Secretary for determining the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the aquaculture industry of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his agent executing such forms for him who knowingly makes a false statement on such forms is guilty of a Class 1 misdemeanor.

"**§ 113-217. Lease of superjacent water column for marine aquaculture.**

(a) To increase the productivity of marine aquaculture leases issued under G.S. 113-216, the Secretary may include in marine aquaculture leases issued under G.S. 113-216 provisions to authorize use of the water column superjacent to the leased bottom under the terms of this section when the Secretary determines the public interest will benefit from inclusion of water column provisions.

(b) Suitable areas for the authorization of water column use shall meet all of the following minimum standards:

(1) Aquaculture use of the leased area must not significantly impair navigation.

(2) The leased area must not be within a navigation channel marked or maintained by a State or federal agency.

(3) The leased area must not be within an area traditionally used and available for fishing or hunting activities incompatible with the activities proposed by the leaseholder, such as trawling or seining.

(4) Aquaculture use of the leased area must not significantly interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers or other means of access.

(5) Use of the superjacent water column is necessary for exercise of activities permitted under the Marine Aquaculture Propagation and Production Facility License granted by the Department of Agriculture and Consumer Services under Article 63 of Chapter 106 of the General Statutes.

(6) Any additional standards, established by the Commission in duly adopted rules, to protect the public interest in coastal fishing waters."

SECTION 4.4. G.S. 113-134.1 reads as rewritten:

"**§ 113-134.1. Jurisdiction over marine fisheries resources in Atlantic Ocean.**

The Marine Fisheries Commission is directed to exercise all regulatory authority over the conservation of marine fisheries resources in the Atlantic Ocean to the seaward extent of the State jurisdiction over the resources as now or hereafter ~~defined.~~defined, provided that the Department of Agriculture and Consumer Services shall exercise concurrent authority to the extent necessary to effectuate the purposes of Article 63 of Chapter 106 of the General Statutes. In the case of conflict between actions taken or regulations promulgated by either agency, as respects the activities of the other, the Marine Fisheries Commission and the Department of Agriculture and Consumer Services are empowered to make agreements concerning the harmonious settlement of such conflict in the best interests of promoting marine aquacultural resources, when not inconsistent with the conservation of the marine and estuarine resources of the State. Marine fisheries inspectors may enforce these regulations and all other provisions of

law applicable under the authority granted in this section in the same manner and with the same powers elsewhere granted them as enforcement officers."

PART V. AMEND SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY LEGISLATION

SECTION 5. Section 44 of S.L. 2014-120 reads as rewritten:

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

"**SECTION 44.(a)** It is the intent of the General Assembly ~~to establish a marine shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston, to be called the "Senator Jean Preston Marine Shellfish Sanctuary."~~to enhance shellfish habitat within the Albemarle and Pamlico Sounds and their tributaries to benefit fisheries, water quality, and the economy. This will be achieved through the establishment of a network of oyster sanctuaries, harvestable enhancement sites, and coordinated support for the development of shellfish aquaculture. The network of oyster sanctuaries is to be named in honor of Senator Jean Preston and will be called the "Senator Jean Preston Oyster Sanctuary Network."

"**SECTION 44.(b)** The Division of Marine Fisheries of the Department of Environment and Natural Resources shall ~~designate an area of appropriate acreage within the Pamlico Sound as a recommendation to the Environmental Review Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and create a plan for managing the sanctuary that includes~~ develop a plan to construct and manage additional oyster habitat. The new sanctuaries, along with selected existing oyster sanctuaries, will be included in the Senator Jean Preston Oyster Sanctuary Network. The plan will include the following components:

(1) Location and delineation of ~~the sanctuary. —~~oyster sanctuaries. – The plan should include ~~a location~~locations for ~~the sanctuary~~sanctuary network components that ~~minimizes~~ minimize the impact on commercial trawling. ~~In addition, the sanctuary should be gridded into areas leased to private parties for restoration and harvest and areas operated and maintained by the State for restoration that are not open for harvest. The leased and unleased areas should be arranged in a pattern where leased squares are surrounded on four sides by unleased squares.~~The location of sanctuaries shall take into account connectivity to existing oyster sanctuaries and proposed oyster enhancement sites. New oyster sanctuaries shall be designed to provide hook-and-line fishing while allowing the development of complex fish habitat and brood-stock oysters that will enhance recruitment in the surrounding reefs. The plan should outline a 10-year development project to accomplish the expansion.

~~(2) Administration. — The plan should include the prices to be charged for the leased portions of the sanctuary, including an administration fee to be retained by the Division to support the leasing and monitoring program. The plan shall also provide that the balance of lease payments collected by the Division be transferred to the General Fund with a recommendation that some or all of the proceeds be used for the support of the State's special education programs in memory of Senator Jean Preston.~~

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

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

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

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

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

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

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

~~(3)~~(7) Funding. – The plan should include a request for appropriations sufficient ~~to provide funds for the construction of appropriate bottom habitat and shellfish seeding and for Division staff necessary to conduct oyster restoration and monitoring activities. The plan should provide that, whenever possible, construction and shellfish seeding be carried out by contract with private entities.~~for Division staff to expand oyster restoration and monitoring activities for 10 years. The plan should provide that, whenever possible, public-private partnerships are employed to meet the construction, seeding and outreach requirements of the plan.

~~(4) Commercial fisherman relief. – To promote the diversification of commercial fishing opportunities, the plan should include a program to award free or discounted leases under this section to commercial fishermen who (i) have held one or more commercial fishing licenses continually for a period of 10 or more years and (ii) receive at least fifty percent (50%) of their income from commercial fishing with those licenses.~~

~~(5)~~(8) Recommendations. – The plan ~~should~~ shall include recommendations for statutory or regulatory changes needed to expedite the expansion of shellfish restoration and harvesting in order to improve water quality, restore ecological habitats, provide enhanced recreational and commercial fishing opportunities, and expand the coastal economy.

"~~**SECTION 44.(e)** No later than December 1, 2014, and quarterly thereafter until submission of a final plan to the Environmental Review Commission, the Department of Environment and Natural Resources shall report to the Environmental Review Commission regarding its implementation of this section and its recommended plan.~~"

PART VI. EFFECTIVE DATE

SECTION 6. Sections 2.1 and 2.2 of this act are effective July 1, 2015, and apply to applications for shellfish lease applications received by the Department of Environment and Natural Resources on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 486
PROPOSED COMMITTEE SUBSTITUTE S486-PCS25265-SBf-8

Short Title: NC Trail Expansion/Economic Corridors. (Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ENHANCE ECONOMIC DEVELOPMENT THROUGH THE EXPANSION OF THE STATE TRAILS NETWORK.

The General Assembly of North Carolina enacts:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

SECTION 1.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.2A. North Carolina Trails Management Trust Fund.**

(a) The North Carolina Trails Management Trust Fund is created as a special revenue fund in the Department of Environment and Natural Resources. If the State Parks System is transferred to another State agency, then the Fund shall also be transferred to that State agency. The purpose of the Fund shall be to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail in order to encourage increased utilization by both residents and nonresidents of the State and to foster economic development and job growth along the Trail corridor. The North Carolina Trails Committee, in consultation with the Travel and Tourism Board, shall review all applications for funds and approve or reject projects for funding.

(b) Revenue for the North Carolina Trails Management Trust Fund shall come from:

(1) Any funds appropriated by the General Assembly.

(2) A surcharge authorized under G.S. 113-35(b2) on all fees charged for access, use, and services provided at parks within the State Parks System.

(3) Gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund.

(c) The Department shall hold the Fund separate and apart from all other money, funds, and accounts. Any investment earnings credited to assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall not revert and shall be carried forward in the Fund for the next succeeding fiscal year.

(d) Moneys from the Fund shall be allocated and used only for the following purposes:

(1) Sixty-five percent (65%) (i) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land and (ii) for capital projects, repairs and renovations, and the development, construction, and maintenance of ancillary facilities directly related to the use of the Mountains-to-Sea Trail system.

(2) Thirty-five percent (35%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land

for the purpose of completing connections of local and regional greenways and trails to the Mountains-to-Sea Trail.

(e) Moneys from the Fund shall be expended in the following order of priority:

(1) Acquisition of property for trail corridors.

(2) Trail construction, not to include paving.

(3) Maintenance, repairs and renovations, and related ancillary facilities."

SECTION 1.(b) G.S. 113-35 is amended by adding a new subsection to read:

"(b2) The Department may add a reasonable surcharge to fees authorized under this section to provide revenue for the North Carolina Trails Management Trust Fund. The portion of the fee designated as the surcharge shall be transferred annually to the Fund."

SECTION 1.(c) The Department of Environment and Natural Resources or any other department given responsibility for State parks shall, as soon as practicable but no later than January 1, 2016, implement a revised fee schedule for all fees authorized at parks and trails within the State Parks System. The revised fees shall include the surcharge authorized under Section 1(b) of this act to provide revenue for the North Carolina Trails Management Trust Fund. Implementation of the fees shall be exempt from rule making under G.S. 150B-1(d)(27). For the first year, the surcharge shall not exceed one dollar ($1.00). Thereafter, the surcharge may be increased or decreased as necessary in the discretion of the Secretary of Environment and Natural Resources. In no event shall the surcharge be less than fifty cents (50¢).

PART II. TRAVEL AND TOURISM BOARD; ECONOMIC DEVELOPMENT ACCOUNTABILITY & STANDARDS COMMITTEE

SECTION 2.(a) G.S. 143B-434.1 reads as rewritten:

"**§ 143B-434.1. The North Carolina Travel and Tourism Board – creation, duties, membership.**

(a) There is created within the Department of Commerce the North Carolina Travel and Tourism Board. The Secretary of Commerce and the ~~Director of the Division of Tourism, Film, and Sports Development~~ CEO of the Economic Development Partnership of North Carolina will work with the Board to fulfill the duties and requirements set forth in this section, and to promote the sound development of the travel and tourism industry in North Carolina.

(b) The function and duties of the Board shall be:

(1) To advise the Secretary of Commerce in the formulation of policy and priorities for the promotion and development of travel and tourism in the State.

(2) To advise the Secretary of Commerce in the development of a budget for ~~the Division of Tourism, Film, and Sports Development.~~Visit North Carolina, a unit of the Economic Development Partnership of North Carolina.

(3) To recommend programs to the Secretary of Commerce that will promote the State as a travel and tourism destination and that will develop travel and tourism opportunities throughout the State.

(4) To advise the Secretary of Commerce every three months as to the effectiveness of agencies with which the ~~Department~~ Economic Development Partnership of North Carolina has contracted for advertising and regarding the selection of an advertising agency that will assist ~~the Department~~ Visit North Carolina in the promotion of the State as a travel and tourism destination.

~~(5) To name a three-member subcommittee, with one member from each of the eastern, central, and western regions of the State, to make recommendations to the Secretary of Commerce regarding any revisions in the matching funds~~

~~tourism grants program, project applications, and criteria for projects that qualify for participation in the program.~~

(6) To advise the Secretary of Commerce from time to time as to the effectiveness of the overall operations of ~~the Division of Tourism, Film, and Sports Development.~~Visit North Carolina.

(7) To promote the exchange of ideas and information on travel and tourism between State and local governmental agencies, and private organizations and individuals.

(8) To advise the Secretary of Commerce upon any matter that the Secretary, Governor, or ~~Director of the Division of Tourism, Film, and Sports Development~~ Vice-President of Tourism for the Economic Development Partnership of North Carolina may refer to it.

(9) To promote policies that support tourism in North Carolina.

(10) To advise the General Assembly on tourism policy matters upon request of the Joint Legislative Oversight Committee on Governmental Operations or the House or Senate Appropriations Committee on General Government.

(c) The Board shall consist of ~~29~~15 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(1a) The CEO of the Economic Development Partnership of North Carolina or the CEO's designee, who shall not be a voting member.

~~(2) The Director of the Division of Tourism, Film, and Sports Development, who shall not be a voting member.~~

(3) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the lodging sector.

(4) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the restaurant sector.

(4a) One member of the Destination Marketing Association of North Carolina designated by the Board of Directors of the Destination Marketing Association of North Carolina.

~~(5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.~~

(6) The ~~Chairperson~~ Chair of the Travel and Tourism Coalition or the ~~Chairperson's~~ Chair's designee.

(6a) One person who is a member of the Travel and Tourism Coalition designated by the Board of Directors of the Travel and Tourism Coalition.

~~(7) The President of the North Carolina Travel Industry Association.~~

(8) A member designated by the Board of Directors of the North Carolina Travel Industry Association.

~~(9) The President of the North Carolina Chamber.~~

~~(10) One member designated by the North Carolina Petroleum Marketers Association.~~

(11) Two persons appointed by the Speaker of the House of Representatives. One person shall be associated with the tourism industry ~~attractions in North Carolina, appointed by the Speaker of the House of Representatives. One~~ and one person ~~who is~~ shall not be a member of the General ~~Assembly, appointed by the Speaker of the House of Representatives.~~Assembly.

(12) Two persons appointed by the President Pro Tempore of the Senate. One person shall be associated with the ~~tourism-related transportation~~ tourism

industry, ~~appointed by the President Pro Tempore of the Senate. One~~ and one person ~~who shall is~~ not be a member of the General ~~Assembly, appointed by the President Pro Tempore of the Senate.~~Assembly.

~~(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.~~

(14) ~~One member associated with the major cultural resources and activities of the State in North Carolina, Two~~ members appointed by the ~~Governor.~~Governor, one of whom is involved in the tourism industry.

(14a) One member-at-large appointed by the Board of the Economic Development Partnership of North Carolina.

~~(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.~~

~~(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.~~

~~(17) Two members designated by the Board of Directors of North Carolina Watermen United who represent the charter boat/headboat industry.~~

(d) The members of the Board shall serve the following terms: the Secretary of Commerce, ~~the Director of the Division of Tourism, Film, and Sports Development,~~ the CEO of the Economic Development Partnership of North Carolina, and the ~~Chairperson~~ Chair of the Travel and Tourism ~~Coalition,~~Coalition ~~the President of the North Carolina Travel Industry Association, and the President of the North Carolina Chamber~~ shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the General Assembly shall serve two-year terms beginning on ~~January~~ September 1 of odd-numbered years and ending on ~~December 31 of the following year.~~August 31. The first such term shall begin on ~~January 1, 1991,~~September 1, 2015, or as soon thereafter as the member is appointed to the Board, and end on ~~December 31, 1992.~~August 31, 2017. All other members of the Board shall serve a term which ~~consists of~~ includes the portion of calendar year ~~1991~~ 2015 that remains following their appointment or designation and ends on August 31, 2016, and, thereafter, two-year terms which shall begin on ~~January~~ September 1 of an even-numbered year and end on ~~December 31 of the following year.~~August 31. The first such two-year term shall begin on ~~January 1, 1992,~~September 1, 2016, and end on ~~December 31, 1994.~~August 31, 2018.

(e) No member of the Board, except a member serving by virtue of his or her office, shall serve during more than five consecutive calendar years, except that a member shall continue to serve until his or her successor is appointed.

(f) Appointments to fill vacancies in the membership of the Board that occur due to resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term and shall be made by the same appointing authority that made the initial appointment.

(g) Board members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section, shall receive per diem, subsistence, and travel expenses at the rate set forth in G.S. 138-5. These expenses shall be paid by the Department of Commerce. Board members serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section shall not receive per diem, subsistence, or travel ~~expenses.~~expenses but shall be reimbursed at the discretion of the appointing organization. ~~The expenses set forth in this section shall be paid by the Division of Tourism, Film, and Sports Development of the Department of Commerce.~~

(h) ~~At its first meeting in 1991, the~~ The Board shall elect one of its voting members to serve as ~~Chairperson during calendar year 1991.~~Chairperson. At its last regularly scheduled meeting ~~in 1991, and at its last regularly scheduled meeting in~~ each ~~year thereafter,~~year, the Board shall elect one of its voting members to serve as Chairperson for the coming calendar year. No person shall serve as Chairperson during more than three consecutive calendar years. The Chairperson shall continue to serve until his or her successor is elected.

(i) A majority of the current voting membership shall constitute a quorum.

(j) The Secretary of Commerce shall provide clerical and other services as required by the Board."

SECTION 2.(b) G.S. 143B-431.01(c) reads as rewritten:

"(c) Oversight. – There is established the Economic Development Accountability & Standards Committee, which shall be treated as a board for purposes of Chapter 138A of the General Statutes. The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of Environment and Natural Resources, the Secretary of Revenue, the chair of the North Carolina Travel and Tourism Board, one member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon recommendation of the President Pro Tempore of the ~~Senate, and one member appointed by the General Assembly upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the~~ Senate. Members appointed by the General Assembly shall be appointed for four-year terms beginning July 1 and may not be members of the General Assembly.

The Committee shall be administratively housed in the Department of Commerce. The Department of Commerce shall provide for the administrative costs of the Committee and shall provide staff to the Committee. The Committee shall meet at least quarterly upon the call of the Chair. The duties of the Committee shall include all of the following:

(1) Monitoring and oversight of the performance of a contract entered into pursuant to this section by the Department with a North Carolina nonprofit corporation.

(2) Receiving, reviewing, and referring complaints regarding the contract or the performance of the North Carolina nonprofit corporation, as appropriate.

(3) Requesting enforcement of the contract by the Attorney General or the Department.

(4) Auditing, at least biennially, by the Office of State Budget and Management, State Auditor, or internal auditors of the Department, the records of the North Carolina nonprofit corporation with which the Department has contracted pursuant to this section during and after the term of the contract to review financial documents of the corporation, performance of the corporation, and compliance of the corporation with applicable laws. A copy of any audit performed at the request of the Committee shall be forwarded to the North Carolina Travel and Tourism Board.

(5) Coordination of economic development grant programs of the State between the Department of Commerce, the Department of Transportation, and the Department of Environment and Natural Resources.

(6) Any other duties deemed necessary by the Committee."

SECTION 2.(c) Section 2(a) of this act is effective when it becomes law and applies to appointments made on or after that date. Terms of appointees serving on the Board at that time expire on the effective date, but members may continue to serve until new members are appointed under this section.

PART III. DYNAMIC PRICING FLEXIBILITY

SECTION 3.(a) G.S. 150B-1(d) is amended by adding a new subdivision to read:

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

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

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

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

SECTION 3.(b) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, State parks, or the North Carolina Aquariums, shall establish admission fees and related activity fees using a dynamic pricing strategy as defined in Section 3(e) of this act. Any rule currently in the Administrative Code related to fees covered by Section 3(a) of this act are ineffective and repealed upon the effective date of new admission fees and related activity fees adopted by the Department under the authority set out in Section 3(a) of this act. Notice of the initial adoption of new admission fees and related activity fees under Section 3(a) of this act shall be given by the Department to the Codifier of Rules, who, upon receipt of notice of the initial adoption of new admission fees and related activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

SECTION 3.(c) The Department of Cultural Resources shall establish admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and museums using a dynamic pricing strategy as defined in Section 3(e) of this act.

SECTION 3.(d) The Department of Agriculture and Consumer Services shall establish admission fees and related activity fees authorized by G.S. 106-877 for State forests using a dynamic pricing strategy as defined in Section 3(e) of this act.

SECTION 3.(e) For purposes of this section, "dynamic pricing" is the adjustment of fees for admission and related activities from time to time to reflect market forces, including seasonal variations and special event interests, with the intent and effect to maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly.

SECTION 3.(f) No later than March 1, 2016, the Department of Environment and Natural Resources, the Department of Cultural Resources, and the Department of Agriculture and Consumer Services shall submit a report on implementation of the new pricing strategy to the Environmental Review Commission.

SECTION 3.(g) This part is effective when it becomes law and applies to admission fees or related activity fees charged on or after that date.

PART IV. FOOD/VENDING SERVICES

SECTION 4.(a) Article 4 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"**§ 111-47.3. Food service at North Carolina parks.**

(a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the Division of Parks and Recreation of the Department of Environment and Natural Resources, or any other department given responsibilities for State parks, may operate or contract for the operation of food or vending services at State parks. The net revenue generated by food and vending services provided at State parks operated by the Division or a vendor with whom the Division has contracted shall be used for the operation of the parks.

(b) This section shall not be construed to alter any contract for food or vending services at a State park that is in force at the time this section becomes law."

SECTION 4.(b) The Department of Environment and Natural Resources, Division of Parks and Recreation, shall study the feasibility of operating kiosk-type gift shops at State parks that offer park-related merchandise for purchase in unmanned vending machines. As part of the study, the Division shall issue a Request for Proposal (RFP) from vendors who would

own, install, and maintain the vending machines in exchange for a portion of the revenue derived from sales. If the Division enters into a contract under this section, twenty-five percent (25%) of the net proceeds derived from vending machine sales shall be credited to the North Carolina Trails Management Trust Fund.

PART V. PROPERTY MANAGEMENT

SECTION 5.(a) The General Assembly finds that a hiking and biking trail around Lake James in Burke County would provide a multitude of economic, recreational, health, environmental, community, and transportation benefits. The General Assembly further finds that a number of federal, State, local, and private partners have expressed substantial interest in completing such a trail; that such a trail would be a recreational resource of statewide significance; and that including such a trail in the State Parks System as a State trail would be beneficial to the people of North Carolina and further the development of North Carolina as "The Great Trails State." The General Assembly authorizes the Department of Environment and Natural Resources, or any other department given responsibilities for the State Parks System, to add the Fonta Flora Loop Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 5.(b) The Department of Administration is directed to identify all State-owned property located within five miles of either side of the center line of the Mountains-to-Sea Trail. The Department shall provide a written inventory of all properties identified to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(c) The Department of Environment and Natural Resources, Division of Parks and Recreation, in consultation with the North Carolina Trails Committee, or any other department given responsibilities for the State trails system, is directed to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea Trail. The plan shall include potential time lines, funding needs, regulatory hurdles, and any other issues related to interconnection of these systems. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(d) The Department of Environment and Natural Resources, Division of Parks and Recreation, or any other department given responsibilities for State parks, shall study the feasibility of expanding the marinas at Jordan Lake and Falls Lake. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(e) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, shall study the feasibility of leasing property of the North Carolina Zoological Park to a private developer for construction of a hotel/conference facility immediately adjacent to the African Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from the facility via a foot bridge. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(f) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Aquariums, shall study economic development opportunities for the Oregon Inlet Lifesaving Station related to fishing, boating,

camping, hiking, general outdoor activities, lodging, special event rental, and other tourism-related economic development. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(g) The Wildlife Resources Commission shall update the Mattamuskeet Lodge Business Management and Tourism Study prepared for the North Carolina Wildlife Resources Commission and issued in September 2008 to reflect current market factors and trends. In updating the study, the Commission shall focus on development of public/private partnerships to facilitate opportunities related to hunting, fishing, boating, camping, hiking, general outdoor activities, and other economic development. The study shall include consideration of potential lease terms and any limitations created by existing statutes, rules, or federal policies, and any other matter the Commission deems relevant. The Commission shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

PART VI. PROMOTE TRAIL CREATION

SECTION 6.(a) Article 6 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-96. Trails exempt from certain environmental regulation.**

Except as required by federal law and notwithstanding any other provision of State law, activities related to the construction, maintenance, or removal of a trail shall be exempt from environmental regulation as provided in this section. A trail shall not be treated as "built-upon area" under G.S. 143-214.7(b2). Activities related to the construction, maintenance, or removal of a trail shall be allowed within riparian buffers and other types of vegetative buffers for the protection of water quality."

SECTION 6.(b) G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted ~~deck or~~deck, the water area of a swimming ~~pool.~~pool, or a trail as defined in G.S. 113A-85."

SECTION 6.(c) This section is effective when it becomes law and applies to the construction, maintenance, or removal of a trail occurring on or after that date.

PART VII. AUTHORIZE EXCHANGE OF REAL PROPERTY IN AND AROUND UMSTEAD STATE PARK AND LAKE CRABTREE

SECTION 7.(a) Notwithstanding any provision of S.L. 1939-168, as amended by S.L. 1941-292, as amended S.L. 1945-79, as amended by S.L. 1955-1096, as amended by S.L. 1957-455, as amended by S.L. 1959-755, as amended by S.L. 1967-781, as amended by S.L. 1971-287, as amended by S.L. 1973-221, as amended by S.L. 1977-28, as amended by S.L. 1979-666, as amended by S.L. 1981-1192, as amended by S.L. 1998-141, Chapter 146 of the General Statutes, or any other provision of law, the Department of Administration on behalf of the State shall enter into an agreement to convey the real property described in Section 7(c) of this act from the Raleigh-Durham Airport Authority in exchange for conveyance of the State-owned real property described in Section 7(d) of this act.

SECTION 7.(b) Fair market value shall be established for each property to be conveyed as described in Sections 7(c) and 7(d) of this act. Accordingly, Raleigh-Durham Airport Authority and the Department of Administration shall conduct independent appraisals to establish each property's monetary value. In the event of discrepancies between such appraisals, a third appraisal shall be conducted by an appraiser agreed upon by both entities,

and the average of the three values for each property in question shall be used to establish the property's fair market value. If the monetary value of properties being conveyed to the Raleigh-Durham Airport Authority by the State of North Carolina is greater than the value of the properties being conveyed to the State from the Raleigh-Durham Airport Authority, the Raleigh-Durham Airport Authority shall pay the difference in value to the State, for deposit to the General Fund.

SECTION 7.(c) Real property owned by the Raleigh-Durham Airport Authority subject to conveyance to the State pursuant to Section 7(a) of this act is as follows:

(1) An approximately 1.96 acre portion, more or less, of the easternmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 that contains a portion of Old Reedy Creek Road, described as "Polygon E" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(2) An approximately 29.66 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 located north of Interstate 40 and west of Old Reedy Creek Road, described as "Polygon G" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(3) An approximately 11.21 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a southern boundary of Interstate 40, an eastern boundary of Old Reedy Creek Road, and a northern boundary defined by a privately owned 11.58 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766414911 and Real Estate Identification Number 0020176, described as "Polygon H" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately owned parcel referenced herein is referenced for boundary identification purposes only and is not subject to conveyance pursuant to Section 7(a) of this act.

(4) An approximately 332.01 acre portion, more or less, of the southernmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 commonly referred to as Lake Crabtree County Park with a northern boundary of Interstate 40, a western boundary of Aviation Parkway, a southern boundary within Lake Crabtree, and an eastern boundary of the Lake Crabtree dam, described as "Polygon I" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping

coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) An approximately 13.57 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a southern boundary of Interstate 40, a western boundary of Old Reedy Creek Road, a northern boundary of Umstead State Park, and a northeastern boundary defined by one privately owned 1.2 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766517951 and Real Estate Identification Number 0068197, and one privately owned 1.54 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766528101 and Real Estate Identification Number 0079738, described as "Polygon J" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately owned parcels referenced herein are referenced for boundary identification purposes only and are not subject to conveyance pursuant to Section 7(a) of this act.

(6) An approximately 1.6 acre portion, more or less, of the southeasternmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a northern boundary of Interstate 40, a southern boundary of Old Reedy Creek Road, a western boundary of one 1.5 acre, more or less, municipally-owned parcel identified in Wake County tax records by Parcel Identification Number 0766407480 and Real Estate Identification Number 0250839, and an eastern boundary of one 74.29 acre, more or less, municipally owned parcel identified in Wake County tax records by Parcel Identification Number 0765680977 and Real Estate Identification Number 0049308, described as "Polygon K" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The municipally owned parcels referenced herein are referenced for boundary identification purposes only and are not subject to conveyance pursuant to Section 7(a) of this act.

SECTION 7.(d) Real property owned by the State subject to conveyance to the Raleigh-Durham Airport Authority pursuant to Section 7(a) of this act is as follows:

(1) An approximately 10.61 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0757254377 and Real Estate Identification Number 0174188, described as "Polygon A" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(2) An approximately .22 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0757245747 and

Real Estate Identification Number 0174189, described as "Polygon B" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(3) An approximately 22.81 acre portion, more or less, of the northern portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located entirely on the northeastern side of Glenwood Avenue, described as "Polygon C" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(4) An approximately 5.28 acre portion, more or less, of the western portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the northern half of the western boundary of the Park, described as "Polygon D" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) An approximately 206.05 acre portion, more or less, of the westernmost portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the southern half of the western boundary of the Park, described as "Polygon F" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(6) An approximately 4.76 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having a southern boundary of District Drive and a western boundary of Gold Star Drive, described as "Polygon O" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(7) An approximately 10.01 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having a southwestern boundary of Reedy Creek Road and an eastern boundary of Blue Ridge Road and a northern boundary of four individual privately owned parcels with frontage on Sunset Ridge Road and one individual parcel with frontage on Atrium Drive, described as

"Polygon P" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately owned parcels referenced herein are referenced for boundary identification purposes only and are not subject to conveyance pursuant to Section 7(a) of this act.

(8) An approximately 2.91 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0785605905 and Real Estate Identification Number 0121260 with eastern frontage on Atrium Drive and bordered to the south and west by a parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Tax Identification Number 0141508, described as "Polygon Q" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(9) An approximately 66.62 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having an eastern boundary of Blue Ridge Road and a southernmost boundary of Interstate 40 and part of a northern boundary that includes District Drive and part of a northern boundary that includes Reedy Creek Road, described as "Polygon R" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

SECTION 7.(e) 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:

...

(2) All lands and waters within the boundaries of William B. Umstead State Park as of May 6, 2014, with the exception ~~of~~ of:

a. 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.

b. An approximately 22.81 acre portion, more or less, of the northern portion of William B. Umstead State Park identified in Wake County

tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located entirely on the northeastern side of Glenwood Avenue, described as "Polygon C" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

c. An approximately 5.28 acre portion, more or less, of the western portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the northern half of the western boundary of the Park, described as "Polygon D" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

d. An approximately 206.05 acre portion, more or less, of the westernmost portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the southern half of the western boundary of the Park, described as "Polygon F" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

...."

SECTION 7.(f) If the real property described in Section 7(c) of this act is acquired by the State, the property shall be incorporated into Umstead State Park and dedicated to the State Nature and Historic Preserve pursuant to Section 5 of Article XIV of the North Carolina Constitution and in conformance with the requirements of G.S. 143-260.8. The Division of Parks and Recreation of the Department of Environment and Natural Resources, or any other department given responsibilities for State parks, shall dedicate between 500 and 600 acres in the southwestern corner of Umstead Park to single-track bike trails and work with regional and local bicycle stakeholders in modifying the master plan for the Park to include a single-track bicycle course within the Park's boundaries.

SECTION 7.(g) The State of North Carolina shall convey the following property to North Carolina State University for inclusion into Schenck Forest: an approximately 40.82 acre portion, more or less, of Department of Transportation right-of-way previously acquired for the Duraleigh Connector along the northern side of the Interstate 40 and Wade Avenue interchange that is not an identified parcel in Wake County tax records with a Parcel Identification Number or Real Estate Identification Number, described as "Polygon M" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

SECTION 7.(h) If the City of Raleigh is authorized by the Department of Transportation to construct a roadway extension connecting District Drive to Edwards Mill

Road, the Department of Administration shall provide an easement through the parcel identified in Wake County tax records with Parcel Identification Number of 0785316741 and a Real Estate Identification Number of 0141508 upon the request of the City. Such roadway extension shall be constructed by the City of Raleigh at its own expense.

SECTION 7.(i) The properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority described in Section 7(d) of this act are: (i) exempt from the divestiture restrictions set forth in S.L. 1967-781, and may be divested upon approval from a simple majority vote of the Raleigh-Durham Airport Authority Board; and (ii) exempt from the lease restrictions set forth in S.L. 1959-755, and may be leased for a period not to exceed sixty (60) years upon approval from a simple majority vote of the Raleigh-Durham Airport Authority, except as provided in subsection (f) of this Section.

SECTION 7.(j) The properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority described in Section 7(d) of this act shall be subject to the following conditions:

(1) For the property identified in subdivision (7) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2020, in order to allow sufficient time for the Department of Agriculture to construct a new laboratory facility and vacate the existing building on this property.

(3) For the property identified in subdivision (8) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2020, in order to allow sufficient time for the Department of Agriculture to construct a new laboratory facility and vacate the existing building on this property.

(4) For the property identified in subdivision (9) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2016, in order to allow sufficient time for the Wildlife Resources Commission to vacate the warehouse facility on this property.

(5) For the property identified in subdivision (10) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2018, in order to allow sufficient time for relocation of the existing facilities.

SECTION 7.(k) The Secretary of the Department of Administration shall have the authority to negotiate the terms of exchange agreement necessary to effectuate the provisions of this act. The agreement shall do all of the following:

(1) Provide for the exchange of interests in real property described in Section 7(c) and Section 7(d) of this act and no other, except that if any individual property identified by Section 7(c) and Section 7(d) of this act cannot be conveyed due to federal restrictions applicable to the property, that property shall be omitted from the exchange and all other properties identified by Section 7(c) and Section 7(d) of this act shall remain subject to the agreement.

(2) Provide that the conveyances described in the agreement become effective as soon as practicable.

(3) Incorporate the relevant terms of this section.

SECTION 7.(l) The Secretary of the Department of Administration shall ensure that the map referenced herein, dated April 14, 2015, which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System for each property identified in Section 7(c) and Section 7(d) of this act is filed in the State Property Office.

SECTION 7.(m) Within 30 days after an agreement is entered into pursuant to this act, the Secretary of the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement.

SECTION 7.(n) Notwithstanding the provisions of Chapter 146 of the General Statutes, Article 9A of Chapter 113A of the General Statutes, or any other provision of law, neither the Governor nor the Council of State shall be required to approve any conveyance or exchange made pursuant to this act, nor shall consultation with or reporting to the Joint Legislation Commission on Governmental Operations be required prior to the conveyance or exchange.

SECTION 7.(o) Within 30 days after an agreement is entered into pursuant to this act, the Attorney General shall execute any documents or deeds necessary to effectuate the conveyances under the exact terms set forth in the exchange agreement. All State agencies and officials shall cooperate to the fullest extent possible in effectuating the exchange agreement.

SECTION 7.(p) The requirements of this section shall only become effective upon a simple majority vote of the Raleigh-Durham Airport Authority to proceed with the exchange of property identified herein, except that Section 7(k) of this section shall become effective when this act becomes law.

PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 8.(a) 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 8.(b) This act is effective as provided herein. The remainder of this act is effective when it becomes law.

SENATE BILL 486

Short Title:	NC Trail Expansion/Economic Corridors.	(Public)
Sponsors:	Senators Brock, Barringer, Alexander (Primary Sponsors); and Clark.	
Referred to:	Rules and Operations of the Senate.	

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ENHANCE ECONOMIC DEVELOPMENT THROUGH THE EXPANSION OF THE STATE TRAILS NETWORK.

The General Assembly of North Carolina enacts:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

SECTION 1.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.2A. North Carolina Trails Management Trust Fund.**

(a) The North Carolina Trails Management Trust Fund is created as a special revenue fund in the Department of Environment and Natural Resources. If the State Parks System is transferred to another State agency, then the Fund shall also be transferred to that State agency. The purpose of the Fund shall be to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail in order to encourage increased utilization by both residents and nonresidents of the State and to foster economic development and job growth along the Trail corridor. The North Carolina Trails Committee, in consultation with the Travel and Tourism Board, shall review all applications for funds and approve projects for funding.

(b) Revenue for the North Carolina Trails Management Fund shall come from:

(1) Any funds appropriated by the General Assembly.

(2) A surcharge authorized under G.S. 113-35(b2) on all fees charged for access, use, and services provided at parks within the State Park System.

(3) Gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund.

(c) The Department shall hold the Fund separate and apart from all other money, funds, and accounts. Any investment earnings credited to assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall not revert and shall be carried forward in the Fund for the next succeeding fiscal year.

(d) Moneys from the Fund shall be allocated and used only for the following purposes:

(1) Sixty-five percent (65%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land and for capital projects, repairs and renovations, and the development, construction, and maintenance of ancillary facilities directly related to the use of the Mountains-to-Sea Trail system.

(2) Thirty-five percent (35%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land

for the purpose of completing connections of local and regional greenways and trails to the Mountains-to-Sea Trail.

(e) Moneys from the Fund shall be expended in the following order of priority:

(1) Acquisition of property for trail corridors.

(2) Trail construction, not to include paving.

(3) Maintenance, repairs and renovations, and related ancillary facilities.

SECTION 1.(b) G.S. 113-35 is amended by adding a new subsection to read:

"(b2) The Department may add a reasonable surcharge to fees authorized under this section to provide revenue for the North Carolina Trails Management Trust Fund. The portion of the fee designated as the surcharge shall be transferred annually to the Fund."

SECTION 1.(c) The Department of Environment and Natural Resources or any other department given responsibility for State Parks shall, as soon as practicable but no later than January 1, 2016, implement a revised fee schedule for all fees authorized at parks and trails within the State Park System. The revised fees shall include the surcharge authorized under Section 1(b) of this act to provide revenue for the North Carolina Trails Management Trust Fund. Implementation of the fees shall be exempt from rule making under G.S. 150B-1(d)(27). For the first year, the surcharge shall not exceed one dollar ($1.00). Thereafter, the surcharge may be increased or decreased as necessary in the discretion of the Secretary. In no event shall the surcharge be less than fifty cents (50¢).

PART II. TRAVEL AND TOURISM BOARD

SECTION 2.(a) G.S. 143B-434.1 reads as rewritten:

"**§ 143B-434.1. The North Carolina Travel and Tourism Board – creation, duties, membership.**

(a) There is created within the Department of Commerce the North Carolina Travel and Tourism Board. The Secretary of Commerce and the Director of the Division of Tourism, Film, and Sports Development will work with the Board to fulfill the duties and requirements set forth in this section, and to promote the sound development of the travel and tourism industry in North Carolina.

(b) The function and duties of the Board shall be:

(1) To advise the Secretary of Commerce in the formulation of policy and priorities for the promotion and development of travel and tourism in the State.

(2) To advise the Secretary of Commerce in the development of a budget for the Division of Tourism, Film, and Sports Development.

(3) To recommend programs to the Secretary of Commerce that will promote the State as a travel and tourism destination and that will develop travel and tourism opportunities throughout the State.

(4) To advise the Secretary of Commerce every three months as to the effectiveness of agencies with which the Department has contracted for advertising and regarding the selection of an advertising agency that will assist the Department in the promotion of the State as a travel and tourism destination.

(5) To name a three-member subcommittee, with one member from each of the eastern, central, and western regions of the State, to make recommendations to the Secretary of Commerce regarding any revisions in the matching funds tourism grants program, project applications, and criteria for projects that qualify for participation in the program.

(6) To advise the Secretary of Commerce from time to time as to the effectiveness of the overall operations of the Division of Tourism, Film, and Sports Development.

(7) To promote the exchange of ideas and information on travel and tourism between State and local governmental agencies, and private organizations and individuals.

(8) To advise the Secretary of Commerce upon any matter that the Secretary, Governor, or Director of the Division of Tourism, Film, and Sports Development may refer to it.

(9) To promote policies that support tourism in North Carolina.

(10) To advise the General Assembly on tourism policy matters upon request of the Joint Legislative Oversight Committee on Governmental Operations or the House or Senate Appropriations Subcommittee on General Government.

(c) The Board shall consist of ~~29~~13 members as follows:

~~(1) The Secretary of Commerce, who shall not be a voting member.~~

~~(2) The Director of the Division of Tourism, Film, and Sports Development, who shall not be a voting member.~~

(3) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the lodging sector.

(4) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the restaurant sector.

(5) ~~Three Directors~~Two directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.

(6) The ~~Chairperson~~ Chair of the Travel and Tourism Coalition or the ~~Chairperson's~~ Chair's designee.

(6a) One person who is a member of the Travel and Tourism Coalition designated by the Board of Directors of the Travel and Tourism Coalition.

(7) The President of the North Carolina Travel Industry Association.

~~(8) A member designated by the Board of Directors of the North Carolina Travel Industry Association.~~

~~(9) The President of the North Carolina Chamber.~~

~~(10) One member designated by the North Carolina Petroleum Marketers Association.~~

(11) Two persons appointed by the Speaker of the House of Representatives. One person shall be associated with tourism attractions in North Carolina, ~~appointed by the Speaker of the House of Representatives. One~~ and one person ~~who is~~ shall not be a member of the General ~~Assembly, appointed by the Speaker of the House of Representatives.~~Assembly.

(12) Two persons appointed by the President Pro Tempore of the Senate. One person shall be associated with the tourism-related transportation industry, ~~appointed by the President Pro Tempore of the Senate. One~~ and one person ~~who~~ shall ~~is~~ not be a member of the General ~~Assembly, appointed by the President Pro Tempore of the Senate.~~Assembly.

~~(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.~~

(14) ~~One member associated with the major cultural resources and activities of the State in North Carolina,~~ Two members appointed by the ~~Governor.~~Governor, one of whom is involved in the tourism industry.

~~(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.~~

~~(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.~~

~~(17) Two members designated by the Board of Directors of North Carolina Watermen United who represent the charter boat/headboat industry.~~

(d) The members of the Board shall serve the following terms: ~~the Secretary of Commerce, the Director of the Division of Tourism, Film, and Sports Development, the Chairperson~~ Chair of the Travel and Tourism ~~Coalition,~~Coalition and the President of the North Carolina Travel Industry ~~Association, and the President of the North Carolina Chamber~~ Association shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the General Assembly shall serve two-year terms beginning on ~~January~~ September 1 of odd-numbered years and ending on ~~December 31 of the following year.~~August 31. The first such term shall begin on ~~January 1, 1991,~~September 1, 2015, or as soon thereafter as the member is appointed to the Board, and end on ~~December 31, 1992.~~August 31, 2017. All other members of the Board shall serve a term which ~~consists of~~ includes the portion of calendar year ~~1991~~ 2015 that remains following their appointment or designation and ends on August 31, 2016, and, thereafter, two-year terms which shall begin on ~~January~~ September 1 of an even-numbered year and end on ~~December 31 of the following year.~~August 31. The first such two-year term shall begin on ~~January 1, 1992,~~September 1, 2016, and end on ~~December 31, 1994.~~August 31, 2018.

(e) No member of the Board, except a member serving by virtue of his or her office, shall serve during more than five consecutive calendar years, except that a member shall continue to serve until his or her successor is appointed.

(f) Appointments to fill vacancies in the membership of the Board that occur due to resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term and shall be made by the same appointing authority that made the initial appointment.

(g) Board members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section, shall receive per diem, subsistence, and travel expenses at the rate set forth in G.S. 138-5. Board members serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section shall not receive per diem, subsistence, or travel expenses. The expenses set forth in this section shall be paid by the Division of Tourism, Film, and Sports Development of the Department of Commerce.

(h) ~~At its first meeting in 1991, the~~ The Board shall elect one of its voting members to serve as ~~Chairperson during calendar year 1991.~~Chairperson. At its last regularly scheduled meeting ~~in 1991, and at its last regularly scheduled meeting in~~ each ~~year thereafter,~~year, the Board shall elect one of its voting members to serve as Chairperson for the coming calendar year. No person shall serve as Chairperson during more than three consecutive calendar years. The Chairperson shall continue to serve until his or her successor is elected.

(i) A majority of the current voting membership shall constitute a quorum.

(j) The Secretary of Commerce shall provide clerical and other services as required by the Board."

SECTION 2.(b) G.S. 143B-431.01(c) reads as rewritten:

"(c) Oversight. – There is established the Economic Development Accountability & Standards Committee, which shall be treated as a board for purposes of Chapter 138A of the General Statutes. The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of

Environment and Natural Resources, the Secretary of Revenue, the chair of the North Carolina Travel and Tourism Board, one member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon recommendation of the President Pro Tempore of the ~~Senate, and one member appointed by the General Assembly upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the~~ Senate. Members appointed by the General Assembly shall be appointed for four-year terms beginning July 1 and may not be members of the General Assembly.

The Committee shall be administratively housed in the Department of Commerce. The Department of Commerce shall provide for the administrative costs of the Committee and shall provide staff to the Committee. The Committee shall meet at least quarterly upon the call of the Chair. The duties of the Committee shall include all of the following:

(1) Monitoring and oversight of the performance of a contract entered into pursuant to this section by the Department with a North Carolina nonprofit corporation.

(2) Receiving, reviewing, and referring complaints regarding the contract or the performance of the North Carolina nonprofit corporation, as appropriate.

(3) Requesting enforcement of the contract by the Attorney General or the Department.

(4) Auditing, at least biennially, by the Office of State Budget and Management, State Auditor, or internal auditors of the Department, the records of the North Carolina nonprofit corporation with which the Department has contracted pursuant to this section during and after the term of the contract to review financial documents of the corporation, performance of the corporation, and compliance of the corporation with applicable laws. A copy of any audit performed at the request of the Committee shall be forwarded to the North Carolina Travel and Tourism Board.

(5) Coordination of economic development grant programs of the State between the Department of Commerce, the Department of Transportation, and the Department of Environment and Natural Resources.

(6) Any other duties deemed necessary by the Committee."

SECTION 2.(c) Section 2(a) of this act is effective when it becomes law and applies to appointments made on or after that date. Terms of appointees serving on the Board at that time expire on the effective date, but members may continue to serve until new members are appointed under this section.

PART III. DYNAMIC PRICING FLEXIBILITY

SECTION 3.(a) G.S. 150B-1(d) is amended by adding a new subdivision to read:

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

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

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

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

SECTION 3.(b) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, State Parks, or the North Carolina Aquariums, shall establish admission fees and related activity fees using a dynamic pricing strategy as defined in Section 3(d) of this act. Any rule currently in the Administrative Code related to fees covered by Section 3(a) of this act are ineffective and repealed upon the effective date of new admission fees and related activity fees adopted by the Department under the authority set out in Section 3(a) of this act. Notice of the initial adoption of new admission fees and related activity fees under Section 3(a) of this act shall be given by

the Department to the Codifier of Rules, who, upon receipt of notice of the initial adoption of new admission fees and related activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

SECTION 3.(c) The Department of Cultural Resources shall establish admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and museums using a dynamic pricing strategy as defined in Section 3(d) of this act.

SECTION 3.(d) It is the intent of the General Assembly that the Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, State Parks or the North Carolina Aquariums institute dynamic pricing as a flexible pricing strategy for admission fees and related activity fees for the North Carolina Zoological Park, State Parks and the North Carolina Aquariums, and for the Department of Cultural Resources to institute dynamic pricing as a flexible pricing strategy for admission fees and related activity fees for historic sites and museums. Dynamic pricing is the adjustment of fees for admission and related activities from time to time to reflect marketing forces, including seasonal variations and special event interests, with the intent and effect to maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly.

SECTION 3.(e) No later than March 1, 2016, the Department of Environment and Natural Resources and the Department of Cultural Resources shall submit a report on implementation of the new pricing strategy to the Environmental Review Commission.

SECTION 3.(f) This part is effective when it becomes law and applies to admission fees or related activity fees charged on or after that date.

PART IV. FOOD/VENDING SERVICES

SECTION 4.(a) Article 4 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"**§ 111-47.3. Food service at North Carolina parks.**

(a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the Division of Parks and Recreation of the Department of Natural Resources may operate or contract for the operation of food or vending services at State parks. The net revenue generated by food and vending services provided at State parks operated by the Division or a vendor with whom the Division has contracted shall be used for the operation of the parks.

(b) This section shall not be construed to alter any contract for food or vending services at a State park that is in force at the time this section becomes law."

SECTION 4.(b) The Department of Natural Resources, Division of Parks and Recreation, shall study the feasibility of operating kiosk-type gift shops at State parks that offer park-related merchandise for purchase in unmanned vending machines. As part of the study, the Division shall issue a Request for Proposal (RFP) from vendors who would own, install, and maintain the vending machines in exchange for a portion of the revenue derived from sales. If the Division enters into a contract under this section, twenty-five percent (25%) of the net proceeds derived from vending machine sales shall be credited to the North Carolina Trails Management Trust Fund.

PART V. PROPERTY MANAGEMENT

SECTION 5.(a) The General Assembly finds that a hiking and biking trail around Lake James in Burke County would provide a multitude of economic, recreational, health, environmental, community, and transportation benefits. The General Assembly further finds that a number of federal, State, local, and private partners have expressed substantial interest in completing such a trail; that such a trail would be a recreational resource of statewide significance; and that including such a trail in the State Parks System as a State Trail would be beneficial to the people of North Carolina and further the development of North Carolina as

"The Great Trails State." The General Assembly authorizes the Department of Environment and Natural Resources to add the Fonta Flora Loop Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 5.(b) The Department of Administration is directed to identify all State-owned property located within five miles of either side of the center line of the Mountains-to-Sea Trail. The Department shall provide a written inventory of all properties identified to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(c) The Department of Environment and Natural Resources, Division of Parks and Recreation, in consultation with the North Carolina Trails Committee, is directed to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea Trail. The plan shall include potential time lines, funding needs, regulatory hurdles, and any other issues related to interconnection of these systems.

SECTION 5.(d) The Department of Environment and Natural Resources, Division of Parks and Recreation, shall study the feasibility of expanding the marina at Jordan Lake. The Division shall report its findings, including any proposed actions the Division deems appropriate, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(e) The Wildlife Resources Commission shall study the feasibility of leasing Mattamuskeet Lodge and adjacent properties to a private developer for opportunities related to hunting, fishing, and tourism. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Commission shall report its findings, including any legislative proposals, no later than March 1, 2016.

SECTION 5.(f) The Department of Environment and Natural Resources shall study the feasibility of leasing property of the North Carolina Zoological Park to a private developer for construction of a hotel/conference facility immediately adjacent to the African Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from the facility via a foot bridge. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Department shall report its findings, including any legislative proposals, no later than March 1, 2016.

PART VI. EXPEDITE TRAIL CONSTRUCTION

SECTION 6.(a) Article 6 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-96. Trails exempt from environmental regulation.**

(a) Except as required by federal law, activities related to the construction, maintenance, or removal of a trail shall be exempt from environmental regulation by an agency authorized to implement and enforce State and federal environmental laws.

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

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.

(2) The Environmental Management Commission created pursuant to G.S. 143B-282.

(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.

(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

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

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

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

(8) A local government when implementing any program delegated by an agency listed in subdivisions (1) through (7) of this subsection.

(c) Nothing in this section shall prohibit the Department or a local government from otherwise managing a trail under its jurisdiction."

SECTION 6.(b) This section is effective when it becomes law and applies to the construction, maintenance, or removal of a trail occurring on or after that date.

PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 7.(a) 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 7.(b) This act is effective as provided herein. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 486
PROPOSED COMMITTEE SUBSTITUTE S486-CSSBf-8 [v.10]

5/19/2015 6:56:09 PM

Short Title: NC Trail Expansion/Economic Corridors. (Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ENHANCE ECONOMIC DEVELOPMENT THROUGH THE EXPANSION OF THE STATE TRAILS NETWORK.

The General Assembly of North Carolina enacts:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

SECTION 1.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.2A. North Carolina Trails Management Trust Fund.**

(a) The North Carolina Trails Management Trust Fund is created as a special revenue fund in the Department of Environment and Natural Resources. If the State Parks System is transferred to another State agency, then the Fund shall also be transferred to that State agency. The purpose of the Fund shall be to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail in order to encourage increased utilization by both residents and nonresidents of the State and to foster economic development and job growth along the Trail corridor. The North Carolina Trails Committee, in consultation with the Travel and Tourism Board, shall review all applications for funds and approve or reject projects for funding.

(b) Revenue for the North Carolina Trails Management Fund shall come from:

(1) Any funds appropriated by the General Assembly.

(2) A surcharge authorized under G.S. 113-35(b2) on all fees charged for access, use, and services provided at parks within the State Park System.

(3) Gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund.

(c) The Department shall hold the Fund separate and apart from all other money, funds, and accounts. Any investment earnings credited to assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall not revert and shall be carried forward in the Fund for the next succeeding fiscal year.

(d) Moneys from the Fund shall be allocated and used only for the following purposes:

(1) Sixty-five percent (65%) to: (i) acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land; and (ii) for capital projects, repairs and renovations, and the development, construction, and maintenance of ancillary facilities directly related to the use of the Mountains-to-Sea Trail system.

(2) Thirty-five percent (35%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land

for the purpose of completing connections of local and regional greenways and trails to the Mountains-to-Sea Trail.

(e) Moneys from the Fund shall be expended in the following order of priority:

(1) Acquisition of property for trail corridors.

(2) Trail construction, not to include paving.

(3) Maintenance, repairs and renovations, and related ancillary facilities."

SECTION 1.(b) G.S. 113-35 is amended by adding a new subsection to read:

"(b2) The Department may add a reasonable surcharge to fees authorized under this section to provide revenue for the North Carolina Trails Management Trust Fund. The portion of the fee designated as the surcharge shall be transferred annually to the Fund."

SECTION 1.(c) The Department of Environment and Natural Resources or any other department given responsibility for State parks shall, as soon as practicable but no later than January 1, 2016, implement a revised fee schedule for all fees authorized at parks and trails within the State Park System. The revised fees shall include the surcharge authorized under Section 1(b) of this act to provide revenue for the North Carolina Trails Management Trust Fund. Implementation of the fees shall be exempt from rule making under G.S. 150B-1(d)(27). For the first year, the surcharge shall not exceed one dollar ($1.00). Thereafter, the surcharge may be increased or decreased as necessary in the discretion of the Secretary of Environment and Natural Resources. In no event shall the surcharge be less than fifty cents (50¢).

PART II. TRAVEL AND TOURISM BOARD; ECONOMIC DEVELOPMENT ACCOUNTABILITY & STANDARDS COMMITTEE

SECTION 2.(a) G.S. 143B-434.1 reads as rewritten:

"**§ 143B-434.1. The North Carolina Travel and Tourism Board – creation, duties, membership.**

(a) There is created within the Department of Commerce the North Carolina Travel and Tourism Board. The Secretary of Commerce and the ~~Director of the Division of Tourism, Film, and Sports Development~~ CEO of the Economic Development Partnership of North Carolina will work with the Board to fulfill the duties and requirements set forth in this section, and to promote the sound development of the travel and tourism industry in North Carolina.

(b) The function and duties of the Board shall be:

(1) To advise the Secretary of Commerce in the formulation of policy and priorities for the promotion and development of travel and tourism in the State.

(2) To advise the Secretary of Commerce in the development of a budget for ~~the Division of Tourism, Film, and Sports Development.~~Visit North Carolina, a unit of the Economic Development Partnership of North Carolina.

(3) To recommend programs to the Secretary of Commerce that will promote the State as a travel and tourism destination and that will develop travel and tourism opportunities throughout the State.

(4) To advise the Secretary of Commerce every three months as to the effectiveness of agencies with which the ~~Department~~ Economic Development Partnership of North Carolina has contracted for advertising and regarding the selection of an advertising agency that will assist ~~the Department~~ Visit North Carolina in the promotion of the State as a travel and tourism destination.

~~(5) To name a three-member subcommittee, with one member from each of the eastern, central, and western regions of the State, to make recommendations to the Secretary of Commerce regarding any revisions in the matching funds~~

~~tourism grants program, project applications, and criteria for projects that qualify for participation in the program.~~

(6) To advise the Secretary of Commerce from time to time as to the effectiveness of the overall operations of ~~the Division of Tourism, Film, and Sports Development.~~Visit North Carolina.

(7) To promote the exchange of ideas and information on travel and tourism between State and local governmental agencies, and private organizations and individuals.

(8) To advise the Secretary of Commerce upon any matter that the Secretary, Governor, or ~~Director of the Division of Tourism, Film, and Sports Development~~ Vice-President of Tourism for the Economic Development Partnership of North Carolina may refer to it.

(9) To promote policies that support tourism in North Carolina.

(10) To advise the General Assembly on tourism policy matters upon request of the Joint Legislative Oversight Committee on Governmental Operations or the House or Senate Appropriations Subcommittee on General Government.

(c) The Board shall consist of ~~29~~15 members as follows:

(1) The Secretary of Commerce, who shall not be a voting member.

(1a) The CEO of the Economic Development Partnership of North Carolina or the CEO's designee, who shall not be a voting member.

~~(2) The Director of the Division of Tourism, Film, and Sports Development, who shall not be a voting member.~~

(3) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the lodging sector.

(4) ~~Two members~~One member designated by the Board of Directors of the North Carolina Restaurant and Lodging Association, representing the restaurant sector.

(4a) One member of the Destination Marketing Association of North Carolina designated by the Board of Directors of the Destination Marketing Association of North Carolina.

~~(5) Three Directors of Convention and Visitor Bureaus designated by the Board of Directors of the North Carolina Association of Convention and Visitor Bureaus.~~

(6) The ~~Chairperson~~ Chair of the Travel and Tourism Coalition or the ~~Chairperson's~~ Chair's designee.

(6a) One person who is a member of the Travel and Tourism Coalition designated by the Board of Directors of the Travel and Tourism Coalition.

~~(7) The President of the North Carolina Travel Industry Association.~~

(8) A member designated by the Board of Directors of the North Carolina Travel Industry Association.

~~(9) The President of the North Carolina Chamber.~~

~~(10) One member designated by the North Carolina Petroleum Marketers Association.~~

(11) Two persons appointed by the Speaker of the House of Representatives. One person shall be associated with the tourism industry ~~attractions in North Carolina, appointed by the Speaker of the House of Representatives. One~~ and one person ~~who is~~ shall not be a member of the General ~~Assembly, appointed by the Speaker of the House of Representatives.~~Assembly.

(12) Two persons appointed by the President Pro Tempore of the Senate. One person shall be associated with the ~~tourism-related transportation~~ tourism industry, ~~appointed by the President Pro Tempore of the Senate. One~~ and one person ~~who~~ shall ~~is~~ not be a member of the General ~~Assembly, appointed by the President Pro Tempore of the Senate.~~Assembly.

~~(13) Four public members each interested in matters relating to travel and tourism, two appointed by the Governor (one from a rural area and one from an urban area), one appointed by the Speaker of the House, and one appointed by the President Pro Tempore of the Senate.~~

(14) ~~One member associated with the major cultural resources and activities of the State in North Carolina, Two~~ members appointed by the ~~Governor.~~Governor, one of whom is involved in the tourism industry.

(14a) One member-at-large appointed by the Board of the Economic Development Partnership of North Carolina.

~~(15) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.~~

~~(16) Two members of the Senate, appointed by the President Pro Tempore of the Senate.~~

~~(17) Two members designated by the Board of Directors of North Carolina Watermen United who represent the charter boat/headboat industry.~~

(d) The members of the Board shall serve the following terms: the Secretary of Commerce, ~~the Director of the Division of Tourism, Film, and Sports Development,~~ the CEO of the Economic Development Partnership of North Carolina, and the ~~Chairperson~~ Chair of the Travel and Tourism ~~Coalition,~~Coalition ~~the President of the North Carolina Travel Industry Association, and the President of the North Carolina Chamber~~ shall serve on the Board while they hold their respective offices. Each member of the Board appointed by the Governor shall serve during his or her term of office. The members of the Board appointed by the General Assembly shall serve two-year terms beginning on ~~January~~ September 1 of odd-numbered years and ending on ~~December 31 of the following year.~~August 31. The first such term shall begin on ~~January 1, 1991,~~September 1, 2015, or as soon thereafter as the member is appointed to the Board, and end on ~~December 31, 1992.~~August 31, 2017. All other members of the Board shall serve a term which ~~consists of~~ includes the portion of calendar year ~~1991~~ 2015 that remains following their appointment or designation and ends on August 31, 2016, and, thereafter, two-year terms which shall begin on ~~January~~ September 1 of an even-numbered year and end on ~~December 31 of the following year.~~August 31. The first such two-year term shall begin on ~~January 1, 1992,~~September 1, 2016, and end on ~~December 31, 1994.~~August 31, 2018.

(e) No member of the Board, except a member serving by virtue of his or her office, shall serve during more than five consecutive calendar years, except that a member shall continue to serve until his or her successor is appointed.

(f) Appointments to fill vacancies in the membership of the Board that occur due to resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term and shall be made by the same appointing authority that made the initial appointment.

(g) Board members who are employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section, shall receive per diem, subsistence, and travel expenses at the rate set forth in G.S. 138-5. These expenses shall be paid by the Department of Commerce. Board members serving pursuant to subdivisions (3) through ~~(10)~~ (7) of subsection (c) of this section shall not receive per diem, subsistence, or travel ~~expenses.~~expenses, but shall be reimbursed at the discretion of the

appointing organization. ~~The expenses set forth in this section shall be paid by the Division of Tourism, Film, and Sports Development of the Department of Commerce.~~

(h) ~~At its first meeting in 1991, the~~ The Board shall elect one of its voting members to serve as ~~Chairperson during calendar year 1991.~~Chairperson. At its last regularly scheduled meeting ~~in 1991, and at its last regularly scheduled meeting in~~ each ~~year thereafter,~~year, the Board shall elect one of its voting members to serve as Chairperson for the coming calendar year. No person shall serve as Chairperson during more than three consecutive calendar years. The Chairperson shall continue to serve until his or her successor is elected.

(i) A majority of the current voting membership shall constitute a quorum.

(j) The Secretary of Commerce shall provide clerical and other services as required by the Board."

SECTION 2.(b) G.S. 143B-431.01(c) reads as rewritten:

"(c) Oversight. – There is established the Economic Development Accountability & Standards Committee, which shall be treated as a board for purposes of Chapter 138A of the General Statutes. The Committee shall consist of seven members as follows: the Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of Environment and Natural Resources, the Secretary of Revenue, the chair of the North Carolina Travel and Tourism Board, one member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon recommendation of the President Pro Tempore of the ~~Senate, and one member appointed by the General Assembly upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the~~ Senate. Members appointed by the General Assembly shall be appointed for four-year terms beginning July 1 and may not be members of the General Assembly.

The Committee shall be administratively housed in the Department of Commerce. The Department of Commerce shall provide for the administrative costs of the Committee and shall provide staff to the Committee. The Committee shall meet at least quarterly upon the call of the Chair. The duties of the Committee shall include all of the following:

(1) Monitoring and oversight of the performance of a contract entered into pursuant to this section by the Department with a North Carolina nonprofit corporation.

(2) Receiving, reviewing, and referring complaints regarding the contract or the performance of the North Carolina nonprofit corporation, as appropriate.

(3) Requesting enforcement of the contract by the Attorney General or the Department.

(4) Auditing, at least biennially, by the Office of State Budget and Management, State Auditor, or internal auditors of the Department, the records of the North Carolina nonprofit corporation with which the Department has contracted pursuant to this section during and after the term of the contract to review financial documents of the corporation, performance of the corporation, and compliance of the corporation with applicable laws. A copy of any audit performed at the request of the Committee shall be forwarded to the North Carolina Travel and Tourism Board.

(5) Coordination of economic development grant programs of the State between the Department of Commerce, the Department of Transportation, and the Department of Environment and Natural Resources.

(6) Any other duties deemed necessary by the Committee."

SECTION 2.(c) Section 2(a) of this act is effective when it becomes law and applies to appointments made on or after that date. Terms of appointees serving on the Board at

that time expire on the effective date, but members may continue to serve until new members are appointed under this section.

PART III. DYNAMIC PRICING FLEXIBILITY

SECTION 3.(a) G.S. 150B-1(d) is amended by adding a new subdivision to read:

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

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

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

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

SECTION 3.(b) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, State parks, or the North Carolina Aquariums, shall establish admission fees and related activity fees using a dynamic pricing strategy as defined in Section 3(e) of this act. Any rule currently in the Administrative Code related to fees covered by Section 3(a) of this act are ineffective and repealed upon the effective date of new admission fees and related activity fees adopted by the Department under the authority set out in Section 3(a) of this act. Notice of the initial adoption of new admission fees and related activity fees under Section 3(a) of this act shall be given by the Department to the Codifier of Rules, who, upon receipt of notice of the initial adoption of new admission fees and related activity fees by the Department, shall note the repeal of these rules in the Administrative Code.

SECTION 3.(c) The Department of Cultural Resources shall establish admission fees and related activity fees authorized by G.S. 121-7.3 for historic sites and museums using a dynamic pricing strategy as defined in Section 3(e) of this act.

SECTION 3.(d) The Department of Agriculture and Consumer Services shall establish admission fees and related activity fees authorized by G.S. 106-877 for State forests using a dynamic pricing strategy as defined in Section 3(e) of this act.

SECTION 3.(e) For purposes of this section, "dynamic pricing" is the adjustment of fees for admission and related activities from time to time to reflect market forces, including seasonal variations and special event interests, with the intent and effect to maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly.

SECTION 3.(f) No later than March 1, 2016, the Department of Environment and Natural Resources, the Department of Cultural Resources, and the Department of Agriculture and Consumer Services, shall submit a report on implementation of the new pricing strategy to the Environmental Review Commission.

SECTION 3.(g) This part is effective when it becomes law and applies to admission fees or related activity fees charged on or after that date.

PART IV. FOOD/VENDING SERVICES

SECTION 4.(a) Article 4 of Chapter 111 of the General Statutes is amended by adding a new section to read:

"**§ 111-47.3. Food service at North Carolina parks.**

(a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the Division of Parks and Recreation of the Department of Environment and Natural Resources, or any other department given responsibilities for State parks, may operate or contract for the operation of food or vending services at State parks. The net revenue generated by food and vending services provided at State parks operated by the Division or a vendor with whom the Division has contracted shall be used for the operation of the parks.

(b) This section shall not be construed to alter any contract for food or vending services at a State park that is in force at the time this section becomes law."

SECTION 4.(b) The Department of Environment and Natural Resources, Division of Parks and Recreation, shall study the feasibility of operating kiosk-type gift shops at State parks that offer park-related merchandise for purchase in unmanned vending machines. As part of the study, the Division shall issue a Request for Proposal (RFP) from vendors who would own, install, and maintain the vending machines in exchange for a portion of the revenue derived from sales. If the Division enters into a contract under this section, twenty-five percent (25%) of the net proceeds derived from vending machine sales shall be credited to the North Carolina Trails Management Trust Fund.

PART V. PROPERTY MANAGEMENT

SECTION 5.(a) The General Assembly finds that a hiking and biking trail around Lake James in Burke County would provide a multitude of economic, recreational, health, environmental, community, and transportation benefits. The General Assembly further finds that a number of federal, State, local, and private partners have expressed substantial interest in completing such a trail; that such a trail would be a recreational resource of statewide significance; and that including such a trail in the State Parks System as a State trail would be beneficial to the people of North Carolina and further the development of North Carolina as "The Great Trails State." The General Assembly authorizes the Department of Environment and Natural Resources, or any other department given responsibilities for the State Parks System, to add the Fonta Flora Loop Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

SECTION 5.(b) The Department of Administration is directed to identify all State-owned property located within five miles of either side of the center line of the Mountains-to-Sea Trail. The Department shall provide a written inventory of all properties identified to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(c) The Department of Environment and Natural Resources, Division of Parks and Recreation, in consultation with the North Carolina Trails Committee, or any other department given responsibilities for the State trails system, is directed to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea Trail. The plan shall include potential time lines, funding needs, regulatory hurdles, and any other issues related to interconnection of these systems. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(d) The Department of Environment and Natural Resources, Division of Parks and Recreation, or any other department given responsibilities for State parks, shall study the feasibility of expanding the marinas at Jordan Lake and Falls Lake. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(e) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Zoological Park, shall study the feasibility of leasing property of the North Carolina Zoological Park to a private developer for construction of a hotel/conference facility immediately adjacent to the African Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from the facility via a foot

bridge. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(f) The Department of Environment and Natural Resources, or any other department given responsibilities for the North Carolina Aquariums, shall study economic development opportunities for the Oregon Inlet Lifesaving Station related to fishing, boating, camping, hiking, general outdoor activities, lodging, special event rental, and other tourism-related economic development. The study shall include consideration of potential lease terms and any limitations created by existing statutes or rules. The Department, or other responsible agency, shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

SECTION 5.(g) The Wildlife Resources Commission shall update the Mattamuskeet Lodge Business Management and Tourism Study prepared for the North Carolina Wildlife Resources Commission and issued in September 2008, to reflect current market factors and trends. In updating the study, the Commission shall focus on development of public/private partnerships to facilitate opportunities related to hunting, fishing, boating, camping, hiking, general outdoor activities, and other economic development. The study shall include consideration of potential lease terms and any limitations created by existing statutes, rules, or federal policies, and any other matter the Commission deems relevant. The Commission shall report its findings, including any legislative proposals, to the Environmental Review Commission no later than March 1, 2016.

PART VI. PROMOTE TRAIL CREATION

SECTION 6.(a) Article 6 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-96. Trails exempt from certain environmental regulation.**

Except as required by federal law and notwithstanding any other provision of State law, activities related to the construction, maintenance, or removal of a trail shall be exempt from environmental regulation as provided in this section. A trail shall not be treated as "built-upon area" under G.S. 143-214.7(b2). Activities related to the construction, maintenance, or removal of a trail shall be allowed within riparian buffers and other types of vegetative buffers for the protection of water quality."

SECTION 6.(b) G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted ~~deck or~~deck, the water area of a swimming ~~pool.~~pool, or a trail as defined in G.S. 113A-85."

SECTION 6.(c) This section is effective when it becomes law and applies to the construction, maintenance, or removal of a trail occurring on or after that date.

PART VII. AUTHORIZE EXCHANGE OF REAL PROPERTY IN AND AROUND UMSTEAD STATE PARK AND LAKE CRABTREE

SECTION 7.(a) Notwithstanding any provision of S.L. 1939-168, as amended by S.L. 1941-292, as amended S.L. 1945-79, as amended by S.L. 1955-1096, as amended by S.L. 1957-455, as amended by S.L. 1959-755, as amended by S.L. 1967-781, as amended by S.L. 1971-287, as amended by S.L. 1973-221, as amended by S.L. 1977-28, as amended by S.L. 1979-666, as amended by S.L. 1981-1192, as amended by S.L. 1998-141, Chapter 146 of the

General Statutes, or any other provision of law, the Department of Administration on behalf of the State shall enter into an agreement to convey the real property described in Section 7(c) of this act from the Raleigh-Durham Airport Authority in exchange for conveyance of the State-owned real property described in Section 7(d) of this act.

SECTION 7.(b) Fair market value shall be established for each property to be conveyed as described in Sections 7(c) and 7(d) of this act. Accordingly, Raleigh-Durham Airport Authority and the Department of Administration shall conduct independent appraisals to establish each property's monetary value. In the event of discrepancies between such appraisals, a third appraisal shall be conducted by an appraiser agreed upon by both entities, and the average of the three values for each property in question shall be used to establish the property's fair market value. If the monetary value of properties being conveyed to the Raleigh-Durham Airport Authority by the State of North Carolina is greater than the value of the properties being conveyed to the State from the Raleigh-Durham Airport Authority, the Raleigh-Durham Airport Authority shall pay the difference in value to the State, for deposit to the General Fund.

SECTION 7.(c). Real property owned by the Raleigh-Durham Airport Authority subject to conveyance to the State pursuant to Section 7(a) of this act is as follows:

(1) An approximately 1.96 acre portion, more or less, of the easternmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 that contains a portion of Old Reedy Creek Road, described as "Polygon E" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(2) An approximately 29.66 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 located north of Interstate 40 and west of Old Reedy Creek Road, described as "Polygon G" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(3) An approximately 11.21 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a southern boundary of Interstate 40, an eastern boundary of Old Reedy Creek Road, and a northern boundary defined by a privately-owned 11.58 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766414911 and Real Estate Identification Number 0020176, described as "Polygon H" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately-owned parcel

referenced herein is referenced for boundary identification purposes only, and is not subject to conveyance pursuant to Section 7(a) of this act.

(4) An approximately 332.01 acre portion, more or less, of the southernmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 commonly referred to as Lake Crabtree County Park with a northern boundary of Interstate 40, a western boundary of Aviation Parkway, a southern boundary within Lake Crabtree, and an eastern boundary of the Lake Crabtree dam, described as "Polygon I" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) An approximately 13.57 acre portion, more or less, of the southeastern portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a southern boundary of Interstate 40, a western boundary of Old Reedy Creek Road, a northern boundary of Umstead State Park, and a northeastern boundary defined by one privately-owned 1.2 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766517951 and Real Estate Identification Number 0068197, and one privately-owned 1.54 acre parcel, more or less, identified in Wake County tax records by Parcel Identification Number 0766528101 and Real Estate Identification Number 0079738, described as "Polygon J" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately-owned parcels referenced herein are referenced for boundary identification purposes only, and are not subject to conveyance pursuant to Section 7(a) of this act.

(6) An approximately 1.6 acre portion, more or less, of the southeasternmost portion of the Raleigh-Durham International Airport identified in Wake County tax records by Parcel Identification Number 0767324317 and Real Estate Identification Number 0102676 with a northern boundary of Interstate 40, a southern boundary of Old Reedy Creek Road, a western boundary of one 1.5 acre, more or less, municipally-owned parcel identified in Wake County tax records by Parcel Identification Number 0766407480 and Real Estate Identification Number 0250839, and an eastern boundary of one 74.29 acre, more or less, municipally-owned parcel identified in Wake County tax records by Parcel Identification Number 0765680977 and Real Estate Identification Number 0049308, described as "Polygon K" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The municipally-owned parcels referenced herein are referenced for boundary identification purposes only, and are not subject to conveyance pursuant to Section 7(a) of this act.

SECTION 7.(d). Real property owned by the State subject to conveyance to the Raleigh-Durham Airport Authority pursuant to Section 7(a) of this act is as follows:

(1) An approximately 10.61 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0757254377 and Real Estate Identification Number 0174188, described as "Polygon A" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(2) An approximately 1.22 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0757245747 and Real Estate Identification Number 0174189, described as "Polygon B" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(3) An approximately 22.81 acre portion, more or less, of the northern portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located entirely on the northeastern side of Glenwood Avenue, described as "Polygon C" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(4) An approximately 5.28 acre portion, more or less, of the western portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the northern half of the western boundary of the Park, described as "Polygon D" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) An approximately 206.05 acre portion, more or less, of the westernmost portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the southern half of the western boundary of the Park, described as "Polygon F" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(6) An approximately 4.76 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having a southern boundary of District Drive and a western

boundary of Gold Star Drive, described as "Polygon O" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(7) An approximately 10.01 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having a southwestern boundary of Reedy Creek Road and an eastern boundary of Blue Ridge Road and a northern boundary of four individual privately-owned parcels with frontage on Sunset Ridge Road and one individual parcel with frontage on Atrium Drive, described as "Polygon P" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description. The privately-owned parcels referenced herein are referenced for boundary identification purposes only, and are not subject to conveyance pursuant to Section 7(a) of this act.

(8) An approximately 2.91 acre, more or less, parcel in its entirety identified in Wake County tax records by Parcel Identification Number 0785605905 and Real Estate Identification Number 0121260 with eastern frontage on Atrium Drive and bordered to the south and west by a parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Tax Identification Number 0141508, described as "Polygon Q" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

(9) An approximately 66.62 acre portion, more or less, of the southeastern portion of a 1074.81 acre parcel identified in Wake County tax records by Parcel Identification Number 0785316741 and Real Estate Identification Number 0141508, and having an eastern boundary of Blue Ridge Road and a southernmost boundary of Interstate 40 and part of a northern boundary that includes District Drive and part of a northern boundary that includes Reedy Creek Road, described as "Polygon R" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

SECTION 7.(e) 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:

...

(2) All lands and waters within the boundaries of William B. Umstead State Park as of May 6, 2014, with the exception ~~of~~ of:

a. 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.

b. An approximately 22.81 acre portion, more or less, of the northern portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located entirely on the northeastern side of Glenwood Avenue, described as "Polygon C" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

c. An approximately 5.28 acre portion, more or less, of the western portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the northern half of the western boundary of the Park, described as "Polygon D" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

d. An approximately 206.05 acre portion, more or less, of the westernmost portion of William B. Umstead State Park identified in Wake County tax records by Parcel Identification Number 0776275726 and Real Estate Identification Number 0118364 located along the southern half of the western boundary of the Park, described as "Polygon F" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

..."

SECTION 7.(f) If the real property described in Section 7(c) of this act is acquired by the State, the property shall be incorporated into Umstead State Park, and dedicated to the State Nature and Historic Preserve pursuant to Section 5 of Article XIV of the North Carolina Constitution and in conformance with the requirements of G.S. 143-260.8.

SECTION 7.(g) The State of North Carolina shall convey the following property to North Carolina State University for inclusion into Schenck Forest: an approximately 40.82 acre portion, more or less, of Department of Transportation right-of-way previously acquired for the Duraleigh Connector along the northern side of the Interstate 40 and Wade Avenue interchange that is not an identified parcel in Wake County tax records with a Parcel Identification Number or Real Estate Identification Number, described as "Polygon M" on a map dated April 14, 2015, and which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System and filed in the State Property Office, reference to which is hereby made for a more complete description.

SECTION 7.(h) If the City of Raleigh is authorized by the Department of Transportation to construct a roadway extension connecting District Drive to Edwards Mill Road, the Department of Administration shall provide an easement through the parcel identified in Wake County tax records with Parcel Identification Number of 0785316741 and a Real Estate Identification Number of 0141508 upon the request of the City. Such roadway extension shall be constructed by the City of Raleigh at its own expense.

SECTION 7.(i) The properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority described in Section 7(d) of this act are: (i) exempt from the divestiture restrictions set forth in S.L. 1967-781, and may be divested upon approval from a simple majority vote of the Raleigh-Durham Airport Authority Board; and (ii) exempt from the lease restrictions set forth in S.L. 1959-755, and may be leased for a period not to exceed sixty (60) years upon approval from a simple majority vote of the Raleigh-Durham Airport Authority, except as provided in subsection (f) of this Section.

SECTION 7.(j) The properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority described in Section 7(d) of this act shall be subject to the following conditions:

(1) For the property identified in subdivision (7) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2020, in order to allow sufficient time for the Department of Agriculture to construct a new laboratory facility and vacate the existing building on this property.

(3) For the property identified in subdivision (8) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2020, in order to allow sufficient time for the Department of Agriculture to construct a new laboratory facility and vacate the existing building on this property;

(4) For the property identified in subdivision (9) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2016, in order to allow sufficient time for the Wildlife Resources Commission to vacate the warehouse facility on this property;

(5) For the property identified in subdivision (10) of Section 7(d) of this act, the Raleigh-Durham Airport Authority shall grant a lease for a time to be determined in consultation with the Department of Administration, but expiring no later than December 31, 2018, in order to allow sufficient time for relocation of the existing facilities.

SECTION 7.(k) The Secretary of the Department of Administration shall have the authority to negotiate the terms of exchange agreement necessary to effectuate the provisions of this act. The agreement shall do all of the following:

(1) Provide for the exchange of interests in real property described in Section 7(c) and Section 7(d) of this act and no other, except that if any individual property identified by Section 7(c) and Section 7(d) of this act cannot be conveyed due to federal restrictions applicable to the property, that property shall be omitted from the exchange and all other properties identified by Section 7(c) and Section 7(d) of this act shall remain subject to the agreement.

(2) Provide that the conveyances described in the agreement become effective as soon as practicable.

(3) Incorporate the relevant terms of this Section 7 of this act.

SECTION 7.(l) The Secretary of the Department of Administration shall ensure that the map referenced herein, dated April 14, 2015, which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System for each property identified in Section 7(c) and Section 7(d) of this act is filed in the State Property Office.

SECTION 7.(m) Within 30 days after an agreement is entered into pursuant to this act, the Secretary of the Department of Administration shall report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement.

SECTION 7.(n) Notwithstanding the provisions of Chapter 146 of the General Statutes, Article 9A of Chapter 113A of the General Statutes, or any other provision of law, neither the Governor nor the Council of State shall be required to approve any conveyance or exchange made pursuant to this act, nor shall consultation with or reporting to the Joint Legislation Commission on Governmental Operations be required prior to the conveyance or exchange.

SECTION 7.(o) Within 30 days after an agreement is entered into pursuant to this act, the Attorney General shall execute any documents or deeds necessary to effectuate the conveyances under the exact terms set forth in the exchange agreement. All State agencies and officials shall cooperate to the fullest extent possible in effectuating the exchange agreement.

SECTION 7.(p) The requirements of this section shall only become effective upon a simple majority vote of the Raleigh-Durham Airport Authority to proceed with the exchange of property identified herein, except that Section 7(k) of this section shall become effective when this act becomes law.

PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 8.(a) 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 8.(b) This act is effective as provided herein. The remainder of this act is effective when it becomes law.

SENATE BILL 486:
NC Trail Expansion/Economic Corridors

2015-2016 General Assembly

Committee:	Senate Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Appropriations/Base Budget. If fav, re-ref to Finance	**Date:**	May 20, 2015
Introduced by:	Sens. Brock, Barringer, Alexander	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition S486-CSSB-8 [v.10]		

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 486 would:

- ***Establish the North Carolina Trails Management Trust Fund (Trails Fund) to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail;***
- ***Authorize the Department of Environment and Natural Resources (DENR) to add a reasonable surcharge on fees authorized under current law for use of facilities and conveniences associated with State parks and State lakes, and credit funds received from the surcharge to the Trails Fund;***
- ***Amend provisions governing both the North Carolina Travel and Tourism Board and the Economic Development Accountability & Standards Committee;***
- ***Authorize DENR and the Department of Cultural Resources (DCR) to use a "dynamic pricing" strategy to establish admission fees and related activity fees for attractions under their purview;***
- ***Authorize DENR's Division of Parks and Recreation to operate, or contract for the operation of, food or vending services at State parks, and exempt such activities from a statute that gives preference for operation of vending facilities to blind persons;***
- ***Authorize DENR to add the Fonta Flora Loop Trail, which would surround Lake James in Burke County, to the State Parks System;***
- ***Direct various State agencies to conduct a number of studies;***
- ***Modify the applicability of several environmental restrictions to activities related to the construction, maintenance, or removal of a trail;***
- ***Direct the Department of Administration to enter into an agreement to convey certain State-owned real property in exchange for certain real property owned by the Raleigh-Durham Airport Authority in and around William B. Umstead State Park and Lake Crabtree.***

O. Walker Reagan
Director

S486-SMRI-15 CSSB-8 -V4

Research Division
(919) 733-2578

BILL ANALYSIS:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

Section 1 of the PCS would create the North Carolina Trails Management Trust Fund as a special revenue fund in the Department of Environment and Natural Resources (DENR), but provides that if the State Parks System is transferred to another State agency, then the Trails Fund would be transferred to that State agency. Any investment earnings credited to assets of the Fund would become part of the Fund, and any balance remaining in the Fund at the end of any fiscal year would not revert but would be carried forward in the Fund for the next succeeding fiscal year.

The purpose of the Fund would be to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail in order to encourage increased utilization by both residents and nonresidents of the State and to foster economic development and job growth along the Trail corridor. The North Carolina Trails Committee, in consultation with the Travel and Tourism Board, would review all applications for funds and approve or reject projects for funding.

Revenue for the North Carolina Trails Management Fund would come from:

(1) Any funds appropriated by the General Assembly.

(2) A new surcharge authorized under the PCS. DENR would be permitted to add a reasonable surcharge on fees authorized under current law for use of facilities and conveniences associated with State parks and State lakes, including:

- The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes.
- Fishing privileges in State parks and State lakes.
- Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.
- The erection, maintenance, and use of a marina at Carolina Beach.
- The use of boats and other watercraft that are purchased and maintained by DENR.

For the first year, the surcharge could not exceed $1.00. Thereafter, the surcharge could be increased or decreased as necessary in the discretion of the Secretary of Environment and Natural Resources, but could not be less than 50¢.

(3) Gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund.

This section would also direct DENR, or any other department given responsibility for State parks, to implement a revised fee schedule for all fees (including the surcharge) authorized at parks and trails within the State Park System no later than January 1, 2016, and would exempt implementation of the fees from rule making requirements under the Administrative Procedure Act.

Moneys from the Fund would be allocated as follows:

- 65% to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land and for capital projects, repairs and renovations, and the development, construction, and maintenance of ancillary facilities directly related to the use of the Mountains-to-Sea Trail system.
- 35% to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land for the purpose of completing connections of local and regional greenways and trails to the Mountains-to-Sea Trail.

The PCS would require that moneys from the Fund be expended in the following order of priority:

(1) Acquisition of property for trail corridors.
(2) Trail construction, not to include paving.
(3) Maintenance, repairs and renovations, and related ancillary facilities.

PART II. TRAVEL AND TOURISM BOARD; ECONOMIC DEVELOPMENT ACCOUNTABILITY & STANDARDS COMMITTEE

Section 2 would:

- Revise the duties of the North Carolina Travel and Tourism Board (Board), reduce its membership from 29 to 15 individuals, and otherwise modify membership requirements. This section would be effective when it becomes law, and terms of appointees serving on the Board on that date would expire, but members may continue to serve until new members are appointed under this section.
- Would modify the membership of the Economic Development Accountability & Standards Committee, created in 2014, to add the chair of the Board and eliminate a member appointed by the General Assembly upon joint recommendation of the House and Senate. In addition, the PCS would direct that the Committee forward any audit performed at the request of the Committee of the records of the Economic Development Partnership of North Carolina to the Board.

PART III. DYNAMIC PRICING FLEXIBILITY

Section 3 would require DENR to establish admission fees and related activity fees for the North Carolina Zoological Park, State parks, and the North Carolina Aquariums using a dynamic pricing strategy. In addition, the Department of Cultural Resources (DCR) would be required to use a dynamic pricing strategy to establish admission fees and related activity fees for historic sites and museums, and the Department of Agriculture and Consumer Services (DACS) would be required to use a dynamic pricing strategy to establish admission fees and related activity fees for State forests. The PCS defines "dynamic pricing" as the "adjustment of fees for admission and related activities from time to time to reflect marketing forces, including seasonal variations and special event interests, with the intent and effect to maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly." DENR, DCR, and DACS would be required to report on the implementation of the new pricing strategy to the Environmental Review Commission (ERC), no later than March 1, 2016. The section would be effective when it becomes law, and apply to admission fees or related activity fees charged on or after that date.

PART IV. FOOD/VENDING SERVICES

Section 4 would:

- Exempt DENR's Division of Parks and Recreation (Division) from the requirements of Article 3 of Chapter 111 of the General Statutes, and authorize the Division to operate or contract for the operation of food or vending services at State parks. The net revenue generated by food and vending services provided at State parks operated by the Division or a vendor with whom the Division has contracted would be used for the operation of the parks.

Article 3 of Chapter 111 of the General Statutes generally requires that:

- State agencies to, upon the request of the Department of Health and Human Services (DHHS), give preference to blind persons in the operation of vending facilities on State property.
- State agencies must provide, without charge, proper space, plumbing, lighting, and electrical outlets for the vending facility, as well as necessary utilities, janitorial service, and garbage disposal for the operation of the vending facility. Space and services for the vending facilities must be provided without charge.
- Profits from coin-operated vending machines secured by DHHS be used for the support of programs that enable blind and visually impaired people to live more independently, including medical, rehabilitation, independent living, and educational services offered by the Division of Services for the Blind.

Food service at the North Carolina aquariums, and museums and historic sites, are currently exempt from these requirements.

- Direct the Division to:
  - Study the feasibility of operating kiosk-type gift shops at State parks that offer park-related merchandise for purchase in unmanned vending machines.
  - Issue a Request for Proposal (RFP) from vendors who would own, install, and maintain the vending machines in exchange for a portion of the revenue derived from sales. The PCS would provide that if the Division enters into such a contract, 25% of the net proceeds derived from vending machine sales would be credited to the North Carolina Trails Management Trust Fund.

PART V. PROPERTY MANAGEMENT

Section 5(a) would authorize DENR to add the Fonta Flora Loop Trail to the State Parks System, and direct DENR to support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. The PCS specifically provides that on segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than DENR's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners would govern the use of the property. The Fonta Flora Loop Trail would surround Lake James in Burke County.

Sections 5(b) through 5(g) would direct the Department of Administration to identify all State-owned property located within five miles of either side of the center line of the Mountains-to-Sea Trail, and provide a written inventory of all properties identified to the ERC no later than March 1, 2016. In addition, these sections would require that several agencies conduct studies on various topics and report their findings, including any legislative proposals, to the ERC no later than March 1, 2016, as follows:

- DENR's Division of Parks and Recreation, in consultation with the North Carolina Trails Committee, to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea Trail. The plan must include potential time lines, funding needs, regulatory hurdles, and any other issues related to interconnection of these systems.
- The Division to study the feasibility of expanding the marinas at Jordan Lake and Falls Lake.
- DENR to study the feasibility of leasing property of the North Carolina Zoological Park to a private developer for construction of a hotel/conference facility immediately adjacent to the African Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from

the facility via a foot bridge. The study must include consideration of potential lease terms and any limitations created by existing statutes or rules.

- DENR to study economic development opportunities for the Oregon Inlet Lifesaving Station related to fishing, boating, camping, hiking, general outdoor activities, lodging, special event rental, and other tourism-related economic development. The study must include consideration of potential lease terms and any limitations created by existing statutes or rules.
- The Wildlife Resources Commission to study the feasibility of leasing Mattamuskeet Lodge and adjacent properties to a private developer for opportunities related to hunting, fishing, boating, camping, hiking, general outdoor activities, and other tourism-related economic development. The study must include consideration of potential lease terms and any limitations created by existing statutes, rules, or federal policies.

PART VI. PROMOTE TRAIL CREATION

Section 6 would:

- Exempt activities related to the construction, maintenance, or removal of a trail from environmental regulation, except as required by federal law. In addition the Section would provide that these activities would be allowed within riparian buffers and other types of vegetative buffers for the protection of water quality.
- Provide that a trail would not be treated as "built-upon area" for purposes of stormwater management.
- Allow activities related to the construction, maintenance, or removal of a trail within riparian buffers and other types of vegetative buffers for the protection of water quality.

PART VII. AUTHORIZE EXCHANGE OF REAL PROPERTY IN AND AROUND UMSTEAD STATE PARK AND LAKE CRABTREE

Section 7 would direct the Department of Administration to enter into an agreement to convey certain real property owned by the Raleigh-Durham Airport Authority (described by Section 7(c) of the PCS) in exchange for conveyance of certain State-owned real property (described by Section 7(d) of the PCS). The PCS identifies parcels to be conveyed through reference to a map dated April 14, 2015, and associated polygons on that map, as well as list of each parcel's total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System. The PCS directs that this map and list of coordinates must be filed in the State Property Office.

- Parcels to be conveyed by the Raleigh-Durham Airport Authority to the State would include the following parcels as denoted on the map:
  - Polygon E - approximately 1.96 acre parcel
  - Polygon G - approximately 29.66 acre parcel
  - Polygon H - approximately 11.21 acre parcel
  - Polygon I - approximately 332.01 acre parcel
  - Polygon J - approximately 13.57 acre parcel
  - Polygon K - approximately 1.6 acre parcel

- Parcels to be conveyed by the State to the Raleigh-Durham Airport Authority would include the following parcels as denoted on the map:
  - Polygon A - approximately 10.61 acre parcel
  - Polygon B - approximately 1.22 acre parcel
  - Polygon C - approximately 22.81 acre parcel
  - Polygon D - approximately 5.28 acre parcel
  - Polygon F- approximately 206.05 acre parcel
  - Polygon O - approximately 4.76 acre parcel
  - Polygon P - approximately 10.01 acre parcel
  - Polygon Q - approximately 2.91 acre parcel
  - Polygon R- approximately 66.62 acre parcel

In connection with the exchange, among other things, the PCS would:

- Require that fair market value be established for each property to be conveyed, and provide that if the monetary value of properties being conveyed to the Raleigh-Durham Airport Authority by the State of North Carolina is greater than the value of the properties being conveyed to the State from the Raleigh-Durham Airport Authority, the Raleigh-Durham Airport Authority must pay the difference in value to the State, for deposit to the General Fund.
- Provide that if the real property described in Section 7(c) of the act is conveyed by the Raleigh-Durham Airport Authority to the State, that property would be incorporated into William B. Umstead State Park, and dedicated to the State Nature and Historic Preserve (Preserve) pursuant to Section 5 of Article XIV of the North Carolina Constitution and in conformance with the requirements of G.S. 143-260.8.

  Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly. The Preserve is intended to ensure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. 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. G.S. 113-44.14 provides conditions and procedures for additions to, and deletions from, the State Parks System that must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.
- Remove several tracts in the William B. Umstead State Park (Park) from the Preserve. As noted in the previous paragraph, 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. As these tracts would be conveyed by the State to the Raleigh-Durham Airport Authority under the exchange, and used for purposes inconsistent with the Preserve, they must be removed from the Reserve prior to exchange. The tracts include:
  - Polygon C - approximately 22.81 acre portion of the northern portion of the Park.
  - Polygon D - approximately 5.28 acre portion of the western portion of the Park.
  - Polygon F - approximately 206.05 acre portion of the westernmost portion of the Park.
- Require conveyance of an approximately 40.82 acre portion, more or less, of Department of Transportation right-of-way previously acquired for the Duraleigh Connector to North Carolina State University for inclusion into Schenck Forest.

- Exempt properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority from: (i) any divestiture restrictions set forth in earlier session laws, and authorize divesture upon approval from a simple majority vote of the Raleigh-Durham Airport Authority Board; and (ii) lease restrictions set forth in earlier session laws, and generally authorize leasing of such land for a period not to exceed 60 years upon approval from a simple majority vote of the Raleigh-Durham Airport Authority.
- Preserve lease obligations currently in place for certain properties to be conveyed under the act for specified periods of time.
- Authorize the Secretary of the Department of Administration (Secretary) to negotiate the terms of exchange agreement necessary to effectuate the provisions of this act. Among other things, this provision specifically provides that if any individual property identified by the act cannot be conveyed due to federal restrictions applicable to the property, that property must be omitted from the exchange and all other properties identified by the act would remain subject to the agreement.
- Direct the Secretary to ensure that the map referenced by Section 7, dated April 14, 2015, which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System for each property identified therein is filed in the State Property Office.
- Require the Secretary to report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement within 30 days of its execution.
- Provide that, notwithstanding any provision of the Nature Preserves Act, or statutes governing disposition of State lands, or any other provision of law, neither the Governor nor the Council of State would be required to approve any conveyance or exchange under the section, nor would consultation with or reporting to the Joint Legislation Commission on Governmental Operations be required prior to the conveyance or exchange.
- Require the Attorney General to execute any documents or deeds necessary to effectuate the conveyances within 30 days of the exchange agreement's execution.

The PCS provides that, with the exception of the direction to the Secretary to negotiate the terms of an exchange agreement, the other requirements of Section 7 would only become effective upon a simple majority vote of the Raleigh-Durham Airport Authority to proceed with the exchange of property identified by the Section.

PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 8(a) would add a severability clause to the bill.

Section 8(b) would provide that the PCS would be effective when it becomes law, except as otherwise specified.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 486

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

S486-ARI-15 [v.1]

Amends Title [NO]
S486-CSSBf-8 [v.10]

Date _____ ,2015

Senator Brock

moves to amend the bill on page 13, lines 46 through 49,
by rewriting those lines to read:

"**SECTION 7.(f)** If the real property described in Section 7(c) of this act is acquired by the State, the property shall be incorporated into Umstead State Park, and dedicated to the State Nature and Historic Preserve pursuant to Section 5 of Article XIV of the North Carolina Constitution and in conformance with the requirements of G.S. 143-260.8. The Division of Parks and Recreation of the Department of Environment and Natural Resources, or any other department given responsibilities for State parks shall dedicate between 500 and 600 acres in the southwestern corner of Umstead Park to single-track bike trails and work with regional and local bicycle stakeholders in modifying the master plan for the Park to include a single-track bicycle course within the Park's boundaries.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

[redacted] 5-20-15
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	CSS
[signature]	NCLOC
[signature]	CSS
[signature]	NCFB

[redacted] 2-30-12

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 20, 2015
Date

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NAME	FIRM OR AGENCY AND ADDRESS
	WRC
Kate Dixon	Friends of the Mountains-to-Sea Trail
Steve Metcalf	Policy Group / FMST
Mark Lanier	UNCW
Jay Stoyon	NC Shellfish Growers Ass.
Heather Higgins	NC DENR
Brad Knott	NC DENR
Matthew Dockham	NC DENR
Dana Fenton	City of Charlotte
Mike Carpenter	NCCHSA
Debbie Clarke-Bryant	Sierra Club.
Terri Suttle	MWC
Cassie Gavin	Sierra Club
Erin Locklear	RDU AA
Grady McCallie	NC Conservation Network
Boykin Lucas	NC CM

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Argriculture/Environment/Natural Resources
(Committee Name)

May 20, 2015
Date

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Lisa Riegel	NCTC
Harry Riegel	NCTC
Mia Mayfield	NCMMC
Sarah McQuillan	SSGNC
Scott Laster	SSGNC
Elizabeth Bise	Brooks Rew
Will Morgan	TNC
Jonathan Hill	CTNC
Edgar Mills	CTNC
Meg Mael DAGnel	SELC
Brooks Rainey Pearson	SELC
Jay Stem	NCAA
Jim Williams	NCMA
Molly Piggott	Sierra Club
Mary Jernigan	NCDOT
David Crawford	AIANC
Michael Hauser	THCG

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Argriculture/Environment/Natural Resources
(Committee Name)

May 20, 2015
Date

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Sarah Collins	NCLM
Judy Jenkins	Otsuka
JAY PETERS	CSS
[illegible]	NC DOA
WIT TUTTLE	EDPNC
Mia Bailey	Electri Cities
Joy Hicks	NCDA&CS
Wynell Bry	NVA
Clayton Dellinger	NCDA
Kara Weishaar	SA
BERRY JENKINS	CAROLINAS AGC
Will Culpepper	MVA
Jake Cashion	NC Chamber
J. GRAHAM SHERRILL	NCFB
JACKSON STANCIL	CCS
Peter Daniel	CCS
Tommy Sawyer	NWA

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 20, 2015
Date

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JOHN COOPER	CAPITOL STRATEGIES
STEVEN WEBB	NCFB
Kathy Hawkins	Duke
John McMillan	NCFB
Samantha Cohen	Manning-Fulton
	NCAE
Erin Wynia	NCLM
Butch Gunnells	NC Beer
Tom BEAN	NCWF
	BSC
Todd Balon	NCAE
	NCWFC
John Jessup	NCPGA
Jon Carr	NCPGA
Joe McCleary	NC Chamber
Chris McClure	BSF

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 27, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Trudy Wade

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 640	Outdoor Heritage Act.	Representative Dixon Representative Malone Representative Lucas Representative Presnell

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 27, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 27, 2015 in Room 544 of the Legislative Office Building. Fifteen (15) members were present.

Senator Trudy Wade presided.

There were no pages for this meeting

Senator Wade introduced our Sgt-At-Arms: Larry Hancock and Steve McKaig.

The following bill was discussed:

HB 640 Outdoor Heritage Act. (Representatives Dixon, Malone, Lucas, Presnell)

There was a PCS to the bill and Senator Brock made a motion to accept the PCS. The motion was carried.

Senator Wade recognized Representative Dixon who first gave the background on this bill and then went on to explain the bill going through each provision of the bill. Representative Dixon turned the podium over to Representative Lucas. Representative Lucas made several comments on this bill and asked for members to support this legislation.

Senator Wade opened the podium for public comment on the bill. The following people spoke: Henri McClees of McClees Consulting spoke against the bill; Cameron Boltes, a private citizen from Beaufort Co. and an ordained minister spoke in favor of the bill; Rebecca Louviere with the NRA spoke in support of the bill; Rev. Mark Creech, Executive Director of the Christian Action League spoke against the bill.

Senator Wade took questions from members. After discussion and questions from Senator Smith-Ingram, Senator Tucker, Senator Rabin, Senator Brent Jackson, Senator Ford, Senator Alexander, Senator McInnis, and Senator Brock, Senator McInnis made a motion for an Unfavorable Report to the Original Bill and a Favorable Report for the PCS. The motion carried.

The meeting adjourned at 10:55 AM.

Trudy Wade
Senator Trudy Wade, Presiding

Judy Edwards
Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, May 27, 2015

Senator Wade,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **640** **(CS#1)** Outdoor Heritage Act.

Draft Number:	H640-PCS10388-TQ-22
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator W. Jackson will handle HB 640

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 640
Committee Substitute Favorable 4/28/15
Third Edition Engrossed 4/28/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H640-PCS10388-TQ-22

Short Title: Outdoor Heritage Act. (Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO PRESERVE NORTH CAROLINA'S OUTDOOR HERITAGE FOR FUTURE GENERATIONS AND AMEND VARIOUS WILDLIFE RESOURCES COMMISSION LAWS.

The General Assembly of North Carolina enacts:

PART I. DEVELOPMENT OF NORTH CAROLINA OUTDOOR HERITAGE TRUST FUND

SECTION 1. The Wildlife Resources Commission, in conjunction with the Outdoor Heritage Advisory Council established by Section 2 of this act, shall develop a plan for establishing and implementing the North Carolina Outdoor Heritage Trust Fund for Youth Outdoor Heritage Promotion. The plan shall provide for the Trust Fund:

(1) To provide for the expansion of opportunities for persons age 16 and under to engage in outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to pass on North Carolina's outdoor heritage to future generations.

(2) To be eligible for the receipt of funds through check-off donations of not more than two dollars ($2.00) by persons paying for transactions processed through the Commission, including, but not limited to, hunting and fishing licenses or paying outdoor access fees issued by other organizations and also through donations from private organizations or citizens.

(3) To be administered by the Outdoor Heritage Advisory Council established by Section 2 of this act.

The Wildlife Resources Commission and the Outdoor Heritage Advisory Council shall provide a final report on the development of the plan for establishing and implementing the Trust Fund to the 2015 General Assembly when it reconvenes in 2016.

PART II. ESTABLISHMENT OF OUTDOOR HERITAGE ADVISORY COUNCIL

SECTION 2.(a) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 36. Outdoor Heritage Advisory Council.

"**§ 143B-344.60. Outdoor Heritage Advisory Council.**

(a) The Outdoor Heritage Advisory Council is established within the North Carolina Wildlife Resources Commission for organizational and budgetary purposes only. The Council shall exercise all of its statutory powers independent of control by the Executive Director of the Wildlife Resources Commission. The Council shall advise State agencies and the General Assembly on the promotion of outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to preserve North Carolina's outdoor heritage for future generations.

(b) The Council shall consist of 11 members, appointed as follows:

(1) Three members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate.

(2) Three members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives.

(3) Three members appointed by the Governor.

(4) One member appointed by the Commissioner of Agriculture.

(5) One member appointed by the chair of the Wildlife Resources Commission.

All members of the Council shall have knowledge and experience in outdoor recreational activities and have a demonstrated interest in promoting outdoor heritage.

(c) The terms of the initial members of the Council shall commence October 1, 2015. Of the Governor's initial appointments, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the President Pro Tempore of the Senate, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the Speaker of the House of Representatives, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. The members appointed by the Commissioner of Agriculture and the chair of the Wildlife Resources Commission shall each serve an initial term of four years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member shall serve more than two successive terms.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(d) The initial chair of the Council shall be designated by the Governor from the Council members. The initial chair shall hold this office for not more than one year. Subsequent chairs shall be elected by the Council for terms of two years.

(e) The Council shall meet quarterly and at other times at the call of the chair. A majority of members of the Council shall constitute a quorum.

(f) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(g) The Executive Director of the Wildlife Resources Commission shall provide clerical and other assistance as needed."

SECTION 2.(b) This section becomes effective July 1, 2015.

PART III. EXPANDED ACCESS TO PUBLIC LANDS

SECTION 3.(a) The Legislative Research Commission shall study the need for expanded access to public lands. The Commission shall examine the ways in which public land management plans affect opportunities to engage in outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing and make

recommendations for increasing the public's opportunities to access public lands for those purposes.

SECTION 3.(b) The Legislative Research Commission may make an interim report to the 2015 General Assembly when it reconvenes in 2016 and shall make its final report to the 2017 General Assembly when it convenes.

PART IV. "THREE STRIKES" RULE FOR HUNTING ON POSTED PROPERTY AND REVIEW SUSPENSION OF HUNTING PRIVILEGES FOR NEGLIGENT HUNTERS

SECTION 4.(a) G.S. 113-276.3(d) is amended by adding a new subdivision to read:

"**§ 113-276.3. Mandatory suspension of entitlement to license or permit for fixed period upon conviction of specified offenses.**

...

(d) Any violation of this Subchapter or of any rule adopted by the Wildlife Resources Commission under the authority of this Subchapter which is subject to a penalty greater than the one provided in G.S. 113-135(a)(1) is a suspension offense. Conviction of any of the following suspension offenses results in a suspension for a period of two years:

(1) A violation of G.S. 113-294(b).
(2) A violation of G.S. 113-294(c).
(2a) A violation of G.S. 113-294(c1).
(3) A violation of G.S. 113-294(e).
(4) Repealed by Session Laws 1999-120, s. 2, effective October 1, 1999.
(5) A violation of G.S. 113-291.1A.
(6) A third or subsequent violation of G.S. 14-159.6(a).

A conviction of any other suspension offense results in a suspension for a period of one year."

SECTION 4.(b) The Wildlife Resources Commission shall review the provisions of Article 21B of Chapter 113 of the General Statutes that provide for the suspension of hunting privileges upon conviction of criminally negligent hunting and determine whether those provisions should be amended or expanded to provide increased protection to the public from negligent or reckless hunting. In developing its findings, the Wildlife Resources Commission shall consult with organized hunting clubs and propose recommendations to address individuals who repeatedly violate club rules and regulations. The Wildlife Resources Commission shall also consult with public interest groups in developing its findings. The Wildlife Resources Commission shall report its findings and recommendations to the 2015 General Assembly when it reconvenes in 2016.

PART V. ALLOW SEVEN-DAY HUNTING ON PRIVATE LAND WITH PERMISSION OF THE OWNER

SECTION 5.(a) G.S. 103-2 reads as rewritten:

"**§ 103-2. ~~Hunting~~ Method of take when hunting on Sunday.**

(a) ~~If any person shall, except in defense of his own property, hunt on Sunday, having with him a shotgun, rifle, or pistol, he~~ Any landowner or member of his or her family, or any person with written permission from the landowner, may hunt with the use of firearms on Sunday on the landowner's property, except that the following limitations apply:

(1) Hunting on Sunday before noon is prohibited.
(2) Hunting of migratory birds on Sunday is prohibited.
(3) The use of a firearm to take deer that are run or chased by dogs on Sunday is prohibited.
(4) Hunting on Sunday within 500 yards of a place of worship or any accessory structure thereof, or within 500 yards of a residence not owned by the landowner, is prohibited.

(5) Hunting on Sunday in a county having a population greater than 700,000 people is prohibited.

(b) A person who hunts on Sunday in a manner prohibited under subsection (a) of this section shall be guilty of a Class 3 misdemeanor. Provided, that the provisions ~~hereof shall not be~~ of this section are not applicable to military reservations, the jurisdiction of which is exclusively in the federal government, ~~or~~ to field trials authorized by the Wildlife Resources ~~Commission.~~ Commission, or to actions taken in defense of a person's property. Wildlife protectors are granted authority to enforce the provisions of this section."

SECTION 5.(b) G.S. 153A-129 reads as rewritten:

"**§ 153A-129. Firearms.**

(a) ~~A~~ Except as provided in this section, a county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except in any of the following instances:

(1) ~~when~~ When used to take birds or animals pursuant to Chapter 113, Subchapter ~~IV;~~ IV.

(2) ~~when~~ When used in defense of person or ~~property;~~ property.

(3) ~~or when~~ When used pursuant to lawful directions of law-enforcement officers.

(b) A county may by ordinance prohibit hunting on Sunday as allowed under G.S. 103-2, provided the ordinance complies with all of the following:

(1) The ordinance shall be applicable from January 1 until December 31 of any year of effectiveness.

(2) The ordinance shall allow for individuals hunting in an adjacent county with no restriction on Sunday hunting to retrieve any animal lawfully shot from the adjacent county.

(3) The ordinance shall be applicable to the entire county.

(c) A county may ~~also~~ regulate the display of firearms on the public roads, sidewalks, alleys, or other public property.

(d) This section does not limit a county's authority to take action under Article 1A of Chapter 166A of the General Statutes."

SECTION 5.(c) Subsection (b) of this section becomes effective October 1, 2017. A county may adopt an ordinance to prohibit Sunday hunting prior to October 1, 2017, but any such ordinance shall not become effective until October 1, 2017. The remainder of this section becomes effective October 1, 2015.

PART VI. MINIMUM WEIGHT OF ADULT BEARS

SECTION 6. Any rule adopted by the Wildlife Resources Commission that regulates the taking of female bears with cubs or that regulates the taking or possession of cub bears shall define cub bears as bears weighing less than 75 pounds.

PART VII. EXTEND BREEDING SEASON FOR FOXES AT BLADEN LAKES STATE FOREST GAME LAND

SECTION 7.(a) G.S. 113-291.4 is amended by adding a new subsection to read:

"**§ 113-291.4. Regulation of foxes; study of fox and fur-bearer populations.**

...

(j) The Wildlife Resources Commission shall prohibit the use of dogs in hunting foxes during the period from April 1 through August 1 in Bladen Lakes State Forest Game Land."

SECTION 7.(b) This section becomes effective June 1, 2015.

PART VIII. EXEMPTION FROM CIVIL LIABILITY FOR LANDOWNERS GIVING PERMISSION TO RETRIEVE HUNTING DOGS

SECTION 8. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-291.5A. Exemption from civil liability for landholder permitting retrieval of hunting dogs.**

(a) It is the intent of the General Assembly to recognize that hunting with dogs is a valuable part of the outdoor heritage of the State of North Carolina, and it is further the intent of the General Assembly to encourage cooperative and neighborly agreements between landowners and hunters to allow legal retrieval of hunting dogs.

(b) Any person, as an owner, lessee, occupant, or otherwise in control of land, who gives permission to a hunter to enter upon the land for the purpose of retrieving hunting dogs that have strayed onto the land owes that hunter the same duty of care the person owes a trespasser."

PART IX. EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 9.(a) 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 provision or application, and to this end the provisions of this act are severable.

SECTION 9.(b) Except as otherwise provided, this act becomes effective October 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 640
Committee Substitute Favorable 4/28/15
Third Edition Engrossed 4/28/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H640-CSTQ-22 [v.1]
5/26/2015 6:14:44 PM

Short Title: Outdoor Heritage Act. (Public)

Sponsors:

Referred to:

April 14, 2015

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(2) To be eligible for the receipt of funds through check-off donations of not more than two dollars ($2.00) by persons paying for transactions processed through the Commission, including, but not limited to, hunting and fishing licenses or paying outdoor access fees issued by other organizations and also through donations from private organizations or citizens.

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(5) Hunting on Sunday in a county having a population greater than 700,000 people is prohibited.

(b) A person who hunts on Sunday in a manner prohibited under subsection (a) of this section shall be guilty of a Class 3 misdemeanor. Provided, that the provisions ~~hereof shall not be~~ of this section are not applicable to military reservations, the jurisdiction of which is exclusively in the federal government, ~~or~~ to field trials authorized by the Wildlife Resources ~~Commission.~~ Commission, or to actions taken in defense of a person's property. Wildlife protectors are granted authority to enforce the provisions of this section."

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(3) The ordinance shall be applicable to the entire county.

(c) A county may ~~also~~ regulate the display of firearms on the public roads, sidewalks, alleys, or other public property.

(d) This section does not limit a county's authority to take action under Article 1A of Chapter 166A of the General Statutes."

SECTION 5.(c) Subsection (b) of this section becomes effective October 1, 2017. A county may adopt an ordinance to prohibit Sunday hunting prior to October 1, 2017, but any such ordinance shall not become effective until October 1, 2017. The remainder of this section becomes effective October 1, 2015.

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SECTION 8. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

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(a) It is the intent of the General Assembly to recognize that hunting with dogs is a valuable part of the outdoor heritage of the State of North Carolina and it is further the intent of the General Assembly to encourage cooperative and neighborly agreements between landowners and hunters to allow legal retrieval of hunting dogs.

(b) Any person, as an owner, lessee, occupant, or otherwise in control of land, who gives permission to a hunter to enter upon the land for the purpose of retrieving hunting dogs that have strayed onto the land owes that hunter the same duty of care the person owes a trespasser."

PART IX. EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 9.(a) 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 9.(b) Except as otherwise provided, this act becomes effective October 1, 2015.

HOUSE BILL 640: Outdoor Heritage Act

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 27, 2015
Introduced by:	Reps. Dixon, Malone, Lucas, Presnell	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	PCS to Third Edition H640-CSTQ-22 [v.1]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 640 directs the Wildlife Resources Commission (WRC) to study the establishment of the North Carolina Outdoor Heritage Trust Fund, establishes the Outdoor Heritage Advisory Council, creates several WRC studies, and makes various changes to WRC laws.***

The PCS prohibits hunting before noon on Sunday.

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would direct the WRC, in conjunction with the Outdoor Heritage Advisory Council, to develop a plan for establishing and implementing the North Carolina Outdoor Heritage Trust Fund for Youth Outdoor Heritage Promotion. The Trust Fund would be used to provide for the expansion of outdoor opportunities for persons 16 years of age or younger, would be funded through voluntary check-off donations of not more than $2.00 on transactions processed through WRC, and would be administered by the Outdoor Heritage Advisory Council.

Section 2 of the PCS would establish the Outdoor Heritage Advisory Council (Council), an independent entity tasked with advising State agencies and the General Assembly on the promotion of outdoor recreational activities. The Council would have 11 members, 3 to be appointed by the President Pro Tempore of the Senate, 3 to be appointed by the Speaker of the House, 3 to be appointed by the Governor, 1 to be appointed by the Commissioner of Agriculture, and 1 to be appointed by the Chair of the Wildlife Resources Commission. The members would have staggered four-year terms. This section would become effective July 1, 2015.

Section 3 of the PCS would direct the Legislative Research Commission (LRC) to study the need for expanded access to public lands, including the ways in which public land management plans affect opportunities to engage in outdoor recreational activities, and make recommendations on how to increase the public's opportunities to access public lands for outdoor recreational purposes.

Section 4 of the PCS would require a two-year suspension of a hunting license for any individual who receives a third or subsequent conviction for trespassing on posted property for the purpose of hunting. Section 4 would also direct the WRC to review the statutes that provide for the suspension of hunting privileges for a conviction of criminally negligent hunting and make recommendations as to whether those provisions should be amended or expanded. The WRC must consult with organized hunting clubs and public interest groups in developing its findings.

O. Walker Reagan
Director

H640-SMTQ-49 CSTQ-22 -V1

Research Division
(919) 733-2578

Section 5 of the PCS would allow hunting with firearms seven days a week, except that the following activities would be prohibited on Sunday: (i) hunting before noon; (ii) hunting of migratory birds; (iii) using a firearm to take deer that are run or chased by dogs; (iv) hunting within 500 yards of a place of worship or any accessory structure thereof, or within 500 yards of a residence not owned by the landowner; and (v) hunting in a county having a population having greater than 700,000 people. After October 1, 2017, counties would have the authority to prohibit hunting on Sunday by ordinance. Any such ordinance would have to be applicable for the entire calendar year, allow for retrieval of animals shot lawfully in an adjacent county, and be applicable to the entire county.

Section 6 of the PCS would require the WRC to amend its rules to provide that cub bears are those bears that weigh less than 75 pounds. Currently, a cub bear is defined by WRC rule as weighing less than 50 pounds.

Section 7 of the PCS would require the WRC to prohibit the use of dogs for fox hunting between April 1 and August 1 in Bladen Lakes State Forest Game Land. This section would become effective June 1, 2015.

Section 8 of the PCS would codify a policy statement recognizing the importance of hunting with dogs to North Carolina's outdoor heritage and encouraging cooperative and neighborly agreements between landowners and hunters for the retrieval of hunting dogs, and would provide that any landowner or lessee who grants a hunter permission to enter the land to retrieve hunting dogs owes that hunter the same duty of care that the landowner or lessee would owe a trespasser.

Section 9 of the PCS contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective October 1, 2015.

HOUSE BILL 640
Committee Substitute Favorable 4/28/15
Third Edition Engrossed 4/28/15

Short Title: Outdoor Heritage Act. (Public)

Sponsors:

Referred to:

April 14, 2015

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The General Assembly of North Carolina enacts:

PART I. DEVELOPMENT OF NORTH CAROLINA OUTDOOR HERITAGE TRUST FUND

SECTION 1. The Wildlife Resources Commission, in conjunction with the Outdoor Heritage Advisory Council established by Section 2 of this act, shall develop a plan for establishing and implementing the North Carolina Outdoor Heritage Trust Fund for Youth Outdoor Heritage Promotion. The plan shall provide for the Trust Fund:

(1) To provide for the expansion of opportunities for persons age 16 and under to engage in outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to pass on North Carolina's outdoor heritage to future generations.

(2) To be eligible for the receipt of funds through check-off donations of not more than two dollars ($2.00) by persons paying for transactions processed through the Commission, including, but not limited to, hunting and fishing licenses or paying outdoor access fees issued by other organizations and also through donations from private organizations or citizens.

(3) To be administered by the Outdoor Heritage Advisory Council established by Section 2 of this act.

The Wildlife Resources Commission and the Outdoor Heritage Advisory Council shall provide a final report on the development of the plan for establishing and implementing the Trust Fund to the 2015 General Assembly when it reconvenes in 2016.

PART II. ESTABLISHMENT OF OUTDOOR HERITAGE ADVISORY COUNCIL

SECTION 2.(a) Article 7 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 36. Outdoor Heritage Advisory Council.

"**§ 143B-344.60. Outdoor Heritage Advisory Council.**

(a) The Outdoor Heritage Advisory Council is established within the North Carolina Wildlife Resources Commission for organizational and budgetary purposes only. The Council

shall exercise all of its statutory powers independent of control by the Executive Director of the Wildlife Resources Commission. The Council shall advise State agencies and the General Assembly on the promotion of outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing in order to preserve North Carolina's outdoor heritage for future generations.

(b) The Council shall consist of 11 members, appointed as follows:

(1) Three members appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate.

(2) Three members appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives.

(3) Three members appointed by the Governor.

(4) One member appointed by the Commissioner of Agriculture.

(5) One member appointed by the Chair of the Wildlife Resources Commission.

All members of the Council shall have knowledge and experience in outdoor recreational activities and have a demonstrated interest in promoting outdoor heritage.

(c) The terms of the initial members of the Council shall commence October 1, 2015. Of the Governor's initial appointments, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the President Pro Tempore of the Senate, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. Of the initial appointments by the Speaker of the House of Representatives, one member shall be designated to serve a term of three years, one member shall be designated to serve a term of two years, and one member shall be designated to serve a term of one year. The members appointed by the Commissioner of Agriculture and the Chair of the Wildlife Resources Commission shall each serve an initial term of four years. After the initial appointees' terms have expired, all members shall be appointed for a term of four years. No member shall serve more than two successive terms.

Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(d) The initial chair of the Council shall be designated by the Governor from the Council members. The initial chair shall hold this office for not more than one year. Subsequent chairs shall be elected by the Council for terms of two years.

(e) The Council shall meet quarterly and at other times at the call of the chair. A majority of members of the Council shall constitute a quorum.

(f) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5 and G.S. 138-6, as applicable.

(g) The Executive Director of the Wildlife Resources Commission shall provide clerical and other assistance as needed."

SECTION 2.(b) This section becomes effective July 1, 2015.

PART III. EXPANDED ACCESS TO PUBLIC LANDS

SECTION 3.(a) The Legislative Research Commission shall study the need for expanded access to public lands. The Commission shall examine the ways in which public land management plans affect opportunities to engage in outdoor recreational activities, including, but not limited to, hiking, horseback riding, boating, sport shooting and archery, bird watching and wildlife watching, camping, swimming, hunting, trapping, and fishing and make recommendations for increasing the public's opportunities to access public lands for those purposes.

SECTION 3.(b) The Legislative Research Commission may make an interim report to the 2015 General Assembly when it reconvenes in 2016 and shall make its final report to the 2017 General Assembly when it convenes.

PART IV. "THREE STRIKES" RULE FOR HUNTING ON POSTED PROPERTY AND REVIEW SUSPENSION OF HUNTING PRIVILEGES FOR NEGLIGENT HUNTERS

SECTION 4.(a) G.S. 113-276.3(d) is amended by adding a new subdivision to read:

"**§ 113-276.3. Mandatory suspension of entitlement to license or permit for fixed period upon conviction of specified offenses.**

...

(d) Any violation of this Subchapter or of any rule adopted by the Wildlife Resources Commission under the authority of this Subchapter which is subject to a penalty greater than the one provided in G.S. 113-135(a)(1) is a suspension offense. Conviction of any of the following suspension offenses results in a suspension for a period of two years:

(1) A violation of G.S. 113-294(b).
(2) A violation of G.S. 113-294(c).
(2a) A violation of G.S. 113-294(c1).
(3) A violation of G.S. 113-294(e).
(4) Repealed by Session Laws 1999-120, s. 2, effective October 1, 1999.
(5) A violation of G.S. 113-291.1A.
(6) A third or subsequent violation of G.S. 14-159.6(a).

A conviction of any other suspension offense results in a suspension for a period of one year."

SECTION 4.(b) The Wildlife Resources Commission shall review the provisions of Article 21B of Chapter 113 of the General Statutes that provide for the suspension of hunting privileges upon conviction of criminally negligent hunting and determine whether those provisions should be amended or expanded to provide increased protection to the public from negligent or reckless hunting. In developing its findings, the Wildlife Resources Commission shall consult with organized hunting clubs and propose recommendations to address individuals who repeatedly violate club rules and regulations. The Wildlife Resources Commission shall also consult with public interest groups in developing its findings. The Wildlife Resources Commission shall report its findings and recommendations to the 2015 General Assembly when it reconvenes in 2016.

PART V. ALLOW SEVEN-DAY HUNTING ON PRIVATE LAND WITH PERMISSION OF THE OWNER

SECTION 5.(a) G.S. 103-2 reads as rewritten:

"**§ 103-2. ~~Hunting~~ Method of take when hunting on Sunday.**

(a) ~~If any person shall, except in defense of his own property, hunt on Sunday, having with him a shotgun, rifle, or pistol, he~~ Any landowner or member of his or her family, or any person with written permission from the landowner, may hunt with the use of firearms on Sunday on the landowner's property except that:

(1) Hunting of migratory birds on Sunday is prohibited.
(2) The use of a firearm to take deer that are run or chased by dogs on Sunday is prohibited.
(3) Hunting on Sunday within 500 yards of a place of worship or any accessory structure thereof, or within 500 yards of a residence not owned by the landowner, is prohibited.
(4) Hunting on Sunday in a county having a population greater than 700,000 people is prohibited.

(b) A person who hunts on Sunday in a manner prohibited under subsection (a) of this section shall be guilty of a Class 3 misdemeanor. Provided, that the provisions ~~hereof shall not be~~ of this section are not applicable to military reservations, the jurisdiction of which is exclusively in the federal government, ~~or~~ to field trials authorized by the Wildlife Resources ~~Commission.~~ Commission, or to actions taken in defense of a person's property. Wildlife protectors are granted authority to enforce the provisions of this section."

SECTION 5.(b) G.S. 153A-129 reads as rewritten:

"**§ 153A-129. Firearms.**

(a) ~~A~~ Except as provided in this section, a county may by ordinance regulate, restrict, or prohibit the discharge of firearms at any time or place except in any of the following instances:

(1) ~~when~~ When used to take birds or animals pursuant to Chapter 113, Subchapter ~~IV,~~ IV.

(2) ~~when~~ When used in defense of person or ~~property,~~ property.

(3) ~~or when~~ When used pursuant to lawful directions of law-enforcement officers.

(b) A county may by ordinance prohibit hunting on Sunday as allowed under G.S. 103-2, provided the ordinance complies with all of the following:

(1) The ordinance shall be applicable from January 1 until December 31 of any year of effectiveness.

(2) The ordinance shall allow for individuals hunting in an adjacent county with no restriction on Sunday hunting to retrieve any animal lawfully shot from the adjacent county.

(3) The ordinance shall be applicable to the entire county.

(c) A county may ~~also~~ regulate the display of firearms on the public roads, sidewalks, alleys, or other public property.

(d) This section does not limit a county's authority to take action under Article 1A of Chapter 166A of the General Statutes."

SECTION 5.(c) Subsection (b) of this section becomes effective October 1, 2017. A county may adopt an ordinance to prohibit Sunday hunting prior to October 1, 2017, but any such ordinance shall not become effective until October 1, 2017. The remainder of this section becomes effective October 1, 2015.

PART VI. MINIMUM WEIGHT OF ADULT BEARS

SECTION 6. Any rule adopted by the Wildlife Resources Commission that regulates the taking of female bears with cubs or that regulates the taking or possession of cub bears shall define cub bears as bears weighing less than 75 pounds.

PART VII. EXTEND BREEDING SEASON FOR FOXES AT BLADEN LAKES STATE FOREST GAME LANDS

SECTION 7.(a) G.S. 113-291.4 is amended by adding a new subsection to read:

"**§ 113-291.4. Regulation of foxes; study of fox and fur-bearer populations.**

...

(j) The Wildlife Resources Commission shall prohibit the use of dogs in hunting foxes during the period April 1 through August 1 in Bladen Lakes State Forest Game Land."

SECTION 7.(b) This section becomes effective June 1, 2015.

PART VIII. EXEMPTION FROM CIVIL LIABILITY FOR LANDOWNERS GIVING PERMISSION TO RETRIEVE HUNTING DOGS

SECTION 8. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-291.5A. Exemption from civil liability for landholder permitting retrieval of hunting dogs.**

(a) It is the intent of the General Assembly to recognize that hunting with dogs is a valuable part of the outdoor heritage of the State of North Carolina and it is further the intent of the General Assembly to encourage cooperative and neighborly agreements between landowners and hunters to allow legal retrieval of hunting dogs.

(b) Any person, as an owner, lessee, occupant, or otherwise in control of land, who gives permission to a hunter to enter upon the land for the purpose of retrieving hunting dogs that have strayed onto the land owes that hunter the same duty of care the person owes a trespasser."

PART IX. EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 9.(a) 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 9.(b) Except as otherwise provided, this act becomes effective October 1, 2015.

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 27, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Maida Abell	SELC
Tom Beason	EDF, NCWF
Austin Pruitt	Perkinson Law
Carr McLamb	TSS
Brad Knott	DENR
Phoebe Landon	Brooks Pierce
	MWC
Susan Vick	Duke Energy
Kara Weishaar	SA
Cassie Gavin	Sierra Club
Daniel Cheyne	Sierra Club
Brooks Rainey Pearson	SELC
	Misc
John Delfiorno	Brickhaker & Assoc.
Laura DeVivo	WCSR
Angel Sams	WCSR
MALLORY MARTIN	WILDLIFE RESOURCES

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 27, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	TCF
Will Morgan	TNC
Boykin Lucas	NCCM
[illegible]	NCC
[illegible]	NWA
Clayton D Dellinger	NCDA
[illegible]	GRANGE
[illegible]	MWC
Tommy Suer	NWA
Peter Daniel	CCS
[illegible]	NCDACS
[illegible]	CCS
[illegible]	CCS
[illegible]	[illegible]
Paul Sherman	NCFB
Doug Cassiter	NCSTA
JAKE PARKER	NCFB

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 27, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	WRC
Rebecca Louviere	NRA
Cameron Bolter	Grady-White
Butch Gunnells	NC Bev
Hmi McClees	McClees Consulting, Ink.
Joe McClees	McClees Consulting, Ink.
Rochelle Sparko	CFSA
N. Freeman	

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

May 27, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anne Link	CFSA
Jamie Lowdermilk	CFSA
Preston Howard	NCMA
Susanna Davis	NCFA
Cody Abney	NCFA

Judy Edwards (Sen. Andrew Brock)

[redacted]m: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, June 02, 2015 05:13 PM
To: Judy Edwards (Sen. Andrew Brock)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, June 03, 2015 at 10:00 AM - CANCELLED
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

Cancelled Notice

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

[redacted]e **Senate Committee on Agriculture/Environment/Natural Resources** will **NOT** meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 3, 2015	10:00 AM	544 LOB

AGENDA TBD

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Judy Edwards (Sen. Andrew Brock)

[redacted]m: Judy Edwards (Sen. Andrew Brock)
Sent: Thursday, May 28, 2015 04:01 PM
To: Judy Edwards (Sen. Andrew Brock)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, June 03, 2015 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
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AGENDA TBD

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 10, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Andrew Brock

Introduction of Pages

Introduction of Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 647	Amend Trapping Law.	Senator Sanderson Senator B. Jackson
HB 44	Cities/Overgrown Vegetation Notice.	Representative Conrad Representative Lambeth Representative Hanes Representative Terry

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 10, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on June 10, 2015 in Room 544 of the Legislative Office Building. Thirteen (13) members were present.

Senator Andrew Brock presided.

Sgt-At-Arms for today's meeting were Dale Huff and Larry Hancock.

Pages for today's meeting were Savannah Strickland of Mount Olive sponsored by Senator Pate; Jack Galion from Cornelius sponsored by Senator Tarte, Lena Brewer from Charlotte sponsored by Senator Rucho, Cassidy Baker from North Wilkesboro sponsored by Senator Randleman, Larry Lepore from Fuquay Varina sponsored by Senator Brock, Gray Keith from Wilmington sponsored by Senator Lee, Autumn Fulton from Snellville, Georgia sponsored by Senator Robinson and Nathaniel Brooks from Raleigh sponsored by Senator Alexander.

The following bills were discussed:

SB 647 Amend Trapping Law. (Senators Sanderson, B. Jackson)

There was a PCS for this bill. Senator Brent Jackson made a motion to adopt the PCS and the motion carried. Senator Sanderson was recognized to explain the bill. After brief discussion on the bill, there was a motion made by Senator Tucker for a Favorable Report to the PCS and Unfavorable Report to the Original Bill. The motion carried.

HB 44 Local Government Regulatory Reform 2015. (Representatives Conrad, Lambeth, Hanes, Terry)

There was a PCS for the bill. Senator Tucker made a motion to adopt the PCS. The motion carried. Senator Wade was recognized to explain the bill. She asked that staff explain the bill. Erika Churchill and Jeff Hudson from the Research Staff explained each section of the bill. At the conclusion of explanation of the bill by staff, Senator Wade presented an amendment-H44-AST-87 (v.2). Erika Churchill explained the amendment. The amendment was adopted. Senator Wade presented another amendment (H44-AST-74 (v.2) Erika Churchill explained the amendment. The amendment was adopted. Senator Alexander presented an amendment (H44-ASB-56 (v.1). Jeff Hudson explained the amendment. The amendment was adopted. Senator Cook presented an amendment – H44-ATH-30 (V.3). Erika Churchill explained the amendment. After questions on this amendment from members, the amendment was adopted.

There were questions on the bill from Senator Tucker, Senator Rabon and Senator Smith-Ingram for which Senator Wade responded.

Senator Brock opened the floor for public comment. The following people spoke:

Sara Collins – League of Municipalities. Ms. Collins opposed Section 11 of the PCS.
J.D. Solomon – Professional Engineers of North Carolina. Mr. Solomon spoke against bill.
Betsy Bailey- Carolina's General Contractors. Ms. Bailey spoke against bill.

Senator Brock recognized Senator Bingham. Senator Bingham sent forth an amendment - H44-ASB-57 (v.1). The amendment was adopted.

There was further discussion and questions from members on the bill for which Senator Wade and staff responded. Senator Tucker moved for a Favorable Report to the PCS and Unfavorable Report to the Original Bill. The motion carried.

The meeting adjourned at 10:52 AM.

Senator Andrew Brock, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, June 10, 2015

Senator Brock,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **44** Cities/Overgrown Vegetation Notice.

Draft Number:	H44-PCS20366-TH-31
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2

SB **647** **(CS#1)** Amend Trapping Law.

Draft Number:	S647-PCS25270-TQf-25
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 2

Senator Trudy Wade will handle HB 44
Senator Norman Sanderson will handle SB 647

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 647

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/15
Third Edition Engrossed 4/30/15
PROPOSED COMMITTEE SUBSTITUTE S647-PCS25270-TQf-25

Short Title: Amend Trapping Law. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRAPPING LAW RELATING TO CONIBEAR TYPE TRAPS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-291.6 reads as rewritten:

"**§ 113-291.6. Regulation of trapping.**

...

(d) Conibear type traps that have an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped. For the purposes of this section:

(1) A water-set trap is one totally covered by water with the anchor secured in water deep enough to drown the animal trapped quickly.

(2) In areas of tidal waters, the mean high water is considered covering water.

(3) In reservoir areas, covering water is the low water level prevailing during the preceding 24 hours.

(4) Marshland, as defined in G.S. 113-229(n)(3), is not considered dry land.

(d1) "Bucket sets" are prohibited on dry land.

(d2) Conibear type traps set with bait may be set on dry land only within an enclosure approved by the rules of the North Carolina Wildlife Resources Commission subject to the following minimum requirements:

(1) No openings on the enclosure may exceed 60 square inches.

(2) The trap trigger shall be recessed at least eight inches from all openings.

(3) The bottom of the trap shall be elevated at least four feet above the ground.

(d3) Conibear type traps set without an enclosure as described in this section and without bait may be set on dry land. On private lands, baited traps without an enclosure may be set in buildings and structures or as authorized by a depredation permit issued by the North Carolina Wildlife Resources Commission.

...."

SECTION 2. G.S. 113-270.5(a) reads as rewritten:

"(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. All individuals newly licensed under this section after October 1, 2016, shall complete a trapper education course approved by the North Carolina Wildlife Resources Commission. When the trapping license is

required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply."

SECTION 3. Individuals taking the trapper education course required under G.S. 113-270.5(a), as amended by Section 2 of this act, may be charged a fee to cover the cost of administering the education course.

SECTION 4. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

SENATE BILL 647: Amend Trapping Law

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 10, 2015
Introduced by:	Sens. Sanderson, B. Jackson	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	PCS to Third Edition S647-CSTQf-25 [v.1]		

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 647 would amend the laws governing trapping to allow conibear-type traps to be set on dry land only under specific conditions, and to require a trapper education course for licensed trappers.

CURRENT LAW: G.S. 113-291.6 regulates the trapping of wild animals. The statute prohibits trapping on the land of another without having written permission from the landowner and prevents an animal from being taken by trapping with any steel-jaw, leg hold, or conibear-type trap unless certain conditions are met.

With regard to conibear-type traps, the statute provides that no one may take wild animals by such a trap unless it: (1) has a jaw spread of not more than 7.5 inches; (2) is horizontally offset with closed jaw spread of at least 3/16 of an inch for a trap with a jaw spread of more than 5.5 inches (except if the trap is set in the water with quick-drown type of set); (3) is smooth edged and without teeth or spikes; and (4) has a weather-resistant permanent tag attached legibly giving the trapper's name and address. In addition, such traps with an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped.

A person who violates G.S. 113-291.6 is guilty of a Class 2 misdemeanor[1].

BACKGROUND: Body-gripping traps are designed to kill animals quickly. They are often called "conibear" traps after Canadian inventor Frank Conibear, who began their manufacture in the late 1950s. Animals that are caught squarely on the neck by such a trap are killed quickly, and are therefore not left to suffer or given a chance to escape.

BILL ANALYSIS: The PCS would amend the laws governing conibear-type traps to:

- Prohibit "bucket sets" on dry land.
- Provide that conibear-type traps set with bait may be set on dry land only within an enclosure approved by the rules of the Wildlife Resources Commission subject to the following minimum requirements:

[1] The presumptive range of punishment for a Class 2 misdemeanor when there are no prior convictions is 1 to 30 days of community punishment.

O. Walker Reagan
Director

Research Division
(919) 733-2578

- No openings on the enclosure may exceed 60 square inches.
- The trap trigger must be recessed at least eight inches from all openings.
- The bottom of the trap must be elevated at least four feet above the ground.

- Provide that conibear-type traps set without an enclosure as previously described and without bait may be set only on dry land. On private lands, baited traps without an enclosure may be set in buildings and structures, or as authorized by a depredation permit issued by the Commission.

In addition, the PCS would provide that individuals newly receiving a trapping license from the Commission after October 1, 2016, must complete a trapper education course approved by the Commission. Individuals taking the trapper education course may be charged a fee to cover the cost of administering the course.

EFFECTIVE DATE: This bill would be effective December 1, 2015, and would apply to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 647

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/15
Third Edition Engrossed 4/30/15
PROPOSED COMMITTEE SUBSTITUTE S647-CSTQf-25 [v.1]
6/9/2015 11:04:00 AM

Short Title: Amend Trapping Law. (Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRAPPING LAW RELATING TO CONIBEAR TYPE TRAPS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-291.6 reads as rewritten:

"**§ 113-291.6. Regulation of trapping.**

...

(d) Conibear type traps that have an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped. For the purposes of this section:

(1) A water-set trap is one totally covered by water with the anchor secured in water deep enough to drown the animal trapped quickly.
(2) In areas of tidal waters, the mean high water is considered covering water.
(3) In reservoir areas, covering water is the low water level prevailing during the preceding 24 hours.
(4) Marshland, as defined in G.S. 113-229(n)(3), is not considered dry land.

(d1) "Bucket sets" are prohibited on dry land.

(d2) Conibear type traps set with bait may be set on dry land only within an enclosure approved by the rules of the North Carolina Wildlife Resources Commission subject to the following minimum requirements:

(1) No openings on the enclosure may exceed 60 square inches.
(2) The trap trigger shall be recessed at least eight inches from all openings.
(3) The bottom of the trap shall be elevated at least four feet above the ground.

(d3) Conibear type traps set without an enclosure as described in this section and without bait may be set on dry land. On private lands, baited traps without an enclosure may be set in buildings and structures or as authorized by a depredation permit issued by the North Carolina Wildlife Resources Commission.

...."

SECTION 2. G.S. 113-270.5(a) reads as rewritten:

"(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. All individuals newly licensed under this section after October 1, 2016, shall complete a trapper education course approved by the North Carolina Wildlife Resources Commission. When the trapping license is

required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply."

SECTION 3. Individuals taking the trapper education course required under G.S. 113-270.5(a), as amended by Section 2 of this act, may be charged a fee to cover the cost of administering the education course.

SECTION 4. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 3

SENATE BILL 647

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/15
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(d) Conibear type traps that have an inside jaw spread or opening (width or height) greater than seven and one-half inches and no larger than 26 inches in width and 12 inches in height may only be set in the water and in areas in which beaver and otter may be lawfully trapped. For the purposes of this section:

(1) A water-set trap is one totally covered by water with the anchor secured in water deep enough to drown the animal trapped quickly.

(2) In areas of tidal waters, the mean high water is considered covering water.

(3) In reservoir areas, covering water is the low water level prevailing during the preceding 24 hours.

(4) Marshland, as defined in G.S. 113-229(n)(3), is not considered dry land.

(d1) "Bucket sets" are prohibited.

(d2) Conibear type traps set with bait may be set on dry land only within an enclosure approved by the rules of the North Carolina Wildlife Resources Commission subject to the following minimum requirements:

(1) No openings on the enclosure may exceed 60 square inches.

(2) The trap trigger shall be recessed at least eight inches from all openings.

(d3) Conibear type traps set without an enclosure as described in this section and without bait may be set on dry land. On private lands, baited traps without an enclosure may be set in buildings and structures or as authorized by a depredation permit issued by the North Carolina Wildlife Resources Commission.

...."

SECTION 2. G.S. 113-270.5(a) reads as rewritten:

"(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. All individuals newly licensed under this section after October 1, 2016, shall complete a trapper education course approved by the North Carolina Wildlife Resources Commission. When the trapping license is required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing

animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply."

SECTION 3. The North Carolina Wildlife Resources Commission shall adopt rules to require the reporting of domestic animals taken by trapping.

SECTION 3.1. Individuals taking the trapper education course required under G.S. 113-270.5(a), as amended by Section 2 of this act, may be charged a fee to cover the cost of administering the education course.

SECTION 4. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 44
PROPOSED SENATE COMMITTEE SUBSTITUTE H44-PCS20366-TH-31

Short Title: Local Government Regulatory Reform 2015. (Public)

Sponsors:

Referred to:

February 5, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM VARIOUS PROVISIONS OF THE LAW RELATED TO LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

NOTICE TO CHRONIC VIOLATORS

SECTION 1.(a) G.S. 160A-200 is repealed.

SECTION 1.(b) G.S. 160A-200.1 reads as rewritten:

"**§ 160A-200.1. Annual notice to chronic violators of public nuisance or overgrown vegetation ordinance.**

(a) A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.

(b) The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.~~

(c) A city may also give notice to a chronic violator of the city's overgrown vegetation ordinance in accordance with this section.

(d) For purposes of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance."

AUTHORIZE CITIES TO REGULATE CERTAIN STRUCTURES THAT UNREASONABLY RESTRICT THE PUBLIC'S RIGHT TO USE THE STATE'S OCEAN BEACHES

SECTION 1.5. G.S. 160A-205 reads as rewritten:

"**§ 160A-205. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the

State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of structures that are uninhabitable and without water and sewer services for more than 120 days, as determined by the city with notice provided to the owner of record of the determination by certified mail at the time of the determination, equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or commercial structures and appurtenances thereto from the State's ocean ~~beaches.~~beaches, except as provided in subsection (a) of this section."

PROHIBIT CITIES AND COUNTIES FROM REQUIRING COMPLIANCE WITH VOLUNTARY REGULATIONS AND RULES ADOPTED BY STATE DEPARTMENTS OR AGENCIES

SECTION 2.(a) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-145.3. Requiring compliance with voluntary State regulations prohibited.**

(a) Unless otherwise expressly provided by general law, if a State department or agency declares a regulation or rule voluntary and the person, group, or entity to whom the regulation or rule applies may, but is not required to comply therewith, a county shall not require compliance with the voluntary regulation or rule. The provisions of this section apply to all voluntary regulations and rules adopted by a State department or agency, including voluntary regulations or rules contained in the State Building Code or Energy Conservation Code. A voluntary regulation or rule shall remain applicable on a voluntary basis unless the State department or agency mandates its enforcement as authorized by applicable general law.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those enacted, but not yet effective."

SECTION 2.(b) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-205.1. Requiring compliance with voluntary State regulations prohibited.**

(a) Unless otherwise expressly provided by general law, if a State department or agency declares a regulation or rule voluntary and the person, group, or entity to whom the regulation or rule applies may, but is not required to comply therewith, a city shall not require compliance with the voluntary regulation or rule. The provisions of this section apply to all voluntary regulations and rules adopted by a State department or agency, including voluntary regulations

or rules contained in the State Building Code or Energy Conservation Code. A voluntary regulation or rule shall remain applicable on a voluntary basis unless the State department or agency mandates its enforcement as authorized by applicable general law.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those enacted, but not yet effective."

LOCAL PUBLIC HEALTH MAINTENANCE OF EFFORT MONIES

SECTION 2.5.(a) G.S. 130A-34.4(a)(2) is repealed.

SECTION 2.5.(b) This section becomes effective July 1, 2016.

COUNTY CONTROL OF DEVELOPMENT

SECTION 3. G.S. 160A-360.1 reads as rewritten:

"**§ 160A-360.1. Permit choice.**

(a) If a rule or ordinance changes between the time a permit application is submitted and a permit decision is made, then G.S. 143-755 shall apply.

(b) If an ordinance, or ordinances, under this Article applies to a development tract lying partly within municipal corporate limits and partly within the county and more than fifty percent (50%) of the tract is outside the municipal corporate limits, the owner of the development tract may opt for one of the following:

(1) The application of all county land use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the entire development tract. If the owner opts for this option, no ordinance adopted under this Article by the municipality shall apply to any portion of the development tract.

(2) The application of the ordinances adopted under this Article by the municipality to the portion of the development tract within the municipal corporate limits and any extraterritorial jurisdiction exercised by the municipality, if applicable, and the application of the county land-use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the remainder of the development tract.

(3) The application of the ordinances adopted under this Article by the municipality to the portion of the development tract within the municipal corporate limits and the application of the county land-use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the remainder of the development tract, including that portion of the development tract within the extraterritorial jurisdiction exercised by the municipality."

WELL DRILLING CHANGES

SECTION 3.5.(a) G.S. 87-97 reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own ~~forms unless the local program submits a petition for rule-making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.~~forms.

(b) Permit Required. – Except for those wells required to be permitted by the Environmental Management Commission pursuant to G.S. 87-88, no person shall:

(1) Construct or assist in the construction of a private drinking water well unless a construction permit has been obtained from the local health department.

(2) Repair or assist in the repair of a private drinking water well unless a repair permit has been obtained from the local health department, except that a permit shall not be required for the repair or replacement of a pump or tank.

(b1) Permit to Include Authorization for Electrical. – When a permit is issued under this section, that permit shall also be deemed to include authorization for the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch. The local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit.

(c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair permit shall not be required for any private drinking water well maintenance work that does not involve breaking or opening the well seal. A repair permit shall not be required for any private drinking water well repair work that involves only the repair or replacement of a pump or tank.

(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a plat or site plan, as defined in G.S. 130A-334.

If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be on site during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

(e) Issuance of Permit. – Within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The local health department may impose any conditions on the issuance of a construction permit or repair permit that it determines to be necessary to ensure compliance with this Article and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy that discourages or prohibits the drilling of new wells. If the local government policy mandates that improved property be connected to a public water system, the local government shall determine at the time of application and prior to issuance of the permit whether the improved property

will be served by the public water system or the well that is the subject of the permit application.

(e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for a private drinking water well is located within 1,000 feet of a known source of release of contamination. Rules adopted pursuant to this subsection shall provide for notice and information of the known source of release of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site.

(f) Expiration and Revocation. – A construction permit or repair permit shall be valid for a period of five years except that the local health department may revoke a permit at any time if it determines that there has been a material change in any fact or circumstance upon which the permit is issued. The foregoing shall be prominently stated on the face of the permit. The validity of a construction permit or a repair permit shall not be affected by a change in ownership of the site on which a private drinking water well is proposed to be located or is located if the location of the well is unchanged and the well and the facility served by the well remain under common ownership.

(f1) Chlorination of the Well. – Upon completion of construction of a private drinking water well, the well shall be sterilized in accordance with the standards of drinking water wells established by the United States Public Health Service.

(g) Certificate of Completion. – Upon completion of construction of a private drinking water well or repair of a private drinking water well for which a permit is required under this section, the local health department shall inspect the well to determine whether it was constructed or repaired in compliance with the construction permit or repair permit. If the local health department determines that the private drinking water well has been constructed or repaired in accordance with the requirements of the construction permit or repair permit, the construction and repair requirements of this Article, and rules adopted pursuant to this Article, the local health department shall issue a certificate of completion. No person shall place a private drinking water well into service without first having obtained a certificate of completion. No person shall return a private drinking water well that has undergone repair to service without first having obtained a certificate of completion.

(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators.

(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other

relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.
(2) Optional testing available pursuant to this Article.
(3) The limitations of both the required and optional testing.
(4) Minimum drinking water standards.

(j) Test Results. – The local health department shall provide test results to the owner of the newly constructed private drinking water well and, to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled. The local health department shall include with any test results provided to an owner of a private drinking water well, information regarding the scope of the required and optional testing as established by rules adopted pursuant to subsection (i) of this section.

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

(l) Authority Not Limited. – This section shall not be construed to limit any authority of local boards of health, local health departments, the Department of Health and Human Services, or the Commission for Public Health to protect public health."

SECTION 3.5.(b) This section is effective October 1, 2015, and applies to permits issued on or after that date.

REGULATION OF SIGNAGE

SECTION 4.(a) G.S. 153A-340 is amended by adding a new subsection to read:

"(l) Fence wraps displaying signage, when affixed to perimeter fencing at a construction site prior to the issuance of a certificate of occupancy are exempt from zoning regulation pertaining to signage under this Article."

SECTION 4.(b) G.S. 160A-381 is amended by adding a new subsection to read:

"(h) Fence wraps displaying signage, when affixed to perimeter fencing at a construction site prior to the issuance of a certificate of occupancy are exempt from zoning regulation pertaining to signage under this Article."

PERMIT CHOICE

SECTION 5.(a) G.S. 143-755 reads as rewritten:

"**§ 143-755. Permit choice.**

(a) If a permit applicant submits a permit application for any type of development and a rule or ordinance changes between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit.

(b) This section applies to all development permits issued by the State and by local governments.

~~(c) This section shall not apply to any zoning permit.~~"

SECTION 5.(b) This section is effective when this act becomes law and applies to permits for which a permit decision has not been made by that date.

PREAUDIT CERTIFICATIONS

SECTION 6.(a) G.S. 159-28 reads as rewritten:

"**§ 159-28. Budgetary accounting for appropriations.**

(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is ~~evidenced by~~reduced to a written contract or written agreement requiring the payment of ~~money~~ money, or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with ~~this~~ subsection ~~unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required.~~ (a) of this section. The certificate, which shall be signed by the finance ~~officer~~ officer, or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

~~Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.~~

(a2) Failure to Preaudit. – An obligation incurred in violation of ~~this subsection~~subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~section, in accordance with any rules adopted by the Local Government Commission.

(b) Disbursements. – When a bill, invoice, or other claim against a local government or public authority is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget ordinance or a capital project or a grant project authorized by a project ordinance, the finance officer may approve the claim only if both of the following apply:

(1) ~~He~~ The finance officer determines the amount to be ~~payable and~~payable.

(2) The budget ordinance or a project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

The finance officer may approve a bill, invoice, or other claim requiring disbursement from an intragovernmental service fund or trust or agency fund not included in the budget ordinance, only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the governing board. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local government or public authority that has been disapproved by the finance officer. ~~It~~ The governing board may not approve a claim for which no appropriation appears in the budget ordinance or in a project ordinance, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The governing board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the ~~board~~ board, or some other member designated for this ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. – A local government or public authority may not pay a bill, invoice, salary, or other claim except by any of the following methods:

(1) ~~a check~~Check or draft on an official ~~depository,~~depository.

(2) ~~a bank~~Bank wire transfer from an official ~~depository,~~depository.

(3) ~~or an electronic~~Electronic payment or an electronic funds transfer originated by the local government or public authority through an official depository.

(4) Cash, if the local government has adopted an ordinance authorizing the use of cash, and specifying the limits of the use of cash.

(d1) Except as provided in this ~~subsection~~ section, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

(d2) An electronic payment or electronic funds transfer ~~must~~ shall be ~~subjected~~subject to the ~~pre-audit process. Execution~~preaudit process in accordance with this section and any rules adopted by the Local Government Commission. The rules so adopted shall address execution of ~~the~~ electronic payment or electronic funds transfer ~~shall~~and how to indicate that the finance officer or duly appointed deputy finance officer has performed the ~~pre-audit~~ preaudit process ~~as required by G.S. 159-28(a).~~in accordance with this section. A finance officer or duly appointed deputy finance officer shall be presumed in compliance with this section if the finance officer or duly appointed deputy finance officer complies with the rules adopted by the Local Government Commission.

~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.~~

~~No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.~~

~~As used in this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer" means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.~~

(e) Penalties. – If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, ~~he~~ that officer or employee, and the sureties on ~~his~~ any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer or any ~~properly designated~~duly appointed deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, ~~he~~ the finance officer or duly appointed deputy finance officer, and the sureties on ~~his~~ any official ~~bond~~ bond, are liable for any sums illegally committed or disbursed thereby. The governing board shall determine, by resolution, if payment from the official bond shall be sought and if the governing body will seek a judgment from the finance officer or duly appointed deputy finance officer for any deficiencies in the amount.

(f) The certifications required by subsections (a1) and (d) of this section shall not apply to any of the following:

(1) An obligation or a document related to the obligation has been approved by the Local Government Commission.

(2) Payroll expenditures, including all benefits for employees of the local government.

(3) Electronic payments, as specified in rules adopted by the Local Government Commission.

(g) As used in this section, the following terms shall have the following meanings:

(1) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer.

(2) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account."

SECTION 6.(b) This section becomes effective July 1, 2015, and applies to expenditures incurred on or after that date.

BOARD OF TRANSPORTATION MAJORITY APPROVAL REQUIRED FOR REDUCTION IN NUMBER OF LANES ON STATE ROAD LOCATED WITHIN A MUNICIPALITY

SECTION 7. G.S. 136-66.1 reads as rewritten:

"**§ 136-66.1. Responsibility for streets inside municipalities.**

(a) Responsibility for streets and highways inside the corporate limits of municipalities is hereby defined as follows:

(1) The State Highway System. – The State highway system inside the corporate limits of municipalities shall consist of a system of major streets and highways necessary to move volumes of traffic efficiently and effectively from points beyond the corporate limits of the municipalities through the municipalities and to major business, industrial, governmental and institutional destinations located inside the municipalities. The Department of Transportation shall be responsible for the maintenance, repair, improvement, widening, construction and reconstruction of this system. These streets and highways within corporate limits are of primary benefit to the State in developing a statewide coordinated system of primary and secondary streets and highways. Each highway division shall develop an annual work plan for maintenance and contract resurfacing, within their respective divisions, consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. In developing the annual work plan, the highway division shall give consideration to any special needs or information provided by the

municipalities within their respective divisions. The plan shall be made available to the municipalities within the respective divisions upon request.

(2) The Municipal Street System. – In each municipality the municipal street system shall consist of those streets and highways accepted by the municipality which are not a part of the State highway system. The municipality shall be responsible for the maintenance, construction, reconstruction, and right-of-way acquisition for this system.

(3) Maintenance of State Highway System by Municipalities. – Any city or town, by written contract with the Department of Transportation, may undertake to maintain, repair, improve, construct, reconstruct or widen those streets within municipal limits which form a part of the State highway system, and may also, by written contract with the Department of Transportation, undertake to install, repair and maintain highway signs and markings, electric traffic signals and other traffic-control devices on such streets. All work to be performed by the city or town under such contract or contracts shall be in accordance with Department of Transportation standards, and the consideration to be paid by the Department of Transportation to the city or town for such work, whether in money or in services, shall be adequate to reimburse the city or town for all costs and expenses, direct or indirect, incurred by it in the performance of such work. The city or town under contract with the Department shall develop an annual work plan for maintenance of the State highway system consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. The annual work plan shall be submitted to the respective division engineers and shall be mutually agreeable to both parties.

(4) If the governing body of any municipality determines that it is in the best interest of its citizens to do so, it may expend its funds for the purpose of making any of the following improvements on streets that are within its corporate limits and form a part of the State highway system:

a. Construction of curbing and guttering.
b. Adding of lanes for automobile parking.
c. Constructing street drainage facilities which may by reasonable engineering estimates be attributable to that amount of surface water collected upon and flowing from municipal streets which do not form a part of the State highway system.
d. Constructing sidewalks.
e. Intersection improvements, if the governing body determines that such improvements will decrease traffic congestion, improve safety conditions, and improve air quality.

In exercising the authority granted herein, the municipality may, with the consent of the Department of Transportation, perform the work itself, or it may enter into a contract with the Department of Transportation to perform such work. Any work authorized by this subdivision shall be financed entirely by the municipality and be approved by the Department of Transportation.

The cost of any work financed by a municipality under this subdivision may be assessed against the properties abutting the street or highway upon which such work was performed in accordance with the procedures of either Article 10 of Chapter 160A of the General Statutes or any charter provisions or local acts applicable to the particular municipality.

(b) Reduction of travel lanes to accommodate the addition of bike lanes within the existing paved and marked travel lanes of any State highway system street or highway located within a municipality shall be approved by a majority vote of the members of the Board of Transportation."

LOCAL REGULATION OF BEEHIVES

SECTION 8. Article 55 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-645. Limitations on local government regulation of beehives.**

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer beehives."

LEASES OF PROPERTY BY LOCAL GOVERNMENTS FOR COMMUNICATION TOWERS

SECTION 9. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided ~~herein)~~ in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon ~~10~~ 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) Nowithstanding subsection (b1) of this section, ~~The~~the council may approve a lease without treating that lease as a sale of property for any of the following reasons:

(1) ~~for~~For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 ~~years without treating the lease as a sale of property and without giving notice by publication of the intended lease.~~years.

(2) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years."

LOCAL REVIEW OF PROTOTYPE FRANCHISE FOOD ESTABLISHMENTS

SECTION 10. G.S. 130A-248(e) reads as rewritten:

"(e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of two hundred fifty dollars ($250.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part. If the Department has reviewed and approved the plan for a prototype franchised or chain facility for food establishment under this section,

that approved prototype plan may be used in any county in the State without additional approval by a local health department if no material changes are made to the approved prototype plan. At the request of the owner or operator, the local health department may review and suggest revisions for a particular use of the approved prototype plan. Acceptance of any suggested revision to the approved prototype plan by the local health department shall not be a prerequisite or condition of the issuance of any permit by the local health department, county, or city in which the facility for food establishment is to be located."

NOTICE TO PROPERTY OWNERS PRIOR TO CONSTRUCTION

SECTION 12.(a) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-457. Notice prior to construction.**

(a) A county shall notify the property owners and adjacent property owners prior to commencement of any construction project by the county.

(b) Unless the construction is a repair of an emergency nature, notice shall be in writing at least 30 days prior to the commencement of construction. If the construction is a repair of an emergency nature, the notice may be given by any means, including verbal, that the county has for contacting the property owner."

SECTION 12.(b) Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-499.4 Notice prior to construction.**

(a) A city shall notify the property owners and adjacent property owners prior to commencement of any construction project by the city.

(b) Unless the construction is a repair of an emergency nature, notice shall be in writing at least 30 days prior to the commencement of construction. If the construction is a repair of an emergency nature, the notice may be given by any means, including verbal, that the city has for contacting the property owner."

SECTION 12.(c) This section becomes effective October 1, 2015, and applies to construction commenced on or after that date.

RIPARIAN BUFFER REFORM

SECTION 13.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.18. Exemption to riparian buffer requirements for certain private properties in the Neuse River and Tar-Pamlico River Basins.**

(a) Absent a requirement of federal law or an imminent threat to public health or safety, 15A NCAC 02B .0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) and 15A NCAC 02B .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) shall not apply to any tract of land that meets all of the following criteria:

(1) The property is private property.

(2) Prior to August 1, 2000, the property was private property and was platted and recorded in the register of deeds in the county where the property is located.

(3) With the exception of 15A NCAC 02B .0233 and 15A NCAC 02B .0259, the use of the property complies with the rules and other laws regulating and applicable to that property.

(b) If a property described in subsection (a) of this section is converted to a use that does *not* comply with subdivisions (1) and (3) of subsection (a) of this section, then 15A NCAC 02B .0233 and 15A NCAC 02B .0259 shall apply.

(c) This section shall not apply to the area denoted by the United States Geological Survey with the eight-digit cataloging unit 03020201 (Upper Neuse Sub-basin)."

SECTION 13.(b) This section becomes effective August 1, 2015.

SECTION 14.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.19. Delineation of protective riparian buffers for coastal wetlands in the Neuse River and Tar-Pamlico River Basins.**

(a) The following definitions apply in this section:

(1) Coastal wetlands. – Any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tidewaters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides.

(2) Marshlands. – The term has the same meaning as G.S. 113-229(n).

(b) If State law requires a protective riparian buffer for coastal wetlands and marshlands in either the Neuse River Basin or the Tar-Pamlico River Basin, the coastal wetlands and marshlands shall not be treated as part of the surface waters but instead shall be included in the measurement of the protective riparian buffer. The protective riparian buffer for any of the coastal wetlands or marshlands in the Neuse River Basin or the Tar-Pamlico River Basin shall be delineated as follows:

(1) If the coastal wetlands or marshlands extend less than 50 feet from the high normal water level or normal water level, as appropriate, and therefore would not encompass a 50-foot area beyond the appropriate water level, then the protective riparian buffer shall include all of the coastal wetlands and marshlands and enough of the upland footage to equal a total of 50 feet from the appropriate normal high water level or the normal water level measured horizontally on a line perpendicular to the surface water.

(2) If the coastal wetlands or marshlands extend 50 feet or more from the normal high water level or normal water level, as appropriate, then the protective riparian buffer shall be the full width of the marshlands or coastal wetlands up to the landward limit of the marshlands or coastal wetlands but shall not extend beyond the landward limit of the marshlands or coastal wetlands."

SECTION 14.(b) This section becomes effective October 1, 2015.

SECTION 15. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the use of riparian buffers by the State and local governments to protect water quality in the State. The Commission and Department shall specifically examine how the regulatory burden imposed by riparian buffers can be decreased while maintaining the protection of water quality in the State. In the conduct of this study, the Commission and Department shall include various entities that implement or are affected by the use of riparian buffers to protect water quality, including representatives of State government, local governments, the development industry, the agriculture industry, the forestry industry, and private property owners. The Commission shall report the results of the study, including any legislative proposals, to the 2016 Regular Session of the 2015 General Assembly.

ZONING DENSITY CREDITS

SECTION 16. G.S. 160A-381(a) reads as rewritten:

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate

ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

SECTION 17.(a) G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a county shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the county with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the county as required under subsection (c) of this section, the county, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 17.(b) G.S. 153A-356 reads as rewritten:

"**§ 153A-356. Failure to perform duties.**

(a) If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the county, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 153A-352(c)."

SECTION 17.(c) G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a city shall accept and approve a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the city with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the city as required under subsection (c) of this section, the city, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this

Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 17.(d) G.S. 160A-416 reads as rewritten:

"**§ 160A-416. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the city, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160A-412(c)."

CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION OF BEDROOM

SECTION 18.(a) G.S. 153A-346 reads as rewritten:

"**§ 153A-346. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Part govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

(b) When adopting regulations under this Part, a county may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

SECTION 18.(b) G.S. 160A-390 reads as rewritten:

"**§ 160A-390. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, regulations made under authority of this Part shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Part, a city may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

DEVELOPMENT AGREEMENTS

SECTION 19.(a) G.S. 153A-349.4 reads as rewritten:

"**§ 153A-349.4. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or~~

~~more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ Part for developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(b) G.S. 160A-400.23 reads as rewritten:

"**§ 160A-400.23. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ Part for developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(c) G.S. 153A-349.3 reads as rewritten:

"**§ 153A-349.3. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(d) G.S. 160A-400.22 reads as rewritten:

"**§ 160A-400.22. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(e) This section becomes effective October 1, 2015, and applies to development agreements entered into on or after that date.

SECTION 20. 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 21. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 44:
Local Government Regulatory Reform 2015

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 10, 2015
Introduced by:	Reps. Conrad, Lambeth, Hanes, Terry	**Prepared by:**	R. Erika Churchill, and Kelly Tornow, Staff Attorneys
Analysis of:	PCS to First Edition H44-CSST-50		

SUMMARY: The PCS for House Bill 44 would amend various laws related to local government.

[As introduced, this bill was identical to S53, as introduced by Sens. Krawiec, Lowe, which is currently in House Local Government, if favorable, Regulatory Reform.]

CURRENT LAW AND BILL ANALYSIS:

Section 1 would consolidate G.S. 160A-200, which gives municipalities the authority to give a chronic violator of the municipality's overgrown vegetation ordinance notice on an annual basis, and G.S. 160A-200.1, which gives municipalities the same authority for chronic violators of the municipality's public nuisance ordinance. Under each statute, the municipality can charge a chronic violator of the ordinance for the expense of remedying violations, and collect the cost of remedying violations in the same manner as collection of unpaid property taxes. A chronic violator is defined as a person who owns property on which, in the previous calendar year, the city gave notice of violation at least three times.

Section 2 would prohibit cities and counties from requiring compliance with rules or regulations that a State department or agency declares to be voluntary, unless the State department or agency mandates its enforcement as authorized by applicable general law.

Section 3. Currently, if a permit applicant submits a permit for any type of development, and a rule or ordinance changes between the time the application was submitted and the time the decision on the application is made, the applicant may choose which version of the rule or ordinance will apply to the permit. This provision applies to all development permits issued by the State and by local governments, except zoning permits. (See Section 5 for changes to this provision.) Section 3 would provide that if a land use planning ordinance applies to a development tract lying partly within municipal corporate limits and partly within the county and more than half of the tract is outside the municipal corporate limits, the owner of the development tract can either: (i) apply the county land use planning ordinances to the entire development tract, (ii) apply the city ordinance to the portion of the tract lying within the corporate limits of the municipality and that municipality's extraterritorial jurisdiction (ETJ) and apply the county ordinance to the remainder of the tract, or (iii) apply the city ordinance to the portion of the tract lying within the corporate limits of the municipality and the county ordinance to the remainder of the tract, including that which lies within the ETJ of the municipality.

Section 4 would amend the zoning and regulation of development statutes for cities and counties to provide that fence wraps displaying signage are exempt from zoning regulation pertaining to signage when they are affixed to perimeter fencing at a construction site prior to the issuance of a certificate of occupancy.

Section 5. Currently under G.S. 143-755, if a permit applicant submits a permit for any type of development, and a rule or ordinance changes between the time the application was submitted and the

time the decision on the application is made, the applicant may choose which version of the rule or ordinance will apply to the permit. This provision applies to all development permits issued by the State and by local governments, except zoning permits. Section 5 would amend G.S. 143-755 to apply to zoning permits as well.

Section 6. Currently, obligations incurred by a local government subject to the Local Government Budget and Fiscal Control Act accounted for in a fund included in the budget ordinance may not be incurred unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains sufficient to pay in the current fiscal year for that amount. For written contracts, each must be certified by the finance officer, or a duly appointed deputy finance officer, to that effect, and is often called a "preaudit" certification. Section 6 would update that statutory requirement to reflect advances in technology that allow for credit cards, gas cards, procurement cards, and other means of remitting payment for obligations. Effective July 1, 2015, and applies to expenditures incurred on or after that date.

Section 7 would require that any reduction of travel lanes to accommodate the addition of bike lanes within the existing paved and marked travel lanes of any State highway system street or highway located within a municipality must be approved by a majority vote of all the members of the State Board of Transportation.

Section 8 would prevent a county, city, or other political subdivision of the State from adopting or continuing to enforce any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer beehives.

Section 9. Under current law, counties and cities are authorized by G.S. 160A-272 to lease property owned by counties and cities for up to 10 years. Leases for terms of more than 10 years are treated as a sale of real property. G.S. 160A-272(c) authorizes the lease of property for the siting and operation of a renewable energy facility for up to 25 years. Section 9 would amend the statute to do both of the following:

- Increase the public notice of a proposed lease from 10 days to 30 days.
- Allow leases of property owned by the county or city for the siting and operation of a tower for a term of up to 25 years. A "tower" would be any new or existing structure that is designed to support or is capable of supporting equipment used in the transmission or receipt of television broadcast signals, radio wave signals, or electromagnetic radio signals used in the provision of wireless communication service.

Section 10. G.S. 130A-248 requires the Commission for Public Health to adopt rules governing the sanitation of establishments that prepare or serve drink or food for pay. All food establishments must obtain a permit from the Department of Health and Human Services, and no permit is issued until an evaluation by the regulatory authority shows that the establishment is in compliance. In addition to the permit fee, under G.S. 130A-248(e) the Department can charge a $250.00 fee for review of plans for prototype franchised or chain facilities for food establishments.

Section 10 would provide that if the Department has reviewed and approved the plan for a prototype franchised or chain facility for food establishment, that approved plan may be used in any county of the State without further approval. Upon request of the owner or operator, the local health department may review and suggest revisions, but any proposed revisions could not be used as a condition of receiving any permit from the local health department, county or city in which the facility is to be located.

Section 11 would amend the public contracting statutes to require public entities to consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage project that is funded in whole or in part with State funds,

unless sound engineering practices suggest that one type of acceptable piping material is more suitable for a particular project.

This section would become effective October 1, 2015, and would apply to projects initiated on or after that date.

Section 12 would require counties and cities to notify the property owners and adjacent property owners before the county or city begins any construction project. Except in the case of emergency repairs, notice would have to be in writing at least 30 days prior to beginning construction. If the construction is an emergency repair, the notice could be given by any means, including verbal, that the county or city has for contacting the property owner.

This section would become effective October 1, 2015, and would apply to construction commenced on or after that date.

Section 13 would provide, effective August 1, 2015, that absent a requirement of federal law or an imminent threat to public health or safety, the Neuse River Basin Buffer Rule and the Tar-Pamlico River Basin Buffer Rule will not apply to any tract of land that meets all of the following criteria:

- The property is private property.
- Prior to August 1, 2000, the property was private property and was platted and recorded in the register of deeds in the county where the property is located.
- The use of the property complies with the rules and other laws regulating and applicable to the property.

Section 14 would provide that for purposes of measuring riparian buffers in the Neuse River Basin and the Tar-Pamlico River Basin, coastal wetlands and marshlands will not be treated as part of the surface waters, but will be included in the measurement of the riparian buffer. Effective October 1, 2015.

Section 15 would require the Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, to study the use of riparian buffers by the State and local governments and to report the results of the study to the 2016 Regular Session of the 2015 General Assembly.

Section 16. G.S. 160A-381(a) authorizes cities to adopt zoning and development regulation ordinances. Currently, zoning ordinances may provide density credits or severable development rights for dedicated rights-of-way. Section 16 would require zoning ordinances to do so.

Section 17. City (G.S. 160A-412) and county (G.S. 153A-352) inspection departments are authorized to enforce within their territorial jurisdiction State and local laws and local ordinances and regulations relating to the construction of buildings, installation of certain facilities such as plumbing and electrical systems, maintenance of buildings, and other matters specified by the governing board.

Section 17 would require a county or city to accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided that certain conditions are met. Upon the satisfaction of those conditions and acceptance and approval of a signed written document by the county or city, the county or city and its inspection department and inspectors would be discharged and released from any duties and responsibilities imposed with respect to the component or element in the construction of the building for which the signed written document was submitted.

Section 18 would prohibit counties and cities from adopting zoning regulations that use a more expansive definition of dwelling unit, bedroom, or sleeping unit than any definition in general law or in a rule adopted by a State agency.

Section 19. Under current law, local governments are authorized to enter into development agreements with developers if the property is at least 25 acres or more of developable property and the agreement is for a term of 20 years or less. An exception to the minimum size is granted for brownfields properties. A development agreement must be approved by the governing body of a local government by ordinance. Section 19 would remove the current size requirements and maximum term, and instead would require that the agreement be for a reasonable term specified in the agreement. Section 19 would also allow the development agreement to be incorporated into any planning, zoning, or subdivision ordinance adopted by the local government.

This section would become effective October 1, 2015, and would apply to development agreements entered into on or after that date.

Section 20 contains a severability clause providing that if any provision of the act is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 44
PROPOSED SENATE COMMITTEE SUBSTITUTE H44-CSST-50 [v.17]

6/9/2015 6:27:38 PM

Short Title: Local Government Regulatory Reform 2015. (Public)

Sponsors:

Referred to:

February 5, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM VARIOUS PROVISIONS OF THE LAW RELATED TO LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

NOTICE TO CHRONIC VIOLATORS

SECTION 1.(a) G.S. 160A-200 is repealed.

SECTION 1.(b) G.S. 160A-200.1 reads as rewritten:

"**§ 160A-200.1. Annual notice to chronic violators of public nuisance or overgrown vegetation ordinance.**

(a) A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes.

(b) The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. ~~A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.~~

(c) A city may also give notice to a chronic violator of the city's overgrown vegetation ordinance in accordance with this section.

(d) For purposes of this section, a chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance."

PROHIBIT CITIES AND COUNTIES FROM REQUIRING COMPLIANCE WITH VOLUNTARY REGULATIONS AND RULES ADOPTED BY STATE DEPARTMENTS OR AGENCIES

SECTION 2.(a) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-145.3. Requiring compliance with voluntary State regulations prohibited.**

(a) Unless otherwise expressly provided by general law, if a State department or agency declares a regulation or rule voluntary and the person, group, or entity to whom the regulation or rule applies may, but is not required to comply therewith, a county shall not require compliance with the voluntary regulation or rule. The provisions of this section apply to all voluntary regulations and rules adopted by a State department or agency, including voluntary regulations or rules contained in the State Building Code or Energy Conservation Code. A voluntary regulation or rule shall remain applicable on a voluntary basis unless the State department or agency mandates its enforcement as authorized by applicable general law.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those enacted, but not yet effective."

SECTION 2.(b) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-205.1. Requiring compliance with voluntary State regulations prohibited.**

(a) Unless otherwise expressly provided by general law, if a State department or agency declares a regulation or rule voluntary and the person, group, or entity to whom the regulation or rule applies may, but is not required to comply therewith, a city shall not require compliance with the voluntary regulation or rule. The provisions of this section apply to all voluntary regulations and rules adopted by a State department or agency, including voluntary regulations or rules contained in the State Building Code or Energy Conservation Code. A voluntary regulation or rule shall remain applicable on a voluntary basis unless the State department or agency mandates its enforcement as authorized by applicable general law.

(b) This section shall apply to the following regulations and rules:

(1) Those currently in effect.

(2) Those repealed or otherwise expired.

(3) Those temporarily or permanently held in abeyance.

(4) Those enacted, but not yet effective."

COUNTY CONTROL OF DEVELOPMENT

SECTION 3. G.S. 160A-360.1 reads as rewritten:

"**§ 160A-360.1. Permit choice.**

(a) If a rule or ordinance changes between the time a permit application is submitted and a permit decision is made, then G.S. 143-755 shall apply.

(b) If an ordinance, or ordinances, under this Article applies to a development tract lying partly within municipal corporate limits and partly within the county and more than fifty percent (50%) of the tract is outside the municipal corporate limits, the owner of the development tract may opt for one of the following:

(1) The application of all county land use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the entire development tract. If the owner opts for this option, no ordinance adopted under this Article by the municipality shall apply to any portion of the development tract.

(2) The application of the ordinances adopted under this Article by the municipality to the portion of the development tract within the municipal corporate limits and any extraterritorial jurisdiction exercised by the municipality, if applicable, and the application of the county land use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the remainder of the development tract.

(3) The application of the ordinances adopted under this Article by the municipality to the portion of the development tract within the municipal

corporate limits and the application of the county land use planning ordinances under Article 18 of Chapter 153A of the General Statutes to the remainder of the development tract, including that portion of the development tract within the extraterritorial jurisdiction exercised by the municipality."

REGULATION OF SIGNAGE

SECTION 4.(a) G.S. 153A-340 is amended by adding a new subsection to read:

"(l) Fence wraps displaying signage, when affixed to perimeter fencing at a construction site prior to the issuance of a certificate of occupancy are exempt from zoning regulation pertaining to signage under this Article."

SECTION 4.(b) G.S. 160A-381 is amended by adding a new subsection to read:

"(h) Fence wraps displaying signage, when affixed to perimeter fencing at a construction site prior to the issuance of a certificate of occupancy are exempt from zoning regulation pertaining to signage under this Article."

PERMIT CHOICE

SECTION 5.(a) G.S. 143-755 reads as rewritten:

"**§ 143-755. Permit choice.**

(a) If a permit applicant submits a permit application for any type of development and a rule or ordinance changes between the time the permit application was submitted and a permit decision is made, the permit applicant may choose which version of the rule or ordinance will apply to the permit.

(b) This section applies to all development permits issued by the State and by local governments.

~~(c) This section shall not apply to any zoning permit.~~"

SECTION 5.(b) This section is effective when it becomes law and applies to permits for which a permit decision has not been made by that date.

PREAUDIT CERTIFICATIONS

SECTION 6.(a) G.S. 159-28 reads as rewritten:

"**§ 159-28. Budgetary accounting for appropriations.**

(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is ~~evidenced by~~reduced to a written contract or written agreement requiring the payment of ~~money~~money, or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with ~~this~~ subsection ~~unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required.~~ (a) of this section. The certificate, which shall be signed by the

finance ~~officer~~ officer, or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

~~Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.~~

(a2) Failure to Preaudit. – An obligation incurred in violation of ~~this subsection~~subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~section, in accordance with any rules adopted by the Local Government Commission.

(b) Disbursements. – When a bill, invoice, or other claim against a local government or public authority is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget ordinance or a capital project or a grant project authorized by a project ordinance, the finance officer may approve the claim only if both of the following apply:

(1) ~~He~~ The finance officer determines the amount to be ~~payable and~~payable.

(2) The budget ordinance or a project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

The finance officer may approve a bill, invoice, or other claim requiring disbursement from an intragovernmental service fund or trust or agency fund not included in the budget ordinance, only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the governing board. The finance officer shall establish procedures to assure compliance with this ~~subsection.~~subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local government or public authority that has been disapproved by the finance officer. ~~It~~ The governing board may not approve a claim for which no appropriation appears in the budget ordinance or in a project ordinance, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The governing board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the ~~board~~ board, or some other member designated for this ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. – A local government or public authority may not pay a bill, invoice, salary, or other claim except by any of the following methods:

(1) ~~a check~~Check or draft on an official ~~depository.~~depository.

(2) ~~a bank~~Bank wire transfer from an official ~~depository.~~depository.

(3) ~~or an electronic~~Electronic payment or an electronic funds transfer originated by the local government or public authority through an official depository.

(4) Cash, if the local government has adopted an ordinance authorizing the use of cash, and specifying the limits of the use of cash.

(d1) Except as provided in this ~~subsection~~ section, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act.

_____

(Signature of finance officer)."

(d2) An electronic payment or electronic funds transfer ~~must~~ shall be ~~subjected~~subject to the ~~pre-audit process. Execution~~preaudit process in accordance with this section and any rules adopted by the Local Government Commission. The rules so adopted shall address execution of ~~the~~ electronic payment or electronic funds transfer ~~shall~~and how to indicate that the finance officer or duly appointed deputy finance officer has performed the ~~pre-audit~~ preaudit process ~~as required by G.S. 159-28(a).~~in accordance with this section. A finance officer or duly appointed deputy finance officer shall be presumed in compliance with this section if the finance officer or duly appointed deputy finance officer complies with the rules adopted by the Local Government Commission.

~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.~~

~~No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.~~

~~As used in this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer" means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.~~

(e) Penalties. – If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, ~~he~~ that officer or employee, and the sureties on ~~his~~ any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer or any ~~properly designated~~duly appointed deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, ~~he~~ the finance officer or duly appointed deputy finance officer, and the sureties on ~~his~~ any official ~~bond~~ bond, are liable for any sums illegally committed or disbursed thereby. The governing board shall determine, by resolution, if payment from the official bond shall be sought and if the governing body will seek a judgment from the finance officer or duly appointed deputy finance officer for any deficiencies in the amount.

(f) The certifications required by subsections (a1) and (d) of this section shall not apply to any of the following:

(1) An obligation or a document related to the obligation has been approved by the Local Government Commission.

(2) Payroll expenditures, including all benefits for employees of the local government.

(3) Electronic payments, as specified in rules adopted by the Local Government Commission.

(g) As used in this section, the following terms shall have the following meanings:

(1) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer.

(2) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account."

SECTION 6.(b) This section becomes effective July 1, 2015, and applies to expenditures incurred on or after that date.

BOARD OF TRANSPORTATION MAJORITY APPROVAL REQUIRED FOR REDUCTION IN NUMBER OF LANES ON STATE ROAD LOCATED WITHIN A MUNICIPALITY

SECTION 7. G.S. 136-66.1 reads as rewritten:

"**§ 136-66.1. Responsibility for streets inside municipalities.**

(a) Responsibility for streets and highways inside the corporate limits of municipalities is hereby defined as follows:

(1) The State Highway System. – The State highway system inside the corporate limits of municipalities shall consist of a system of major streets and highways necessary to move volumes of traffic efficiently and effectively from points beyond the corporate limits of the municipalities through the municipalities and to major business, industrial, governmental and institutional destinations located inside the municipalities. The Department of Transportation shall be responsible for the maintenance, repair, improvement, widening, construction and reconstruction of this system. These streets and highways within corporate limits are of primary benefit to the State in developing a statewide coordinated system of primary and secondary streets and highways. Each highway division shall develop an annual work plan for maintenance and contract resurfacing, within their respective divisions, consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. In developing the annual work plan, the highway division shall give consideration to any special needs or information provided by the municipalities within their respective divisions. The plan shall be made available to the municipalities within the respective divisions upon request.

(2) The Municipal Street System. – In each municipality the municipal street system shall consist of those streets and highways accepted by the municipality which are not a part of the State highway system. The municipality shall be responsible for the maintenance, construction, reconstruction, and right-of-way acquisition for this system.

(3) Maintenance of State Highway System by Municipalities. – Any city or town, by written contract with the Department of Transportation, may undertake to maintain, repair, improve, construct, reconstruct or widen those streets within municipal limits which form a part of the State highway system, and may also, by written contract with the Department of Transportation, undertake to install, repair and maintain highway signs and markings, electric traffic signals and other traffic-control devices on such streets. All work to be performed by the city or town under such contract or contracts shall be in accordance with Department of Transportation standards, and the consideration to be paid by the Department of Transportation to the city or town for such work, whether in money or in services, shall be adequate to reimburse the city or town for all costs and

expenses, direct or indirect, incurred by it in the performance of such work. The city or town under contract with the Department shall develop an annual work plan for maintenance of the State highway system consistent with the needs, inasmuch as possible, as identified in the report developed in accordance with G.S. 136-44.3. The annual work plan shall be submitted to the respective division engineers and shall be mutually agreeable to both parties.

(4) If the governing body of any municipality determines that it is in the best interest of its citizens to do so, it may expend its funds for the purpose of making any of the following improvements on streets that are within its corporate limits and form a part of the State highway system:

a. Construction of curbing and guttering.
b. Adding of lanes for automobile parking.
c. Constructing street drainage facilities which may by reasonable engineering estimates be attributable to that amount of surface water collected upon and flowing from municipal streets which do not form a part of the State highway system.
d. Constructing sidewalks.
e. Intersection improvements, if the governing body determines that such improvements will decrease traffic congestion, improve safety conditions, and improve air quality.

In exercising the authority granted herein, the municipality may, with the consent of the Department of Transportation, perform the work itself, or it may enter into a contract with the Department of Transportation to perform such work. Any work authorized by this subdivision shall be financed entirely by the municipality and be approved by the Department of Transportation.

The cost of any work financed by a municipality under this subdivision may be assessed against the properties abutting the street or highway upon which such work was performed in accordance with the procedures of either Article 10 of Chapter 160A of the General Statutes or any charter provisions or local acts applicable to the particular municipality.

(b) Reduction of travel lanes to accommodate the addition of bike lanes within the existing paved and marked travel lanes of any State highway system street or highway located within a municipality shall be approved by a majority vote of the members of the Board of Transportation."

LOCAL REGULATION OF BEEHIVES

SECTION 8. Article 55 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-645. Limitations on local government regulation of beehives.**

No county, city, or other political subdivision of the State shall adopt or continue in effect any ordinance or resolution that prohibits any person or entity from owning or possessing five or fewer beehives."

LEASES OF PROPERTY BY LOCAL GOVERNMENTS FOR COMMUNICATION TOWERS

SECTION 9. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

(a) Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years (except as otherwise provided ~~herein)~~ in subsection (b1) of this section) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included.

(a1) Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon ~~10~~ 30 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

(b) No public notice as required by subsection (a1) of this section need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less.

(b1) Leases for terms of more than 10 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

(c) Nowithstanding subsection (b1) of this section, ~~The~~the council may approve a lease without treating that lease as a sale of property for any of the following reasons:

(1) ~~for~~For the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 25 ~~years without treating the lease as a sale of property and without giving notice by publication of the intended lease.~~years.

(2) For the siting and operation of a tower, as that term is defined in G.S. 146-29.2(a)(7), for communication purposes for a term up to 25 years."

LOCAL REVIEW OF PROTOTYPE FRANCHISE FOOD ESTABLISHMENTS

SECTION 10. G.S. 130A-248(e) reads as rewritten:

"(e) In addition to the fees under subsection (d) of this section, the Department may charge a fee of two hundred fifty dollars ($250.00) for plan review of plans for prototype franchised or chain facilities for food establishments subject to this section. All of the fees collected under this subsection may be used to support the State food, lodging, and institution sanitation programs and activities under this Part. If the Department has reviewed and approved the plan for a prototype franchised or chain facility for food establishment under this section, that approved prototype plan may be used in any county in the State without additional approval by a local health department if no material changes are made to the approved prototype plan. At the request of the owner or operator, the local health department may review and suggest revisions for a particular use of the approved prototype plan. Acceptance of any suggested revision to the approved prototype plan by the local health department shall not be a prerequisite or condition of the issuance of any permit by the local health department, county, or city in which the facility for food establishment is to be located."

OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

SECTION 11.(a) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.10. Public entities shall consider all acceptable piping materials in State funded water, wastewater, or stormwater projects.**

(a) Consideration of All Acceptable Piping Materials Required. – A public entity shall consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing,

procuring, or operating of a water, wastewater, or stormwater drainage project that is funded in whole or in part with State funds unless sound engineering practices, as determined by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes, suggest that one type of acceptable piping material is more suitable for a particular project.

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

(1) Acceptable Piping Material. – Piping material that meets or exceeds the standards issued by the American Society for Testing and Materials, the American Water Works Association, or the American Association of State Highway & Transportation Officials.

(2) Public Entity. – A State agency, county, city, sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes, authority created under Article 1 of Chapter 162A of the General Statutes, metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, or any other political subdivision of the State."

SECTION 11.(b) This section becomes effective October 1, 2015, and applies to projects initiated on or after that date.

NOTICE TO PROPERTY OWNERS PRIOR TO CONSTRUCTION

SECTION 12.(a) Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-457. Notice prior to construction.**

(a) A county shall notify the property owners and adjacent property owners prior to commencement of any construction project by the county.

(b) Unless the construction is a repair of an emergency nature, notice shall be in writing at least 30 days prior to the commencement of construction. If the construction is a repair of an emergency nature, the notice may be given by any means, including verbal, that the county has for contacting the property owner."

SECTION 12.(b) Article 21 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-499.4 . Notice prior to construction.**

(a) A city shall notify the property owners and adjacent property owners prior to commencement of any construction project by the city.

(b) Unless the construction is a repair of an emergency nature, notice shall be in writing at least 30 days prior to the commencement of construction. If the construction is a repair of an emergency nature, the notice may be given by any means, including verbal, that the city has for contacting the property owner."

SECTION 12.(c) This section becomes effective October 1, 2015, and applies to construction commenced on or after that date.

RIPARIAN BUFFER REFORM

SECTION 13.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.18. Exemption to riparian buffer requirements for certain private properties in the Neuse River and Tar-Pamlico River Basins.**

(a) Absent a requirement of federal law or an imminent threat to public health or safety, 15A NCAC 02B .0233 (Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers) and 15A NCAC 02B .0259 (Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and

Maintenance of Existing Riparian Buffers) shall not apply to any tract of land that meets all of the following criteria:

(1) The property is private property.

(2) Prior to August 1, 2000, the property was private property and was platted and recorded in the register of deeds in the county where the property is located.

(3) With the exception of 15A NCAC 02B .0233 and 15A NCAC 02B .0259, the use of the property complies with the rules and other laws regulating and applicable to that property.

(b) If a property described in subsection (a) of this section is converted to a use that does not comply with subdivisions (1) and (3) of subsection (a) of this section, then 15A NCAC 02B .0233 and 15A NCAC 02B .0259 shall apply."

SECTION 13.(b) This section becomes effective August 1, 2015.

SECTION 14.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.19. Delineation of protective riparian buffers for coastal wetlands in the Neuse River and Tar-Pamlico River Basins.**

(a) The following definitions apply in this section:

(1) Coastal wetlands. – Any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tidewaters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides.

(2) Marshlands. – The term has the same meaning as G.S. 113-229(n).

(b) If State law requires a protective riparian buffer for coastal wetlands and marshlands in either the Neuse River Basin or the Tar-Pamlico River Basin, the coastal wetlands and marshlands shall not be treated as part of the surface waters but instead shall be included in the measurement of the protective riparian buffer. The protective riparian buffer for any of the coastal wetlands or marshlands in the Neuse River Basin or the Tar-Pamlico River Basin shall be delineated as follows:

(1) If the coastal wetlands or marshlands extend less than 50 feet from the high normal water level or normal water level, as appropriate, and therefore would not encompass a 50-foot area beyond the appropriate water level, then the protective riparian buffer shall include all of the coastal wetlands and marshlands and enough of the upland footage to equal a total of 50 feet from the appropriate normal high water level or the normal water level measured horizontally on a line perpendicular to the surface water.

(2) If the coastal wetlands or marshlands extend 50 feet or more from the normal high water level or normal water level, as appropriate, then the protective riparian buffer shall be the full width of the marshlands or coastal wetlands up to the landward limit of the marshlands or coastal wetlands but shall not extend beyond the landward limit of the marshlands or coastal wetlands."

SECTION 14.(b) This section becomes effective October 1, 2015.

SECTION 15. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the use of riparian buffers by the State and local governments to protect water quality in the State. The Commission and Department shall specifically examine how the regulatory burden imposed by riparian buffers can be decreased while maintaining the protection of water quality in the State. In the conduct of this study, the Commission and Department shall include various entities that implement or

are affected by the use of riparian buffers to protect water quality, including representatives of State government, local governments, the development industry, the agriculture industry, the forestry industry, and private property owners. The Commission shall report the results of the study, including any legislative proposals, to the 2016 Regular Session of the 2015 General Assembly.

ZONING DENSITY CREDITS

SECTION 16. G.S. 160A-381(a) reads as rewritten:

"(a) For the purpose of promoting health, safety, morals, or the general welfare of the community, any city may adopt zoning and development regulation ordinances. These ordinances may be adopted as part of a unified development ordinance or as a separate ordinance. A zoning ordinance may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land. The ordinance ~~may~~ shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11."

INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

SECTION 17.(a) G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a county shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the county with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the county as required under subsection (c) of this section, the county, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 17.(b) G.S. 153A-356 reads as rewritten:

"**§ 153A-356. Failure to perform duties.**

(a) If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the county, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 153A-352(c)."

SECTION 17.(c) G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a city shall accept and approve a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the city with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the city as required under subsection (c) of this section, the city, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 17.(d) G.S. 160A-416 reads as rewritten:

"**§ 160A-416. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the city, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160A-412(c)."

CLARIFY AUTHORITY OF COUNTIES AND CITIES TO EXPAND ON DEFINITION OF BEDROOM

SECTION 18.(a) G.S. 153A-346 reads as rewritten:

"**§ 153A-346. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Part govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by regulations made under authority of this Part, the provisions of the other statute or local ordinance or regulation govern.

(b) When adopting regulations under this Part, a county may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

SECTION 18.(b) G.S. 160A-390 reads as rewritten:

"**§ 160A-390. Conflict with other laws.**

(a) When regulations made under authority of this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, regulations made under authority of this Part shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left

unoccupied, or impose other higher standards than are required by the regulations made under authority of this Part, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Part, a city may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency."

DEVELOPMENT AGREEMENTS

SECTION 19.(a) G.S. 153A-349.4 reads as rewritten:

"**§ 153A-349.4. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ Part for developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(b) G.S. 160A-400.23 reads as rewritten:

"**§ 160A-400.23. Developed property ~~must contain certain number of acres;~~ criteria; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this ~~Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application).~~ *Part for* developable property of any size, including property that is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a reasonable term specified in the ~~agreement, provided they may not be for a term exceeding 20 years.~~agreement.

~~(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.~~"

SECTION 19.(c) G.S. 153A-349.3 reads as rewritten:

"**§ 153A-349.3. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(d) G.S. 160A-400.22 reads as rewritten:

"**§ 160A-400.22. Local governments authorized to enter into development agreements; approval of governing body required.**

(a) A local government may establish procedures and requirements, as provided in this Part, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a local government by ordinance.

(b) The development agreement may, by ordinance, be incorporated, in whole or in part, into any planning, zoning, or subdivision ordinance adopted by the local government."

SECTION 19.(e) This section becomes effective October 1, 2015, and applies to development agreements entered into on or after that date.

SECTION 20. 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 21. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 44

Short Title:	Cities/Overgrown Vegetation Notice.	(Public)
Sponsors:	Representatives Conrad, Lambeth, Hanes, and Terry (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Local Government, if favorable, Regulatory Reform.	

February 5, 2015

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO PROVIDE ANNUAL NOTICE TO CHRONIC VIOLATORS OF OVERGROWN VEGETATION ORDINANCES BY REGULAR MAIL AND POSTING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-200 reads as rewritten:

"**§ 160A-200. Annual notice to chronic violators of overgrown vegetation ordinances.**

(a) A municipality may notify a chronic violator of the municipality's overgrown vegetation ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality took remedial action at least three times under the overgrown vegetation ordinance.

(b) Repealed by Session Laws 2009-19, s. 1, effective April 30, 2009."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 44

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

H44-ASB-57 [v.1]

Amends Title [NO]
PCS H44-CSST-50 [v.17]

Date _____,2015

Senator Berger

moves to amend the bill on page 8, line 43 through page 9, line 17, by deleting the lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

H44-ASB-57-V-1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 44

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

H44-ATH-30 [v.3]

Amends Title [NO]
H44-CSST-50

Date _____,2015

Senator Cook

moves to amend the bill on page 1, lines 29-30, by inserting the following between those lines:

"AUTHORIZE CITIES TO REGULATE CERTAIN STRUCTURES THAT UNREASONABLY RESTRICT THE PUBLIC'S RIGHT TO USE THE STATE'S OCEAN BEACHES

SECTION 1.5. G.S. 160A-205 reads as rewritten:

"**§ 160A-205. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of structures that are uninhabitable and without water and sewer services for more than 120 days, as determined by the city with notice provided to the owner of record of the determination by certified mail at the time of the determination, equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or

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

H44-ATH-30 [v.3]

commercial structures and appurtenances thereto from the State's ocean ~~beaches.~~beaches, except as provided in subsection (a) of this section."".

SIGNED Bill Cook
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 44

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

H44-ASB-56 [v.1]

Amends Title [NO]
PCS H44-CSST-50 [v.17]

Date _____,2015

Senator Alexander

moves to amend the bill on page 10, line 12,
by rewriting the line to read:

"NCAC 02B .0233 and 15A NCAC 02B .0259 shall apply.

(c) This section shall not apply to the area denoted by the United States Geological Survey with the eight-digit cataloging unit 03020201 (Upper Neuse Sub-basin).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 44

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

H44-AST-74 [v.2]

Amends Title [NO]
First Edition

Date _____,2015

Senator Wade

moves to amend the bill on page 3, lines 6-7, by inserting the following between those lines:

"**WELL DRILLING CHANGES**

SECTION 3.5.(a) G.S. 87-97 reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

(a) Mandatory Local Well Programs. – Each county, through the local health department that serves the county, shall implement a private drinking water well permitting, inspection, and testing program. Local health departments shall administer the program and enforce the minimum well construction, permitting, inspection, repair, and testing requirements set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay or refuse to permit a well that can be constructed or repaired and operated in compliance with the requirements set out in this Article and rules adopted pursuant to this Article.

(a1) Use of Standard Forms. – Local well programs shall use the standard forms created by the Department for all required submittals and shall not create their own ~~forms unless the local program submits a petition for rule-making to the Environmental Management Commission, and the Commission by rule finds that conditions or circumstances unique to the area served by the local well program constitute a threat to public health that will be mitigated by use of a local form different from the form used by the Department.~~forms.

(b) Permit Required. – Except for those wells required to be permitted by the Environmental Management Commission pursuant to G.S. 87-88, no person shall:

(1) Construct or assist in the construction of a private drinking water well unless a construction permit has been obtained from the local health department.

(2) Repair or assist in the repair of a private drinking water well unless a repair permit has been obtained from the local health department, except that a permit shall not be required for the repair or replacement of a pump or tank.

(b1) Permit to Include Authorization for Electrical. – When a permit is issued under this section, that permit shall also be deemed to include authorization for the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch. The local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit.

(c) Permit Not Required for Maintenance or Pump Repair or Replacement. – A repair permit shall not be required for any private drinking water well maintenance work that does not involve breaking or opening the well seal. A repair permit shall not be required for any private drinking water well repair work that involves only the repair or replacement of a pump or tank.

(d) Well Site Evaluation. – The local health department shall conduct a field investigation to evaluate the site on which a private drinking water well is proposed to be located before issuing a permit pursuant to this section. The field investigation shall determine whether there is any abandoned well located on the site, and if so, the construction permit shall be conditioned upon the proper closure of all abandoned wells located on the site in accordance with the requirements of this Article and rules adopted pursuant to this Article. If a private drinking water well is proposed to be located on a site on which a wastewater system subject to the requirements of Article 11 of Chapter 130A of the General Statutes is located or proposed to be located, the application for a construction permit shall be accompanied by a plat or site plan, as defined in G.S. 130A-334.

If the well location marked on the map submitted with an application to a local well program is also marked with a stake or similar marker on the property, then the local well program may not require the contractor to be on site during the on-site predrill inspection, as long as the contractor is available by telephone to answer questions.

(e) Issuance of Permit. – Within 30 days of receipt of an application to construct or repair a well, a local health department shall make a determination whether the proposed private drinking water well can be constructed or repaired and operated in compliance with this Article and rules adopted pursuant to this Article and shall issue a permit or denial accordingly. If a local health department fails to act within 30 days, the permit shall automatically be issued, and the local health department may challenge issuance of the permit as provided in Chapter 150B of the General Statutes. The local health department may impose any conditions on the issuance of a construction permit or repair permit that it determines to be necessary to ensure compliance with this Article and rules adopted pursuant to this Article. Notwithstanding any other provision of law, no permit for a well that is in compliance with this Article and the rules adopted pursuant to this Article shall be denied on the basis of a local government policy that discourages or prohibits the drilling of new wells. If the local government policy mandates that improved property be connected to a public water system, the local government shall determine at the time of application and prior to issuance of the permit whether the improved property will be served by the public water system or the well that is the subject of the permit application.

(e1) Notice for Wells at Contamination Sites. – The Commission shall adopt rules governing permits issued for private drinking water wells for circumstances in which the local health department has determined that the proposed site for a private drinking water well is located within 1,000 feet of a known source of release of contamination. Rules adopted pursuant to this subsection shall provide for notice and information of the known source of release of contamination and any known risk of issuing a permit for the construction and use of a private drinking water well on such a site.

(f) Expiration and Revocation. – A construction permit or repair permit shall be valid for a period of five years except that the local health department may revoke a permit at any

time if it determines that there has been a material change in any fact or circumstance upon which the permit is issued. The foregoing shall be prominently stated on the face of the permit. The validity of a construction permit or a repair permit shall not be affected by a change in ownership of the site on which a private drinking water well is proposed to be located or is located if the location of the well is unchanged and the well and the facility served by the well remain under common ownership.

(f1) Chlorination of the Well. – Upon completion of construction of a private drinking water well, the well shall be sterilized in accordance with the standards of drinking water wells established by the United States Public Health Service.

(g) Certificate of Completion. – Upon completion of construction of a private drinking water well or repair of a private drinking water well for which a permit is required under this section, the local health department shall inspect the well to determine whether it was constructed or repaired in compliance with the construction permit or repair permit. If the local health department determines that the private drinking water well has been constructed or repaired in accordance with the requirements of the construction permit or repair permit, the construction and repair requirements of this Article, and rules adopted pursuant to this Article, the local health department shall issue a certificate of completion. No person shall place a private drinking water well into service without first having obtained a certificate of completion. No person shall return a private drinking water well that has undergone repair to service without first having obtained a certificate of completion.

(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators.

(i) Commission for Public Health to Adopt Drinking Water Testing Rules. – The Commission for Public Health shall adopt rules governing the sampling and testing of well water and the reporting of test results. The rules shall allow local health departments to designate third parties to collect and test samples and report test results. The rules shall also provide for corrective action and retesting where appropriate. The Commission for Public Health may by rule require testing for additional parameters, including volatile organic compounds, if the Commission makes a specific finding that testing for the additional parameters is necessary to protect public health. If the Commission finds that testing for certain volatile organic compounds is necessary to protect public health and initiates rule making to require testing for certain volatile organic compounds, the Commission shall consider all of the following factors in the development of the rule: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS-based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites. In addition, the rules shall require local health departments to

educate citizens for whom new private drinking water wells are constructed and for citizens who contact local health departments regarding testing an existing well on all of the following:

(1) The scope of the testing required pursuant to this Article.
(2) Optional testing available pursuant to this Article.
(3) The limitations of both the required and optional testing.
(4) Minimum drinking water standards.

(j) Test Results. – The local health department shall provide test results to the owner of the newly constructed private drinking water well and, to the extent practicable, to any leaseholder of a dwelling unit or other facility served by the well at the time the water is sampled. The local health department shall include with any test results provided to an owner of a private drinking water well, information regarding the scope of the required and optional testing as established by rules adopted pursuant to subsection (i) of this section.

(k) Registry of Permits and Test Results. – Each local health department shall maintain a registry of all private drinking water wells for which a construction permit or repair permit is issued that is searchable by address or addresses served by the well. The registry shall specify the physical location of each private drinking water well and shall include the results of all tests of water from each well. The local health department shall retain a record of the results of all tests of water from a private drinking water well until the well is properly closed in accordance with the requirements of this Article and rules adopted pursuant to this Article.

(l) Authority Not Limited. – This section shall not be construed to limit any authority of local boards of health, local health departments, the Department of Health and Human Services, or the Commission for Public Health to protect public health."

SECTION 3.5.(b) This section is effective October 1, 2015, and applies to permits issued on or after that date.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 44

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

H44-AST-87 [v.2]

Amends Title [NO]
H44-CSST-50

Date _____ ,2015

Senator Wade

moves to amend the bill on page 2, lines 30-31, by inserting the following between those lines:

"**LOCAL PUBLIC HEALTH MAINTENANCE OF EFFORT MONIES**

SECTION 2.5.(a) G.S. 130A-34.4(a)(2) is repealed.

SECTION 2.5.(b) This section becomes effective July 1, 2016. ".

SIGNED Judy Wade
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 10, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
PRESTON HOWARD	NCMA
BERRY JENKINS	CAROLINAS AGC
David McGowan	NC Petro
Weldon Jones	Jordan Price
Whitney Christenson	Ward & Smith, P.A.
Isabel Villa-Garcia	NCAR
A.B. Swindell	Waste Ind.
Seth Picker	NCAR
Paul Sherman	NCAR
Phoebe Landon	Brooks Pierce
J. GRAYER SHERRILL	NCFB
Betsy Bailey	CAGC
Laurie Onorio	LOLLC
Martha Jenkins	DCR
Brian Mcnwald	WM
JAILE PARKER	NCFB
Joy Wells	NCDA&CS

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 10, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lynell Ring	NCDA & CS
Clayton Dellinger	NCDA & CS
[illegible]	Duke Energy
[illegible]	NCSTA
Hayden Bourguess	FSP
Will Morgan	TNC
[illegible]	WRC
Peter Daniel	CCS
[illegible]	CCS
Dave Fenton	City of Charlotte
Loren Hintz	citizen Chapel Hill
Carl McLamb	TSS
Todd Barlow	NC Advocates for Justice
Vicki Baya	self
Tom [illegible]	NCAOC
[illegible]	ELOates

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 10, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Courtney Lockamy	Randolph Cloud & Assoc
Mia Gualtieri	NCMMC
[illegible]	UNC Dept Gov.
Johanna Reese	NCACC
Cassie Gavin	Sierra Club
Dan Crawford	NCLCV
Peter Magner	NCLCV
Hilton Hardison	CRSWMA
Steve Wall	UNC-IE
Jonathan Hill	CTNC
Sarah Collins	NCLM
CHRIS NIDA	NCLM
Jonathan Meyer	NCLM
Erin Wynia	NCLM
Phil CARTER	WASTE INDUSTRIES
Brooks Rainey Pearson	SELC
My Nhi Ha Le	SELC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 10, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rachael Esty	NCCN
Francesca Marsh	NCCN
J. Hall Cooper	CCS
Peter Raabe	American Rivers

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 24, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Bill Cook

Introduction of Pages

Introduction of Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 255	Building Code Reg. Reform.	Representative Brody Representative Riddell Representative Cotham Representative Watford
HB 634	Stormwater/Built-Upon Area Clarification.	Representative Torbett
HB 705	Amend Septic Tank Requirements.	Representative Brody

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 24, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on June 24, 2015 in Room 544 of the Legislative Office Building. Sixteen (16) members were present.

Senator Bill Cook, presided

Senate Sgt.-At-Arms for today's meeting were Giles Jeffries and Canton Lewis

Pages: Justin Condry from Jacksonville sponsored by Senator Brown; Jeffery Condry from Jacksonville sponsored by Senator Brown; and Annie Haunton from Hickory sponsored by Senator Wells.

The following bills were discussed:

HB 255 Building Code Reg. Reform. (Representatives Brody, Riddell, Cotham, Watford)

There was a PCS on this bill. Senator Brock made a motion to accept the PCS. The motion carried.

Representative Brody explained this bill.

Senator Brock sent forth an amendment to the bill. Senator Bryant had a question about the amendment which Senator Brock responded. Senator Wade made a motion that the amendment be approved and the motion carried.

After questions from members, Senator Cook opened the floor for public comment. The following people spoke:

David Crawford, Executive Director of AIA North Carolina spoke on Section 10 of the bill and opposed this provision of the bill.

Jim Roberson, Wake County Planning, Development & Inspections spoke in opposition to parts of the bill.

Mike Carpenter, Executive Director of North Carolina Homebuilders Association spoke in support of the bill

Barry Mooneyham, Director of Wake County Building Inspections spoke against part of the bill.

Senator Cook opened the floor to members for questions and discussion. After much discussion, Senator Tucker made a motion earlier in the meeting for a Favorable Report to the PCS as amended and an Unfavorable Report to the Original Bill. The motion carried.

HB 634 Stormwater/Built-Upon Area Clarification. (Representative Torbett)

There was a PCS to this bill. A motion was made by Senator Brock to accept the PCS. The motion carried. Representative Torbett explained the bill. There was no discussion. Senator Brock moved for a Favorable Report for the PCS and Unfavorable Report for the Original Bill. The motion carried.

HB 705 Amend Septic Tank Requirements. (Representative Brody)

There was a PCS to the bill. Senator B. Jackson made a motion to accept the PCS. The motion carried. Representative Brody explained the bill. There were comments from Senator McInnis and Senator B. Jackson regarding support for this bill. Senator Brock made a motion for a Favorable Report for the PCS and Unfavorable Report to the Original Bill. The motion carried

The meeting adjourned at 10:55 AN

Bill Cook
Senator Bill Cook, Presiding

Judy Edwards
Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, June 24, 2015

Senator Cook,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **634** **(CS#1)** Stormwater/Built-Upon Area Clarification.

Draft Number:	H634-PCS10403-SB-17
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

HB **705** **(CS#1)** Amend Septic Tank Requirements.

Draft Number:	H705-PCS40478-TA-11
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **255** **(CS#2)** Building Code Reg. Reform.

Draft Number:	H255-PCS30396-RI-17
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 3

Senator Andrew Brock will handle HB 634
Senator Thomas McInnis will handle HB 705
Senator Andrew Brock will handle HB 255

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 255
Committee Substitute Favorable 3/31/15
Committee Substitute #2 Favorable 4/14/15
Fourth Edition Engrossed 4/14/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H255-PCS30396-RI-17

Short Title: Building Code Reg. Reform. (Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM BUILDING CODE ENFORCEMENT TO PROMOTE ECONOMIC GROWTH BY CONFORMING WORK IN PROGRESS INSPECTION AUTHORITY TO RECENTLY ENACTED INSPECTION LIMITATIONS, BY REQUIRING THE BUILDING CODE COUNCIL TO STUDY THE ALTERNATE METHODS APPROVAL PROCESS, BY CLARIFYING THE DEFINITION OF OFFICIAL MISCONDUCT FOR CODE OFFICIALS, BY RAISING THE THRESHOLD FOR REQUIREMENT OF A BUILDING PERMIT, BY CREATING THE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND THE BUILDING CODE COMMITTEE, BY REQUIRING INTERNET POSTING OF CERTAIN COUNCIL DECISIONS AND INTERPRETATIONS, BY CLARIFYING THAT INSPECTION FEES COLLECTED BY CITIES AND COUNTIES MAY ONLY BE USED TO SUPPORT THE INSPECTION DEPARTMENT, BY REQUIRING THAT INSPECTIONS BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS, BY AUTHORIZING INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS, AND BY EXEMPTING CERTAIN COMMERCIAL BUILDING PROJECTS FROM THE REQUIREMENT OF A PROFESSIONAL SEAL.

The General Assembly of North Carolina enacts:

PART I. COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS

SECTION 1.(a) G.S. 153A-360 reads as rewritten:

"**§ 153A-360. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 153A-352(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be

conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

SECTION 1.(b) G.S. 160A-420 reads as rewritten:

"**§ 160A-420. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 160A-412(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

PART II. STUDY ALTERNATIVE APPROVAL METHODS

SECTION 2. The North Carolina Building Code Council shall study procedures and policies for the approval of alternative materials, designs, or methods. The study shall include review of the following elements:

(1) The alternate methods application process, including requirements for initial application submittal, supporting information, and site-specific or project-specific application submittals.

(2) Time lines for the application process, including application submittal, Council review, and final approval or denial of applications, including the feasibility of a requirement that final determinations be rendered on a completed application within 30 days of the date an application is determined to be complete.

(3) Procedures for appeal of applications denied by the Council.

In conducting the study, the Council may utilize support services provided by staff from the Engineering Division of the Department of Insurance. The Council shall report its findings and recommendations, including any proposed legislative changes, to the 2016 Regular Session of the 2015 General Assembly when it convenes.

PART III. CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS

SECTION 3.(a) G.S. 143-151.8 is amended by adding a new subsection to read:

"(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, shall include any of the following:

(1) The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.

(2) For an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code, to refuse to accept the decision by the Department to allow that alternative design or construction method under the conditions or circumstances set forth in the Department's decision for that appeal.

(3) For an alternative construction method currently included in the Building Code, to refuse to allow the alternative method under the conditions or circumstances set forth in the Code for that alternative method.

(4) The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement.

(5) To refuse to implement or adhere to an interpretation of the Building Code issued by the Building Code Council or the Department of Insurance.

(6) The habitual failure to provide requested inspections in a timely manner."

SECTION 3.(b) The North Carolina Code Officials Qualification Board shall, no later than October 1, 2015, notify all Code enforcement officials in the State of the clarification to the grounds for disciplinary action enacted by this act.

PART IV. RAISE THRESHOLD FOR BUILDING PERMIT REQUIREMENT

SECTION 4.1. G.S. 143-138(b5) reads as rewritten:

"(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters, provided that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21."

SECTION 4.2.(a) G.S. 153A-357(a2) is recodified as G.S. 153A-357(a3).

SECTION 4.2.(b) G.S. 153A-357, as amended by subsection (a) of this section, reads as rewritten:

"**§ 153A-357. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing

structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

...."

SECTION 4.3.(a) G.S. 160A-417(a2) is recodified as G.S. 160A-417(a3).

SECTION 4.3.(b) G.S. 160A-417, as amended by subsection (a) of this section, reads as rewritten:

"**§ 160A-417. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

...."

PART V. CREATE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND BUILDING CODE COMMITTEE

SECTION 5.1. G.S. 143-136 reads as rewritten:

"**§ 143-136. Building Code Council created; ~~membership.~~membership, committees.**

(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 17 members appointed by the Governor, consisting of the following:

(1) ~~two registered architects,~~Two licensed architects.

(2) ~~one~~ One licensed general ~~contractor,~~contractor.

(3) ~~one~~One licensed general contractor specializing in residential ~~construction,~~construction.

(4) ~~one~~One licensed general contractor specializing in coastal residential ~~construction,~~construction.

(5) ~~one registered~~One licensed engineer practicing structural ~~engineering,~~engineering.
(6) ~~one registered~~One licensed engineer practicing mechanical ~~engineering,~~engineering.
(7) ~~one registered~~ One licensed engineer practicing electrical ~~engineering,~~engineering.
(8) ~~one~~ One licensed plumbing and heating ~~contractor,~~contractor.
(9) ~~one~~ One municipal or county building ~~inspector,~~inspector.
(10) ~~one~~ One licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and ~~appliances,~~appliances.
(11) ~~a~~ One representative of the public who is not a member of the building construction ~~industry,~~industry.
(12) ~~a~~ One licensed electrical ~~contractor,~~contractor.
(13) ~~a registered~~ One licensed engineer on the engineering staff of a State agency charged with approval of plans of State-owned ~~buildings,~~buildings.
(14) ~~a~~ One municipal elected official or city ~~manager,~~manager.
(15) ~~a~~ One county commissioner or county ~~manager,~~manager.
(16) ~~and an~~One active member of the North Carolina fire service with expertise in fire ~~safety.~~safety, as recommended by the North Carolina State Firemen's Association.

In selecting the municipal and county members, preference should be given to members who qualify as either a ~~registered~~ licensed architect, ~~registered~~ licensed engineer, or licensed general contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above.

(b) Compensation. – Members of the Building Code Council other than any who are employees of the State shall receive seven dollars ($7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(c) Residential Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Residential Code for One- and Two-Family Dwellings Committee composed of six members of the Building Code Council, specifically the licensed general contractor specializing in residential construction who shall serve as chairman of this committee; the licensed general contractor specializing in coastal residential construction; the licensed engineer practicing structural engineering; the licensed plumbing and heating contractor; the fire service representative; and the licensed electrical contractor. This committee shall meet upon the call of its chairman to review any proposal for revision or amendment to

the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, the NC Mechanical Code, and the NC Existing Building Code, and no revision or amendment to any of these codes applicable to residential construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings. The committee shall be composed of the following nine members of the Building Code Council:

(1) One of the licensed architects appointed by the chairman of the Building Code Council.
(2) The licensed engineer practicing mechanical engineering.
(3) The licensed engineer practicing electrical engineering.
(4) The licensed engineer practicing structural engineering.
(5) The municipal elected official.
(6) The fire service representative.
(7) The municipal or county building inspector.
(8) The State agency engineer.
(9) The licensed general contractor.

The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee shall meet upon the call of the chairman to review any proposal for revision or amendment to the North Carolina State Building Code, including provisions applicable to the North Carolina Energy Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, and the North Carolina Existing Building Code, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision of the codes applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane."

SECTION 5.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – ~~The~~ Subject to the procedures set forth in G.S. 143-136(c) and (d), the Building Code Council may periodically revise and amend the North Carolina State Building Code, either on its own motion or upon application from any

citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the Council, the Council ~~shall~~ shall, following the procedure set forth in G.S. 143-136(c), revise the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision under this subsection shall be adopted to become effective January 1, 2019, and every six years thereafter. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Council, through the Department of Insurance, shall publish in the North Carolina Register ~~and shall post on the Council's Web site~~ all appeal decisions made by the Council and all formal opinions at least semiannually. The Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web site address and information on how to find additional commentary and interpretation of the Code."

PART VI. BUILDING CODE COUNCIL REQUIRED WEB SITE POSTINGS

SECTION 6.1. G.S. 143-141 is amended by adding a new subsection to read:

"(c1) Posting on Department Web Site. – The Department of Insurance shall post and maintain on that portion of its Web site devoted to the Building Code Council all appeal decisions, interpretations, and variations of the Code issued by the Council within 10 business days of issuance."

SECTION 6.2. G.S. 143-138.1(b) reads as rewritten:

"(b) The Department of Insurance shall post and maintain on ~~its Web site~~ that portion of its Web site devoted to the Building Code Council written commentaries and written interpretations made and given by staff to the ~~North Carolina Building Code~~ Council and the Department for each section of the North Carolina Building ~~Code.~~Code within 10 business days of issuance."

PART VII. INSPECTION FEES TO BE SPENT ONLY FOR ACTIVITIES OF INSPECTION DEPARTMENT

SECTION 7.1. G.S. 153A-354 reads as rewritten:

"**§ 153A-354. Financial support.**

A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

SECTION 7.2. G.S. 160A-414 reads as rewritten:

"**§ 160A-414. Financial support.**

The city council may appropriate for the support of the inspection department any funds that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It shall have power to fix reasonable fees for issuance of permits, inspections, and other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

PART VIII. INSPECTIONS TO BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS

SECTION 8.1. G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary ~~inspections,~~ inspections in a timely manner, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 8.2. G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary ~~inspections,~~ inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

PART IX. INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

SECTION 9.(a) G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a county shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the county with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the county as required under subsection (c) of this section, the county, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 9.(b) G.S. 153A-356 reads as rewritten:

"**§ 153A-356. Failure to perform duties.**

(a) If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the county, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 153A-352(c)."

SECTION 9.(c) G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the city with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the city as required under subsection (c) of this section, the city, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 9.(d) G.S. 160A-416 reads as rewritten:

"**§ 160A-416. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the city, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160A-412(c)."

PART X. EXEMPT CERTAIN COMMERCIAL BUILDING PROJECTS FROM THE REQUIREMENT OF A PROFESSIONAL SEAL

SECTION 10. Notwithstanding G.S. 83A-13(c)(3) and (4), a commercial building project with a total value of less than ninety thousand dollars ($90,000) and a total project area of less than 2,500 square feet shall be exempt from the requirement for a professional architectural seal.

PART XI. EFFECTIVE DATE

SECTION 11. This act becomes effective October 1, 2015.

HOUSE BILL 255:
Building Code Reg. Reform

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 23, 2015
Introduced by:	Reps. Brody, Riddell, Cotham, Watford	**Prepared by:**	Karen Cochrane-Brown Staff Attorney
Analysis of:	PCS to Fourth Edition H255-CSRI		

SUMMARY: The Proposed Senate Committee Substitute (PCS) for House Bill 255 makes various changes to the law relating to the State Building Code.

[As introduced, this bill was identical to S324, as introduced by Sens. Brock, McInnis, Clark, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS:

PART I. COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS

Sections 1(a) and 1(b) would amend the laws related to inspections of work in progress by county and city inspectors to provide that these inspections are subject to a new provision in the law. The new provision states that in performing specific inspections required by the Building Code, the inspector must conduct a full inspection and provide the permit holder with a complete list of all items which fail to meet the requirements of the North Carolina Residential Code for One-and Two Family Dwellings.

PART II. STUDY ALTERNATE APPROVAL METHODS

Section 2 directs the Building Code Council to study procedures and policies for the approval of alternative materials, designs, or methods, including review of the following:

- The alternate methods application process.
- Time lines for the application process, including the feasibility of rendering final determinations within 30 days of completion of the application.
- Procedures for appeal of applications denied by the Council.

The Council must report its findings and recommendations, including any proposed legislation, to the 2016 Regular Session of the 2015 General Assembly.

PART III. CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS

Section 3 amends the law governing the Code Officials Qualification Board which issues certifications to persons engaged in Code enforcement. The provision adds a definition of the term "willful misconduct, gross negligence or gross incompetence". Willful misconduct, gross negligence or gross incompetence is a basis for disciplinary action against a Code enforcement official. The term includes any of the following:

- The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.
- To refuse to accept the decision of the Department of Insurance to allow an alternative design or construction method under the conditions or circumstances set forth in the Department's decision of the appeal.
- To refuse to allow an alternative method under the conditions or circumstances set forth in the Code for that alternative method.
- The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement.
- To refuse to implement or adhere to an interpretation of the Building Code issued by the Council or the Department of Insurance.
- The habitual failure to provide requested inspections in a timely manner.

The Board must notify all Code enforcement officials of this change by October 1, 2015.

PART IV. RAISE THRESHOLD FOR BUILDING PERMIT REQUIREMENT

Section 4.1 amends the threshold for requirement of a building permit for any construction, installation, repair, replacement, or alteration from $5,000 to $15,000.

Section 4.2 amends the law relating to county issued permits to raises the threshold for permits from $5,000 to $15,000.

Section 4.3 makes identical changes to the law relating to city issued permits.

PART V. CREATE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND BUILDING CODE COMMITTEE

Section 5.1 adds new provisions creating two committees within the Building Code Council. The Residential Code Committee is composed of six members of the Council. The committee is charged with reviewing any proposed revisions or amendments to the Residential Code and no revision or amendment can be considered by the Council unless recommended by the committee. The Building Code Council, however, is not prevented from accepting, rejecting, or amending any recommendation of the Residential Committee, provided that any amendment from the Council to the recommendation is germane. The committee must oversee the process by which the Council conducts its periodic amendment of the Code, as well as consider any appeals or interpretations related to the Residential Code and make recommendations to the Council for disposition of the appeal or interpretation.

The Building Code Committee is composed of nine members of the Council. The committee is charged with reviewing any proposed revisions or amendments to the Building Code and no revision or amendment can be considered by the Council unless recommended by the committee. The Building Code Council, however, is not prevented from accepting, rejecting, or amending any recommendation of the Building Code Committee, provided that any amendment from the Council to the recommendation is germane. The committee must oversee the process by which the Council conducts its periodic revision of the codes applicable to commercial or multifamily construction, as well as consider any appeals or interpretations related to those codes and make recommendations to the Council for disposition of the appeal or interpretation.

PART VI. BUILDING CODE COUNCIL REQUIRED WEB SITE POSTINGS.

Section 6 directs the Department of Insurance to post on its website all appeal decisions, interpretations and variations of the Code issued by the Council within ten business days of issuance.

PART VII. INSPECTION FEES TO BE SPENT ONLY FOR ACTIVITIES OF INSPECTION DEPARTMENT

Section 7 amends the laws related to financial support of county and city inspection departments to require that all fees collected from inspections be used for support of the activities of the inspection department and for no other purpose.

PART VIII. INSPECTIONS TO BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS

Section 8 amends the laws governing the duties and responsibilities of county and city inspection departments to require that necessary inspections be made in a timely manner. This provision also adds language that in performing required inspections, county and city inspectors must conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the Residential Code for One- and Two-Family Dwellings.

PART IX. INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

Section 9 requires a county or city to accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided that certain conditions are met. Upon the satisfaction of those conditions and acceptance and approval of a signed written document by the county or city, the county or city and its inspection department and inspectors would be discharged and released from any duties and responsibilities imposed with respect to the component or element in the construction of the building for which the signed written document was submitted.

Under current law, city (G.S. 160A-412) and county (G.S. 153A-352) inspection departments are authorized to enforce within their territorial jurisdiction State and local laws and local ordinances and regulations relating to the construction of buildings, installation of certain facilities such as plumbing and electrical systems, maintenance of buildings, and other matters specified by the governing board.

PART X. EXEMPT CERTAIN COMMERCIAL BUILDING PROJECTS FROM THE REQUIREMENT OF A PROFESSIONAL SEAL

Section 10 exempts certain commercial building projects, located within a covered mall building, with a total cost of construction of less than ninety thousand dollar ($90,000) and a total project area of less than 2,500 square feet from the requirement for a professional architectural seal.

EFFECTIVE DATE: This act becomes effective October 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 255
Committee Substitute Favorable 3/31/15
Committee Substitute #2 Favorable 4/14/15
Fourth Edition Engrossed 4/14/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H255-CSRI-17 [v.4]
6/23/2015 6:46:47 PM

Short Title: Building Code Reg. Reform. (Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM BUILDING CODE ENFORCEMENT TO PROMOTE ECONOMIC GROWTH BY CONFORMING WORK IN PROGRESS INSPECTION AUTHORITY TO RECENTLY ENACTED INSPECTION LIMITATIONS, BY REQUIRING THE BUILDING CODE COUNCIL TO STUDY THE ALTERNATE METHODS APPROVAL PROCESS, BY CLARIFYING THE DEFINITION OF OFFICIAL MISCONDUCT FOR CODE OFFICIALS, BY RAISING THE THRESHOLD FOR REQUIREMENT OF A BUILDING PERMIT, BY CREATING THE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND THE BUILDING CODE COMMITTEE, BY REQUIRING INTERNET POSTING OF CERTAIN COUNCIL DECISIONS AND INTERPRETATIONS, BY CLARIFYING THAT INSPECTION FEES COLLECTED BY CITIES AND COUNTIES MAY ONLY BE USED TO SUPPORT THE INSPECTION DEPARTMENT, BY REQUIRING THAT INSPECTIONS BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS, BY AUTHORIZING INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS, AND BY EXEMPTING CERTAIN COMMERCIAL BUILDING PROJECTS FROM THE REQUIREMENT OF A PROFESSIONAL SEAL.

The General Assembly of North Carolina enacts:

PART I. COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS

SECTION 1.(a) G.S. 153A-360 reads as rewritten:

"**§ 153A-360. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 153A-352(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be

conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

SECTION 1.(b) G.S. 160A-420 reads as rewritten:

"**§ 160A-420. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 160A-412(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

PART II. STUDY ALTERNATIVE APPROVAL METHODS

SECTION 2. The North Carolina Building Code Council shall study procedures and policies for the approval of alternative materials, designs, or methods. The study shall include review of the following elements:

(1) The alternate methods application process, including requirements for initial application submittal, supporting information, and site-specific or project-specific application submittals.

(2) Time lines for the application process, including application submittal, Council review, and final approval or denial of applications, including the feasibility of a requirement that final determinations be rendered on a completed application within 30 days of the date an application is determined to be complete.

(3) Procedures for appeal of applications denied by the Council.

In conducting the study, the Council may utilize support services provided by staff from the Engineering Division of the Department of Insurance. The Council shall report its findings and recommendations, including any proposed legislative changes, to the 2016 Regular Session of the 2015 General Assembly when it convenes.

PART III. CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS

SECTION 3.(a) G.S. 143-151.8 is amended by adding a new subsection to read:

"(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, shall include any of the following:

(1) The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.

(2) For an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code, to refuse to accept the decision by the Department to allow that alternative design or construction method under the conditions or circumstances set forth in the Department's decision for that appeal.

(3) For an alternative construction method currently included in the Building Code, to refuse to allow the alternative method under the conditions or circumstances set forth in the Code for that alternative method.

(4) The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement.

(5) To refuse to implement or adhere to an interpretation of the Building Code issued by the Building Code Council or the Department of Insurance.

(6) The habitual failure to provide requested inspections in a timely manner."

SECTION 3.(b) The North Carolina Code Officials Qualification Board shall, no later than October 1, 2015, notify all Code enforcement officials in the State of the clarification to the grounds for disciplinary action enacted by this act.

PART IV. RAISE THRESHOLD FOR BUILDING PERMIT REQUIREMENT

SECTION 4.1. G.S. 143-138(b5) reads as rewritten:

"(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters, provided that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21."

SECTION 4.2.(a) G.S. 153A-357(a2) is recodified as G.S. 153A-357(a3).

SECTION 4.2.(b) G.S. 153A-357, as amended by subsection (a) of this section, reads as rewritten:

"**§ 153A-357. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing

structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

...."

SECTION 4.3.(a) G.S. 160A-417(a2) is recodified as G.S. 160A-417(a3).

SECTION 4.3.(b) G.S. 160A-417, as amended by subsection (a) of this section, reads as rewritten:

"**§ 160A-417. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

...."

PART V. CREATE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND BUILDING CODE COMMITTEE

SECTION 5.1. G.S. 143-136 reads as rewritten:

"**§ 143-136. Building Code Council created; ~~membership.~~membership, committees.**

(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 17 members appointed by the Governor, consisting of the following:

(1) ~~two registered architects,~~Two licensed architects.

(2) ~~one~~ One licensed general ~~contractor,~~contractor.

(3) ~~one~~One licensed general contractor specializing in residential ~~construction,~~construction.

(4) ~~one~~One licensed general contractor specializing in coastal residential ~~construction,~~construction.

(5) ~~one registered~~One licensed engineer practicing structural ~~engineering,~~engineering.
(6) ~~one registered~~One licensed engineer practicing mechanical ~~engineering,~~engineering.
(7) ~~one registered~~ One licensed engineer practicing electrical ~~engineering,~~engineering.
(8) ~~one~~ One licensed plumbing and heating ~~contractor,~~contractor.
(9) ~~one~~ One municipal or county building ~~inspector,~~inspector.
(10) ~~one~~ One licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and ~~appliances,~~appliances.
(11) ~~a~~ One representative of the public who is not a member of the building construction ~~industry,~~industry.
(12) ~~a~~ One licensed electrical ~~contractor,~~contractor.
(13) ~~a registered~~ One licensed engineer on the engineering staff of a State agency charged with approval of plans of State-owned ~~buildings,~~buildings.
(14) ~~a~~ One municipal elected official or city ~~manager,~~manager.
(15) ~~a~~ One county commissioner or county ~~manager,~~manager.
(16) ~~and an~~One active member of the North Carolina fire service with expertise in fire safety.

In selecting the municipal and county members, preference should be given to members who qualify as either a ~~registered~~ licensed architect, ~~registered~~ licensed engineer, or licensed general contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above.

(b) Compensation. – Members of the Building Code Council other than any who are employees of the State shall receive seven dollars ($7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(c) Residential Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Residential Code for One- and Two-Family Dwellings Committee composed of six members of the Building Code Council, specifically the licensed general contractor specializing in residential construction who shall serve as chairman of this committee; the licensed general contractor specializing in coastal residential construction; the licensed engineer practicing structural engineering; the licensed plumbing and heating contractor; the fire service representative; and the licensed electrical contractor. This committee shall meet upon the call of its chairman to review any proposal for revision or amendment to the North Carolina State Building Code: Residential Code for One- and Two-Family

Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, the NC Mechanical Code, and the NC Existing Building Code, and no revision or amendment to any of these codes applicable to residential construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings. The committee shall be composed of the following nine members of the Building Code Council:

(1) One of the licensed architects appointed by the chairman of the Building Code Council.
(2) The licensed engineer practicing mechanical engineering.
(3) The licensed engineer practicing electrical engineering.
(4) The licensed engineer practicing structural engineering.
(5) The municipal elected official.
(6) The fire service representative.
(7) The municipal or county building inspector.
(8) The State agency engineer.
(9) The licensed general contractor.

The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee shall meet upon the call of the chairman to review any proposal for revision or amendment to the North Carolina State Building Code, including provisions applicable to the North Carolina Energy Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, and the North Carolina Existing Building Code, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision of the codes applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane."

SECTION 5.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – ~~The~~ Subject to the procedures set forth in G.S. 143-136(c) and (d), the Building Code Council may periodically revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions

or amendments made by the Council, the Council ~~shall~~ shall, following the procedure set forth in G.S. 143-136(c), revise the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision under this subsection shall be adopted to become effective January 1, 2019, and every six years thereafter. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Council, through the Department of Insurance, shall publish in the North Carolina Register ~~and shall post on the Council's Web site~~ all appeal decisions made by the Council and all formal opinions at least semiannually. The Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web site address and information on how to find additional commentary and interpretation of the Code."

PART VI. BUILDING CODE COUNCIL REQUIRED WEB SITE POSTINGS

SECTION 6.1. G.S. 143-141 is amended by adding a new subsection to read:

"(c1) Posting on Department Web Site. – The Department of Insurance shall post and maintain on that portion of its Web site devoted to the Building Code Council all appeal decisions, interpretations, and variations of the Code issued by the Council within ten business days of issuance."

SECTION 6.2. G.S. 143-138.1(b) reads as rewritten:

"(b) The Department of Insurance shall post and maintain on ~~its Web site~~ that portion of its Web site devoted to the Building Code Council written commentaries and written interpretations made and given by staff to the ~~North Carolina Building Code~~ Council and the Department for each section of the North Carolina Building ~~Code.~~Code within ten business days of issuance."

PART VII. INSPECTION FEES TO BE SPENT ONLY FOR ACTIVITIES OF INSPECTION DEPARTMENT

SECTION 7.1. G.S. 153A-354 reads as rewritten:

"**§ 153A-354. Financial support.**

A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

SECTION 7.2. G.S. 160A-414 reads as rewritten:

"**§ 160A-414. Financial support.**

The city council may appropriate for the support of the inspection department any funds that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It shall have power to fix reasonable fees for issuance of permits, inspections, and other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

PART VIII. INSPECTIONS TO BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS

SECTION 8.1. G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary ~~inspections,~~ inspections in a timely manner, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 8.2. G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary ~~inspections,~~ inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

PART IX. INSPECTIONS OF COMPONENTS OR ELEMENTS OF BUILDINGS CERTIFIED BY LICENSED ARCHITECTS OR LICENSED ENGINEERS

SECTION 9.(a) G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the board of commissioners.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section include receiving applications for permits and issuing or denying permits, making necessary inspections, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a county shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the county with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the county as required under subsection (c) of this section, the county, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 9.(b) G.S. 153A-356 reads as rewritten:

"**§ 153A-356. Failure to perform duties.**

(a) If a member of an inspection department willfully fails to perform the duties required of him by law, or willfully improperly issues a permit, or gives a certificate of compliance without first making the inspections required by law, or willfully improperly gives a certificate of compliance, he is guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the county, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 153A-352(c)."

SECTION 9.(c) G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to

(1) The construction of buildings and other structures;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;

(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;

(4) Other matters that may be specified by the city council.

(a1) ~~These~~ The duties and responsibilities set forth in subsection (a) of this section shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action.

(c) Notwithstanding the requirements of this Article, a city shall accept and approve, without further responsibility to inspect, a design or other proposal for a component or element in the construction of buildings from a licensed architect or licensed engineer provided all of the following apply:

(1) The submission is completed under valid seal of the licensed architect or licensed engineer.

(2) Field inspection of the installation or completion of construction is performed by that licensed architect or licensed engineer.

(3) That licensed architect or licensed engineer provides the city with a signed written document stating the component or element of the building so inspected is in compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) Upon the acceptance and approval of a signed written document by the city as required under subsection (c) of this section, the city, its inspection department, and the inspectors shall be discharged and released from any duties and responsibilities imposed by this Article with respect to the component or element in the construction of the building for which the signed written document was submitted."

SECTION 9.(d) G.S. 160A-416 reads as rewritten:

"**§ 160A-416. Failure to perform duties.**

(a) If any member of an inspection department shall willfully fail to perform the duties required of him by law, or willfully shall improperly issue a permit, or shall give a certificate of compliance without first making the inspections required by law, or willfully shall improperly give a certificate of compliance, he shall be guilty of a Class 1 misdemeanor.

(b) A member of the inspection department shall not be in violation of this section when the city, its inspection department, or one of the inspectors accepted a signed written document of compliance with the North Carolina State Building Code or the North Carolina Residential Code for One- and Two-Family Dwellings from a licensed architect or licensed engineer in accordance with G.S. 160A-412(c)."

PART X. EXEMPT CERTAIN COMMERCIAL BUILDING PROJECTS FROM THE REQUIREMENT OF A PROFESSIONAL SEAL

SECTION 10. Notwithstanding G.S. 83A-13(c)(3) and (4), a commercial building project, located within a covered mall building, with a total value of less than ninety thousand dollars ($90,000) and a total project area of less than 2,500 square feet shall be exempt from the requirement for a professional architectural seal.

PART XI. EFFECTIVE DATE

SECTION 11. This act becomes effective October 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 255
Committee Substitute Favorable 3/31/15
Committee Substitute #2 Favorable 4/14/15
Fourth Edition Engrossed 4/14/15

Short Title: Building Code Reg. Reform. (Public)

Sponsors:

Referred to:

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO REFORM BUILDING CODE ENFORCEMENT TO PROMOTE ECONOMIC GROWTH BY CONFORMING WORK IN PROGRESS INSPECTION AUTHORITY TO RECENTLY ENACTED INSPECTION LIMITATIONS, BY REQUIRING THE BUILDING CODE COUNCIL TO STUDY THE ALTERNATE METHODS APPROVAL PROCESS, BY CLARIFYING THE DEFINITION OF OFFICIAL MISCONDUCT FOR CODE OFFICIALS, BY RAISING THE THRESHOLD FOR REQUIREMENT OF A BUILDING PERMIT, BY CREATING THE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND THE BUILDING CODE COMMITTEE, BY REQUIRING INTERNET POSTING OF CERTAIN COUNCIL DECISIONS AND INTERPRETATIONS, BY CLARIFYING THAT INSPECTION FEES COLLECTED BY CITIES AND COUNTIES MAY ONLY BE USED TO SUPPORT THE INSPECTION DEPARTMENT, AND BY REQUIRING THAT INSPECTIONS BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. COMPLIANCE WITH BUILDING CODE INSPECTION REQUIREMENTS

SECTION 1.(a) G.S. 153A-360 reads as rewritten:

"**§ 153A-360. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 153A-352(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

SECTION 1.(b) G.S. 160A-420 reads as rewritten:

"**§ 160A-420. Inspections of work in progress.**

~~As~~ Subject to the limitation imposed by G.S. 160A-412(b), as the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to

satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes."

PART II. STUDY ALTERNATIVE APPROVAL METHODS

SECTION 2. The North Carolina Building Code Council shall study procedures and policies for the approval of alternative materials, designs, or methods. The study shall include review of the following elements:

(1) The alternate methods application process, including requirements for initial application submittal, supporting information, and site-specific or project-specific application submittals.

(2) Time lines for the application process, including application submittal, Council review, and final approval or denial of applications, including the feasibility of a requirement that final determinations be rendered on a completed application within 30 days of the date an application is determined to be complete.

(3) Procedures for appeal of applications denied by the Council.

In conducting the study, the Council may utilize support services provided by staff from the Engineering Division of the Department of Insurance. The Council shall report its findings and recommendations, including any proposed legislative changes, to the 2016 Regular Session of the 2015 General Assembly when it convenes.

PART III. CLARIFY OFFICIAL MISCONDUCT FOR CODE OFFICIALS

SECTION 3.(a) G.S. 143-151.8 is amended by adding a new subsection to read:

"(c) For purposes of this Article, "willful misconduct, gross negligence, or gross incompetence" in addition to the meaning of those terms under other provisions of the General Statutes or at common law, shall include any of the following:

(1) The enforcement of a Code requirement applicable to a certain area or set of circumstances in other areas or circumstances not specified in the requirement.

(2) For an alternative design or construction method that has been appealed under G.S. 143-140.1 and found by the Department of Insurance to comply with the Code, to refuse to accept the decision by the Department to allow that alternative design or construction method under the conditions or circumstances set forth in the Department's decision for that appeal.

(3) For an alternative construction method currently included in the Building Code, to refuse to allow the alternative method under the conditions or circumstances set forth in the Code for that alternative method.

(4) The enforcement of a requirement that is more stringent than or otherwise exceeds the Code requirement.

(5) To refuse to implement or adhere to an interpretation of the Building Code issued by the Building Code Council or the Department of Insurance.

(6) The habitual failure to provide requested inspections in a timely manner."

SECTION 3.(b) The North Carolina Code Officials Qualification Board shall, no later than October 1, 2015, notify all Code enforcement officials in the State of the clarification to the grounds for disciplinary action enacted by this act.

PART IV. RAISE THRESHOLD FOR BUILDING PERMIT REQUIREMENT

SECTION 4.1. G.S. 143-138(b5) reads as rewritten:

"(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters, provided that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping), or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21."

SECTION 4.2.(a) G.S. 153A-357(a2) is recodified as G.S. 153A-357(a3).

SECTION 4.2.(b) G.S. 153A-357, as amended by subsection (a) of this section, reads as rewritten:

"**§ 153A-357. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

...."

SECTION 4.3.(a) G.S. 160A-417(a2) is recodified as G.S. 160A-417(a3).

SECTION 4.3.(b) G.S. 160A-417, as amended by subsection (a) of this section, reads as rewritten:

"**§ 160A-417. Permits.**

...

(a1) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a ~~registered~~ licensed architect or ~~registered~~ licensed engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a ~~registered~~ licensed architect or of a ~~registered~~ licensed engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing ~~five thousand dollars ($5,000)~~ fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

...."

PART V. CREATE BUILDING CODE COUNCIL RESIDENTIAL CODE COMMITTEE AND BUILDING CODE COMMITTEE

SECTION 5.1. G.S. 143-136 reads as rewritten:

"**§ 143-136. Building Code Council created; ~~membership.~~membership, committees.**

(a) Creation; Membership; Terms. – There is hereby created a Building Code Council, which shall be composed of 17 members appointed by the Governor, consisting of the following:

(1) ~~two registered architects,~~Two licensed architects.

(2) ~~one~~ One licensed general ~~contractor,~~contractor.

(3) ~~one~~One licensed general contractor specializing in residential ~~construction,~~construction.

(4) ~~one~~One licensed general contractor specializing in coastal residential ~~construction,~~construction.

(5) ~~one registered~~One licensed engineer practicing structural ~~engineering,~~engineering.

(6) ~~one registered~~One licensed engineer practicing mechanical ~~engineering,~~engineering.

(7) ~~one registered~~ One licensed engineer practicing electrical ~~engineering,~~engineering.

(8) ~~one~~ One licensed plumbing and heating ~~contractor,~~contractor.

(9) ~~one~~ One municipal or county building ~~inspector,~~inspector.
(10) ~~one~~ One licensed liquid petroleum gas dealer/contractor involved in the design of natural and liquid petroleum gas systems who has expertise and experience in natural and liquid petroleum gas piping, venting and ~~appliances,~~appliances.
(11) ~~a~~ One representative of the public who is not a member of the building construction ~~industry,~~industry.
(12) ~~a~~ One licensed electrical ~~contractor,~~contractor.
(13) ~~a registered~~ One licensed engineer on the engineering staff of a State agency charged with approval of plans of State-owned ~~buildings,~~buildings.
(14) ~~a~~ One municipal elected official or city ~~manager,~~manager.
(15) ~~a~~ One county commissioner or county ~~manager,~~manager.
(16) ~~and an~~One active member of the North Carolina fire service with expertise in fire safety.

In selecting the municipal and county members, preference should be given to members who qualify as either a ~~registered~~ licensed architect, ~~registered~~ licensed engineer, or licensed general contractor. Of the members initially appointed by the Governor, three shall serve for terms of two years each, three shall serve for terms of four years each, and three shall serve for terms of six years each. Thereafter, all appointments shall be for terms of six years. The Governor may remove appointive members at any time. Neither the architect nor any of the above named engineers shall be engaged in the manufacture, promotion or sale of any building material, and any member who shall, during his term, cease to meet the qualifications for original appointment (through ceasing to be a practicing member of the profession indicated or otherwise) shall thereby forfeit his membership on the Council. In making new appointments or filling vacancies, the Governor shall ensure that minorities and women are represented on the Council.

The Governor may make appointments to fill the unexpired portions of any terms vacated by reason of death, resignation, or removal from office. In making such appointment, he shall preserve the composition of the Council required above.

(b) Compensation. – Members of the Building Code Council other than any who are employees of the State shall receive seven dollars ($7.00) per day, including necessary time spent in traveling to and from their place of residence within the State to any place of meeting or while traveling on official business of the Council. In addition, all members shall receive mileage and subsistence according to State practice while going to and from any place of meeting, or when on official business of the Council.

(c) Residential Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Residential Code for One- and Two-Family Dwellings Committee composed of six members of the Building Code Council, specifically the licensed general contractor specializing in residential construction who shall serve as chairman of this committee; the licensed general contractor specializing in coastal residential construction; the licensed engineer practicing structural engineering; the licensed plumbing and heating contractor; the fire service representative; and the licensed electrical contractor. This committee shall meet upon the call of its chairman to review any proposal for revision or amendment to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, the NC Mechanical Code, and the NC Existing Building Code, and no revision or amendment to any of these codes applicable to residential construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to North Carolina State

Building Code: Residential Code for One- and Two-Family Dwellings and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane.

(d) Building Code Committee Created; Duties. – Within the Building Code Council, there is hereby created a Building Code Committee for all structures except those subject to the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings. The committee shall be composed of the following nine members of the Building Code Council:

(1) One of the licensed architects appointed by the chairman of the Building Code Council.
(2) The licensed engineer practicing mechanical engineering.
(3) The licensed engineer practicing electrical engineering.
(4) The licensed engineer practicing structural engineering.
(5) The municipal elected official.
(6) The fire service representative.
(7) The municipal or county building inspector.
(8) The State agency engineer.
(9) The licensed general contractor.

The chairman of the Building Code Council shall call the first meeting of the Committee, at which meeting the Committee shall elect a chairman from among the members of the Committee as the first order of business. Thereafter, the Committee shall meet upon the call of the chairman to review any proposal for revision or amendment to the North Carolina State Building Code, including provisions applicable to the North Carolina Energy Code, the North Carolina Electrical Code, the North Carolina Fuel Gas Code, the North Carolina Plumbing Code, the North Carolina Mechanical Code, and the North Carolina Existing Building Code, and no revision or amendment to any of these codes applicable to commercial or multi-family construction may be considered by the Building Code Council unless recommended by this committee. This committee shall also oversee the process by which the Council conducts its revision of the codes applicable to commercial or multi-family construction pursuant to G.S. 143-138(d). This committee shall also consider any appeal or interpretation arising under G.S. 143-141 pertaining to codes applicable to commercial or multi-family construction and make a recommendation to the Building Code Council for disposition of the appeal or interpretation. In considering the recommendations of the committee related to revisions and amendments of the Building Code, nothing in this subsection shall prevent the Building Code Council from accepting, rejecting, or amending the recommendation, provided that any amendment to the recommendation must be germane."

SECTION 5.2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – ~~The~~ Subject to the procedures set forth in G.S. 143-136(c) and (d), the Building Code Council may periodically revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In addition to the periodic revisions or amendments made by the Council, the Council ~~shall~~ shall, following the procedure set forth in G.S. 143-136(c), revise the North Carolina State Building Code: Residential Code for One- and Two-Family Dwellings, including provisions applicable to One- and Two-Family Dwellings from the NC Energy Code, NC Electrical Code, NC Fuel Gas Code, NC Plumbing Code, and NC Mechanical Code only every six years, to become effective the first day of January of the following year, with at least six months between adoption and effective date. The first six-year revision under this subsection shall be adopted to become effective January 1,

2019, and every six years thereafter. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. The Council, through the Department of Insurance, shall publish in the North Carolina Register ~~and shall post on the Council's Web site~~ all appeal decisions made by the Council and all formal opinions at least semiannually. The Council, through the Department of Insurance, shall also publish at least semiannually in the North Carolina Register a statement providing the accurate Web site address and information on how to find additional commentary and interpretation of the Code."

PART VI. BUILDING CODE COUNCIL REQUIRED WEB SITE POSTINGS

SECTION 6.1. G.S. 143-141 is amended by adding a new subsection to read:

"(c1) Posting on Department Web Site. – The Department of Insurance shall post and maintain on that portion of its Web site devoted to the Building Code Council all appeal decisions, interpretations, and variations of the Code issued by the Council within three business days of issuance."

SECTION 6.2. G.S. 143-138.1(b) reads as rewritten:

"(b) The Department of Insurance shall post and maintain on ~~its Web site~~ that portion of its Web site devoted to the Building Code Council written commentaries and written interpretations made and given by staff to the ~~North Carolina Building Code~~ Council and the Department for each section of the North Carolina Building ~~Code.~~Code within three business days of issuance."

PART VII. INSPECTION FEES TO BE SPENT ONLY FOR ACTIVITIES OF INSPECTION DEPARTMENT

SECTION 7.1. G.S. 153A-354 reads as rewritten:

"**§ 153A-354. Financial support.**

A county may appropriate any available funds for the support of its inspection department. It may provide for paying inspectors fixed salaries, or it may reimburse them for their services by paying over part or all of any fees collected. It may fix reasonable fees for issuing permits, for inspections, and for other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

SECTION 7.2. G.S. 160A-414 reads as rewritten:

"**§ 160A-414. Financial support.**

The city council may appropriate for the support of the inspection department any funds that it deems necessary. It may provide for paying inspectors fixed salaries or it may reimburse them for their services by paying over part or all of any fees collected. It shall have power to fix reasonable fees for issuance of permits, inspections, and other services of the inspection department. All fees collected under the authority set forth in this section shall be used for support of the administration and activities of the inspection department and for no other purpose."

PART VIII. INSPECTIONS TO BE PERFORMED IN FULL AND IN A TIMELY MANNER AND INSPECTION REPORTS TO INCLUDE ALL ITEMS FAILING TO MEET CODE REQUIREMENTS

SECTION 8.1. G.S. 153A-352 reads as rewritten:

"**§ 153A-352. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors in it are to enforce within the county's territorial jurisdiction State and local laws and local ordinances and regulations relating to:

(1) The construction of buildings;

(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
(3) The maintenance of buildings in a safe, sanitary, and healthful condition;
(4) Other matters that may be specified by the board of commissioners.

These duties and responsibilities include receiving applications for permits and issuing or denying permits, making necessary ~~inspections,~~ inspections in a timely manner, issuing or denying certificates of compliance, issuing orders to correct violations, bringing judicial actions against actual or threatened violations, keeping adequate records, and taking any other actions that may be required to adequately enforce the laws and ordinances and regulations. The board of commissioners may enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations.

(b) Except as provided in G.S. 153A-364, a county may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct a full inspection and provide the permit holder with a complete list of all items which fail to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 8.2. G.S. 160A-412 reads as rewritten:

"**§ 160A-412. Duties and responsibilities.**

(a) The duties and responsibilities of an inspection department and of the inspectors therein shall be to enforce within their territorial jurisdiction State and local laws relating to
(1) The construction of buildings and other structures;
(2) The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
(3) The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;
(4) Other matters that may be specified by the city council.

These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary ~~inspections,~~ inspections in a timely manner, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The city council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(b) Except as provided in G.S. 160A-424, a city may not adopt a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the

inspector shall conduct a full inspection and provide the permit holder with a complete list of all items which fail to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

PART IX. EFFECTIVE DATE

SECTION 9. This act becomes effective October 1, 2015.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 255

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

H255-ARO-39 [v.1]

Amends Title [NO]
H255-CSRI-17[v4]

Date _____ ,2015

Senator Brock

moves to amend the bill on page 5, line 21, by rewriting the line to read:

"in fire ~~safety.~~ safety, as recommended by the North Carolina State Firemen's Association.";

And on page 11, line 30, by deleting the phrase "located within a covered mall building,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 634
Committee Substitute Favorable 4/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H634-PCS10403-SB-17

Short Title: Stormwater/Built-Upon Area Clarification. (Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF BUILT-UPON AREA FOR PURPOSES OF STORMWATER PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted ~~deck or~~deck; the water area of a ~~swimming pool.~~swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; or a trail as defined in G.S. 113A-85."

SECTION 1.(b) Notwithstanding Section 45(c) of S.L. 2014-120, the Environmental Management Commission shall adopt rules to implement this section no later than December 1, 2015.

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

HOUSE BILL 634:
Stormwater/Built-Upon Area Clarification

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 24, 2015
Introduced by:	Rep. Torbett	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to Second Edition H634-CSSB-17 [v.2]		

SUMMARY: The Proposed Committee Substitute for House Bill 634 (PCS) would provide that for purposes of implementing stormwater programs, "built-upon area" does not include (i) a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least 4" thick over a geotextile fabric or (ii) a public trail.

CURRENT LAW:

Under current law, for purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a swimming pool.

BILL ANALYSIS:

The PCS for House Bill 634 would provide that for purposes of implementing stormwater programs, "built-upon area" does not include:

- A surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least 4" thick over a geotextile fabric.
- A trail that is part of the State Parks System; is designated by the Secretary of Environment and Natural Resources as a component of the State trails system; is a State scenic trail, State recreation trail, or State connecting trail that serves as a park trail or designated trail; or any other trail that is open to the public.

The PCS for House Bill 634 would also direct the Environmental Management Commission to issue rules to implement this change no later than December 1, 2015.

EFFECTIVE DATE:

This act would become effective when it becomes law.

O. Walker Reagan
Director

H634-SMSB-26 CSSB-17 -V1

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 634
Committee Substitute Favorable 4/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H634-CSSB-17 [v.2]

6/23/2015 11:09:07 AM

Short Title: Stormwater/Built-Upon Area Clarification. (Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF BUILT-UPON AREA FOR PURPOSES OF STORMWATER PROGRAMS.

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SECTION 1.(b) Notwithstanding Section 45(c) of S.L. 2014-120, the Environmental Management Commission shall adopt rules to implement this section no later than December 1, 2015.

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

HOUSE BILL 634
Committee Substitute Favorable 4/23/15

Short Title: Stormwater/Built-Upon Area Clarification. (Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE DEFINITION OF BUILT-UPON AREA FOR PURPOSES OF STORMWATER PROGRAMS.

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SECTION 1.(b) Notwithstanding Section 45(c) of S.L. 2014-120, the Environmental Management Commission shall adopt rules to implement this section no later than December 1, 2015.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 705
Committee Substitute Favorable 4/27/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H705-PCS40478-TA-11

Short Title: Amend Septic Tank Requirements. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO (1) BROADEN THE TYPES OF SUBSURFACE WASTEWATER TREATMENT SYSTEMS THAT MAY SERVE AS THE BASIS FOR DESIGNATED REPAIR AREA REQUIREMENTS FOR REPLACEMENT WASTEWATER TREATMENT SYSTEMS AND (2) MAKE CAPACITY AND MANAGEMENT CHANGES FOR CERTAIN DISPERSAL SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – "Repair Reserve Rule" means 15A NCAC 18A .1945 (Available Space) for purposes of this section and its implementation.

SECTION 1.(b) Repair Reserve Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 1(d) of this act, the Commission and the Department of Health and Human Services shall implement the Repair Reserve Rule, as provided in Section 1(c) of this act.

SECTION 1.(c) Implementation. – Notwithstanding the Repair Reserve Rule, the Commission shall allow a repair area that accommodates replacement systems described under 15A NCAC 18A .1955 (Design Installation Criteria for Conventional Sewage Systems), 15A NCAC 18A .1956 (Modifications to Septic Tank Systems), 15A NCAC 18A .1957 (Criteria for Design of Alternative Sewage Systems), and innovative or accepted systems approved under 15A NCAC 18A .1969 (Approval and Permitting of On-Site Subsurface Wastewater Systems, Technologies, Components, or Devices), provided that the designated repair area otherwise meets the requirements for those types of replacement systems. Nothing in this act is intended to repeal or amend existing portions of the Repair Reserve Rule granting exemptions from repair area requirements.

SECTION 1.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Repair Reserve Rule consistent with Section 1(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 1(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(e) Sunset. – Section 1(c) of this act expires when permanent rules adopted as required by Section 1(d) of this act become effective.

SECTION 2.(a) Definitions. – "Sand Lined Trench System Rule" means 15A NCAC 18A .1956(7)(d) (Modifications to Septic Tank Systems: Sand Line Trench System) for purposes of this section and its implementation.

SECTION 2.(b) Sand Lined Trench System Rule. – Until the effective date of the revised permanent rules that the Commission for Public Health is required to adopt pursuant to Section 2(d) of this act, the Commission and the Department of Health and Human Services shall implement the Sand Lined Trench System Rule, as provided in Section 2(c) of this act.

SECTION 2.(c) Implementation. – Notwithstanding the Sand Lined Trench System Rule, a Public Management Entity with a Certified Operator, if required by Article 3 of Chapter 90A of the General Statutes, shall not be required for sand lined trench systems when drainage is utilized to lower the water table on a site.

SECTION 2.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sand Lined Trench System Rule consistent with Section 2(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – Section 2(c) of this act expires when permanent rules adopted as required by Section 2(d) of this act become effective.

SECTION 3.(a) Definitions. – "Saprolite System Rule" means 15A NCAC 18A .1956(6) (Modifications to Septic Tank Systems: Saprolite System Rule) for purposes of this section and its implementation.

SECTION 3.(b) Saprolite System Rule. – The Department of Health and Human Services or the Commission for Public Health, as appropriate, shall repeal the Saprolite System Rule on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary of Health and Human Services, the Department of Health and Human Services, the Commission for Public Health, local health departments, or any other political subdivision of the State shall not implement or enforce the Saprolite System Rule.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 705:
Amend Septic Tank Requirements

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 24, 2015
Introduced by:	Rep. Brody	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	PCS to Second Edition H705-CSTA-11[v.4]		

SUMMARY: The Proposed Committee Substitute for House Bill 705 (PCS) would (i) broaden the types of septic tank systems that could serve as a replacement system in case of failure of the original system and (ii) make management changes for sand lined trench systems and repeal rules for Saprolite system modifications.

CURRENT LAW and BILL ANALYSIS:

Under current law, when a septic tank system is sited, the area of the siting must include an additional "repair area" for the siting of a replacement system in case the original system fails. The types of systems that are currently allowed as replacement systems are systems described under the following septic tank systems rules:

- 15A NCAC 18A .1955 (Design Installation Criteria for Conventional Sewage Systems)
- 15A NCAC 18A .1956 (Modifications to Septic Tank Systems)
- 15A NCAC 18A .1957 (Criteria for Design of Alternative Sewage Systems)

Current law authorizes modifications to septic tank systems or sites which may be utilized singly or in combination to overcome selected soil or site limitations. The types of modifications that are allowed are articulated in 15A NCAC 18A .1956 (Modifications to Septic Tank Systems) and include detailed provisions for design, installation, and operational management for each authorized modification.

Section 1 of the PCS would broaden the types of septic tank systems that could serve as a replacement system to include innovative and accepted systems approved under 15A NCAC 18A .1969 (Approval and Permitting of On-Site Subsurface Wastewater Systems, Technologies, Components, or Devices), provided that the designated repair area otherwise meets the requirements for those types of replacement systems.

Section 2 of the PCS would direct the Commission for Public Health (Commission) to amend 15A NCAC 18A .1956(7)(d) (Modifications to Septic Tank Systems: Sand Lined Trench System Rule) to repeal the requirement that a Public Management Entity with a Certified Operator is required for sand lined trench systems when drainage is utilized to lower the water table on a site.

Section 3 of the PCS would direct the Department of Health and Human Services or the Commission to repeal 15A NCAC 18A .1956(6) (Modifications to Septic Tank Systems: Saprolite System Rule) on or before December 1, 2015, and would provide that until such time as the rule is repealed, no agency of the State or local government can implement or enforce the rule.

EFFECTIVE DATE: This act would be effective when it becomes law.

Jeff Hudson, counsel to the House Committee on Regulatory Reform, substantially contributed to this summary.

O. Walker Reagan
Director

* H 7 0 5 - S M T A - 2 3 C S T A - 1 1 - V 3 *

Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 705
Committee Substitute Favorable 4/27/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H705-CSTA-11 [v.4]
6/23/2015 2:36:46 PM

Short Title: Amend Septic Tank Requirements. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO (1) BROADEN THE TYPES OF SUBSURFACE WASTEWATER TREATMENT SYSTEMS THAT MAY SERVE AS THE BASIS FOR DESIGNATED REPAIR AREA REQUIREMENTS FOR REPLACEMENT WASTEWATER TREATMENT SYSTEMS AND (2) MAKE CAPACITY AND MANAGEMENT CHANGES FOR CERTAIN DISPERSAL SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – "Repair Reserve Rule" means 15A NCAC 18A .1945 (Available Space) for purposes of this section and its implementation.

SECTION 1.(b) Repair Reserve Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 1(d) of this act, the Commission and the Department of Health and Human Services shall implement the Repair Reserve Rule, as provided in Section 1(c) of this act.

SECTION 1.(c) Implementation. – Notwithstanding the Repair Reserve Rule, the Commission shall allow a repair area that accommodates replacement systems described under 15A NCAC 18A .1955 (Design Installation Criteria for Conventional Sewage Systems), 15A NCAC 18A .1956 (Modifications to Septic Tank Systems), 15A NCAC 18A .1957 (Criteria for Design of Alternative Sewage Systems), and innovative or accepted systems approved under 15A NCAC 18A .1969 (Approval and Permitting of On-Site Subsurface Wastewater Systems, Technologies, Components, or Devices), provided that the designated repair area otherwise meets the requirements for those types of replacement systems. Nothing in this act is intended to repeal or amend existing portions of the Repair Reserve Rule granting exemptions from repair area requirements.

SECTION 1.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Repair Reserve Rule consistent with Section 1(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 1(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(e) Sunset. – Section 1(c) of this act expires when permanent rules adopted as required by Section 1(d) of this act become effective.

SECTION 2.(a) Definitions. – "Sand Lined Trench System Rule" means 15A NCAC 18A .1956(7)(d) (Modifications to Septic Tank Systems: Sand Line Trench System) for purposes of this section and its implementation.

SECTION 2.(b) Sand Lined Trench System Rule. – Until the effective date of the revised permanent rules that the Commission for Public Health is required to adopt pursuant to Section 2(d) of this act, the Commission and the Department of Health and Human Services shall implement the Sand Lined Trench System Rule, as provided in Section 2(c) of this act.

SECTION 2.(c) Implementation. – Notwithstanding the Sand Lined Trench System Rule, a Public Management Entity with a Certified Operator, if required by Article 3 of G.S. 90A, shall not be required for sand lined trench systems when drainage is utilized to lower the water table on a site.

SECTION 2.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sand Lined Trench System Rule consistent with Section 2(c) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 2.(e) Sunset. – Section 2(c) of this act expires when permanent rules adopted as required by Section 2(d) of this act become effective.

SECTION 3.(a) – Definitions. – "Saprolite System Rule" means 15A NCAC 18A .1956(6) (Modifications to Septic Tank Systems: Saprolite System Rule) for purposes of this section and its implementation.

SECTION 3.(b) – Saprolite System Rule. – The Department of Health and Human Services or the Commission for Public Health, as appropriate, shall repeal the Saprolite System Rule on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary of Health and Human Services, the Department of Health and Human Services, the Commission for Public Health, local health departments, or any other political subdivision of the State shall not implement or enforce the Saprolite System Rule.

SECTION 4. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 24, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Perry-Neis	NCAFA
ROBERT PRIVOTT	NCHBA
STEVEN WARREN	NCABA
MIKE CARPENTER	NCABA
BOB SUTTER	NONE
Doug Lassiter	NCSTA
Tommy Stevens	NCPC
Brad Knott	DENR
Allen HARDISON	CRSWMA
JAKE PARKER	NCFB
PAUL SHERMAN	NCFB
PRESTON HOWARD	NCMA
Henry Jones	Gordon, Price, etc.
Carli Arney	NCFA
Susanna Davis	NCFA
Clayton Dellinger	NCDA&CS
Lynda Ring	NCDA&CS

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 24, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joy Hicks	NCDA&CS
Heather Jarman	BASF
Erin Wynia	NCLM
Sarah Collins	NCLM
Daryl Norris	SWANC Stormwater Association of NC
[illegible]	[illegible]
Ben Popkin	NCDOI
Chris Noles	NCPOI
David Crawford	AIA NC
J. GRAYER SHERRILL	NCFB
Deans Eatman	NCPC
Peter Daniel	CCS
Jackson Stancil	CCS
Skye David	KCG
ANDY WALSH	SA
Mia Guglielmi	NCMMC
Gary Salvaggio	NC Chamber

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 24, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
EDWARD BRINSON	NCSFA
JIM ROBERSON	NC BIA
My Maden [illegible]	SELC
TOM BEAN	CDG, NCSEA, NCWF
[illegible]	NCCHSA
Natalie Hobson	NCHFA
Cassie Gavin	Sierra Club
Matthew Dacklin	NCDENR
Sarah Bells	Builders [illegible]
Barry Michael	NCDHHS
Kevin Neal	NCDHHS
trent Womble	DHHS
Jonah Perrin	SELC
Brooks Rainey Pearson	SELC
~~JIM ROBERSON~~	~~NC BIA~~
Barry Mooneyham	Wake Co Inspections
Parker King	Rep Moore's office

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 24, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Lapiana	NC WARN
Francesca Marsh	NCCN
[signature]	NCCN
Julie Robinson	NCSEA
[signature]	NC DENR
Kristi Nicodem	K&L Gates
Nikki Gutierrez	K&L Gates
Joshua Yost	K&L Gates
[signature]	K&L Gates
Christopher Rims	Duke
David Heilen	NC Center for Nonprofits
DANTingen	NCBCC
[signature]	one
Anne Link	CFSA
Peter Magner	NCLCV
Martha Jenkins	DCR
Betsy Baily	CAGC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 24, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lynne Onorato	LALC
Tanya Horton	TSS
Susan Vick	Duke Energy
Bill McAulay	PSNC Energy
Starnes	Treasurer

Senate Committee on Agriculture/Environment/Natural Resources
Monday, June 29, 2015, 4:00 PM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Andrew Brock

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 765	Env. Technical Corrections.	Representative McElraft
HB 378	Amd. Criteria/Certain Ag. Cost-Share Pgms.	Representative Whitmire Representative Holloway Representative West Representative Presnell
HB 760	Regulatory Reform Act of 2015.	Representative Millis Representative J. Bell Representative Riddell
SB 453	Regulatory Reform Act of 2015.	Senator Wade Senator Brock Senator B. Jackson

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Monday, June 29, 2015 at 4:00 PM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 4:00 PM on June 29, 2015 in Room 544 of the Legislative Office Building. Fifteen members (15) were present.

Senator Andrew Brock, presided.

Sgt.-At-Arms for today's meeting are Ed Kesler, Larry Hancock, Terry Barnhardt, and Giles Jeffries.

There were no pages for today's meeting.

The following bill was discussed:

HB 765 Regulatory Reform Act of 2015. (Representative McElraft)

This bill has a PCS. Senator Bill Cook made a motion that the PCS be adopted. The motion carried.

Senator Wade gave a summary on the bill. She asked for staff to explain each part of the bill. Staff members explaining the bill were Karen Cochran-Brown, Erika Churchill, Jennifer McGinnis, Jennifer Mundt, Jeff Hudson, and Chris Saunders. Senator Wade reported on the sections of the bill that had already passed the Senate and the House.

Senator Brock called for amendments to the bill. The following members sent forth amendments: Senator Alexander (amendment passed); Senator Barefoot (amendment passed); Senator Wade - Amy Fulbright or the American Chemistry Council spoke on Senator Wade's amendment. (amendment passed); Senator Brock (amendment passed).

There was a lot of discussion and questions from members of the committee on this bill.

The following people had public comments on the bill: Brooks Person with SELC spoke against Section 1.4 of the bill; Matthew Starr from Upper Neuse Riverkeeper spoke against Section 4.1. Mr. Starr also spoke on the Wetland Provision. Mary Maclean Asbill with SELC spoke against The Environmental Self-audit Provision and she also spoke against the Provision that challenges air permit applications.

After all the discussion and public comments, Senator Brent Jackson made a motion for a Favorable Report to the PCS as amended and Unfavorable Report to the Original Bill. The motion carried.

The meeting adjourned at 5:40 PM

Senator Andrew Brock, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Monday, June 29, 2015

Senator Brock,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **765** Env. Technical Corrections.

Draft Number:	H765-PCS20375-SBf-18
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 765

HOUSE BILL 765:
Regulatory Reform Act of 2015

2015-2016 General Assembly

Committee:	Rules and Operations of the Senate	**Date:**	June 29, 2015
Introduced by:	Rep. McElraft	**Prepared by:**	Karen Cochrane-Brown, Jeff Hudson, Jennifer McGinnis, Chris Saunders Staff Attorneys Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H765-PCS10404-TAf-7		

SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 765 would amend a number of State laws related to business regulation, State and local government regulation, and environmental regulation.

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

Section 1.1. would repeal obsolete provisions in the criminal law related to using profane or indecent language on public highways and refusing to relinquish a party telephone line in an emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

Section 1.2. would clarify that the petitioner has the burden of proof in most contested cases and establishes that the State agency has the burden of proof in certain contested cases, including cases involving the imposition of civil fines or penalties and cases involving the demotion, suspension or discharge of a career State employee. The Joint Legislative Administrative Procedure Oversight Committee is directed to study whether there are other categories of cases in which the burden should be placed with the agency. This section would become effective when it becomes law and would apply to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

Section 1.3. would amend the law governing legislative appointments to boards and commissions, whether by the General Assembly through the appointments bill or directly by the Speaker and the President Pro Tempore, to apply the following rules if the law to requires a recommendation or nomination by a third party for the appointment:

- For consultations or recommendations of a third party:
    - The consultation or recommendation is discretionary and not binding.
    - The third party must submit the consultation or recommendation at least 60 days before expiration of the term or within 10 days of a vacancy.
    - Failure to submit the consultation recommendation within the time period is deemed a waiver of the opportunity.

- For appointments made from a list of nominees provided by a third party:
    - The third party must submit the recommendation at least 60 days before expiration of the term or within 10 days of a vacancy. This provision does not apply to appointments to the Legislative Ethics Committee.
    - Failure to submit nominees within the time limits is deemed a waiver of the opportunity.

These provisions would become effective when they become law and apply to recommendations, consultations, and nominations made on or after that date.

ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE STATE.

Section 1.4. would amend the law governing the award of attorney's fees in certain civil actions involving the State. In a case that contests the State's ability to construct transportation improvements or seeks relief based on environmental impact, and the State is the prevailing party, the court must allow the State to recover reasonable attorney's fees and costs. The prevailing party must petition for fees within 30 days following final disposition of the case. If attorney's fees are awarded, the judge must issue a written order including the factual basis and amount of fees to be awarded.

This section would become effective September 1, 2015, and applies to all actions or other proceedings filed on or after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

Section 1.5. would amend the law governing occupational licensing boards to prohibit a board from contracting with or employing a person licensed by the board to serve as an investigator or inspector, if the person is actively practicing in the profession or occupation over which the board has jurisdiction. The section would not prohibit the board from hiring a licensee for other purposes or if the licensee is not actively working in the field.

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

Section 1.6. would amend the process for the periodic review and expiration of existing rules under the Administrative Procedure Act. The section provides that if, during the readoption process, a rule is amended to impose a less stringent burden on regulated persons than the existing rule, the agency is not required to prepare a fiscal note for the rule.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

Section 1.7. would direct the Joint Legislative Administrative Procedure Oversight Committee (APO) to review the recommendations contained in the Program Evaluation Division report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine how to improve oversight of occupational licensing boards. The section directs APO to consult with various interested parties in conducting its review and to propose legislation to the 2016 Session of the 2015 General Assembly.

TECHNICAL CORRECTION

Section 1.8. would make a technical amendment to G.S. 20-116(g)(3) to rewrite the provision to eliminate duplicative lettering in accordance with coded bill drafting protocol.

PART II. BUSINESS REGULATION

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

Section 2.2. would amend the law governing criminal history checks for applicants for manufactured home licenses to clarify that only applicants for initial licensure need consent to a criminal history record check. The section also clarifies that an applicant is a person applying for initial licensure as a manufactured home salesperson or a set-up contractor.

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

Section 2.3. would amend the definition of the term "employee" under the Workers' Compensation Act to exclude volunteers and officers of certain nonprofit corporations and associations. The new definition applies to nonprofits subject to the following acts: the Unit Ownership Act, the Condominium Act, the Planned Community Act, the Nonprofit Corporation Act, the Uniform Unincorporated Nonprofit Association Act, and any organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. The section applies to persons who receive no remuneration for voluntary service other than reasonable reimbursement for expenses incurred in connection with voluntary service, even if the person was elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of the nonprofit.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

Section 3.1. would reduce the reporting requirement for State agencies with regard to the number, type, and use of mobile devices issued by the agency. Since 2011, agencies have been required to report to the Legislature and the Office of State Budget and Management on a quarterly basis. This provision would reduce the reporting requirement from quarterly to annually.

GOOD SAMARITAN EXPANSION

Section 3.3. would amend the criminal law to create an exception to the law against breaking or entering into or out of a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft under certain circumstances. The following circumstances are not violations of the law:

- If the person committing the act does so in good faith to provide first aid or emergency health care, or because the person inside is in imminent danger of becoming unconscious, ill, or injured.
- Prompt decisions and actions in medical, other health care, or other assistance are required.
- Immediate health care or removal of the person is so reasonably apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

This section would become effective September 1, 2015, and apply to offenses committed on or after that date.

Section 3.4. would create immunity from civil liability for damage to a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft, if the damage occurred while a person was rendering

emergency assistance to another person inside the conveyance. Immunity would be triggered if one or more of the following circumstances exist:

- If the person committing the act does so in good faith to provide first aid or emergency health care, or because the person inside is in imminent danger of becoming unconscious, ill, or injured.
- Prompt decisions and actions in medical, other health care, or other assistance are required.
- Immediate health care or removal of the person is so reasonably apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

This section would become effective September 1, 2015, and apply to causes of action arising on or after that date.

AUTHORIZE DMV TO ISSUE PERMANENT PLATES FOR TRAILERS ATTACHED TO MOTORCYCLES

Section 3.5. would amend, effective July 1, 2015, the Motor Vehicle law to authorize the issuance of permanent plates for a trailer used as an attachment to the rear of a motorcycle.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

Section 3.7. would authorize the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services to adopt rules for providers who have obtained national accreditation to be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Providers would continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency.

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

Section 3.8. would amend the law governing the regulation of food and lodging establishments to allow the issuance of more than one permit for the same location if more than one establishment is operated in the same location and if each establishment satisfies all of the requirements of the law.

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

Section 3.10. would require State agencies to use a licensed professional engineer or surveyor when marking boundaries of State property under the care of that agency. Employees of the State agency would be exempt from the requirement, as provided in current law.

This section would become effective October 1, 2015, and applies to surveys conducted on or after that date.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

Section 3.12. would amend the statute establishing the Underground Damage Prevention Review Board (Board). The Board is charged with reviewing reports of alleged violations of the Underground Utility Safety Act and recommending penalties for violation of the Act. Section 3.12 would make a number of clarifying changes to the Board's statute, including provisions for length of Board member terms, how

vacancies are filled and members removed, quorum, how the Chair of the Board is appointed, and the process for how the Board recommends actions or penalties when violations of the Act occur.

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

Section 4.1. would establish a disclosure privilege for environmental audit reports that would generally prevent the use of the reports as evidence in civil or administrative proceedings. The provision would also prohibit persons who conducted or participated in an audit or who significantly reviewed an audit report from being compelled to testify regarding the audit report or a privileged part of the audit, except in certain circumstances. In addition, the provision would generally establish immunity for owners and operators of facilities from imposition of civil and administrative penalties for a violation of environmental laws discovered through the conduct of an environmental audit and voluntarily disclosed to an enforcement agency in conformance with requirements established by the provision. The provision specifically provides, however, that waiver of penalties and fines must not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time (i.e., the enforcement agency retains discretion to assess penalties and fines for the violation until it is corrected). An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through an audit would be limited to exercise the privilege or immunity only once in a 2-year period, not more than twice in a 5-year period, and not more than three times in a 10-year period.

The section would become effective July 1, 2015, and apply to environmental audits that are conducted on or after that date.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

Section 4.2. would repeal the provisions in the General Statutes that require manufacturers to recycle computer equipment and televisions discarded by consumers in the State, and repeal DENR's obligation to submit an annual report on this matter to the General Assembly.

AMEND RISK-BASED REMEDIATION PROVISIONS

Section 4.7. would amend the law governing risk-based cleanup of contaminated sites, originally enacted in 2011, that authorized use of risk-based cleanup[1] for certain contaminated sites using site-specific cleanup standards designed to protect public health, safety, and welfare and the environment based on the current and anticipated future use of a site. The 2011 legislation included a number of limitations on a site's eligibility for risk-based cleanup, including:

- Only sites where there was no migration of contaminants off the industrial site, were made eligible.
- Only sites where the release of contamination was reported to DENR prior to March 1, 2011, were made eligible.

[1] Generally, cleanup of environmental contamination must be performed to meet unrestricted use standards, meaning contaminant concentrations present at a location are acceptable for all uses; are protective of public health, safety, and welfare and the environment; and comply with an applicable program's standards established by statute or rule adopted by the Environmental Management Commission, the Commission for Public Health, or the Department of Environment and Natural Resources (DENR). Risk-based cleanup, however, allows cleanup based on site-specific risk factors, which are generally not as stringent as the applicable unrestricted use standards.

The PCS would eliminate these limitations. With respect to the cleanup of sites where contaminants have migrated off the industrial site, the PCS does provide, however, that remediation of environmental contamination on the off-site properties must meet unrestricted use standards on those properties.

Section 4.8. would direct DENR, no later than January 1, 2016, to develop all of the following:

- Internal processes to govern remediation of contaminated industrial sites using risk-based remediation that are consistent across all programs or requirements.
- A coordinated program and processes for remediation of contaminated industrial sites using risk-based remediation that are subject to more than one program or requirement.
- Reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee sites using risk-based remediation .

DENR would be required to report to the ERC no later than April 1, 2016, on its activities conducted pursuant to this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO CONFORM CLASSES OF PERSONS ELIGIBLE TO PARTICIPATE TO THOSE AUTHORIZED UNDER FEDERAL LAW

Section 4.9. would amend the definition of "prospective developer" included in the statutes under the Brownfields Property Reuse Act (Act) of 1997.

A Brownfields site is any real property that is abandoned, idled, or underutilized where environmental contamination, or perceived environmental contamination, hinders redevelopment. This program was enacted to encourage and facilitate redevelopment of these sites by removing barriers to redevelopment posed by a prospective developer's (PD's) potential liability for clean-up costs. To be eligible for participation in the Brownfields Program (Program), a PD must not have caused or contributed to contamination at a site. The Act does not obviate practical or necessary remediation of properties under any State or federal cleanup program, but it does authorize DENR to work with PDs toward the safe redevelopment of sites, and to provide PDs regulatory flexibility and liability protection that would not be available to parties who actually caused or contributed to contamination at a site.

If a site is included in the Brownfields Program, DENR will enter into an agreement with the developer that is in effect a covenant not-to-sue contingent on the developer making the site suitable for the reuse proposed. Additionally, a Brownfields agreement obtained from the Program entitles the developer to a property tax exclusion on the improvements made to the property for a period of five years, which can more than pay for assessment and cleanup activities on many projects. Site remedies (cleanup requirements) under the Program are also less costly and time consuming than they would be for a party who caused or contributed to the contamination, as site remedies under the Brownfields Program are designed to prevent exposure and make the site suitable for reuse, rather than meet environmental standards required under the traditional cleanup programs.

Under current law "prospective developer" means any person with a bona fide, demonstrable desire to either buy or sell a Brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause or contribute to the contamination at the brownfields property.

The PCS would change the definition of "prospective developer" to include all the classes of persons eligible for liability protection under the federal Brownfields program, as described below:

- **Bona fide prospective purchaser (BFPP)** liability protection allows persons to acquire property knowing, or having reason to know, of contamination on the property, and still be eligible for Brownfields treatment, if, among other things, they:
  - Acquire contaminated property after January 11, 2002.
  - Perform "all appropriate inquiries" prior to acquiring the property, and demonstrate "no affiliation" with a liable party, and meet other threshold criteria.
  - Satisfy other continuing obligations, including compliance with land use restrictions and not impeding the effectiveness or integrity of institutional controls, etc.

- **Contiguous Property Owners (CPO)** liability protection is for owners of property that is not the source of the contamination (i. e., property is "contiguous" to, or otherwise similarly situated to, a facility that is the source of contamination found on their property). CPOs must also perform all appropriate inquiry prior to purchase, but they must buy without knowing, or having reason to know, of contamination on the property.

- **Innocent Landowners (ILOs)** liability protection is for owners of property that is the source of the contamination, but purchased without knowing, or having reason to know, of contamination on the property, after having performed all appropriate inquiries.

BFPPs or CPOs must not be potentially liable or affiliated with any other person who is potentially liable for the site response costs. "Affiliated with" includes direct and indirect familial relationships and many contractual, corporate, and financial relationships. ILOs cannot have a contractual relationship with a liable party.

This section would become effective July 1, 2015, and apply to notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

Section 4.10.(a) would repeal a tax imposed on publishers of newsprint publications of $15 per each ton by which the publisher's recycled content tonnage falls short of the tonnage of recycled postconsumer recovered paper needed to achieve the applicable minimum recycled content percentage as established in the statute.

Section 4.10.(b) would repeal a provision that allows DENR to collect a fee for registration of persons transporting, collecting, or recycling used oil.

REPEAL ENERGY AUDIT REQUIREMENTS

Section 4.11. would repeal the requirement for the Department of Administration to develop an energy audit and procedure to perform energy audits for each State agency or State institution of higher learning. This section would also repeal any corresponding reporting requirements.

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

Section 4.12. would repeal or amend various environmental and natural resources reporting requirements as follows:

- Repeal the annual joint report from the Chairs of the Marine Fisheries Commission and the Wildlife Resources Commission to the Joint Legislative Commission on Governmental Operations (Gov Ops) on the Marine Resources Fund and the Endowment Fund.

- Repeal the Secretary of Environment's annual progress report to Gov Ops on developing and implementing Fishery Management Plans.
- Repeal the annual One-Stop Permitting Program and Express Permitting Program report from DENR to Fiscal Research and the ERC.
- Repeal the annual report from the Division of Aquariums in DENR to Gov Ops, NER Appropriations Subcommittees, and Fiscal Research on the North Carolina Aquariums Fund.
- Repeal the annual report by the Office of State Budget and Management and the Division of Waste Management to Gov Ops on the preceding fiscal year concerning the allocation of loans authorized under the Solid Waste Management Loan Program.
- Repeal the Advisory Committee report for the Coordination of Waterfront Access to the Joint Legislative Seafood and Aquaculture Commission (The Commission was terminated in 2011).

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

CURRENT LAW: G.S. 130A-333 through G.S. 130A-342 provides for a three-step process to site, install, and operate an on-site wastewater system. First, an application for an improvement permit must be submitted to the local health department that includes a plat or site plan, a description of the facility the proposed site is to serve, and characteristics of the proposed wastewater system. Once an improvement permit is issued, the local health department must conduct a field investigation to ensure that the system can be installed and operated in compliance with State laws and rules. If the local health department determines that the system can be installed adequately, the local health department issues an authorization for wastewater system construction. This authorization must be obtained before a building permit will be granted and before construction of the system or the structure can begin. After the system has been installed, the local health department conducts an in-place inspection to ensure the system was installed in compliance with the improvement permit, the construction authorization, and applicable rules. If the local health department determines that the installed system is in compliance, an operation permit will be issued that allows the system to be placed into operation. The operation permit is valid for as long as the system is operating properly and must be obtained prior to receiving permanent electrical power hookup and an occupancy permit.

Sections 4.14.(a) through 4.14.(e) of the PCS would amend G.S. 130A-333 through G.S. 130A-342 by enacting an alternative process – the private option permit – by which a professional engineer may design, construct, install, and prepare for operation, a new on-site wastewater system without requiring the oversight or approval of a local health department as follows:

Section 4.14.(a) defines the "***private option permit***" (POP) to mean the approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

Section 4.14.(b) (i) authorizes licensed soil scientists (as defined in Chapter 89F of the General Statutes), in addition to local health department staff, to evaluate the soil conditions and site features of any site proposed for new wastewater systems; (ii) establishes a system for an owner of a wastewater system or the Department of Health and Human Services (DHHS) to file written complaints against professional engineers or licensed soil scientists citing failure to adhere to rules applicable to wastewater systems; and (iii) makes conforming changes to implement the POP.

Section 4.14(c) creates a new section in Article 11 of Chapter 130A of the General Statutes authorizing the utilization of the private option permit (POP) for a professional engineer, under the legal authority of the owner of a proposed wastewater treatment system, to prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system. Under the POP, a professional engineer would be authorized, at the engineer's discretion, to employ wastewater system technologies not yet approved in this State. An owner or engineer who seeks to utilize the POP must submit a ***notice of intent to construct*** (NOI to construct) to the local health department (LHD) prior to beginning construction, siting, or relocation of a wastewater system.

DHHS must develop a ***common form for the NOI to construct*** that includes information about: the owner, the engineer, the licensed soil scientist, proof of insurance or appropriate liability coverage of at least $1 million per claim, a description of the wastewater system and the facility it is proposed to serve, design flow and characteristics, the soils evaluation and site conditions, and a plat.

The LHD must determine whether a NOI to construct is ***complete*** within 14 days of receipt from the owner or engineer. A determination of completeness by the LHD means that the NOI to construct includes all of the components as required on the common form. The owner or engineer must submit a duplicate copy of the NOI to construct to DHHS for proposed wastewater systems that collect, treat, and dispose of industrial wastewater, or that treat more than 3,000 gallons per day.

To satisfy the requirements of the POP, the engineer or owner, as applicable, must: (i) use recognized principles and practices of engineering and applicable rules of the Commission for Public Health (Commission) in the calculations and design of the wastewater system; (ii) employ a licensed soil scientist to evaluate soil conditions and site features; (iii) be responsible for all aspects for the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified in accordance with Article 5 of Chapter 90A of the General Statutes; and (iv) comply with any and all State, local, and federal laws and regulations that pertain to the proposed wastewater system.

Under the POP, the licensed soil scientist must assume all ***liability*** for the findings of the soils evaluation and soils report. The professional engineer must assume all liability for the engineer's scope of work for the wastewater system. The owner of the wastewater system must assume all liability for the proper operation and management of the wastewater system. Once the owner has commenced operation of the wastewater system, neither the professional engineer or licensed soil scientist may be held liable for any damages resulting from unapproved changes made to the wastewater system by the owner. DHHS and LHD's are not liable for any wastewater systems approved under the POP, however, may at any time, conduct an inspection of the wastewater system.

In order to operate and maintain a wastewater system under the POP, the professional engineer must: (i) establish a written operations and management program and provide the written program to the owner and (ii) assist the owner in selecting a certified water pollution control system operator, an operator that is required to be under contract with the owner and chosen from a list maintained by the Division of Water Resources in DENR.

A ***post-construction conference*** with all affected parties, including the LHD, must be held prior to operation of the wastewater system. In addition, prior to commencing operation of the system and after the post-construction conference, the following ***documentation and reporting*** must be completed:

- Signed, sealed, and dated copies of the engineer's report must be delivered to the owner of the wastewater system.

- Upon review of the engineer's report, the owner of the wastewater system must sign and notarize the report as having been received.
    - The owner must submit a certified copy of the engineer's report, a copy of the written operations and management program, the required fees, and a notarized letter documenting the owner's acceptance of the system from the professional engineer. The owner must also furnish these documents to DHHS for wastewater systems that collect, treat, and dispose of industrial wastewater or that treat more than 3,000 gallons per day.

Upon receipt of the required documentation and fees, the LHD must issue a letter of confirmation that states the documents and information contained therein have been received and that the ***wastewater system may operate*** in accordance with rules adopted by the Commission.

This section authorizes a LHD to ***assess fees***, of up to 10% of the fees established to obtain an improvement permit, an authorization to construct, or an operations permit within the LHD's on-site wastewater program, for the use of staff to conduct inspections, support participation at post-construction meetings, and to archive the private permit with the register of deeds or other recordation of the wastewater system as required.

In addition, this section directs the Commission to ***adopt rules*** to implement the POP and directs the Commission to ***report,*** beginning January 1, 2017, and annually thereafter, to the Joint Legislative Oversight Committee on Health and Human Services (HHS Oversight) and the ERC on the implementation and effectiveness of the POP.

Sections 4.14.(d) and 4.14.(e) of the PCS make conforming changes to the statutes governing the operation of a wastewater system to include requiring applicable documentation under the POP prior to receiving permanent electrical power service and an occupancy permit.

Section 4.14.(f) of the PCS directs the Commission, in consultation with DHHS, local health departments, and industry stakeholders to study minimum on-site wastewater system inspection frequency as established in the administrative code to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems, and to report its findings and recommendations to HHS Oversight and the ERC by January 1, 2016.

Section 4.14.(g) of the PCS (i) makes conforming changes to the statute governing improvement permits and authorizations for wastewater system construction to incorporate the POP; (ii) provides that improvement permits or authorizations to construct must not be affected by a change in ownership of the wastewater system; (iii) provides that an improvement permit and an authorization for wastewater system construction must remain valid once issued, without expiration, provided the design flow and characteristics and description of the facility the wastewater system will serve remain unchanged; and (iv) directs the LHD to maintain a database of proposed wastewater systems for which both the improvement permit and the authorization for wastewater construction have been obtained, but no activity related to the construction or installation of the site has begun in the five years immediately following approval. For those systems identified, the LHD must notify the applicant of any alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

Section 4.14.(h) of the PCS amends the criteria for operators of permitted systems to provide that systems with a design flow of less than 1,500 gallons per day must be operated by a certified Subsurface Water Pollution Control System Operator and authorizes the Commission to establish additional standards for systems with a design flow of 1,500 gallons or more per day.

Section 4.14.(i) of the PCS provides that this section is effective when it becomes law and that the Commission must adopt rules to implement the POP no later than June 1, 2016. This section further provides that no person may utilize the POP until such time as the rules adopted by the Commission become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

Section 4.15.(a) of the PCS would amend the statute pertaining to the approval of on-site wastewater systems technologies. This section would:

- Rename "controlled demonstration system" as a "***provisional wastewater system***" and provide that a provisional system includes any system or component that is acceptable to DHHS or has been approved by a nationally recognized certification body for at least one year. "***Nationally recognized certification body***" is defined to mean NSF International; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.
- Repeal the subsection on "experimental systems."
- Amend the processes by which a wastewater system achieves either provisional or innovative wastewater system status.
- Repeal the subsection authorizing DHHS to form a technical advisory committee (I & E Committee) comprised of specialists who have training and expertise related to on-site subsurface wastewater systems to assist in evaluating applications for approval.
- Repeal the five-year warranty required for certain nitrification trenches for innovative or accepted wastewater systems handling untreated effluent.
- Make conforming changes to the fee schedule for DHHS review or modification of wastewater systems.

Section 4.15.(b) of the PCS directs the Commission to review and amend rules to implement the changes above.

Section 4.15.(c) of the PCS directs the Commission to report, beginning October 1, 2015, and every quarter thereafter until all rules are adopted, as to its progress of adopting and amending rules pursuant to Sections 4.14 and 4.15 of this act to HHS Oversight and the ERC.

Section 4.15.(d) of the PCS directs the Commission, in consultation with DHHS, local health departments, and industry stakeholders, to study the costs and benefits of requiring treatment standards above those that are established by nationally recognized standards, and report its findings and recommendations to HHS Oversight and the ERC on or before January 1, 2016.

CONTESTED CASES FOR AIR PERMITS

Section 4.17. would amend the process for filing a contested case regarding an air quality permit decision of the EMC by:

- Providing that the filing for a contested case by a permit applicant or permittee would stay the EMC's decision while the filing for a contested case by a person who is not the permit applicant or permittee would not automatically stay the EMC's decision.

- Limiting these contested case provisions to permit application decisions rather than other types of permit decisions, such as permit modification, suspension, or revocation.

AMEND ISOLATED WETLANDS LAW

Section 4.18. would make the following changes to the regulation of isolated wetlands in the State:

- Provide that the only types of isolated wetlands the State will regulate are basin wetlands and bogs and that the State will not regulate isolated man-made ditches or ponds constructed for stormwater management purposes, any other man-made isolated pond, or any other type of isolated wetland.
- Provide that the regulatory threshold for impacts to isolated wetlands is one acre. Currently, the regulatory thresholds are one acre for isolated wetlands east of I95 and 1/3 acre for isolated wetlands west of I95.
- Provide that the mitigation requirements for impacts to isolated wetlands apply only to the amount of impact that exceeds the regulatory threshold of one acre.
- Provide that impacts to wetlands that aren't isolated wetlands will not be combined with impacts to isolated wetlands to determine whether the regulatory thresholds have been reached.

AMEND COASTAL STORMWATER REQUIREMENTS

Section 4.19. would make the following changes to the State's coastal stormwater management laws:

- Increase the threshold for coastal stormwater management requirements to apply to nonresidential development from 10,000 square feet of built upon area to an acre or more of land-disturbing activity.
- Increase the amount of allowable built upon area for less stringent stormwater management requirements from 12% of a lot to 24% of a lot.
- Provide that as necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities, is repealed.

EXEMPT LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

Section 4.21. would provide that except as required by federal law, activities related to the construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, or natural gas pipeline are exempt from regulation by State agencies authorized to implement and enforce State and federal environmental laws.

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

Section 4.24. would direct the Secretary of Environment and Natural Resources to repeal the Heavy-Duty Vehicle Idling Restrictions rules by December 1, 2015, and provide that until the effective date of the repeal of the rule, DENR, the EMC, or any other political subdivision of the State cannot implement or enforce the rule.

AMBIENT AIR MONITORING

Section 4.25. would direct DENR to review its ambient air monitoring network and request from the United States Environmental Protection Agency (EPA) the authority to remove any monitor not required by federal law. This section would also direct DENR, no later than September 1, 2016, to discontinue all ambient air monitors not required by federal law and for which EPA approval for discontinuance is not required. This section would not preclude DENR from installing temporary ambient air monitors as part of an investigation of a suspected air quality violation or in response to an emergency causing an imminent danger to human health and safety.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

Section 4.27. would reduce the notice period for consent orders related to air pollution from 45 days to 30 days and would provide that notice of a consent order or a public meeting on a consent order would be given on DENR's website rather than in a newspaper having general circulation in the county in which the air pollution originated.

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

Section 4.29. would require the Wildlife Resources Commission and the Division of Marine Fisheries to treat email addresses like they treat other forms of personal identifying information, such as a person's mailing address, residence address, date of birth, and telephone number.

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS.

Section 4.30. would increase the threshold for when stream mitigation for loss of streams is required from 150 linear feet of streambed to 300 linear feet of streambed and would provide that a 1:1 ratio of mitigation may only be required for loss of streambed greater than 300 linear feet.

PIGEON HUNTING

Section 4.32. would designate that pigeons are wild birds for the purposes of jurisdiction and regulation by the Wildlife Resources Commission (Commission). The Commission currently excludes pigeons from the definition of wild birds. This designation would allow pigeon hunting in the State.

WILDLIFE RESOURCES COMMISSION STUDIES

Section 4.33. would direct the Wildlife Resources Commission (Commission) to review the methods and criteria by which it adds, removes, or changes the status of animals on the State Protected animal list and compare these to federal regulations and the methods and criteria of other States in the region. This section would also direct the Commission to review the State's policies for addressing introduced species and make recommendations for improving these policies. The Commission would be required to report its findings to the ERC by March 1, 2016.

Section 4.34. would direct the Commission to establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State. The Commission would be required to report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the ERC by March 1, 2016.

Section 4.35. would direct the Commission to establish a pilot coyote management assistance program in Mitchell County, which would document and assess private property damage associated with coyotes;

evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program. The Commission would be required to submit an interim report on the progress of the pilot program to the ERC by March 1, 2016, and a final report by January 1, 2017.

ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

Section 4.36. would direct the Attorney General to establish and publicize the "NC Pets We Care Hotline" to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act against animals under private ownership. An individual who makes a report to the hotline would be required to disclose his or her name and telephone number, and any other information the Attorney General may require. When the Attorney General receives allegations of activity involving cruelty to animals under private ownership, the Attorney General's office would be required to refer the allegations to the appropriate local animal control agency. When the Attorney General receives allegations of activity involving a violation of the Animal Welfare Act against animals under private ownership, the Attorney General's office would be required to refer the allegations to the Department of Agriculture and Consumer Services. The Attorney General would be required to maintain a record of the total number of reports received on the hotline and the number of reports received against any individual on the hotline. This section would also create a $250 fee for support of local animal control authorities in the investigation of animal cruelty or Animal Welfare Act violations, to be remitted to the general fund of the local governmental unit that investigated the crime.

AMEND STORMWATER MANAGEMENT LAW

Section 4.37. would make the following changes to the regulation of stormwater in the State:

- Extend from July 1, 2016 to November 1, 2016, the deadline for the EMC to adopt rules to implement fast-track permitting for stormwater management systems.
- Provide that vegetative buffers adjacent to intermittent streams will be measured from the center of the stream bed.
- Provide that the volume, velocity, and discharge rates of water associated with the one year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one year, 24-hour storm must be calculated using an acceptable engineering hydrologic and hydraulic method.
- Provide that development may occur within a vegetative buffer if the development complies with all applicable State and federal stormwater management requirements.
- Provide that the requirements that apply to development activities within one half mile of and draining to Class SA (shellfish) waters or within one half mile of Class SA waters and draining to unnamed freshwater tributaries will not apply to development activities and associated stormwater discharges that do not occur within one half mile of and draining to Class SA waters or are not within one half mile of Class SA waters and draining to unnamed freshwater tributaries.
- Provide that no later than January 1, 2016, a State agency or local government that implements a stormwater management program must submit its current stormwater management program or a revised stormwater management program to the EMC and that no later than July 1, 2016, the EMC must review and act on each of the submitted stormwater management programs. The

EMC may only approve a program if it finds that the standards of the program equal those of the EMC's model program.

- Direct the ERC, with the assistance of DENR to review and consider reorganization of State statutes, session laws, rules, and guidance documents related to stormwater management. The ERC must submit any legislative recommendations to the 2016 Regular Session of the General Assembly.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

Section 4.38. would direct the Department of Insurance, the Department of Public Safety, and the Building Code Council to jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and the Council would specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. The agencies would jointly report the results of the study to the 2015 General Assembly no later than January 1, 2016.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 5.1. would add a severability clause to the bill.

Section 5.2. would provide that the PCS would be effective when it becomes law, except as otherwise specified.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 765
PROPOSED SENATE COMMITTEE SUBSTITUTE H765-PCS20375-SBf-18

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statues are repealed:

(1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.

(2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.2.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-25.1. Burden of proof.**

(a) Except as otherwise provided by law or by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.

(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing by a preponderance of the evidence that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.

(c) The burden of showing by a preponderance of the evidence that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."

SECTION 1.2.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.

SECTION 1.2.(c) This section is effective when this act becomes law and applies to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.3.(a) G.S. 120-121 is amended by adding two new subsections to read:

"(e) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation in consultation with or upon the recommendation of a third party:

(1) The recommendation or consultation is discretionary and is not binding upon the legislator.

(2) The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(3) Failure by the third party to submit the recommendation or consultation to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity.

(f) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation from nominees provided by a third party:

(1) The third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(2) Failure by the third party to submit the nomination to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(b) Article 16 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-124. Appointments made by legislators.**

(a) In any case where a legislator is called upon by law to appoint a member to a board or commission upon the recommendation of or in consultation with a third party, the recommendation or consultation is discretionary and is not binding upon the legislator. The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(b) In any case where a legislator is called upon by law to appoint a member to a board or commission from nominees provided by a third party, the third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy. This subsection does not apply to nominations made under G.S. 120-99(a) or G.S. 120-100(b).

(c) Failure to submit the recommendation, consultation, or nomination within the time periods required under this section shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(c) This section is effective when this act becomes law and applies to recommendations, consultations, and nominations made on or after that date.

ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE

REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE STATE

SECTION 1.4.(a) G.S. 6-19.1 reads as rewritten:

"**§ 6-19.1. Attorney's fees ~~to parties appealing or defending against agency decision.~~in certain actions involving the State.**

(a) Prevailing Party Is Not the State. – In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees, including attorney's fees applicable to the administrative review portion of the case, in contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the appropriate agency of the State if:

(1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust. ~~The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.~~

Nothing in this ~~section~~ subsection shall be deemed to authorize the assessment of attorney's fees for the administrative review portion of the case in contested cases arising under Article 9 of Chapter 131E of the General Statutes.

~~Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.~~

Any attorney's fees assessed against an agency of the State under this ~~section~~ subsection shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source.

(b) Expired.

(c) Prevailing Party Is the State. – In any civil action or other proceeding, the court must allow the State to recover reasonable attorneys' fees and costs if the State is the prevailing party and the claim or issue involves one or both of the following:

(1) Contesting the State's ability to construct transportation improvements.

(2) Seeking relief based on environmental impact.

Reasonable attorneys' fees include attorneys' fees applicable to any administrative portion of the case. The attorneys' fees must be taxed as court costs against any law firm seeking relief against the State. Contracts between the law firm and named parties in the action to reimburse the law firm for attorneys' fees are valid and enforceable. Law firms may avoid liability under this subsection if the named parties post a bond for the payment of attorneys' fees and costs in an amount determined by the presiding judge. Upon motion of either party, the presiding judge may adjust the amount of the required bond at reasonable times.

(d) Petition and Award. – The prevailing party must petition for the attorneys' fees within 30 days following final disposition of the case. The petition must be supported by an affidavit setting forth the basis for the request. When the presiding judge determines that an award of attorneys' fees is to be made under this section, the judge must issue a written order including the factual basis and amount of attorneys' fees to be awarded.

(e) No Grant of Jurisdiction. – Nothing in this section grants permission to bring an action against the State when otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

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

(1) Law firm. – Any entity or individual providing legal services in the action against the State.

(2) State. – The State and its agencies as defined in G.S. 150B-2(1a)."

SECTION 1.4.(b) This section becomes effective September 1, 2015, and applies to all actions or other proceedings filed on and after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

SECTION 1.5. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-8.2. Prohibit licensees from serving as investigators.**

No occupational licensing board shall contract with or employ a person licensed by the board to serve as an investigator or inspector if the licensee is actively practicing in the profession or occupation over which the board has jurisdiction. Nothing in this section shall prevent a board from employing licensees who are not otherwise employed in the same profession or occupation or for other purposes."

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

SECTION 1.6.(a) G.S. 150B-21.3A(d) reads as rewritten:

"(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

...

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive ~~change,~~ change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

SECTION 1.6.(b) This section is effective when this act becomes law and applies to periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

SECTION 1.7. Pursuant to G.S. 120-70.101(3a), the Joint Legislative Administrative Procedure Oversight Committee (APO) shall review the recommendations contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine the best way to accomplish the recommendations contained in the report and to improve oversight of occupational licensing boards. In conducting the review, APO shall consult with occupational licensing boards, licensees, associations representing licensees, the Department of Commerce, and other interested parties. The APO cochairs may establish subcommittees to assist with various parts of the review, including determining whether licensing authority should be continued for the 12 boards identified in the report. The APO shall propose legislation to the 2016 Regular Session of the 2015 General Assembly.

TECHNICAL CORRECTION

SECTION 1.8. G.S. 20-116 reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) ...

(3) A truck, trailer, or other ~~vehicle:~~

~~a.~~ ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with ~~sand; or~~sand,

~~b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;~~

shall not be driven or moved on any highway unless:

a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;

b. The load is securely covered by tarpaulin or some other suitable covering; or

c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

...."

PART II. BUSINESS REGULATION

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

SECTION 2.2. G.S. 143-143.10A reads as rewritten:

"**§ 143-143.10A. Criminal history checks of applicants for licensure.**

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

(1) Applicant. – A person applying for initial licensure as a manufactured home ~~manufacturer, dealer, salesperson,~~ salesperson or set-up contractor.

...

(b) All applicants for initial licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board may provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

...."

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

SECTION 2.3. G.S. 97-2(2) reads as rewritten:

"**§ 97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

...

(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 the employee's 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 the employee's 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 their employer.

~~Every~~ Except as otherwise provided herein, 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's 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-1031(a) when performing duties in the course and scope of a State-approved mission pursuant to Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes.

"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.

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

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"~~ "Employee" shall include an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service. 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 North Carolina Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 3.1. Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State employees and contractors are complying with agency policies and State requirements for their use.

Beginning October 1, 2011, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information

Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

(1) Any changes to agency policies on the use of mobile devices.
(2) The number and types of new devices issued since the last report.
(3) The total number of mobile devices issued by the agency.
(4) The total cost of mobile devices issued by the agency.
(5) The number of each type of mobile device issued, with the total cost for each type."

GOOD SAMARITAN EXPANSION

SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

"**§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.**

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.
(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person."

SECTION 3.3.(b) This section becomes effective September 1, 2015, and applies to offenses committed on or after that date.

SECTION 3.4.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 43F.
"Immunity for Damage to Vehicle.

"**§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft necessary for assistance.**

Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical care, other health care, or other assistance.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

This section shall not apply to any acts of gross negligence, wanton conduct, or intentional wrongdoing."

SECTION 3.4.(b) This section becomes effective September 1, 2015, and applies to causes of action arising on or after that date.

AUTHORIZE DMV TO ISSUE PERMANENT PLATES FOR TRAILERS ATTACHED TO MOTORCYCLES

SECTION 3.5.(a) G.S. 20-84(b) is amended by adding a new subdivision to read:

"(20) A trailer used as an attachment to the rear of a motorcycle."

SECTION 3.5.(b) This section becomes effective July 1, 2015.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

SECTION 3.7. G.S. 122C-81 reads as rewritten:

"**§ 122C-81. National accreditation benchmarks.**

(a) As used in this section, the term:

(1) "National accreditation" applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.

(2) "Provider" applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

(b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation. In accordance with rules of the Commission, the Secretary may exempt a provider that is accredited under this section and in good standing with the national accrediting agency from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency.

...

(e) The Commission may adopt rules establishing a procedure by which a provider that is accredited under this section and in good standing with the national accrediting agency may be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Any provider shall continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency. Rules adopted under this subsection may not waive any requirements that may be imposed under federal law."

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

SECTION 3.8. G.S. 130A-248(c) reads as rewritten:

"(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for ~~an~~the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection (g) of this section."

OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

SECTION 3.9.(a) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.10. Public entities shall consider all acceptable piping materials in State-funded water, wastewater, or stormwater projects.**

(a) Consideration of All Acceptable Piping Materials Required. – A public entity shall consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage project that is funded in whole or in part with State funds unless sound engineering practices, as determined by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes, suggest that one type of acceptable piping material is more suitable for a particular project.

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

(1) Acceptable piping material. – Piping material that meets or exceeds the standards issued by the American Society for Testing and Materials, the American Water Works Association, or the American Association of State Highway & Transportation Officials.

(2) Public entity. – A State agency, county, city, sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes, authority created under Article 1 of Chapter 162A of the General Statutes, metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, or any other political subdivision of the State."

SECTION 3.9.(b) This section becomes effective October 1, 2015, and applies to projects initiated on or after that date.

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

SECTION 3.10.(a) G.S. 146-33 reads as rewritten:

"**§ 146-33. State agencies to locate and mark boundaries of lands.**

(a) Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the Division of Adult Correction of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the Division of Adult Correction of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties.

(b) If a State agency contracts with a person who is not employed by the State to mark or keep marked the boundaries of lands allocated to that agency, or under that agency's control, that State agency shall use only a licensed professional engineer or surveyor."

SECTION 3.10.(b) This section becomes effective October 1, 2015, and applies to surveys or markings conducted on or after that date.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

SECTION 3.12. G.S. 87-129 reads as rewritten:

"**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

(a) ~~The Notification Center shall establish an~~ There is hereby established the Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of ~~the following members:~~15 members as follows:

(1) A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative recommended by the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;
(11) A surveyor licensed under Chapter 89C of the General Statutes;
(12) A representative from a rural water system;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company.

(a1) Each member of the Board shall be appointed for a term of four years. Members of the Board may serve no more than two consecutive terms. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(a2) No member of the Board may serve on a case where there would be a conflict of interest.

(a3) The Governor may remove any member at any time for cause.

(a4) Eight members of the Board shall constitute a quorum.

(a5) The Governor shall designate one member of the Board as chair.

(a6) The Board may adopt rules to implement this Article.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. ~~The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party~~

(b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such

violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars ($2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A ~~party~~ person determined by the Board under subsection ~~(b)~~ (b1) of this section to have violated this Article may ~~initiate~~ appeal the Board's determination by initiating an arbitration proceeding before the Utilities ~~Commission.~~ Commission within 30 days of the Board's determination. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. ~~Any party may~~

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial ~~de novo.~~ de novo within 30 days of entry of the Utilities Commission's order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) ~~Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection.~~ The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. ~~The penalties for a violation of this Article shall be as follows:~~ In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

~~(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.~~

~~(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.~~

~~(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education.~~"

CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

SECTION 3.13.(a) G.S. 20-171.15 reads as rewritten:

"**§ 20-171.15. Age restrictions.**

(a) It is unlawful for any parent or legal guardian of a person less than ~~eight~~six years of age to knowingly permit that person to operate an all-terrain vehicle.

~~(b) It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater.~~

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle ~~with an engine capacity greater than 90 cubic centimeter displacement.~~in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.

(d) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while operating the all-terrain vehicle.

(e) ~~Subsections (b) and~~ Subsection (c) of this section ~~do~~ does not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005."

SECTION 3.13.(b) G.S. 20-171.17 reads as rewritten:

"**§ 20-171.17. Prohibited acts by sellers.**

No person shall knowingly sell or offer to sell an all-terrain vehicle:

(1) For use by a person under the age of ~~eight~~six years.

(2) ~~With an engine capacity of 70 cubic centimeter displacement or greater for use by a person less than 12 years of age.~~In violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard for use by a person less than 16 years of age.

~~(3) With an engine capacity of greater than 90 cubic centimeter displacement for use by a person less than 16 years of age.~~"

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 4.1.(a) Chapter 8 of the General Statutes is amended by adding a new Part to read:

"Part 7D. Environmental Audit Privilege and Limited Immunity.

"**§ 8-58.50. Purpose.**

(a) In order to encourage owners and operators of facilities and persons conducting activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or conducting activities regulated under other environmental laws, to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutes, an environmental audit privilege is recognized to protect the confidentiality of communications relating to voluntary internal environmental audits.

(b) Notwithstanding any other provisions of law, nothing in this Part shall be construed to protect owners and operators of facilities and regulated persons from a criminal investigation or prosecution carried out by any appropriate governmental entity.

(c) Notwithstanding any other provision of law, any privilege granted by this Part shall apply only to those communications, oral or written, pertaining to and made in connection with the environmental audit and shall not apply to the facts relating to the violation itself.

"**§ 8-58.51. Definitions.**

The following definitions apply in this Part:

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

(2) "Enforcement agencies" means the Department, any other agency of the State, and units of local government responsible for enforcement of environmental laws.

(3) "Environmental audit" means a voluntary, internal evaluation or review of one or more facilities or an activity at one or more facilities regulated under federal, State, regional, or local environmental law, or of compliance programs, or management systems related to the facility or activity if designed to identify and prevent noncompliance and to improve compliance with these laws. For the purposes of this Part, an environmental audit does not include an environmental site assessment of a facility conducted solely in anticipation of the purchase, sale, or transfer of the business or facility. An environmental audit may be conducted by the owner or operator, the parent corporation of the owner or operator or by their officers or employees, or by independent contractors. An environmental audit must be a discrete activity with a specified beginning date and scheduled ending date reflecting the auditor's bona fide intended completion schedule.

(4) "Environmental audit report" means a document marked or identified as such with a completion date existing either individually or as a compilation prepared in connection with an environmental audit. An environmental audit report may include field notes and records of observations, findings, opinions, suggestions, recommendations, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may include all of the following components:

a. An audit report prepared by an auditor, which may include the scope and date of the audit and the information gained in the audit, together with exhibits and appendices and may include conclusions, recommendations, exhibits, and appendices.

b. Memoranda and documents analyzing any portion of the audit report or issues relating to the implementation of an audit report.

c. An implementation plan that addresses correcting past noncompliance, improving current compliance, or preventing future noncompliance.

(5) "Environmental laws" means all provisions of federal, State, and local laws, rules, and ordinances pertaining to environmental matters.

"**§ 8-58.52. Applicability.**

This Part applies to activities regulated under environmental laws, including all of the following provisions of the General Statutes, and rules adopted thereunder:

(1) Article 7 of Chapter 74.
(2) Chapter 104E.
(3) Article 25 of Chapter 113.
(4) Articles 1, 4, and 7 of Chapter 113A.
(5) Article 9 of Chapter 130A.
(6) Articles 21, 21A, and 21B of Chapter 143.
(7) Part 1 of Article 7 of Chapter 143B.

"**§ 8-58.53. Environmental audit report; privilege.**

(a) An environmental audit report or any part of an environmental audit report is privileged and, therefore, immune from discovery and is not admissible as evidence in civil or

administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided, however, all of the following documents are exempt from the privilege established by this Part:

(1) Information obtained by observation of an enforcement agency.

(2) Information obtained from a source independent of the environmental audit.

(3) Documents, communication, data, reports, or other information required to be collected, maintained, otherwise made available, or reported to an enforcement agency or any other entity by environmental laws, permits, orders, consent agreements, or as otherwise provided by law.

(4) Documents prepared either prior to the beginning of the environmental audit or subsequent to the completion date of the audit report and, in all cases, any documents prepared independent of the audit or audit report.

(5) Documents prepared as a result of multiple or continuous self-auditing conducted in an effort to intentionally avoid liability for violations.

(6) Information that is knowingly misrepresented or misstated or that is knowingly deleted or withheld from an environmental audit report, whether or not included in a subsequent environmental audit report.

(7) Information in instances where the material shows evidence of noncompliance with environmental laws, permits, orders, consent agreements, and the owner or operator failed to either promptly take corrective action or eliminate any violation of law identified during the environmental audit within a reasonable period of time.

(b) If an environmental audit report or any part of an environmental audit report is subject to the privilege provided for in subsection (a) of this section, no person who conducted or participated in the audit or who significantly reviewed the audit report may be compelled to testify regarding the audit report or a privileged part of the audit report except as provided for in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

(c) Nothing in this Part shall be construed to restrict a party in a proceeding before the Industrial Commission from obtaining or discovering any evidence necessary or appropriate for the proof of any issue pending in an action before the Commission, regardless of whether evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to prevent the admissibility of evidence that is otherwise relevant and admissible in a proceeding before the Industrial Commission, regardless of whether the evidence is privileged pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the proceeding, may issue appropriate protective orders preventing disclosure of information outside of the Commission's proceeding.

(d) Nothing in this Part shall be construed to circumvent the employee protection provisions provided by federal or State law.

(e) The privilege created by this Part does not apply to criminal investigations or proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the privilege created by this Part shall continue to apply and is not waived in civil and administrative proceedings and is not discoverable or admissible in civil or administrative proceedings even if disclosed during a criminal proceeding.

"**§ 8-58.54. Waiver of privilege.**

(a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is expressly waived in writing by the owner or operator of a facility at which an environmental audit was conducted and who prepared or caused to be prepared the audit report as a result of the audit.

(b) The audit report and information generated by the audit may be disclosed without waiving the privilege established under G.S. 8-58.53 to all of the following persons:

(1) A person employed by the owner or operator or the parent corporation of the audited facility.

(2) A legal representative of the owner or operator or parent corporation.

(3) An independent contractor retained by the owner or operator or parent corporation to conduct an audit on or to address an issue or issues raised by the audit.

(c) Disclosure of an audit report or information generated by the audit under all of the following circumstances shall not constitute a waiver of the privilege established under G.S. 8-58.53:

(1) Disclosure made under the terms of a confidentiality agreement between the owner or operator of the facility audited and a potential purchaser of the business or facility audited.

(2) Disclosure made under the terms of a confidentiality agreement between governmental officials and the owner or operator of the facility audited.

(3) Disclosure made under the terms of a confidentiality agreement between a customer, lending institution, or insurance company with an existing or proposed relationship with the facility.

"**§ 8-58.55. Notification of audit.**

In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the facility conducting the environmental audit shall, upon inspection of the facility by an enforcement agency, or no later than 10 working days after completion of an agency's inspection, notify the enforcement agency of the existence of any audit relevant to the subject of the agency's inspection, as well as the beginning date and completion date of that audit. Any environmental audit report shall include a signed certification from the owner or operator of the facility that documents the date the audit began and the completion date of the audit.

"**§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

In a civil or administrative proceeding, an enforcement agency may seek by motion a declaratory ruling on the issue of whether an environmental audit report is privileged. The court shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set forth in this section apply. In a civil proceeding, the court, after an in camera review, shall revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of the environmental audit report was sought after the effective date of this Part and either of the following apply:

(1) The privilege is asserted for purposes of deception or evasion.

(2) The material shows evidence of significant noncompliance with applicable environmental laws; the owner or operator of the facility has not promptly initiated and pursued with diligence appropriate action to achieve compliance with these environmental laws or has not made reasonable efforts to complete any necessary permit application; and, as a result, the owner or operator of the facility did not or will not achieve compliance with applicable environmental laws or did not or will not complete the necessary permit application within a reasonable period of time.

"**§ 8-58.57. Privilege in criminal proceedings.**

The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

"**§ 8-58.58. Burden of proof.**

A party asserting the privilege established under G.S. 8-58.53 has the burden of proving that (i) the materials claimed as privileged constitute an environmental audit report as defined by this Part and (ii) compliance has been achieved or will be achieved within a reasonable period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the condition for disclosure set forth in that section.

"**§ 8-58.59. Stipulations; declaratory rulings.**

The parties to a proceeding may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the

privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an enforcement agency may seek a declaratory ruling from a court on the issue of whether the materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be revoked pursuant to G.S. 8-58.56.

"**§ 8-58.60. Construction of Part.**

Nothing in this Part limits, waives, or abrogates any of the following:

(1) The scope or nature of any statutory or common law privilege, including the work-product privilege or the attorney-client privilege.

(2) Any existing ability or authority under State law to challenge privilege.

(3) An enforcement agency's ability to obtain or use documents or information that the agency otherwise has the authority to obtain under State law adopted pursuant to federally delegated programs.

"**§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative penalties and fines.**

(a) An owner or operator of a facility is immune from imposition of civil and administrative penalties and fines for a violation of environmental laws voluntarily disclosed subject to the requirements and criteria set forth in this section. Provided, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time. If compliance is not certified by the enforcement agency, the enforcement agency shall retain discretion to assess penalties and fines for the violation.

(b) If a person or entity makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit, that person has the burden of proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection (c) of this section and (ii) that the person is therefore entitled to immunity from any administrative or civil penalties associated with the issues disclosed. Nothing in this section may be construed to provide immunity from criminal penalties.

(c) For purposes of this section, disclosure is voluntary if all of the following criteria are met:

(1) The disclosure is made within 14 days following a reasonable investigation of the violation's discovery through the environmental audit.

(2) The disclosure is made to an enforcement agency having regulatory authority over the violation disclosed.

(3) The person or entity making the disclosure initiates an action to resolve the violation identified in the disclosure in a diligent manner.

(4) The person or entity making the disclosure cooperates with the applicable enforcement agency in connection with investigation of the issues identified in the disclosure.

(5) The person or entity making the disclosure diligently pursues compliance and promptly corrects the noncompliance within a reasonable period of time.

(d) A disclosure is not voluntary for purposes of this section if any of the following factors apply:

(1) Specific permit conditions require monitoring or sampling records and reports or assessment plans and management plans to be maintained or submitted to the enforcement agency pursuant to an established schedule.

(2) Environmental laws or specific permit conditions require notification of releases to the environment.

(3) The violation was committed intentionally, willfully, or through criminal negligence by the person or entity making the disclosure.

(4) The violation was not corrected in a diligent manner.

(5) The violation posed or poses a significant threat to public health, safety, and welfare; the environment; and natural resources.

(6) The violation occurred within one year of a similar prior violation at the same facility, and immunity from civil and administrative penalties was granted by the applicable enforcement agency for the prior violation.

(7) The violation has resulted in a substantial economic benefit to the owner or operator of the facility.

(8) The violation is a violation of the specific terms of a judicial or administrative order.

(e) If a person meets the burden of proving that the disclosure is voluntary, the burden shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the factors set forth in this section. The person claiming immunity from civil or administrative penalties or fines under this section retains the ultimate burden of proving the violations were voluntarily disclosed.

(f) A voluntary disclosure made pursuant to this section is subject to disclosure pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the General Statutes.

"**§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit shall only be entitled to exercise of the privilege or immunity established by this Part once in a two-year period, not more than twice in a five-year period, and not more than three times in a 10-year period.

"**§ 8-58.63. Preemption of local laws.**

No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part."

SECTION 4.1.(b) This section becomes effective July 1, 2015, and applies to environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section, that are conducted on or after that date.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.2.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.2.(b) G.S. 130A-309.09A(d)(8) is repealed.

PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 4.3.(a) G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted by the United States Environmental Protection Agency after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 4.3.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

SECTION 4.4.(a) 15A NCAC 02D .0524(c) (New Source Performance Standards). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.4(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c) (New Source Performance Standards) as provided in Section 4.4(b) of this act.

SECTION 4.4.(b) Implementation. – Notwithstanding 15A NCAC 02D .0524(c) (New Source Performance Standards), the Commission shall not adopt a new source performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts new source performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source Performance Standards) consistent with Section 4.4(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.4(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(d) Sunset. – Section 4.4(b) of this act expires on the date that the rule adopted pursuant to Section 4.4(c) of this act becomes effective.

SECTION 4.5.(a) 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.5(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 4.5(b) of this act.

SECTION 4.5.(b) Implementation. – Notwithstanding 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology), the Commission shall not adopt maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) consistent with Section 4.5(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.5(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(d) Sunset. – Section 4.5(b) of this act expires on the date that the rule adopted pursuant to Section 4.5(c) of this act becomes effective.

SECTION 4.6.(a) 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.6(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) as provided in Section 4.6(b) of this act.

SECTION 4.6.(b) Implementation. – 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) consistent with Section 4.6(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.6(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(d) Sunset. – Section 4.6(b) of this act expires on the date that the rule adopted pursuant to Section 4.6(c) of this act becomes effective.

SECTION 4.6A. Effective January 1, 2016, the Environmental Management Commission shall not enforce any federal standard that was adopted by reference pursuant to 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such standards are readopted by the Commission as provided in Sections 4.4, 4.5, and 4.6 of this act.

AMEND RISK-BASED REMEDIATION PROVISIONS

SECTION 4.7.(a) G.S. 130A-310.65 reads as rewritten:

"**§ 130A-310.65. Definitions.**

As used in this Part:

...

(4) "Contaminated industrial site" or "site" means any real property that meets all of the following criteria:

a. The property is contaminated and may be subject to remediation under any of the programs or requirements set out in G.S. 130A-310.67(a).

b. The property is or has been used primarily for manufacturing or other industrial activities for the production of a commercial product. This includes a property used primarily for the generation of electricity.

~~c. No contaminant associated with activities at the property is located off of the property at the time the remedial action plan is submitted.~~

d. No contaminant associated with activities at the property will migrate to any adjacent properties above unrestricted use standards for the ~~contaminant.~~contaminant, after the industrial site has been remediated pursuant to the requirements of this Part.

...

(8) "Registered environmental consultant" means an environmental consulting or engineering firm approved to implement and oversee voluntary remedial actions pursuant to Part 3 of Article 9 of Chapter 130A of the General Statutes and rules adopted to implement the Part.

...."

SECTION 4.7.(b) G.S. 130A-310.67 reads as rewritten:

"**§ 130A-310.67. Applicability.**

(a) This Part applies to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Inactive Hazardous Sites Response Act of 1987 under Part 3 of Article 9 of Chapter 130A of the General Statutes, including voluntary actions under G.S. 130A-310.9 of that act, and rules promulgated pursuant to those statutes.

(2) The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976, Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, and Article 9 of Chapter 130A of the General Statutes.

(3) The solid waste management program administered pursuant to Article 9 of Chapter 130A of the General Statutes.

(4) The federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 100 Stat. 1613, as amended, and under Part 4 of Article 9 of Chapter 130A of the General Statutes.

(5) The groundwater protection corrective action requirements adopted by the Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and 2 of Article 21A of Chapter 143 of the General Statutes.

(b) This Part shall not apply to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Leaking Petroleum Underground Storage Tank Cleanup program under Part 2A of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that ~~statute.~~Part.

(2) The Dry-Cleaning Solvent Cleanup program under Part 6 of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that ~~statute.~~Part.

(3) The pre-1983 landfill assessment and remediation program established under G.S. 130A-310.6(c) through ~~(g).~~(g) and rules promulgated pursuant to that statute.

(4) The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules promulgated pursuant to that Part.

~~(c) This Part shall apply only to sites where a discharge, spill, or release of contamination has been reported to the Department prior to March 1, 2011.~~"

SECTION 4.7.(c) G.S. 130A-310.69(b)(11) reads as rewritten:

"**§ 130A-310.69. Remedial investigation report; remedial action plans.**

...

(b) A person who proposes to conduct remediation pursuant to this Part shall develop and submit a proposed remedial action plan to the Department. A remedial action plan shall provide for the protection of public health, safety, and welfare and the environment. A remedial action plan shall do all of the following:

...

(11) Provide for the imposition and recordation of land-use restrictions as provided in G.S. 143B-279.9, 143B-279.10, 130A-310.3(f), 130A-310.8, 130A-310.35, 143-215.84(f), and 143-215.85A if the remedial action plan allows contamination in excess of the greater of unrestricted use standards or background standards to remain on any real property or in groundwater that underlies any real ~~property.~~property on the industrial site."

SECTION 4.7.(d) G.S. 130A-310.71 reads as rewritten:

"**§ 130A-310.71. Review and approval of proposed remedial action plans.**

(a) The Department shall review and approve a proposed remedial action plan consistent with the remediation standards set out in G.S. 130A-310.68 and the procedures set out in this section. In its review of a proposed remedial action plan, the Department shall do all of the following:

...

(2) Determine whether the party conducting the remediation has adequately demonstrated through modeling or other scientific means acceptable to the Department that no contamination will migrate to adjacent property at levels above unrestricted use ~~standards.~~standards after the industrial site has been remediated pursuant to the plan.

(3) Determine whether the proposed remedial action plan meets the requirements of G.S. 130A-310.69.

(4) Determine whether the proposed remedial action plan meets the requirements of any other applicable remediation program except those pertaining to remediation standards.

(5) Establish the acceptable level or range of levels of risk to public health, safety, and welfare and to the environment.

(6) Establish, for each contaminant, the maximum allowable quantity, concentration, range, or other measures of contamination that will remain at the contaminated site at the conclusion of the contaminant-reduction phase of the remediation.

(7) Consider the technical performance, effectiveness, and reliability of the proposed remedial action plan in attaining and maintaining compliance with applicable remediation standards.

(8) Consider the ability of the person who proposes to remediate the site to implement the proposed remedial action plan within a reasonable time and without jeopardizing public health, safety, or welfare or the environment.

(9) Determine whether the proposed remedial action plan adequately provides for the imposition and maintenance of engineering and institutional controls and for sampling, monitoring, and reporting requirements necessary to protect public health, safety, and welfare and the environment.

(10) Approve the circumstances under which no further remediation is required.

(11) For industrial sites proceeding with remediation under this Part at which contaminants associated with activities of the industrial site have migrated to any adjacent properties, determine whether the proposed remedial action plan adequately provides for remediation of environmental contamination on the adjacent properties to unrestricted use standards.

(b) The person who proposes a remedial action plan has the burden of demonstrating with reasonable assurance that (i) any contamination associated with activities of the industrial site that has migrated to adjacent properties will be remediated to unrestricted use standards on the adjacent properties; (ii) contamination from the site will not migrate to adjacent property above unrestricted use ~~levels and~~standards after the industrial site has been remediated pursuant to the remedial action plan; and (iii) that the ~~remedial action~~ plan is protective of public health, safety, and welfare and the environment by virtue of its compliance with this Part. The demonstration shall (i) take into account actions proposed in the remedial action plan that will prevent contamination from migrating off the site; and (ii) use scientifically valid site-specific data.

(c) The Department may require a person who proposes a remedial action plan to supply any additional information necessary for the Department to approve or disapprove the plan.

(d) In making a determination on a proposed remedial action plan, the Department shall consider the information provided by the person who proposes the remedial action plan as well as information provided by local governments and adjoining landowners pursuant to G.S. 130A-310.70. The Department shall disapprove a proposed remedial action plan unless the Department finds that the plan is protective of public health, safety, and welfare and the environment and complies with the requirements of this Part. If the Department disapproves a proposed remedial action plan, the person who submitted the plan may seek review as provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or disapprove a proposed remedial action plan within 120 days after a complete plan has been submitted, the person who submitted the plan may treat the plan as having been disapproved at the end of that time period."

SECTION 4.7.(e) Part 8 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-310.68A. Remediation to unrestricted use standards required for contamination on adjacent properties.**

Notwithstanding any other provision of this Part, for industrial sites proceeding with remediation under this Part at which contaminants associated with activities of the industrial site have migrated to any adjacent properties, remediation of environmental contamination on the adjacent properties shall meet unrestricted use standards on those properties."

SECTION 4.8.(a) No later than January 1, 2016, the Department of Environment and Natural Resources shall do all of the following:

(1) Develop internal processes to govern remediation of contaminated industrial sites conducted under this Part that are consistent across all programs or requirements identified in subsection (a) of G.S. 130A-310.67.

(2) Develop a coordinated program and processes for remediation of contaminated industrial sites conducted under this Part that are subject to more than one program or requirement identified in subsection (a) of G.S. 130A-310.67.

(3) Develop reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee voluntary remedial actions pursuant to this Part.

SECTION 4.8.(b) No later than April 1, 2016, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (a) of this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO EXTEND ELIGIBILITY UNDER THE PROGRAM TO BONA FIDE PROSPECTIVE PURCHASERS, IN ACCORDANCE WITH FEDERAL LAW

SECTION 4.9.(a) G.S. 130A-310.31(b)(10) reads as rewritten:

"**§ 130A-310.31. Definitions.**

(a) Unless a different meaning is required by the context or unless a different meaning is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310 apply throughout this Part.

(b) Unless a different meaning is required by the context:

...

(10) "Prospective developer" ~~means any person with a bona fide, demonstrable desire to either buy or sell a brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause or contribute to the contamination at the brownfields property.~~includes "bona fide prospective purchasers," "contiguous property owners," and "innocent landowners," as those terms are defined under the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. No. 107-118, 115 stat. 2356), 42 U.S.C. § 9601."

SECTION 4.9.(b) This section becomes effective July 1, 2015, and applies to Notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

SECTION 4.10.(a) G.S. 105-102.6 is repealed.

SECTION 4.10.(b) G.S. 130A-309.17(d) and (i) are repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 4.11. G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section.

The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office a biennial written report of utility consumption and costs. Management plans submitted biennially by State institutions of higher learning shall include all of the following:

(1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.
(2) The cost of analyzing the projected energy savings.
(3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.
(4) An analysis that identifies projected annual energy savings and estimated payback periods.

(a1) State agencies and State institutions of higher learning shall carry out the construction and renovation of facilities in such a manner as to further the policy set forth under this section and to ensure the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities.

(b) The Department of Administration shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities of State buildings and State institutions of higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. ~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.~~

...

(j) The State Energy Office shall submit a report by December 1 of every odd-numbered year to the Joint Legislative Energy Policy Commission describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this ~~section and the energy audits required by subsection (b1) of this~~ section.

(4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this ~~section and a list of the State agencies and State institutions of higher learning that received an energy audit.~~section.

(5) Any recommendations on how management plans can be better managed and implemented."

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

SECTION 4.12.(a) G.S. 113-175.6 is repealed.

SECTION 4.12.(b) G.S. 113-182.1(e) reads as rewritten:

"**§ 113-182.1. Fishery Management Plans.**

...

(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 Governmental Operations 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 Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall 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 Governmental Operations 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 4.12.(c) G.S. 143B-279.15 is repealed.

SECTION 4.12.(d) G.S. 143B-289.44(d) is repealed.

SECTION 4.12.(e) G.S. 159I-29 is repealed.

SECTION 4.12.(f) Section 2.3 of S.L. 2007-485 is repealed.

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

SECTION 4.14.(a) G.S. 130A-334 reads as rewritten:

"**§ 130A-334. Definitions.**

The following definitions shall apply throughout this Article:

(1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.

~~(1)~~(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(1b) "Conventional wastewater system" has the same meaning as in G.S. 130A-343.

~~(1a)~~(1c) "Department" means the Department of Health and Human Services.

~~(1b)~~(1d) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.

(2) Repealed by Session Laws 1985, c. 462, s. 18.

(2a) "Industrial process wastewater" means any water-carried waste resulting from any process of industry, manufacture, trade, or business.

(2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.

(3) "Location" means the initial placement for occupancy of a residence, place of business or place of public assembly.

(3a) "Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.

(4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

(6) "Place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

(7) "Place of public assembly" means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. "Plat" also means, for subdivision lots approved by the local planning authority if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

(7b) "Pretreatment" means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.

(7c) "Private option permit" means approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

(7d) "Professional engineer" has the same meaning as in G.S. 89C-3.

(8) "Public or community wastewater system" means a single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(9) "Relocation" means the displacement of a residence or place of business from one site to another.

(9a) "Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system.

(10) "Residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.

(10a) "Secretary" means the Secretary of Environment and Natural Resources.

(11) Repealed by Session Laws 1992, c. 944, s. 3.

(12) "Septic tank system" means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.

(13) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(13a) "Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters.

(14) "Wastewater" means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.

(15) "Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article."

SECTION 4.14.(b) G.S. 130A-335 reads as rewritten:

"**§ 130A-335. Wastewater collection, treatment and disposal; rules.**

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed may be evaluated for soil conditions and site features by a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles.

(b) All wastewater systems shall either (i) be regulated by the Department under rules adopted by the Commission or (ii) conform with the private option permit criteria set forth in G.S. 130A-336.1 and under rules adopted by the Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the Environmental Management Commission:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.

(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.

(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(4) Gray water systems as defined in G.S. 143-350.

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and

(2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public health; and

(3) The Department has found that the rules of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

(c1) The rules adopted by the Commission for wastewater systems approved under the private option permit criteria pursuant to G.S. 130A-336.1 shall be, at a minimum, as stringent as the rules for wastewater systems established by the Commission.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.

(d1) The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to this Article. The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this Article.

...."

SECTION 4.14.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-336.1. Alternative process for wastewater system approvals.**

(a) Private Option Permit Authorized. – A professional engineer may, under the legal authority of the owner of a proposed wastewater system who wishes to utilize the private option permit, prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system in accordance with this section and rules adopted thereunder.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with

jurisdiction over the location of the proposed wastewater system a notice of intent to construct a wastewater system utilizing the private permit option. The Department shall develop a common form for use as the notice of intent to construct that includes all of the following:

(1) The owner's name, address, e-mail address, and telephone number.

(2) The professional engineer's name, address, e-mail address, and telephone number.

(3) Certified copy of the wastewater system owner's contract with the professional engineer.

(4) For both the professional engineer and the licensed soil scientist, proof of errors and omissions insurance coverage or other appropriate liability insurance that has policy limits of not less than one million dollars ($1,000,000) per claim and that shall remain in force as applicable:

a. Two years following the date on which a professional engineer delivers an engineering report pursuant to subdivision (k)(1) of this section to the owner of the wastewater system; or

b. Two years following the date on which a licensed soil scientist delivers a soils report to the owner of the wastewater system.

(5) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.

(6) The type of proposed wastewater system and its location.

(7) The design wastewater flow and characteristics.

(8) Any proposed landscape, site, drainage, or soil modifications.

(9) A soil evaluation that is conducted and signed and sealed by a licensed soil scientist.

(10) A plat, as defined in G.S. 130A-334(7a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether a notice of intent to construct, as required pursuant subsection (b) of this section, is complete within 14 days after the local health department receives the notice of intent to construct. A determination of completeness means that the notice of intent to construct includes all of the required components. If the local health department determines that the notice of intent to construct is not complete, the department shall notify the owner or the professional engineer of the components needed to complete the notice. The owner or professional engineer may submit additional information to the department to cure the deficiencies in the notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within 10 days after the department receives the additional information from the owner or professional engineer. If the department fails to act within any time period set out in this subsection, the owner or professional engineer may treat the failure to act as a denial of the completeness of the notice of intent and may challenge the denial as provided in Chapter 150B of the General Statutes.

(d) Submission of Notice of Intent to Construct to Department for Certain Systems. – Prior to commencing in the construction, siting, or relocation of a wastewater system designed (i) for the collection, treatment, and disposal of industrial process wastewater or (ii) to treat greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall provide to the Department a duplicate copy of the notice of intent to construct submitted to the local health department required pursuant to subsection (b) of this section.

(e) Site Design, Construction, and Activities. –

(1) The professional engineer designing the proposed wastewater system shall use recognized principles and practices of engineering and applicable rules of the Commission in the calculations and design of the wastewater system.

The investigations and findings of the professional engineer shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). The professional engineer may, at the engineer's discretion, employ wastewater system technologies not yet approved in this State.

(2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater system shall employ a licensed soil scientist to evaluate soil conditions and site features.

(3) The professional engineer designing the proposed wastewater system shall be responsible and accountable for all aspects of the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(4) In addition to the requirements of this section, the owner and professional engineer designing the proposed wastewater system shall comply with all other applicable federal, State, and local laws, regulations, rules, and ordinances.

(f) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed wastewater system shall assume all liability for the findings of the soil scientist's initial soil evaluation and final soils report. The professional engineer designing the proposed wastewater system shall assume all liability for the engineer's scope of work in the design, calculation, construction and installation, and requirements for the development of the operation and management plan for the wastewater system. The owner of the wastewater system shall assume all liability for the proper operation and management of the wastewater system. The Department, the Department's authorized agents, or local health departments shall have no liability for wastewater systems approved under a private option permit. After the owner of the wastewater system has commenced operation of the system pursuant to subsection (m) of this section, neither the professional engineer nor the licensed soil scientist shall be held liable for any damages that result from any unapproved changes made to the wastewater system by the owner.

(g) Inspections. – The local health department may, at any time, conduct a site visit of the wastewater system.

(h) Local Authority. – This section shall not relieve the owner or operator of a wastewater system from complying with any and all modifications or additions to rules adopted by the local health department to protect public health pursuant to G.S. 130A-335(c). The local health department shall notify the owner or operator of the wastewater system of any issues of compliance related to such modifications or additions.

(i) Operations and Management. –

(1) The professional engineer designing the wastewater system shall establish a written operations and management program based on the size and complexity of the wastewater system and shall provide the owner with the operations and management program.

(2) The professional engineer shall assist the owner in the owner's selection of a water pollution control system operator. The owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes and who is selected from the list of certified operators maintained by the Division of Water Resources in the Department of Environment and Natural Resources for operation and maintenance of the system in accordance with rules adopted by the Commission.

(3) Any person who owns or controls the property upon which the wastewater system is located shall be responsible for the continued adherence to the operations and management program established by the professional engineer developed pursuant to subdivision (1) of this subsection.

(j) Postconstruction Conference. – The professional engineer designing the wastewater system shall hold a postconstruction conference with the owner of the wastewater system; the licensed soil scientist who performed the soils evaluation for the wastewater system; the contractor, certified pursuant to Article 5 of Chapter 90A of the General Statutes, who installed the wastewater system; the certified operator of the wastewater system, if any; and representatives from the local health department and, as applicable, the Department. The postconstruction conference shall include start-up of the wastewater system and any required verification of system design or system components.

(k) Required Documentation. –

(1) At the completion of the postconstruction conference conducted pursuant to subsection (j) of this section, the professional engineer who designed the wastewater system shall deliver to the owner signed, sealed, and dated certified copies of the engineer's report, which, for purposes of this section, shall include (i) the evaluation of soil conditions and site features as prepared by the licensed soil scientist; (ii) design and construction specifications; (iii) operator's management program manual that includes a copy of the contract entered into with the certified water pollution control system operator required pursuant to subsection (i) of this section; and (iv) any reports and findings related to the design and installation of the wastewater system.

(2) Upon reviewing the authorized professional engineer's report, the owner of the wastewater system shall sign and notarize the report as having been received.

(l) Reporting Requirements. –

(1) The owner of the wastewater system shall deliver to the local health department (i) a certified copy of the authorized professional engineer's report, (ii) a copy of the operations and management program, (iii) the fee required pursuant to subsection (n) of this section, and (iv) a notarized letter that documents the owner's acceptance of the system from the professional engineer.

(2) The owner of any wastewater system subject to subsection (d) of this section shall deliver to the Department certified copies of the engineer's report, as described in subdivision (1) of this subsection.

(m) Authorization to Operate. – Upon receipt of the documents and fees required pursuant to subdivision (1) of subsection (l) of this section, the local health department shall issue the owner a letter of confirmation that states the documents and information contained therein have been received and that the wastewater system may operate in accordance with rules adopted by the Commission.

(n) Fees. – The local health department may assess a fee of up to ten percent (10%) of the fees established to obtain an improvement permit, an authorization to construct, or an operations permit within the health department's on-site wastewater program. Fees shall be used by the local health department to conduct site inspections, to support the department's staff participation at postconstruction conference meetings, and to archive the private permit with the county register of deeds or other recordation of the wastewater system as required.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change in ownership of the site for the wastewater system, provided both the site for the wastewater system and the facility the system serves are

unchanged and remain under the ownership or control of the person currently owning the wastewater system.

(p) Rule Making. – The Commission shall adopt rules to implement to the provisions of this section.

(q) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2017, and annually thereafter, on the implementation and effectiveness of this section. For the report due on or before January 1, 2017, the Department shall specifically evaluate whether (i) the private option permit resulted in a reduction in the length of time improvement permits or authorizations to construct are pending; (ii) the private option permit resulted in increased system failures or other adverse impacts; and (iii) the private option permit resulted in new or increased environmental impacts. The Department may include recommendations, including any legislative proposals, in its reports to the Commission and Committee."

SECTION 4.14.(d) G.S. 130A-338 reads as rewritten:

"**§ 130A-338. Authorization for wastewater system construction required before other permits to be issued.**

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued under ~~G.S. 130A-336~~G.S. 130A-336, or authorization has been obtained under ~~G.S. 130A-337(c).~~G.S. 130A-337(c), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to G.S. 130A-336.1(c)."

SECTION 4.14.(e) G.S. 130A-339 reads as rewritten:

"**§ 130A-339. Limitation on electrical service.**

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit authorization for wastewater system construction and an operation permit or authorization under G.S. 130A-337(c) or the decision on the completeness of the notice of intent to construct made by the local health department pursuant to G.S. 130A-336.1(b1) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338."

SECTION 4.14.(f) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the minimum on-site wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the compliance history of wastewater systems, including whether operators' reports and laboratory reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of remote Web-based monitoring for alarm and compliance notification; (iii) whether the required verification visit conducted by local health departments shows a statistically significant justification for duplicative costs to the owner of the wastewater system; (iv) methods for notifications of changes to and expirations of operations contracts; and (v) methods for local health departments to provide certified operator management for sites that are not under contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes. The Commission shall report its findings and

recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

SECTION 4.14.(g) G.S. 130A-336 reads as rewritten:

"**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this ~~Article.~~Article or (ii) by a professional engineer or licensed soil scientist acting within the engineer's or soil scientist's scope of work, as applicable, and pursuant to the conditions of the private option permit in G.S. 130A-336.1. An improvement permit ~~shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit~~issued by a local health department shall include:

(1) ~~For permits that are valid without expiration, a plat or, for permits that are valid for five years,~~A plat or a site plan.
(2) A description of the facility the proposed site is to serve.
(3) The proposed wastewater system and its location.
(4) The design wastewater flow and characteristics.
(5) The conditions for any site modifications.
(6) Any other information required by the rules of the Commission.

~~The~~ Neither the improvement permit nor the authorization for wastewater system construction shall ~~not~~ be affected by change ~~in~~ of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility. The improvement permit and the authorization for wastewater system construction shall remain valid once issued, without expiration, provided the design wastewater flow and characteristics and the description of the proposed facility the wastewater system will serve remains unchanged. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. ~~This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued.~~ No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-*336.1*. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(b1) The local health department shall maintain a database of proposed wastewater systems for which both the improvement permit and construction authorization have been

obtained but no commencement of activity related to the construction or installation of the wastewater system was undertaken during the five years immediately following the approval of the improvement permit and construction authorization. For those wastewater systems identified in accordance with this subsection, the local health department shall notify the applicant of alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional or accepted septic tank systems within 60 ~~days of~~ days, or within 90 days for provisional or innovative systems, after receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

SECTION 4.14.(h) G.S. 130A-342 reads as rewritten:

"**§ 130A-342. Residential wastewater treatment systems.**

(a) Individual residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.

(b) A permitted system with a design flow of less than 1,500 gallons per day shall be operated ~~and maintained by a certified wastewater treatment facility operator.~~by a person who is a Subsurface Water Pollution Control System Operator as certified by the Water Pollution Control System Operators Certification Commission and authorized by the manufacturer of the individual residential wastewater treatment system. The Commission may establish additional standards for wastewater systems with a design flow of 1,500 gallons or greater per day.

(c) Each county, in which one or more residential wastewater treatment systems permitted pursuant to this section are in use, shall document the performance of each system and report the results to the Department annually."

SECTION 4.14.(i) This section is effective when this act becomes law, and the Commission for Public Health shall adopt or amend rules pursuant to Sections 4.14(a) through 4.14(e) of this act no later than June 1, 2016. No person shall utilize the private permit option authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act, however, until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of this act become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

SECTION 4.15.(a) G.S. 130A-343 reads as rewritten:

"**§ 130A-343. Approval of on-site subsurface wastewater systems.**

(a) Definitions. – As used in this section:

(1) "Accepted wastewater dispersal system" means any subsurface wastewater dispersal system, other than a conventional wastewater system, ~~or any technology, device, or component of a wastewater system~~ that: (i) has been previously approved as an innovative wastewater dispersal system by the Department; (ii) has been in general use in this State as an innovative wastewater dispersal system for more than five years; and (iii) has been approved by the Commission for general use or use in one or more specific applications. An accepted wastewater dispersal system may be approved for

use in applications for which a conventional wastewater system is unsuitable. The Commission may impose any design, operation, maintenance, monitoring, and management requirements on the use of an accepted wastewater dispersal system that it determines to be appropriate.

(2) "~~Controlled demonstration~~Provisional wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that, on the basis of (i) research acceptable ~~research, is approved by~~ to the Department or (ii) approval of the wastewater system by a nationally recognized certification body for a period that exceeds one year for research, testing, or trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.

(3) "Conventional wastewater system", "conventional sewage system", or "conventional septic tank system" means a subsurface wastewater system that consists of a traditional septic or settling tank and a gravity-fed subsurface ~~disposal~~ dispersal field that uses washed natural stone or gravel ~~or crushed stone~~of approved size and grade and piping to distribute effluent to soil in one or more nitrification trenches and that does not include any other appurtenance.

~~(4) "Experimental wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.~~

(5) "Innovative wastewater system" means any wastewater system, other than a conventional wastewater system, provisional wastewater system, or any technology, device, or component of a wastewater system ~~that:~~that either:

a. ~~(i) has~~Has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; ~~(ii)~~ is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; and ~~(iii)~~ has been approved by the Department for general use or for one or more specific applications.

b. Remains on a list of the applicable nationally recognized standards for a period that exceeds two years and satisfies the treatment limits adopted by the Department.

An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate. A wastewater system approved by a nationally recognized certification body and in compliance with the ongoing verification program of such body may submit a sampling protocol for innovative system approval that reduces the data sets required for such approval by fifty percent (50%). Such an application shall include all of the data associated with the nationally recognized certification body's verification of the system's performance.

(6) "Nationally recognized certification body" means NSF International; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater

systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.

(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules for the approval and permitting of ~~experimental, controlled demonstration,~~ innovative, conventional, provisional, and accepted wastewater systems. The rules shall address the criteria to be considered prior to issuing ~~a permit~~ an approval for a system, requirements for preliminary design plans and specifications that must be submitted, methodology to be used, standards for monitoring and evaluating the system, research evaluation of the system, the plan of work for monitoring system performance and maintenance, and any additional matters the Commission ~~deems appropriate.~~determines are necessary for verification of the performance of a wastewater system or system component.

(c) ~~Approved Systems.~~ Procedure for Modifications or Revocations. – The Department may modify, suspend, or revoke the approval of a wastewater system if the Department determines that the approval is based on false, incomplete, or misleading information or if the Department finds that modification, suspension, or revocation is necessary to protect public health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental, controlled demonstration,~~ innovative, provisional, and accepted wastewater systems to the local health departments annually, and ~~more frequently, when the Department makes a final agency decision related to the approval of a wastewater system or the Commission adopts rules related to the~~ notify the local health departments within 30 days of any modification or revocation of an approval of a wastewater ~~system.~~system or system component.

(d) Evaluation Protocols. – The Department shall approve one or more nationally recognized protocols for the evaluation of ~~on-site subsurface~~ wastewater systems. Any protocol approved by the Department shall specify a minimum number of sites that must be evaluated and the duration of the evaluation period. At the request of a manufacturer of a wastewater system, the Department may approve an alternative protocol for use in the evaluation of the performance of the manufacturer's wastewater system. A protocol for the evaluation of ~~an on-site subsurface~~ a wastewater system approved by the Department pursuant to this section is a scientific standard within the meaning of G.S. 150B-2(8a)h.

~~(e) Experimental Systems. A manufacturer of a wastewater system that is intended for on-site subsurface use may apply to the Department to have the system evaluated as an experimental wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the experimental wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 50 experimental systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the experimental wastewater system fails to perform properly.~~

(f) ~~Controlled Demonstration~~ Provisional Systems. – A manufacturer of a wastewater system ~~intended for on-site subsurface use~~ may apply to the Department to have the system

~~evaluated as a controlled demonstration wastewater system as provided in this subsection.~~ provisionally approved for use in this State. Any wastewater system approved based on its approval by a nationally recognized certification body must be designed and installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal shall contain procedures for obtaining specified information necessary to achieve innovative status upon completion of the provisional status. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. ~~If the system was evaluated as an experimental system under subsection (e) of this section, the proposal shall include the results of the evaluation.~~ The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the controlled demonstration wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 200 ~~controlled demonstration~~provisional wastewater systems ~~pursuant to a protocol approved by the Department~~ on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the ~~controlled demonstration~~ provisional wastewater system fails to perform properly. If the ~~controlled demonstration~~provisional wastewater system is intended for use on sites that are not ~~suitable, or that are provisionally suitable,~~suitable for a conventional wastewater system, the Department may approve the installation of the ~~controlled demonstration~~provisional wastewater system if the Department determines that the manufacturer can provide an acceptable alternative method for collection, treatment, and ~~disposal~~ dispersal of the wastewater. The Department shall approve applications for provisional systems based on approval by a nationally recognized certification body within 90 days of receipt of a complete application. A manufacturer that chooses to remove its product from the nationally recognized standard during the provisional approval may continue its application in this State pursuant to requirements and procedures established by the Department.

(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface use ~~that has been evaluated as an experimental~~may apply for and be considered for innovative system status by the Department in one of the following ways:

(1) If the wastewater system has been approved as a provisional wastewater system pursuant to subsection (f) of this section, the manufacturer may apply to have the system approved as an innovative wastewater system based on successful completion of the evaluation protocols established pursuant to subsection (d) of this section. ~~wastewater system as provided in subsection (e) of this section or that has been evaluated as a controlled demonstration wastewater system as provided in subsection (f) of this section may apply to the Department to have the system approved as an innovative wastewater system as provided in this subsection.~~

(2) ~~A manufacturer of a~~If the wastewater system ~~for on-site subsurface use that~~ has not been evaluated or approved as ~~an experimental~~a provisional wastewater system ~~or as a controlled demonstration wastewater system~~ pursuant to subsection (f) of this section, the manufacturer may ~~also~~ apply to

the Department to have the system approved as an innovative wastewater system on the basis of comparable research and testing conducted in other states. The manufacturer shall provide the Department with the data and findings of all evaluations of the performance of the system that have been conducted in any state by or on behalf of the manufacturer. The manufacturer shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer.

(3) If the wastewater system has not been evaluated or approved as a provisional system pursuant to subsection (f) of this section, but has been evaluated under protocol established by a nationally recognized certification body for at least two consecutive years, has been found to perform acceptably based on the criteria of the protocol, and is designed and will be installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body, the manufacturer may apply to have the system approved as an innovative wastewater system.

Within 30 days of receipt of the initial application, the Department shall either (i) notify the manufacturer of any items necessary to complete the application or (ii) notify the manufacturer that its application is complete. The Department shall publish a notice that the manufacturer has submitted an application under this subsection in the North Carolina Register and may provide additional notice to the public via the Internet or by other means. The Department shall receive public comment on the application for at least 30 days after the date the notice is published in the North Carolina Register. In making a determination under this subsection, the Department shall consider the data, findings, and recommendations submitted by the manufacturer and all public comment. The Department may also consider any other information that the Department determines to be relevant. The Department shall determine: (i) whether the system performs in a manner equal or superior to a conventional wastewater ~~system;~~system, in terms of structural integrity, treatment, and hydraulic performance; (ii) whether the system is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any conditions and limitations related to the use of the system. The Department shall make the determinations required by this subsection and approve or deny the application within ~~180~~ 90 days after the Department receives a complete application from a manufacturer. If the Department fails to act on the application within ~~180 days,~~90 days of the notice of receipt of the complete application, the manufacturer may treat the application as denied and challenge the denial by filing a contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the Department approves an innovative wastewater system, the Department shall notify the manufacturer of the approval and specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(g1) Approval of Functionally Equivalent Trench Systems as Innovative Systems. – A manufacturer of a wastewater trench system may petition the Commission to have the wastewater trench system approved as an innovative wastewater system as provided in this subsection.

(1) The Commission shall approve a wastewater trench system as an innovative wastewater system if it finds that there is clear, convincing, and cogent evidence that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system. A wastewater trench system shall be considered functionally equivalent to an accepted wastewater trench system if the performance

characteristics of the wastewater trench system satisfy all of the following requirements:

a. The physical properties and chemical durability of the materials from which the wastewater trench system is constructed are equal to or superior to the physical properties and chemical durability of the materials from which the accepted wastewater trench system is constructed.

b. The permeable sidewall area and bottom infiltrative area of the wastewater trench system are equal to or greater than the permeable sidewall area and bottom infiltrative area of the accepted wastewater trench system at a field-installed size.

c. The wastewater trench system utilizes a similar method and manner of function for the conveyance and application of effluent as the accepted wastewater trench system.

d. The structural integrity of the wastewater trench system is equal to or superior to the structural integrity of the accepted wastewater trench system.

e. The wastewater trench system shall provide a field installed system storage volume equal to or greater than the field installed system storage volume of the accepted wastewater trench system.

(2) As part of its petition, the manufacturer shall provide to the Commission all of the following information:

a. Specifications of the wastewater trench system.

b. Data necessary to demonstrate that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system.

c. A certified statement from an independent, third-party professional engineer or testing laboratory that, based on verified documentation, the wastewater trench system is functionally equivalent to an accepted wastewater system.

(3) Approval of a wastewater trench system as an innovative wastewater system shall not be conditioned on the manufacturer of the wastewater trench system having operational systems installed in the State.

(4) The Commission shall authorize the use of a wastewater trench system as an innovative wastewater system in the same applications as the accepted wastewater trench system.

(5) The Commission shall not include conditions and limitations in the approval of a wastewater trench system as an innovative wastewater system that are not included in the approval of the accepted wastewater trench system.

(h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative wastewater dispersal system that has been in general use in this State for ~~more than~~a minimum of five years may petition the Commission to have the system designated as an accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the ~~system.~~system in this State and other states referenced in the petition, including disclosure of any conditions found to result in unacceptable structural integrity, treatment, or hydraulic performance. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater system as an accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at

the time the Department approved the system as an innovative wastewater system and (ii) that the system performs in a manner that is equal or superior to a conventional wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(i) ~~Miscellaneous Provisions.~~ Nonproprietary Wastewater Systems. –

~~(1) In evaluating applications for approval under this section, the Department may consult with persons who have special training and experience related to on-site subsurface wastewater systems and may form a technical advisory committee for this purpose. However, the Department is responsible for making timely and appropriate determinations under this section.~~

~~(2)~~ The Department may initiate a review of a nonproprietary wastewater system and approve the system for ~~on-site subsurface~~ use ~~as an experimental wastewater system, a controlled demonstration wastewater system,~~ as a provisional wastewater system or an innovative wastewater system without having received an application from a manufacturer. The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.

~~(j) Warranty Required in Certain Circumstances. The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system or accepted wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system unless the manufacturer of the innovative wastewater system or accepted wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the system for a warranty period of at least five years from the date on which the wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to provide a fully functional wastewater system. The Commission shall establish minimum terms and conditions for the warranty required by this subsection. This subsection shall not be construed to require that a manufacturer warrant a wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.~~

(j1) Clarification With Respect to Certain Dispersal Media. – In considering the application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under this section, neither the Commission nor the Department may condition, delay, or deny the approval based on the particle or bulk density of the expanded polystyrene material. With respect to approvals already issued by the Department or Commission that include conditions or requirements related to the particle or bulk density of expanded polystyrene material, the Commission or Department, as applicable, shall promptly reissue all such approvals with the conditions and requirements relating to the density of expanded polystyrene material permanently deleted while leaving all other terms and conditions of the approval intact.

(k) Fees. – The Department shall collect the following fees under this section:

(1)	Review of an alternative protocol under subsection (d) of this section	$1,000.00
~~(2)~~	~~Review of an experimental system~~	~~$3,000.00~~
(3)	Review of a ~~controlled demonstration~~provisional system	$3,000.00
(4)	Review of an innovative system	$3,000.00
(5)	Review of an accepted system	$3,000.00
(6)	Review of a residential wastewater treatment	

	system pursuant to G.S. 130A-342	$1,500.00
(7)	Review of a component or device required of a system	$ 100.00
(8)	Modification to approved accepted, provisional, or innovative system	$1,000.00

(l) On-Site Wastewater System Account. – The On-Site Wastewater System Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be placed in the On-Site Wastewater System Account and shall be applied only to the costs of implementing this section."

SECTION 4.15.(b) The Commission for Public Health shall review and amend its rules to implement Section 4.15(a) of this act.

SECTION 4.15.(c) Beginning October 1, 2015, and every quarter thereafter until all rules required pursuant to Sections 4.14 and 4.15 of this act are adopted or amended, the Commission for Public Health shall submit written reports as to its progress on adopting or amending rules as required by Sections 4.14 and 4.15 of this act to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

SECTION 4.15.(d) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the costs and benefits of requiring treatment standards greater than those listed by nationally recognized standards, including the recorded advantage of such higher treatment standards for the protection of the public health and the environment. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

CONTESTED CASES FOR AIR PERMITS

SECTION 4.17. G.S. 143-215.108 reads as rewritten:

"**§ 143-215.108. Control of sources of air pollution; permits required.**

...

(e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third party~~applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publicly available Web site. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

...."

AMEND ISOLATED WETLANDS LAW

SECTION 4.18.(a) For the purposes of implementing Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall apply only to a Basin Wetland or Bog and no other wetland types as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not apply to an isolated man-made ditch or pond constructed for stormwater management purposes, any other man-made isolated pond, or any other type of isolated wetland, and the Department of Environment and Natural Resources shall not regulate such water bodies under Section .1300.

SECTION 4.18.(b) The Environmental Management Commission may adopt rules to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code consistent with subsection (a) of this section.

SECTION 4.18.(c) Section 54 of S.L. 2014-120 reads as rewritten:

"**SECTION 54.(a)** Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 54(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of this act.

"**SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to one acre of isolated wetlands ~~east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95~~ for the entire project.

(2) Mitigation requirements for impacts to isolated wetlands shall only apply to the amount of impact that exceeds the threshold set out in subdivision (1) of this section. The mitigation ratio for impacts ~~of greater than one acre~~ exceeding the threshold for the entire project under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located on the same parcel.

~~(3) For purposes of Section 54(b) of this section, "isolated wetlands" means a Basin Wetland or Bog as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October, 2010, that are not jurisdictional wetlands under the federal Clean Water Act. An "isolated wetland" does not include an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.~~

(4) Impacts to isolated wetlands shall not be combined with the project impacts to 404 jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met.

"**SECTION 54.(c)** The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i) how the term "isolated wetland" has been previously defined in State law and whether the term

should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be combined with the project impacts to jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

"**SECTION 54.(e)** This section is effective when it becomes law. Section 54(b) of this act expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."

AMEND COASTAL STORMWATER REQUIREMENTS

SECTION 4.19.(a) Section 2(b) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(b)** Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties ~~that will add more than 10,000 square feet of built upon area or~~ that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

(1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) ~~shall meet the requirements of 15A NCAC 02H .1007 (Stormwater Requirements: Outstanding Resource Waters) and~~ shall be permitted as follows:

a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:

1. The development has a built upon area of ~~twelve percent (12%)~~twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.

2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built

upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:

1. The development has a built upon area of greater than ~~twelve percent (12%).~~twenty-four percent (24%).
2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any

minimum separation from the seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-subdivision.

4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.

5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

...."

SECTION 4.19.(b) Section 2(c) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(c)** Requirements for Limited Residential Development in Coastal Counties. – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than ~~twelve percent (12%),~~twenty-four percent (24%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

(1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered

driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain."

SECTION 4.19.(c) As necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities pursuant to Section 3 of S.L. 2008-211 is repealed.

SECTION 4.19.(d) This section becomes effective January 1, 2016.

EXEMPT LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

SECTION 4.21. Article 17 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-351. Exempt linear utility projects from certain environmental regulations.**

Except as required by federal law, activities related to the construction, maintenance, or removal of a linear utility project shall be exempt from regulation by an agency authorized to implement and enforce State and federal environmental laws. For purposes of this section, "linear utility project" means an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, or natural gas pipeline. For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.

(2) The Environmental Management Commission created pursuant to G.S. 143B-282.

(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.

(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.

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

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

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

(8) The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.

(9) The North Carolina Oil and Gas Commission created pursuant to G.S. 143B-293.1."

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

SECTION 4.24. The Secretary of Environment and Natural Resources shall repeal 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).

AMBIENT AIR MONITORING

SECTION 4.25.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 4.25.(b) No later than September 1, 2016, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 4.25.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 4.25.(d) The Division of Air Quality, Department of Environment and Natural Resources, shall report to the Environmental Review Commission no later than November 1, 2016, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

SECTION 4.27. G.S. 143-215.110 reads as rewritten:

"**§ 143-215.110. Special orders.**

(a) Issuance. – The Commission is hereby empowered, after the effective date of standards and classifications adopted pursuant to G.S. 143-215.107, to issue (and from time to time to modify or revoke) a special order or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the air within the area for which standards have been established. Such an order or instrument may direct such person to take or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Commission deems necessary and feasible in order to alleviate or eliminate such pollution. The Commission is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement with the person responsible for pollution of the air, subject to the provisions of subsection (a1) of this section regarding proposed orders, and such consent order, when entered into by the Commission after public review, shall have the same force and effect as a special order of the Commission issued pursuant to hearing.

(a1) Public Notice and Review of Consent Orders.

(1) The Commission shall give notice of a proposed consent order to the proper State, interstate, and federal agencies, to interested persons, and to the public. The Commission may also provide any other data it considers appropriate to those notified. The Commission shall prescribe the form and content of the notice. The notice shall be given at least ~~45~~ 30 days prior to any final action regarding the consent order. Public notice shall be given by publication of the notice ~~one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on the regulatory agency Web site.

(2) Any person who desires a public meeting on any proposed consent order may request one in writing to the Commission within 30 days following date of the notice of the proposed consent order. The Commission shall consider all such requests for meetings. If the Commission determines that there is significant public interest in holding a meeting, the Commission shall schedule a meeting and shall give notice of such meeting at least 30 days in advance to all persons to whom notice of the proposed consent order was given and to any other person requesting notice. At least 30 days prior to the date of meeting, the Commission shall also have a copy of the notice of the meeting published ~~at least one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on

the regulatory agency Web site. The Commission shall prescribe the form and content of notices under this subsection.

...."

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

SECTION 4.29.(a) G.S. 143-254.5 reads as rewritten:

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

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

SECTION 4.29.(b) G.S. 143B-289.52(h) reads as rewritten:

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

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS

SECTION 4.30.(a) The Environmental Management Commission shall amend its rules for water quality certifications (15A NCAC 2H .0501 through 2H .0507) to provide for all of the following:

(1) With respect to mitigation required for activities that result in the loss of a perennial stream or an ephemeral/intermittent stream, the requirement of mitigation by the U.S. Army Corps of Engineers for less than 300 linear feet of streambed shall not be considered to be the mitigation required by the water quality certification, unless the Commission makes a specific finding based upon ecological, hydrological, or other scientific data that total, critical, and irreversible damage to existing uses of the stream will occur if no mitigation is required.

(2) In cases where more than 300 linear feet of streambed are lost, the Commission shall require mitigation at a one-to-one ratio only for the number of feet of streambed lost above 300 linear feet.

SECTION 4.30.(b) The Environmental Management Commission shall adopt temporary rules to implement this section no later than September 30, 2015. The Commission shall also adopt permanent rules to implement this section.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

SECTION 4.31.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.**

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.31.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.

PIGEON HUNTING

SECTION 4.32. G.S. 113-129(15a) reads as rewritten:

"(15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. ~~The~~Except as otherwise provided in this subdivision, the Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources. Pigeons are wild birds."

WILDLIFE RESOURCES COMMISSION STUDIES

SECTION 4.33.(a) The Wildlife Resources Commission shall review the methods and criteria by which it adds, removes, or changes the status of animals on the State protected animal list as defined in G.S. 113-331 and compare these to federal regulations and the methods and criteria of other states in the region. The Commission shall also review the policies by which the State addresses introduced species and make recommendations for improving these policies, including impacts associated with hybridization that occurs among federally listed, State-listed, and nonlisted animals.

SECTION 4.33.(b) The Wildlife Resources Commission shall report its findings and recommendations to the Environmental Review Commission by March 1, 2016.

SECTION 4.34.(a) The Wildlife Resources Commission shall establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State.

SECTION 4.34.(b) The Wildlife Resources Commission shall report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the Environmental Review Commission by March 1, 2016.

SECTION 4.35.(a) The Wildlife Resources Commission shall establish a pilot coyote management assistance program in Mitchell County. In implementing the program, the Commission shall document and assess private property damage associated with coyotes; evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program.

SECTION 4.35.(b) The Wildlife Resources Commission shall submit an interim report on the progress of the pilot program to the Environmental Review Commission by March 1, 2016. The Wildlife Resources Commission shall submit a final report on the results of the pilot program, including any proposed legislation, to the Environmental Review Commission by January 1, 2017.

ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

SECTION 4.36.(a) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

(a) The Attorney General shall establish a hotline, to be known as the "NC Pets We Care Hotline," to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes, against animals under private ownership, by means including telephone, electronic mail, and Internet Web site. The Attorney

General shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Attorney General may receive reports of allegations of animal cruelty or violations of the Animal Welfare Act. Any individual who makes a report under this section shall disclose his or her name and telephone number and any other information the Attorney General may require.

(b) When the Attorney General receives allegations involving activity that the Attorney General determines may involve cruelty to animals under private ownership in violation of Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the appropriate local animal control authority for the unit or units of local government within which the violations are alleged to have occurred. When the Attorney General receives allegations involving activity that the Attorney General determines may involve violations of the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and Consumer Services. The Attorney General shall record the total number of reports received on the hotline and the number of reports received against any individual on the hotline."

SECTION 4.36.(b) G.S. 7A-304(a) is amended by adding a new subdivision to read:

"**§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section.

...

(14) For support of law enforcement in the investigation of violations of Article 47 of Chapter 14 of the General Statutes and Animal Welfare Act violations, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of two hundred fifty dollars ($250.00) to be remitted to the general fund of the local governmental unit that investigated the crime to be used for local animal control authorities."

SECTION 4.36.(c) Section 4.36(b) of this act becomes effective January 1, 2016, and applies to fees assessed or collected on or after that date. The remainder of this section is effective when this act becomes law.

AMEND STORMWATER MANAGEMENT LAW

SECTION 4.37.(a) Section 3 of S.L. 2013-82 reads as rewritten:

"**SECTION 3.** The Environmental Management Commission shall adopt rules implementing Section 2 of this act no later than ~~July 1, 2016.~~November 1, 2016."

SECTION 4.37.(b) G.S. 143-214.7 reads as rewritten:

"**§ 143-214.7. Stormwater runoff rules and programs.**

...

(b2) For purposes of implementing ~~stormwater programs,~~ State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(1) ~~"built-upon area"~~"Built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a swimming pool.

(2) Vegetative buffers adjacent to intermittent streams shall be measured from the center of the streambed.

(3) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(4) Development may occur within a vegetative buffer if the development complies with all applicable State and federal stormwater management requirements and State requirements for protection of watersheds, control and prevention of sedimentation and erosion, and reduction and control of the pollutant loading that caused impaired water designations to be established by the Commission.

(5) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries.

...

(d) The Commission shall review each stormwater management program submitted by a State agency or unit of local government and shall notify the State agency or unit of local government that submitted the program that the program has been approved, approved with modifications, or disapproved. The Commission shall approve a program only if it finds that the standards of the program equal ~~or exceed~~ those of the model program adopted by the Commission pursuant to this ~~section.~~section and any other model program or regulatory requirement that the Commission applies to local governments for protection of water supply watersheds, control of erosion and sedimentation, and permits and programs to address impairments of water quality standards and uses.

...."

SECTION 4.37.(c) No later than January 1, 2016, a State agency or local government that implements a stormwater management program approved pursuant to subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a revised stormwater management program to the Environmental Management Commission. No later than July 1, 2016, the Environmental Management Commission shall review and act on each of the submitted stormwater management programs in accordance with subsection (d) of G.S. 143-214.7, as amended by this section.

SECTION 4.37.(d) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall review the current status of State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State. The Commission shall specifically examine whether State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State should be recodified or reorganized in order to clarify State law for the management of stormwater. The Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of the 2015 General Assembly.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

SECTION 4.38. The Department of Insurance, the Department of Public Safety, and the Building Code Council shall jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and

the Council shall specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. In conducting this study, the Departments and the Council shall engage a broad group of stakeholders, including property owners, local governments, representatives of the surveying industry, and representatives of the development industry. No later than January 1, 2016, the Departments and the Council shall jointly submit the results of their study, including any legislative recommendations, to the 2015 General Assembly.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 5.2. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 765
PROPOSED SENATE COMMITTEE SUBSTITUTE H765-PCS10404-TAf-7

Short Title: Regulatory Reform Act of 2015. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

REPEAL OBSOLETE STATUTES

SECTION 1.1. The following statues are repealed:

(1) G.S. 14-197. Using profane or indecent language on public highways; counties exempt.

(2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency; false statement of emergency.

BURDEN OF PROOF IN CERTAIN CONTESTED CASES

SECTION 1.2.(a) Article 3 of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-25.1. Burden of proof.**

(a) Except as otherwise provided by law or by this section, the petitioner in a contested case has the burden of proving the facts alleged in the petition by a preponderance of the evidence.

(b) In a contested case involving the imposition of civil fines or penalties by a State agency for violation of the law, the burden of showing by a preponderance of the evidence that the person who was fined actually committed the act for which the fine or penalty was imposed rests with the State agency.

(c) The burden of showing by a preponderance of the evidence that a career State employee subject to Chapter 126 of the General Statutes was discharged, suspended, or demoted for just cause rests with the agency employer."

SECTION 1.2.(b) The Joint Legislative Administrative Procedure Oversight Committee shall study whether there are other categories of contested cases in which the burden of proof should be placed with the agency.

SECTION 1.2.(c) This section is effective when this act becomes law and applies to contested cases commenced on or after that date.

LEGISLATIVE APPOINTMENTS

SECTION 1.3.(a) G.S. 120-121 is amended by adding two new subsections to read:

"(e) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation in consultation with or upon the recommendation of a third party:

(1) The recommendation or consultation is discretionary and is not binding upon the legislator.

(2) The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(3) Failure by the third party to submit the recommendation or consultation to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity.

(f) The following applies in any case where the Speaker of the House of Representatives or the President Pro Tempore of the Senate is directed by law to make a recommendation for an appointment by the General Assembly, and the legislator is also directed to make the recommendation from nominees provided by a third party:

(1) The third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(2) Failure by the third party to submit the nomination to the legislator within the time periods required under this subsection shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(b) Article 16 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"**§ 120-124. Appointments made by legislators.**

(a) In any case where a legislator is called upon by law to appoint a member to a board or commission upon the recommendation of or in consultation with a third party, the recommendation or consultation is discretionary and is not binding upon the legislator. The third party must submit the recommendation or consultation at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy.

(b) In any case where a legislator is called upon by law to appoint a member to a board or commission from nominees provided by a third party, the third party must submit the nominees at least 60 days prior to the expiration of the term or within 10 business days from the occurrence of a vacancy. This subsection does not apply to nominations made under G.S. 120-99(a) or G.S. 120-100(b).

(c) Failure to submit the recommendation, consultation, or nomination within the time periods required under this section shall be deemed a waiver by the third party of the opportunity."

SECTION 1.3.(c) This section is effective when this act becomes law and applies to recommendations, consultations, and nominations made on or after that date.

ALLOW ATTORNEYS' FEES WHEN THE STATE IS THE PREVAILING PARTY IN CERTAIN CIVIL ACTIONS AND CLARIFY AND STANDARDIZE THE

REQUIREMENTS TO AWARD ATTORNEYS' FEES IN ACTIONS INVOLVING THE STATE

SECTION 1.4.(a) G.S. 6-19.1 reads as rewritten:

"**§ 6-19.1. Attorney's fees ~~to parties appealing or defending against agency decision.~~in certain actions involving the State.**

(a) Prevailing Party Is Not the State. – In any civil action, other than an adjudication for the purpose of establishing or fixing a rate, or a disciplinary action by a licensing board, brought by the State or brought by a party who is contesting State action pursuant to G.S. 150B-43 or any other appropriate provisions of law, unless the prevailing party is the State, the court may, in its discretion, allow the prevailing party to recover reasonable attorney's fees, including attorney's fees applicable to the administrative review portion of the case, in contested cases arising under Article 3 of Chapter 150B, to be taxed as court costs against the appropriate agency of the State if:

(1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and

(2) The court finds that there are no special circumstances that would make the award of attorney's fees unjust. ~~The party shall petition for the attorney's fees within 30 days following final disposition of the case. The petition shall be supported by an affidavit setting forth the basis for the request.~~

Nothing in this ~~section~~ subsection shall be deemed to authorize the assessment of attorney's fees for the administrative review portion of the case in contested cases arising under Article 9 of Chapter 131E of the General Statutes.

~~Nothing in this section grants permission to bring an action against an agency otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.~~

Any attorney's fees assessed against an agency of the State under this ~~section~~ subsection shall be charged against the operating expenses of the agency and shall not be reimbursed from any other source.

(b) Expired.

(c) Prevailing Party Is the State. – In any civil action or other proceeding, the court must allow the State to recover reasonable attorneys' fees and costs if the State is the prevailing party and the claim or issue involves one or both of the following:

(1) Contesting the State's ability to construct transportation improvements.

(2) Seeking relief based on environmental impact.

Reasonable attorneys' fees include attorneys' fees applicable to any administrative portion of the case. The attorneys' fees must be taxed as court costs against any law firm seeking relief against the State. Contracts between the law firm and named parties in the action to reimburse the law firm for attorneys' fees are valid and enforceable. Law firms may avoid liability under this subsection if the named parties post a bond for the payment of attorneys' fees and costs in an amount determined by the presiding judge. Upon motion of either party, the presiding judge may adjust the amount of the required bond at reasonable times.

(d) Petition and Award. – The prevailing party must petition for the attorneys' fees within 30 days following final disposition of the case. The petition must be supported by an affidavit setting forth the basis for the request. When the presiding judge determines that an award of attorneys' fees is to be made under this section, the judge must issue a written order including the factual basis and amount of attorneys' fees to be awarded.

(e) No Grant of Jurisdiction. – Nothing in this section grants permission to bring an action against the State when otherwise immune from suit or gives a right to bring an action to a party who otherwise lacks standing to bring the action.

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

(1) Law firm. – Any entity or individual providing legal services in the action against the State.

(2) State. – The State and its agencies as defined in G.S. 150B-2(1a)."

SECTION 1.4.(b) This section becomes effective September 1, 2015, and applies to all actions or other proceedings filed on and after that date.

OCCUPATIONAL LICENSING BOARD INVESTIGATORS AND INSPECTORS

SECTION 1.5. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-8.2. Prohibit licensees from serving as investigators.**

No occupational licensing board shall contract with or employ a person licensed by the board to serve as an investigator or inspector if the licensee is actively practicing in the profession or occupation over which the board has jurisdiction. Nothing in this section shall prevent a board from employing licensees who are not otherwise employed in the same profession or occupation or for other purposes."

NO FISCAL NOTE REQUIRED FOR LESS STRINGENT RULES

SECTION 1.6.(a) G.S. 150B-21.3A(d) reads as rewritten:

"(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

...

(2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g. of this section, once the final determination report becomes effective, the Commission shall establish a date by which the agency must readopt the rules. The Commission shall consult with the agency and shall consider the agency's rule-making priorities in establishing the readoption date. The agency may amend a rule as part of the readoption process. If a rule is readopted without substantive ~~change,~~ change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note as provided by G.S. 150B-21.4."

SECTION 1.6.(b) This section is effective when this act becomes law and applies to periodic review of existing rules occurring pursuant to G.S. 150B-21.3A on or after that date.

APO TO MAKE RECOMMENDATIONS ON OCCUPATIONAL LICENSING BOARD CHANGES

SECTION 1.7. Pursuant to G.S. 120-70.101(3a), the Joint Legislative Administrative Procedure Oversight Committee (APO) shall review the recommendations contained in the Joint Legislative Program Evaluation Oversight Committee's report, entitled "Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed," to determine the best way to accomplish the recommendations contained in the report and to improve oversight of occupational licensing boards. In conducting the review, APO shall consult with occupational licensing boards, licensees, associations representing licensees, the Department of Commerce, and other interested parties. The APO cochairs may establish subcommittees to assist with various parts of the review, including determining whether licensing authority should be continued for the 12 boards identified in the report. The APO shall propose legislation to the 2016 Regular Session of the 2015 General Assembly.

TECHNICAL CORRECTION

SECTION 1.8. G.S. 20-116 reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) ...

(3) A truck, trailer, or other ~~vehicle:~~

~~a.~~ ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with ~~sand; or~~sand,

~~b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;~~

shall not be driven or moved on any highway unless:

a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;

b. The load is securely covered by tarpaulin or some other suitable covering; or

c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

...."

PART II. BUSINESS REGULATION

MANUFACTURED HOME LICENSE/CRIMINAL HISTORY CHECK

SECTION 2.2. G.S. 143-143.10A reads as rewritten:

"**§ 143-143.10A. Criminal history checks of applicants for licensure.**

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

(1) Applicant. – A person applying for initial licensure as a manufactured home ~~manufacturer, dealer, salesperson,~~ salesperson or set-up contractor.

...

(b) All applicants for initial licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. Applicants shall obtain criminal record reports from one or more reporting services designated by the Board to provide criminal record reports. Each applicant is required to pay the designated service for the cost of the criminal record report. In the alternative, the Board may provide to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

...."

AMEND DEFINITION OF "EMPLOYEE" UNDER THE WORKERS' COMPENSATION ACT TO EXCLUDE VOLUNTEERS AND OFFICERS OF CERTAIN NONPROFIT CORPORATIONS AND ASSOCIATIONS

SECTION 2.3. G.S. 97-2(2) reads as rewritten:

"**§ 97-2. Definitions.**

When used in this Article, unless the context otherwise requires:

...

(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 the employee's 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 the employee's 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 their employer.

~~Every~~ Except as otherwise provided herein, 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's 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-1031(a) when performing duties in the course and scope of a State-approved mission pursuant to Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes.

"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.

"Employee" shall not include any person elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation subject to Chapter 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, who performs only voluntary service for the nonprofit corporation, provided that the person receives no remuneration for the voluntary service other than reasonable reimbursement for expenses incurred in connection with the voluntary service. When a nonprofit corporation as described herein employs one or more persons who do receive remuneration other than reasonable reimbursement for expenses, then any volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph shall be counted as employees for the sole purpose of determining the number of persons regularly employed in the same business or establishment pursuant to G.S. 97-2(1). Other than for the limited purpose of determining the number of persons regularly employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized pickup firefighter when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

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"~~ "Employee" shall include an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service. 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 North Carolina Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."

PART III. STATE AND LOCAL GOVERNMENT REGULATION

REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY

SECTION 3.1. Subsection 6A.14(a) of S.L. 2011-145 reads as rewritten:

"**SECTION 6A.14.(a)** Every executive branch agency within State government shall develop a policy to limit the issuance and use of mobile electronic devices to the minimum required to carry out the agency's mission. By September 1, 2011, each agency shall provide a copy of its policy to the Chairs of the Appropriations Committee and the Appropriations Subcommittee on General Government of the House of Representatives, the Chairs of the Appropriations/Base Budget Committee and the Appropriations Committee on General Government and Information Technology of the Senate, the Chairs of the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management.

State-issued mobile electronic devices shall be used only for State business. Agencies shall limit the issuance of cell phones, smart phones, and any other mobile electronic devices to employees for whom access to a mobile electronic device is a critical requirement for job performance. The device issued and the plan selected shall be the minimum required to support the employees' work requirements. This shall include considering the use of pagers in lieu of a more sophisticated device. The requirement for each mobile electronic device issued shall be documented in a written justification that shall be maintained by the agency and reviewed annually. All State agency heads, in consultation with the Office of Information Technology Services and the Office of State Budget and Management, shall document and review all authorized cell phone, smart phone, and other mobile electronic communications device procurement, and related phone, data, Internet, and other usage plans for and by their employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State employees and contractors are complying with agency policies and State requirements for their use.

Beginning October 1, 2011, each agency shall report ~~quarterly~~ annually to the Chairs of the House of Representatives Committee on Appropriations and the House of Representatives Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations and the Senate Appropriations Committee on General Government and Information

Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal Research Division, and the Office of State Budget and Management on the following:

(1) Any changes to agency policies on the use of mobile devices.
(2) The number and types of new devices issued since the last report.
(3) The total number of mobile devices issued by the agency.
(4) The total cost of mobile devices issued by the agency.
(5) The number of each type of mobile device issued, with the total cost for each type."

GOOD SAMARITAN EXPANSION

SECTION 3.3.(a) G.S. 14-56 reads as rewritten:

"**§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft.**

(a) If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.

(b) It shall not be a violation of this section for any person to break or enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind to provide assistance to a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.
(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical, other health care, or other assistance for the person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind.
(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person."

SECTION 3.3.(b) This section becomes effective September 1, 2015, and applies to offenses committed on or after that date.

SECTION 3.4.(a) Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 43F.
"Immunity for Damage to Vehicle.

"**§ 1-539.27. Immunity from civil liability for damage to railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft necessary for assistance.**

Any person who enters or attempts to enter any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind shall not be liable in civil damages for any damage to the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind if one or more of the following circumstances exist:

(1) The person acts in good faith to access a person inside the railroad car, motor vehicle, trailer, aircraft, boat, or watercraft of any kind in order to provide first aid or emergency health care treatment or because the person inside is, or is in imminent danger of becoming, unconscious, ill, or injured.

(2) It is reasonably apparent that the circumstances require prompt decisions and actions in medical care, other health care, or other assistance.

(3) The necessity of immediate health care treatment or removal of the person from the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind is so reasonably apparent that any delay in the rendering of treatment or removal would seriously worsen the physical condition or endanger the life of the person.

This section shall not apply to any acts of gross negligence, wanton conduct, or intentional wrongdoing."

SECTION 3.4.(b) This section becomes effective September 1, 2015, and applies to causes of action arising on or after that date.

AUTHORIZE DMV TO ISSUE PERMANENT PLATES FOR TRAILERS ATTACHED TO MOTORCYCLES

SECTION 3.5.(a) G.S. 20-84(b) is amended by adding a new subdivision to read:

"(20) A trailer used as an attachment to the rear of a motorcycle."

SECTION 3.5.(b) This section becomes effective July 1, 2015.

STATUS FOR PROVIDERS OF MH/DD/SA SERVICES WHO ARE NATIONALLY ACCREDITED

SECTION 3.7. G.S. 122C-81 reads as rewritten:

"**§ 122C-81. National accreditation benchmarks.**

(a) As used in this section, the term:

(1) "National accreditation" applies to accreditation by an entity approved by the Secretary that accredits mental health, developmental disabilities, and substance abuse services.

(2) "Provider" applies to only those providers of services, including facilities, requiring national accreditation, which services are designated by the Secretary pursuant to subsection (b) of this section.

(b) The Secretary, through the Medicaid State Plan, Medicaid waiver, or rules adopted by the Secretary, shall designate the mental health, developmental disabilities, and substance abuse services that require national accreditation. In accordance with rules of the Commission, the Secretary may exempt a provider that is accredited under this section and in good standing with the national accrediting agency from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency.

...

(e) The Commission may adopt rules establishing a procedure by which a provider that is accredited under this section and in good standing with the national accrediting agency may be exempt from undergoing any routine monitoring that is duplicative of the oversight by the national accrediting agency. Any provider shall continue to be subject to inspection by the Secretary, provided the inspection is not duplicative of inspections required by the national accrediting agency. Rules adopted under this subsection may not waive any requirements that may be imposed under federal law."

CLARIFY THAT WHEN A NEW PERMIT OR TRANSITIONAL PERMIT IS ISSUED FOR AN ESTABLISHMENT, ANY PREVIOUS PERMIT FOR THAT SAME ESTABLISHMENT IN THAT LOCATION BECOMES VOID

SECTION 3.8. G.S. 130A-248(c) reads as rewritten:

"(c) If ownership of an establishment is transferred or the establishment is leased, the new owner or lessee shall apply for a new permit. The new owner or lessee may also apply for a transitional permit. A transitional permit may be issued upon the transfer of ownership or lease of an establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to the public health. Upon issuance of a new permit or a transitional permit for ~~an~~the same establishment, any previously issued permit for an establishment in that location becomes void. This subsection does not prohibit issuing more than one owner or lessee a permit for the same location if (i) more than one establishment is operated in the same physical location and (ii) each establishment satisfies all of the rules and requirements of subsection (g) of this section."

LICENSED SURVEYOR TO MARK BOUNDARIES OF STATE PROPERTIES

SECTION 3.10.(a) G.S. 146-33 reads as rewritten:

"**§ 146-33. State agencies to locate and mark boundaries of lands.**

(a) Every State agency shall locate and identify, and shall mark and keep marked, the boundaries of all lands allocated to that agency or under its control. The Department of Administration shall locate and identify, and mark and keep marked, the boundaries of all State lands not allocated to or under the control of any other State agency. The chief administrative officer of every State agency is authorized to contract with the Division of Adult Correction of the Department of Public Safety for the furnishing, upon such conditions as may be agreed upon from time to time between the Division of Adult Correction of the Department of Public Safety and the chief administrative officer of that agency, of prison labor for use where feasible in the performance of these duties.

(b) If a State agency contracts with a person who is not employed by the State to mark or keep marked the boundaries of lands allocated to that agency, or under that agency's control, that State agency shall use only a licensed professional engineer or surveyor."

SECTION 3.10.(b) This section becomes effective October 1, 2015, and applies to surveys or markings conducted on or after that date.

AMEND UNDERGROUND DAMAGE PREVENTION REVIEW BOARD, ENFORCEMENT, AND CIVIL PENALTIES

SECTION 3.12. G.S. 87-129 reads as rewritten:

"**§ 87-129. Underground Damage Prevention Review Board; enforcement; civil penalties.**

(a) ~~The Notification Center shall establish an~~ There is hereby established the Underground Damage Prevention Review Board to review reports of alleged violations of this Article. The members of the Board shall be appointed by the Governor. The Board shall consist of ~~the following members:~~15 members as follows:

(1) A representative from the North Carolina Department of Transportation;
(2) A representative from a facility contract locator;
(3) A representative from the Notification Center;
(4) A representative from an electric public utility;
(5) A representative from the telecommunications industry;
(6) A representative from a natural gas utility;
(7) A representative from a hazardous liquid transmission pipeline company;
(8) A representative recommended by the League of Municipalities;
(9) A highway contractor licensed under G.S. 87-10(b)(2) who does not own or operate facilities;
(10) A public utilities contractor licensed under G.S. 87-10(b)(3) who does not own or operate facilities;
(11) A surveyor licensed under Chapter 89C of the General Statutes;

(12) A representative from a rural water system;
(13) A representative from an investor-owned water system;
(14) A representative from an electric membership corporation; and
(15) A representative from a cable company.

(a1) Each member of the Board shall be appointed for a term of four years. Members of the Board may serve no more than two consecutive terms. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(a2) No member of the Board may serve on a case where there would be a conflict of interest.

(a3) The Governor may remove any member at any time for cause.

(a4) Eight members of the Board shall constitute a quorum.

(a5) The Governor shall designate one member of the Board as chair.

(a6) The Board may adopt rules to implement this Article.

(b) The Notification Center shall transmit all reports of alleged violations of this Article to the Board, including any information received by the Notification Center regarding the report. ~~The Board shall meet at least quarterly to review all reports filed pursuant to G.S. 87-120(e). The Board shall act as an arbitrator between the parties to the report. If, after reviewing the report and any accompanying information, the Board determines that a violation of this Article has occurred, the Board shall notify the violating party in writing of its determination and the recommended penalty. The violating party~~

(b1) The Board shall review all reports of alleged violations of this Article and accompanying information. If the Board determines that a person has violated any provision of this Article, the Board shall determine the appropriate action or penalty to impose for each such violation. Actions and penalties may include training, education, and a civil penalty not to exceed two thousand five hundred dollars ($2,500). The Board shall notify each person who is determined to have violated this Article in writing of the Board's determination and the Board's recommended action or penalty. A person determined to be in violation of this Article may request a hearing before the Board, after which the Board may reverse or uphold its original finding. If the Board recommends a penalty, the Board shall notify the Utilities Commission of the recommended penalty, and the Utilities Commission shall issue an order imposing the penalty.

(c) A ~~party~~ person determined by the Board under subsection ~~(b)~~ (b1) of this section to have violated this Article may ~~initiate~~ appeal the Board's determination by initiating an arbitration proceeding before the Utilities ~~Commission.~~ Commission within 30 days of the Board's determination. If the violating party elects to initiate an arbitration proceeding, the violating party shall pay a filing fee of two hundred fifty dollars ($250.00) to the Utilities Commission, and the Utilities Commission shall open a docket regarding the report. The Utilities Commission shall direct the parties enter into an arbitration process. The parties shall be responsible for selecting and contracting with the arbitrator. Upon completion of the arbitration process, the Utilities Commission shall issue an order encompassing the outcome of the binding arbitration process, including a determination of fault, a penalty, and assessing the costs of arbitration to the non-prevailing party. ~~Any party may~~

(c1) A person may timely appeal an order issued by the Utilities Commission pursuant to this section to the superior court division of the General Court of Justice in the county where the alleged violation of this Article occurred or in Wake County, for trial ~~de novo.~~ de novo within 30 days of entry of the Utilities Commission's order. The authority granted to the Utilities Commission within this section is limited to this section and does not grant the Utilities Commission any authority that they are not otherwise granted under Chapter 62 of the General Statutes.

(d) ~~Any person who violates any provision of this Article shall be subject to a penalty as set forth in this subsection.~~ The provisions of this Article do not affect any civil remedies for personal injury or property damage otherwise available to any person, except as otherwise specifically provided for in this Article. The penalty provisions of this Article are cumulative to and not in conflict with provisions of law with respect to civil remedies for personal injury or property damage. The clear proceeds of any civil penalty assessed under this section shall be used as provided in Section 7(a) of Article IX of the North Carolina Constitution. ~~The penalties for a violation of this Article shall be as follows:~~In any arbitration proceeding before the Utilities Commission, any actions and penalties assessed against any person for violation of this Article shall include the actions and penalties set out in subsection (b1) of this section.

~~(1) If the violation was the result of negligence, the penalty shall be a requirement of training, a requirement of education, or both.~~

~~(2) If the violation was the result of gross negligence, the penalty shall be a civil penalty of one thousand dollars ($1,000), a requirement of training, a requirement of education, or a combination of the three.~~

~~(3) If the violation was the result of willful or wanton negligence or intentional conduct, the penalty shall be a civil penalty of two thousand five hundred dollars ($2,500), a requirement of training, and a requirement of education.~~"

PART IV. ENVIRONMENTAL AND NATURAL RESOURCES REGULATION

ENVIRONMENTAL SELF-AUDIT PRIVILEGE AND LIMITED IMMUNITY

SECTION 4.1.(a) Chapter 8 of the General Statutes is amended by adding a new Part to read:

"Part 7D. Environmental Audit Privilege and Limited Immunity.

"**§ 8-58.50. Purpose.**

(a) In order to encourage owners and operators of facilities and persons conducting activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or conducting activities regulated under other environmental laws, to conduct voluntary internal environmental audits of their compliance programs and management systems and to assess and improve compliance with statutes, an environmental audit privilege is recognized to protect the confidentiality of communications relating to voluntary internal environmental audits.

(b) Notwithstanding any other provisions of law, nothing in this Part shall be construed to protect owners and operators of facilities and regulated persons from a criminal investigation or prosecution carried out by any appropriate governmental entity.

(c) Notwithstanding any other provision of law, any privilege granted by this Part shall apply only to those communications, oral or written, pertaining to and made in connection with the environmental audit and shall not apply to the facts relating to the violation itself.

"**§ 8-58.51. Definitions.**

The following definitions apply in this Part:

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

(2) "Enforcement agencies" means the Department, any other agency of the State, and units of local government responsible for enforcement of environmental laws.

(3) "Environmental audit" means a voluntary, internal evaluation or review of one or more facilities or an activity at one or more facilities regulated under federal, State, regional, or local environmental law, or of compliance programs, or management systems related to the facility or activity if designed to identify and prevent noncompliance and to improve compliance with these laws. For the purposes of this Part, an environmental audit does not include an environmental site assessment of a facility conducted solely

in anticipation of the purchase, sale, or transfer of the business or facility. An environmental audit may be conducted by the owner or operator, the parent corporation of the owner or operator or by their officers or employees, or by independent contractors. An environmental audit must be a discrete activity with a specified beginning date and scheduled ending date reflecting the auditor's bona fide intended completion schedule.

(4) "Environmental audit report" means a document marked or identified as such with a completion date existing either individually or as a compilation prepared in connection with an environmental audit. An environmental audit report may include field notes and records of observations, findings, opinions, suggestions, recommendations, conclusions, drafts, memoranda, drawings, photographs, computer-generated or electronically recorded information, maps, charts, graphs, and surveys, provided the supporting information is collected or developed for the primary purpose and in the course of an environmental audit. An environmental audit report, when completed, may include all of the following components:

a. An audit report prepared by an auditor, which may include the scope and date of the audit and the information gained in the audit, together with exhibits and appendices and may include conclusions, recommendations, exhibits, and appendices.

b. Memoranda and documents analyzing any portion of the audit report or issues relating to the implementation of an audit report.

c. An implementation plan that addresses correcting past noncompliance, improving current compliance, or preventing future noncompliance.

(5) "Environmental laws" means all provisions of federal, State, and local laws, rules, and ordinances pertaining to environmental matters.

"**§ 8-58.52. Applicability.**

This Part applies to activities regulated under environmental laws, including all of the following provisions of the General Statutes, and rules adopted thereunder:

(1) Article 7 of Chapter 74.
(2) Chapter 104E.
(3) Article 25 of Chapter 113.
(4) Articles 1, 4, and 7 of Chapter 113A.
(5) Article 9 of Chapter 130A.
(6) Articles 21, 21A, and 21B of Chapter 143.
(7) Part 1 of Article 7 of Chapter 143B.

"**§ 8-58.53. Environmental audit report; privilege.**

(a) An environmental audit report or any part of an environmental audit report is privileged and, therefore, immune from discovery and is not admissible as evidence in civil or administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided, however, all of the following documents are exempt from the privilege established by this Part:

(1) Information obtained by observation of an enforcement agency.
(2) Information obtained from a source independent of the environmental audit.
(3) Documents, communication, data, reports, or other information required to be collected, maintained, otherwise made available, or reported to an enforcement agency or any other entity by environmental laws, permits, orders, consent agreements, or as otherwise provided by law.
(4) Documents prepared either prior to the beginning of the environmental audit or subsequent to the completion date of the audit report and, in all cases, any documents prepared independent of the audit or audit report.

(5) Documents prepared as a result of multiple or continuous self-auditing conducted in an effort to intentionally avoid liability for violations.

(6) Information that is knowingly misrepresented or misstated or that is knowingly deleted or withheld from an environmental audit report, whether or not included in a subsequent environmental audit report.

(7) Information in instances where the material shows evidence of noncompliance with environmental laws, permits, orders, consent agreements, and the owner or operator failed to either promptly take corrective action or eliminate any violation of law identified during the environmental audit within a reasonable period of time.

(b) If an environmental audit report or any part of an environmental audit report is subject to the privilege provided for in subsection (a) of this section, no person who conducted or participated in the audit or who significantly reviewed the audit report may be compelled to testify regarding the audit report or a privileged part of the audit report except as provided for in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

(c) Nothing in this Part shall be construed to restrict a party in a proceeding before the Industrial Commission from obtaining or discovering any evidence necessary or appropriate for the proof of any issue pending in an action before the Commission, regardless of whether evidence is privileged pursuant to this Part. Further, nothing in this Part shall be construed to prevent the admissibility of evidence that is otherwise relevant and admissible in a proceeding before the Industrial Commission, regardless of whether the evidence is privileged pursuant to this Part. Provided, however, the Commission, upon motion made by a party to the proceeding, may issue appropriate protective orders preventing disclosure of information outside of the Commission's proceeding.

(d) Nothing in this Part shall be construed to circumvent the employee protection provisions provided by federal or State law.

(e) The privilege created by this Part does not apply to criminal investigations or proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the privilege created by this Part shall continue to apply and is not waived in civil and administrative proceedings and is not discoverable or admissible in civil or administrative proceedings even if disclosed during a criminal proceeding.

"**§ 8-58.54. Waiver of privilege.**

(a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is expressly waived in writing by the owner or operator of a facility at which an environmental audit was conducted and who prepared or caused to be prepared the audit report as a result of the audit.

(b) The audit report and information generated by the audit may be disclosed without waiving the privilege established under G.S. 8-58.53 to all of the following persons:

(1) A person employed by the owner or operator or the parent corporation of the audited facility.

(2) A legal representative of the owner or operator or parent corporation.

(3) An independent contractor retained by the owner or operator or parent corporation to conduct an audit on or to address an issue or issues raised by the audit.

(c) Disclosure of an audit report or information generated by the audit under all of the following circumstances shall not constitute a waiver of the privilege established under G.S. 8-58.53:

(1) Disclosure made under the terms of a confidentiality agreement between the owner or operator of the facility audited and a potential purchaser of the business or facility audited.

(2) Disclosure made under the terms of a confidentiality agreement between governmental officials and the owner or operator of the facility audited.

(3) Disclosure made under the terms of a confidentiality agreement between a customer, lending institution, or insurance company with an existing or proposed relationship with the facility.

"**§ 8-58.55. Notification of audit.**

In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the facility conducting the environmental audit shall, upon inspection of the facility by an enforcement agency, or no later than 10 working days after completion of an agency's inspection, notify the enforcement agency of the existence of any audit relevant to the subject of the agency's inspection, as well as the beginning date and completion date of that audit. Any environmental audit report shall include a signed certification from the owner or operator of the facility that documents the date the audit began and the completion date of the audit.

"**§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

In a civil or administrative proceeding, an enforcement agency may seek by motion a declaratory ruling on the issue of whether an environmental audit report is privileged. The court shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set forth in this section apply. In a civil proceeding, the court, after an in camera review, shall revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of the environmental audit report was sought after the effective date of this Part and either of the following apply:

(1) The privilege is asserted for purposes of deception or evasion.

(2) The material shows evidence of significant noncompliance with applicable environmental laws; the owner or operator of the facility has not promptly initiated and pursued with diligence appropriate action to achieve compliance with these environmental laws or has not made reasonable efforts to complete any necessary permit application; and, as a result, the owner or operator of the facility did not or will not achieve compliance with applicable environmental laws or did not or will not complete the necessary permit application within a reasonable period of time.

"**§ 8-58.57. Privilege in criminal proceedings.**

The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

"**§ 8-58.58. Burden of proof.**

A party asserting the privilege established under G.S. 8-58.53 has the burden of proving that (i) the materials claimed as privileged constitute an environmental audit report as defined by this Part and (ii) compliance has been achieved or will be achieved within a reasonable period of time. A party seeking disclosure under G.S. 8-58.56 has the burden of proving the condition for disclosure set forth in that section.

"**§ 8-58.59. Stipulations; declaratory rulings.**

The parties to a proceeding may at any time stipulate to entry of an order directing that specific information contained in an environmental audit report is or is not subject to the privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an enforcement agency may seek a declaratory ruling from a court on the issue of whether the materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be revoked pursuant to G.S. 8-58.56.

"**§ 8-58.60. Construction of Part.**

Nothing in this Part limits, waives, or abrogates any of the following:

(1) The scope or nature of any statutory or common law privilege, including the work-product privilege or the attorney-client privilege.

(2) Any existing ability or authority under State law to challenge privilege.

(3) An enforcement agency's ability to obtain or use documents or information that the agency otherwise has the authority to obtain under State law adopted pursuant to federally delegated programs.

"**§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative penalties and fines.**

(a) An owner or operator of a facility is immune from imposition of civil and administrative penalties and fines for a violation of environmental laws voluntarily disclosed subject to the requirements and criteria set forth in this section. Provided, however, that waiver of penalties and fines shall not be granted until the applicable enforcement agency has certified that the violation was corrected within a reasonable period of time. If compliance is not certified by the enforcement agency, the enforcement agency shall retain discretion to assess penalties and fines for the violation.

(b) If a person or entity makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit, that person has the burden of proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection (c) of this section and (ii) that the person is therefore entitled to immunity from any administrative or civil penalties associated with the issues disclosed. Nothing in this section may be construed to provide immunity from criminal penalties.

(c) For purposes of this section, disclosure is voluntary if all of the following criteria are met:

(1) The disclosure is made within 14 days following a reasonable investigation of the violation's discovery through the environmental audit.

(2) The disclosure is made to an enforcement agency having regulatory authority over the violation disclosed.

(3) The person or entity making the disclosure initiates an action to resolve the violation identified in the disclosure in a diligent manner.

(4) The person or entity making the disclosure cooperates with the applicable enforcement agency in connection with investigation of the issues identified in the disclosure.

(5) The person or entity making the disclosure diligently pursues compliance and promptly corrects the noncompliance within a reasonable period of time.

(d) A disclosure is not voluntary for purposes of this section if any of the following factors apply:

(1) Specific permit conditions require monitoring or sampling records and reports or assessment plans and management plans to be maintained or submitted to the enforcement agency pursuant to an established schedule.

(2) Environmental laws or specific permit conditions require notification of releases to the environment.

(3) The violation was committed intentionally, willfully, or through criminal negligence by the person or entity making the disclosure.

(4) The violation was not corrected in a diligent manner.

(5) The violation posed or poses a significant threat to public health, safety, and welfare; the environment; and natural resources.

(6) The violation occurred within one year of a similar prior violation at the same facility, and immunity from civil and administrative penalties was granted by the applicable enforcement agency for the prior violation.

(7) The violation has resulted in a substantial economic benefit to the owner or operator of the facility.

(8) The violation is a violation of the specific terms of a judicial or administrative order.

(e) If a person meets the burden of proving that the disclosure is voluntary, the burden shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the factors set forth in this section. The person claiming immunity from civil or administrative penalties or fines under this section retains the ultimate burden of proving the violations were voluntarily disclosed.

(f) A voluntary disclosure made pursuant to this section is subject to disclosure pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the General Statutes.

"**§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

An owner or operator of a facility who makes a voluntary disclosure of a violation of environmental laws discovered through performance of an environmental audit shall only be entitled to exercise of the privilege or immunity established by this Part once in a two-year period, not more than twice in a five-year period, and not more than three times in a 10-year period.

"**§ 8-58.63. Preemption of local laws.**

No local law, rule, ordinance, or permit condition may circumvent or limit the privilege established by this Part or the exercise of the privileges or the presumption and immunity established by this Part."

SECTION 4.1.(b) This section becomes effective July 1, 2015, and applies to environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section, that are conducted on or after that date.

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.2.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.2.(b) G.S. 130A-309.09A(d)(8) is repealed.

AMEND RISK-BASED REMEDIATION PROVISIONS

SECTION 4.7.(a) G.S. 130A-310.65 reads as rewritten:

"**§ 130A-310.65. Definitions.**

As used in this Part:

...

(4) "Contaminated industrial site" or "site" means any real property that meets all of the following criteria:

a. The property is contaminated and may be subject to remediation under any of the programs or requirements set out in G.S. 130A-310.67(a).

b. The property is or has been used primarily for manufacturing or other industrial activities for the production of a commercial product. This includes a property used primarily for the generation of electricity.

~~c. No contaminant associated with activities at the property is located off of the property at the time the remedial action plan is submitted.~~

d. No contaminant associated with activities at the property will migrate to any adjacent properties above unrestricted use standards for the ~~contaminant.~~contaminant, after the industrial site has been remediated pursuant to the requirements of this Part.

...

(8) "Registered environmental consultant" means an environmental consulting or engineering firm approved to implement and oversee voluntary remedial

actions pursuant to Part 3 of Article 9 of Chapter 130A of the General Statutes and rules adopted to implement the Part.

...."

SECTION 4.7.(b) G.S. 130A-310.67 reads as rewritten:

"**§ 130A-310.67. Applicability.**

(a) This Part applies to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Inactive Hazardous Sites Response Act of 1987 under Part 3 of Article 9 of Chapter 130A of the General Statutes, including voluntary actions under G.S. 130A-310.9 of that act, and rules promulgated pursuant to those statutes.

(2) The hazardous waste management program administered by the State pursuant to the federal Resource Conservation and Recovery Act of 1976, Public Law 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, and Article 9 of Chapter 130A of the General Statutes.

(3) The solid waste management program administered pursuant to Article 9 of Chapter 130A of the General Statutes.

(4) The federal Superfund program administered in part by the State pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499, 100 Stat. 1613, as amended, and under Part 4 of Article 9 of Chapter 130A of the General Statutes.

(5) The groundwater protection corrective action requirements adopted by the Commission pursuant to Article 21 of Chapter 143 of the General Statutes.

(6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and 2 of Article 21A of Chapter 143 of the General Statutes.

(b) This Part shall not apply to contaminated industrial sites subject to remediation pursuant to any of the following programs or requirements:

(1) The Leaking Petroleum Underground Storage Tank Cleanup program under Part 2A of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that ~~statute.~~Part.

(2) The Dry-Cleaning Solvent Cleanup program under Part 6 of Article 21A of Chapter 143 of the General Statutes and rules promulgated pursuant to that ~~statute.~~Part.

(3) The pre-1983 landfill assessment and remediation program established under G.S. 130A-310.6(c) through ~~(g).~~(g) and rules promulgated pursuant to that statute.

(4) The Coal Ash Management Act of 2014 under Part 2I of Article 9 of Chapter 130A of the General Statutes and rules promulgated pursuant to that Part.

~~(c) This Part shall apply only to sites where a discharge, spill, or release of contamination has been reported to the Department prior to March 1, 2011.~~"

SECTION 4.7.(c) G.S. 130A-310.69(b)(11) reads as rewritten:

"**§ 130A-310.69. Remedial investigation report; remedial action plans.**

...

(b) A person who proposes to conduct remediation pursuant to this Part shall develop and submit a proposed remedial action plan to the Department. A remedial action plan shall provide for the protection of public health, safety, and welfare and the environment. A remedial action plan shall do all of the following:

...

(11) Provide for the imposition and recordation of land-use restrictions as provided in G.S. 143B-279.9, 143B-279.10, 130A-310.3(f), 130A-310.8, 130A-310.35, 143-215.84(f), and 143-215.85A if the remedial action plan allows contamination in excess of the greater of unrestricted use standards or background standards to remain on any real property or in groundwater that underlies any real ~~property.~~property on the industrial site."

SECTION 4.7.(d) G.S. 130A-310.71 reads as rewritten:

"**§ 130A-310.71. Review and approval of proposed remedial action plans.**

(a) The Department shall review and approve a proposed remedial action plan consistent with the remediation standards set out in G.S. 130A-310.68 and the procedures set out in this section. In its review of a proposed remedial action plan, the Department shall do all of the following:

...

(2) Determine whether the party conducting the remediation has adequately demonstrated through modeling or other scientific means acceptable to the Department that no contamination will migrate to adjacent property at levels above unrestricted use ~~standards.~~standards after the industrial site has been remediated pursuant to the plan.

(3) Determine whether the proposed remedial action plan meets the requirements of G.S. 130A-310.69.

(4) Determine whether the proposed remedial action plan meets the requirements of any other applicable remediation program except those pertaining to remediation standards.

(5) Establish the acceptable level or range of levels of risk to public health, safety, and welfare and to the environment.

(6) Establish, for each contaminant, the maximum allowable quantity, concentration, range, or other measures of contamination that will remain at the contaminated site at the conclusion of the contaminant-reduction phase of the remediation.

(7) Consider the technical performance, effectiveness, and reliability of the proposed remedial action plan in attaining and maintaining compliance with applicable remediation standards.

(8) Consider the ability of the person who proposes to remediate the site to implement the proposed remedial action plan within a reasonable time and without jeopardizing public health, safety, or welfare or the environment.

(9) Determine whether the proposed remedial action plan adequately provides for the imposition and maintenance of engineering and institutional controls and for sampling, monitoring, and reporting requirements necessary to protect public health, safety, and welfare and the environment.

(10) Approve the circumstances under which no further remediation is required.

(11) For industrial sites proceeding with remediation under this Part at which contaminants associated with activities of the industrial site have migrated to any adjacent properties, determine whether the proposed remedial action plan adequately provides for remediation of environmental contamination on the adjacent properties to unrestricted use standards.

(b) The person who proposes a remedial action plan has the burden of demonstrating with reasonable assurance that (i) any contamination associated with activities of the industrial site that has migrated to adjacent properties will be remediated to unrestricted use standards on the adjacent properties; (ii) contamination from the site will not migrate to adjacent property above unrestricted use ~~levels and~~standards after the industrial site has been remediated pursuant to the remedial action plan; and (iii) that the ~~remedial action~~ plan is protective of public health,

safety, and welfare and the environment by virtue of its compliance with this Part. The demonstration shall (i) take into account actions proposed in the remedial action plan that will prevent contamination from migrating off the site; and (ii) use scientifically valid site-specific data.

(c) The Department may require a person who proposes a remedial action plan to supply any additional information necessary for the Department to approve or disapprove the plan.

(d) In making a determination on a proposed remedial action plan, the Department shall consider the information provided by the person who proposes the remedial action plan as well as information provided by local governments and adjoining landowners pursuant to G.S. 130A-310.70. The Department shall disapprove a proposed remedial action plan unless the Department finds that the plan is protective of public health, safety, and welfare and the environment and complies with the requirements of this Part. If the Department disapproves a proposed remedial action plan, the person who submitted the plan may seek review as provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or disapprove a proposed remedial action plan within 120 days after a complete plan has been submitted, the person who submitted the plan may treat the plan as having been disapproved at the end of that time period."

SECTION 4.7.(e) Part 8 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-310.68A. Remediation to unrestricted use standards required for contamination on adjacent properties.**

Notwithstanding any other provision of this Part, for industrial sites proceeding with remediation under this Part at which contaminants associated with activities of the industrial site have migrated to any adjacent properties, remediation of environmental contamination on the adjacent properties shall meet unrestricted use standards on those properties."

SECTION 4.8.(a) No later than January 1, 2016, the Department of Environment and Natural Resources shall do all of the following:

(1) Develop internal processes to govern remediation of contaminated industrial sites conducted under this Part that are consistent across all programs or requirements identified in subsection (a) of G.S. 130A-310.67.

(2) Develop a coordinated program and processes for remediation of contaminated industrial sites conducted under this Part that are subject to more than one program or requirement identified in subsection (a) of G.S. 130A-310.67.

(3) Develop reforms to expand the role, and otherwise enhance the use of, registered environmental consultants approved to implement and oversee voluntary remedial actions pursuant to this Part.

SECTION 4.8.(b) No later than April 1, 2016, the Department shall report to the Environmental Review Commission on its activities conducted pursuant to subsection (a) of this section, together with any pertinent findings or recommendations, including any legislative proposals that it deems advisable.

AMEND THE LAW GOVERNING BROWNFIELDS REDEVELOPMENT TO EXTEND ELIGIBILITY UNDER THE PROGRAM TO BONA FIDE PROSPECTIVE PURCHASERS, IN ACCORDANCE WITH FEDERAL LAW

SECTION 4.9.(a) G.S. 130A-310.31(b)(10) reads as rewritten:

"**§ 130A-310.31. Definitions.**

(a) Unless a different meaning is required by the context or unless a different meaning is set out in subsection (b) of this section, the definitions in G.S. 130A-2 and G.S. 130A-310 apply throughout this Part.

(b) Unless a different meaning is required by the context:

...

(10) "Prospective developer" ~~means any person with a bona fide, demonstrable desire to either buy or sell a brownfields property for the purpose of developing or redeveloping that brownfields property and who did not cause or contribute to the contamination at the brownfields property.~~includes "bona fide prospective purchasers," "contiguous property owners," and "innocent landowners," as those terms are defined under the Small Business Liability Relief and Brownfields Revitalization Act (Pub. L. No. 107-118, 115 stat. 2356), 42 U.S.C. § 9601."

SECTION 4.9.(b) This section becomes effective July 1, 2015, and applies to Notices of Intent to Redevelop a Brownfields Property filed on or after that date.

ELIMINATE OUTDATED FEES RELATED TO SOLID WASTE MATTERS

SECTION 4.10.(a) G.S. 105-102.6 is repealed.

SECTION 4.10.(b) G.S. 130A-309.17(d) and (i) are repealed.

REPEAL ENERGY AUDIT REQUIREMENTS

SECTION 4.11. G.S. 143-64.12 reads as rewritten:

"**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environment and Natural Resources through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office a biennial written report of utility consumption and costs. Management plans submitted biennially by State institutions of higher learning shall include all of the following:

(1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.

(2) The cost of analyzing the projected energy savings.

(3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.

(4) An analysis that identifies projected annual energy savings and estimated payback periods.

(a1) State agencies and State institutions of higher learning shall carry out the construction and renovation of facilities in such a manner as to further the policy set forth under this section and to ensure the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities.

(b) The Department of Administration shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt

and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities of State buildings and State institutions of higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. ~~As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system level detailed surveys.~~

~~(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.~~

...

(j) The State Energy Office shall submit a report by December 1 of every odd-numbered year to the Joint Legislative Energy Policy Commission describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

(1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.

(2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.

(3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this ~~section and the energy audits required by subsection (b1) of this~~ section.

(4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this ~~section and a list of the State agencies and State institutions of higher learning that received an energy audit.~~section.

(5) Any recommendations on how management plans can be better managed and implemented."

DELETE OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS

SECTION 4.12.(a) G.S. 113-175.6 is repealed.

SECTION 4.12.(b) G.S. 113-182.1(e) reads as rewritten:

"**§ 113-182.1. Fishery Management Plans.**

...

(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 Governmental Operations 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 Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall 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 Governmental Operations 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 4.12.(c) G.S. 143B-279.15 is repealed.

SECTION 4.12.(d) G.S. 143B-289.44(d) is repealed.

SECTION 4.12.(e) G.S. 159I-29 is repealed.

SECTION 4.12.(f) Section 2.3 of S.L. 2007-485 is repealed.

ON-SITE WASTEWATER AMENDMENTS AND CLARIFICATIONS

SECTION 4.14.(a) G.S. 130A-334 reads as rewritten:

"**§ 130A-334. Definitions.**

The following definitions shall apply throughout this Article:

(1) "Accepted wastewater system" has the same meaning as in G.S. 130A-343.

~~(1)~~(1a) "Construction" means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(1b) "Conventional wastewater system" has the same meaning as in G.S. 130A-343.

~~(1a)~~(1c) "Department" means the Department of Health and Human Services.

~~(1b)~~(1d) "Ground absorption system" means a system of tanks, treatment units, nitrification fields, and appurtenances for wastewater collection, treatment, and subsurface disposal.

(2) Repealed by Session Laws 1985, c. 462, s. 18.

(2a) "Industrial process wastewater" means any water-carried waste resulting from any process of industry, manufacture, trade, or business.

(2b) "Licensed soil scientist" has the same meaning as in G.S. 89F-3.

(3) "Location" means the initial placement for occupancy of a residence, place of business or place of public assembly.

(3a) "Maintenance" means normal or routine maintenance including replacement of broken pipes, cleaning, or adjustment to an existing wastewater system.

(4), (5) Repealed by Session Laws 1985, c. 462, s. 18.

(6) "Place of business" means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

(7) "Place of public assembly" means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

(7a) "Plat" means a property survey prepared by a registered land surveyor, drawn to a scale of one inch equals no more than 60 feet, that includes: the specific location of the proposed facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters. "Plat" also means, for subdivision lots approved by the local planning authority if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale.

(7b) "Pretreatment" means any biological, chemical, or physical process or system for improving wastewater quality and reducing wastewater constituents prior to final treatment and disposal in a subsurface wastewater system and includes, but is not limited to aeration, clarification, digestion, disinfection, filtration, separation, and settling.

(7c) "Private option permit" means approval of an on-site wastewater system by a professional engineer who has both expertise and education in civil or environmental engineering and who has designed the wastewater system acting under the authority of the owner thereof.

(7d) "Professional engineer" has the same meaning as in G.S. 89C-3.

(8) "Public or community wastewater system" means a single system of wastewater collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(9) "Relocation" means the displacement of a residence or place of business from one site to another.

(9a) "Repair" means the extension, alteration, replacement, or relocation of existing components of a wastewater system.

(10) "Residence" means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, manufactured home, institution or any other place where people reside.

(10a) "Secretary" means the Secretary of Environment and Natural Resources.

(11) Repealed by Session Laws 1992, c. 944, s. 3.

(12) "Septic tank system" means a subsurface wastewater system consisting of a settling tank and a subsurface disposal field.

(13) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(13a) "Site plan" means a drawing not necessarily drawn to scale that shows the existing and proposed property lines with dimensions, the location of the facility and appurtenances, the site for the proposed wastewater system, and the location of water supplies and surface waters.

(14) "Wastewater" means any sewage or industrial process wastewater discharged, transmitted, or collected from a residence, place of business, place of public assembly, or other places into a wastewater system.

(15) "Wastewater system" means a system of wastewater collection, treatment, and disposal in single or multiple components, including a ground absorption system, privy, septic tank system, public or community wastewater system, wastewater reuse or recycle system, mechanical or biological wastewater treatment system, any other similar system, and any chemical toilet used only for human waste. A wastewater system located on

multiple adjoining lots or tracts of land under common ownership or control shall be considered a single system for purposes of permitting under this Article."

SECTION 4.14.(b) G.S. 130A-335 reads as rewritten:

"**§ 130A-335. Wastewater collection, treatment and disposal; rules.**

(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide an approved wastewater system. Except as may be allowed under another provision of law, all wastewater from water-using fixtures and appliances connected to a water supply source shall discharge to the approved wastewater system. A wastewater system may include components for collection, treatment and disposal of wastewater.

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed may be evaluated for soil conditions and site features by a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles.

(b) All wastewater systems shall either (i) be regulated by the Department under rules adopted by the Commission or (ii) conform with the private option permit criteria set forth in G.S. 130A-336.1 and under rules adopted by the Commission except for the following wastewater systems that shall be regulated by the Department under rules adopted by the Environmental Management Commission:

(1) Wastewater collection, treatment, and disposal systems designed to discharge effluent to the land surface or surface waters.

(2) Wastewater systems designed for groundwater remediation, groundwater injection, or landfill leachate collection and disposal.

(3) Wastewater systems designed for the complete recycle or reuse of industrial process wastewater.

(4) Gray water systems as defined in G.S. 143-350.

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and

(2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public health; and

(3) The Department has found that the rules of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

(c1) The rules adopted by the Commission for wastewater systems approved under the private option permit criteria pursuant to G.S. 130A-336.1 shall be, at a minimum, as stringent as the rules for wastewater systems established by the Commission.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

The Department shall review its findings under subsection (c) of this section upon modification by the Commission of the rules applicable to wastewater systems. The Department may deny, suspend, or revoke the approval of local board of health wastewater system rules upon a finding that the local wastewater rules are not as stringent as rules adopted

by the Commission, are not sufficient and necessary to safeguard the public health, or are not being enforced. Suspension and revocation of approval shall be in accordance with G.S. 130A-23.

(d1) The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Examiners for Engineers and Surveyors in accordance with rules and procedures adopted by the Board pursuant to Chapter 89C of the General Statutes citing failure of a professional engineer to adhere to the rules adopted by the Commission pursuant to this Article. The Department or owner of a wastewater system may file a written complaint with the North Carolina Board of Licensed Soil Scientists in accordance with rules and procedures adopted by the Board pursuant to Chapter 89F of the General Statutes citing failure of a licensed soil scientist to adhere to the rules adopted by the Commission pursuant to this Article.

...."

SECTION 4.14.(c) Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-336.1. Alternative process for wastewater system approvals.**

(a) Private Option Permit Authorized. – A professional engineer may, under the legal authority of the owner of a proposed wastewater system who wishes to utilize the private option permit, prepare drawings, specifications, plans, and reports that are certified and stamped with the professional engineer's seal for the design, construction, operation, and maintenance of the wastewater system in accordance with this section and rules adopted thereunder.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, or relocation of a wastewater system, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall submit to the local health department with jurisdiction over the location of the proposed wastewater system a notice of intent to construct a wastewater system utilizing the private permit option. The Department shall develop a common form for use as the notice of intent to construct that includes all of the following:

(1) The owner's name, address, e-mail address, and telephone number.

(2) The professional engineer's name, address, e-mail address, and telephone number.

(3) Certified copy of the wastewater system owner's contract with the professional engineer.

(4) For both the professional engineer and the licensed soil scientist, proof of errors and omissions insurance coverage or other appropriate liability insurance that has policy limits of not less than one million dollars ($1,000,000) per claim and that shall remain in force as applicable:

a. Two years following the date on which a professional engineer delivers an engineering report pursuant to subdivision (k)(1) of this section to the owner of the wastewater system; or

b. Two years following the date on which a licensed soil scientist delivers a soils report to the owner of the wastewater system.

(5) A description of the facility the proposed site is to serve and any factors that would affect the wastewater load.

(6) The type of proposed wastewater system and its location.

(7) The design wastewater flow and characteristics.

(8) Any proposed landscape, site, drainage, or soil modifications.

(9) A soil evaluation that is conducted and signed and sealed by a licensed soil scientist.

(10) A plat, as defined in G.S. 130A-334(7a).

(c) Completeness Review for Notice of Intent to Construct. – The local health department shall determine whether a notice of intent to construct, as required pursuant subsection (b) of this section, is complete within 14 days after the local health department receives the notice of intent to construct. A determination of completeness means that the notice of intent to construct includes all of the required components. If the local health department determines that the notice of intent to construct is not complete, the department shall notify the owner or the professional engineer of the components needed to complete the notice. The owner or professional engineer may submit additional information to the department to cure the deficiencies in the notice. The local health department shall make a final determination as to whether the notice of intent to construct is complete within 10 days after the department receives the additional information from the owner or professional engineer. If the department fails to act within any time period set out in this subsection, the owner or professional engineer may treat the failure to act as a denial of the completeness of the notice of intent and may challenge the denial as provided in Chapter 150B of the General Statutes.

(d) Submission of Notice of Intent to Construct to Department for Certain Systems. – Prior to commencing in the construction, siting, or relocation of a wastewater system designed (i) for the collection, treatment, and disposal of industrial process wastewater or (ii) to treat greater than 3,000 gallons per day, the owner of a proposed wastewater system who wishes to utilize the private option permit, or a professional engineer authorized as the legal representative of the owner, shall provide to the Department a duplicate copy of the notice of intent to construct submitted to the local health department required pursuant to subsection (b) of this section.

(e) Site Design, Construction, and Activities. –

(1) The professional engineer designing the proposed wastewater system shall use recognized principles and practices of engineering and applicable rules of the Commission in the calculations and design of the wastewater system. The investigations and findings of the professional engineer shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). The professional engineer may, at the engineer's discretion, employ wastewater system technologies not yet approved in this State.

(2) Notwithstanding G.S. 130A-335(a1), the owner of the proposed wastewater system shall employ a licensed soil scientist to evaluate soil conditions and site features.

(3) The professional engineer designing the proposed wastewater system shall be responsible and accountable for all aspects of the construction and installation of the wastewater system, including the selection and oversight of an on-site wastewater system contractor certified pursuant to Article 5 of Chapter 90A of the General Statutes.

(4) In addition to the requirements of this section, the owner and professional engineer designing the proposed wastewater system shall comply with all other applicable federal, State, and local laws, regulations, rules, and ordinances.

(f) Liability. – The licensed soil scientist evaluating the soils at the site of the proposed wastewater system shall assume all liability for the findings of the soil scientist's initial soil evaluation and final soils report. The professional engineer designing the proposed wastewater system shall assume all liability for the engineer's scope of work in the design, calculation, construction and installation, and requirements for the development of the operation and management plan for the wastewater system. The owner of the wastewater system shall assume all liability for the proper operation and management of the wastewater system. The Department, the Department's authorized agents, or local health departments shall have no

liability for wastewater systems approved under a private option permit. After the owner of the wastewater system has commenced operation of the system pursuant to subsection (m) of this section, neither the professional engineer nor the licensed soil scientist shall be held liable for any damages that result from any unapproved changes made to the wastewater system by the owner.

(g) Inspections. – The local health department may, at any time, conduct a site visit of the wastewater system.

(h) Local Authority. – This section shall not relieve the owner or operator of a wastewater system from complying with any and all modifications or additions to rules adopted by the local health department to protect public health pursuant to G.S. 130A-335(c). The local health department shall notify the owner or operator of the wastewater system of any issues of compliance related to such modifications or additions.

(i) Operations and Management. –

(1) The professional engineer designing the wastewater system shall establish a written operations and management program based on the size and complexity of the wastewater system and shall provide the owner with the operations and management program.

(2) The professional engineer shall assist the owner in the owner's selection of a water pollution control system operator. The owner shall enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes and who is selected from the list of certified operators maintained by the Division of Water Resources in the Department of Environment and Natural Resources for operation and maintenance of the system in accordance with rules adopted by the Commission.

(3) Any person who owns or controls the property upon which the wastewater system is located shall be responsible for the continued adherence to the operations and management program established by the professional engineer developed pursuant to subdivision (1) of this subsection.

(j) Postconstruction Conference. – The professional engineer designing the wastewater system shall hold a postconstruction conference with the owner of the wastewater system; the licensed soil scientist who performed the soils evaluation for the wastewater system; the contractor, certified pursuant to Article 5 of Chapter 90A of the General Statutes, who installed the wastewater system; the certified operator of the wastewater system, if any; and representatives from the local health department and, as applicable, the Department. The postconstruction conference shall include start-up of the wastewater system and any required verification of system design or system components.

(k) Required Documentation. –

(1) At the completion of the postconstruction conference conducted pursuant to subsection (j) of this section, the professional engineer who designed the wastewater system shall deliver to the owner signed, sealed, and dated certified copies of the engineer's report, which, for purposes of this section, shall include (i) the evaluation of soil conditions and site features as prepared by the licensed soil scientist; (ii) design and construction specifications; (iii) operator's management program manual that includes a copy of the contract entered into with the certified water pollution control system operator required pursuant to subsection (i) of this section; and (iv) any reports and findings related to the design and installation of the wastewater system.

(2) Upon reviewing the authorized professional engineer's report, the owner of the wastewater system shall sign and notarize the report as having been received.

(l) Reporting Requirements. –

(1) The owner of the wastewater system shall deliver to the local health department (i) a certified copy of the authorized professional engineer's report, (ii) a copy of the operations and management program, (iii) the fee required pursuant to subsection (n) of this section, and (iv) a notarized letter that documents the owner's acceptance of the system from the professional engineer.

(2) The owner of any wastewater system subject to subsection (d) of this section shall deliver to the Department certified copies of the engineer's report, as described in subdivision (1) of this subsection.

(m) Authorization to Operate. – Upon receipt of the documents and fees required pursuant to subdivision (1) of subsection (l) of this section, the local health department shall issue the owner a letter of confirmation that states the documents and information contained therein have been received and that the wastewater system may operate in accordance with rules adopted by the Commission.

(n) Fees. – The local health department may assess a fee of up to ten percent (10%) of the fees established to obtain an improvement permit, an authorization to construct, or an operations permit within the health department's on-site wastewater program. Fees shall be used by the local health department to conduct site inspections, to support the department's staff participation at postconstruction conference meetings, and to archive the private permit with the county register of deeds or other recordation of the wastewater system as required.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change in ownership of the site for the wastewater system, provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person currently owning the wastewater system.

(p) Rule Making. – The Commission shall adopt rules to implement to the provisions of this section.

(q) Reports. – The Department shall report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2017, and annually thereafter, on the implementation and effectiveness of this section. For the report due on or before January 1, 2017, the Department shall specifically evaluate whether (i) the private option permit resulted in a reduction in the length of time improvement permits or authorizations to construct are pending; (ii) the private option permit resulted in increased system failures or other adverse impacts; and (iii) the private option permit resulted in new or increased environmental impacts. The Department may include recommendations, including any legislative proposals, in its reports to the Commission and Committee."

SECTION 4.14.(d) G.S. 130A-338 reads as rewritten:

"**§ 130A-338. Authorization for wastewater system construction required before other permits to be issued.**

Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an authorization for wastewater system construction has been issued under ~~G.S. 130A-336~~G.S. 130A-336, or authorization has been obtained under ~~G.S. 130A-337(c).~~G.S. 130A-337(c), or a decision on the completeness of the notice of intent to construct is made by the local health department pursuant to G.S. 130A-336.1(c)."

SECTION 4.14.(e) G.S. 130A-339 reads as rewritten:

"**§ 130A-339. Limitation on electrical service.**

No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit authorization for wastewater system construction and an operation permit or authorization under G.S. 130A-337(c) or the decision on the completeness of the notice of intent to construct made by the local health department pursuant to G.S. 130A-336.1(b1) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338."

SECTION 4.14.(f) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the minimum on-site wastewater system inspection frequency established pursuant to Table V(a) in 15A NCAC 18A .1961 to evaluate the feasibility and desirability of eliminating duplicative inspections of on-site wastewater systems. In the conduct of its study, the Commission shall consider (i) the compliance history of wastewater systems, including whether operators' reports and laboratory reports are in compliance with Article 11 of Chapter 130A of the General Statutes and the rules adopted pursuant to that Article; (ii) alternative inspection frequencies, including the use of remote Web-based monitoring for alarm and compliance notification; (iii) whether the required verification visit conducted by local health departments shows a statistically significant justification for duplicative costs to the owner of the wastewater system; (iv) methods for notifications of changes to and expirations of operations contracts; and (v) methods for local health departments to provide certified operator management for sites that are not under contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

SECTION 4.14.(g) G.S. 130A-336 reads as rewritten:

"**§ 130A-336. Improvement permit and authorization for wastewater system construction required.**

(a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system shall be evaluated by either (i) the local health department in accordance with rules adopted pursuant to this ~~Article.~~Article or (ii) by a professional engineer or licensed soil scientist acting within the engineer's or soil scientist's scope of work, as applicable, and pursuant to the conditions of the private option permit in G.S. 130A-336.1. An improvement permit ~~shall be issued in compliance with the rules adopted pursuant to this Article. An improvement permit~~issued by a local health department shall include:

(1) ~~For permits that are valid without expiration, a plat or, for permits that are valid for five years,~~A plat or a site plan.
(2) A description of the facility the proposed site is to serve.
(3) The proposed wastewater system and its location.
(4) The design wastewater flow and characteristics.
(5) The conditions for any site modifications.
(6) Any other information required by the rules of the Commission.

~~The~~ Neither the improvement permit nor the authorization for wastewater system construction shall ~~not~~ be affected by change ~~in~~ of ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and

remain under the ownership or control of the person owning the facility. The improvement permit and the authorization for wastewater system construction shall remain valid once issued, without expiration, provided the design wastewater flow and characteristics and the description of the proposed facility the wastewater system will serve remains unchanged. No person shall commence or assist in the construction, location, or relocation of a residence, place of business, or place of public assembly in an area not served by an approved wastewater system unless an improvement permit and an authorization for wastewater system construction are obtained from the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. This requirement shall not apply to a manufactured residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an authorization for wastewater system construction authorizing work to proceed and the installation or repair of a wastewater system when it has determined after a field investigation that the system can be installed and operated in compliance with this Article and rules adopted pursuant to this Article. ~~This authorization for wastewater system construction shall be valid for a period equal to the period of validity of the improvement permit and may be issued at the same time the improvement permit is issued.~~ No person shall commence or assist in the installation, construction, or repair of a wastewater system unless an improvement permit and an authorization for wastewater system construction have been obtained from the Department or the local health ~~department.~~department unless acting within the conditions and criteria of a private option permit pursuant to G.S. 130A-336.1. No improvement permit or authorization for wastewater system construction shall be required for maintenance of a wastewater system. The Department and the local health department may impose conditions on the issuance of an improvement permit and an authorization for wastewater system construction.

(b1) The local health department shall maintain a database of proposed wastewater systems for which both the improvement permit and construction authorization have been obtained but no commencement of activity related to the construction or installation of the wastewater system was undertaken during the five years immediately following the approval of the improvement permit and construction authorization. For those wastewater systems identified in accordance with this subsection, the local health department shall notify the applicant of alternative wastewater system technologies and options that may be employed by the applicant in lieu of the system already permitted and authorized by the department.

(c) Unless the Commission otherwise provides by rule, plans, and specifications for all wastewater systems designed for the collection, treatment, and disposal of industrial process wastewater shall be reviewed and approved by the Department prior to the issuance of an authorization for wastewater system construction by the local health department.

(d) If a local health department repeatedly fails to issue or deny improvement permits for conventional or accepted septic tank systems within 60 ~~days of~~ days, or within 90 days for provisional or innovative systems, after receiving completed applications for the permits, then the Department of Environment and Natural Resources may withhold public health funding from that local health department."

SECTION 4.14.(h) G.S. 130A-342 reads as rewritten:

"**§ 130A-342. Residential wastewater treatment systems.**

(a) Individual residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I residential wastewater treatment systems, as set out in Standard 40 of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.

(b) A permitted system with a design flow of less than 1,500 gallons per day shall be operated ~~and maintained by a certified wastewater treatment facility operator.~~by a person who is a Subsurface Water Pollution Control System Operator as certified by the Water Pollution Control System Operators Certification Commission and authorized by the manufacturer of the individual residential wastewater treatment system. The Commission may establish additional standards for wastewater systems with a design flow of 1,500 gallons or greater per day.

(c) Each county, in which one or more residential wastewater treatment systems permitted pursuant to this section are in use, shall document the performance of each system and report the results to the Department annually."

SECTION 4.14.(i) This section is effective when this act becomes law, and the Commission for Public Health shall adopt or amend rules pursuant to Sections 4.14(a) through 4.14(e) of this act no later than June 1, 2016. No person shall utilize the private permit option authorized pursuant to G.S. 130A-336.1, as enacted by Section 4.14(c) of this act, however, until such time as the rules adopted by the Commission pursuant to Section 4.14(c) of this act become effective.

AMEND APPROVAL OF ON-SITE WASTEWATER SYSTEMS

SECTION 4.15.(a) G.S. 130A-343 reads as rewritten:

"**§ 130A-343. Approval of on-site subsurface wastewater systems.**

(a) Definitions. – As used in this section:

(1) "Accepted wastewater dispersal system" means any subsurface wastewater dispersal system, other than a conventional wastewater system, ~~or any technology, device, or component of a wastewater system~~ that: (i) has been previously approved as an innovative wastewater dispersal system by the Department; (ii) has been in general use in this State as an innovative wastewater dispersal system for more than five years; and (iii) has been approved by the Commission for general use or use in one or more specific applications. An accepted wastewater dispersal system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Commission may impose any design, operation, maintenance, monitoring, and management requirements on the use of an accepted wastewater dispersal system that it determines to be appropriate.

(2) "~~Controlled demonstration~~Provisional wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that, on the basis of (i) research acceptable ~~research, is approved by~~ to the Department or (ii) approval of the wastewater system by a nationally recognized certification body for a period that exceeds one year for research, testing, or trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.

(3) "Conventional wastewater system", "conventional sewage system", or "conventional septic tank system" means a subsurface wastewater system that consists of a traditional septic or settling tank and a gravity-fed subsurface ~~disposal~~ dispersal field that uses washed natural stone or gravel ~~or crushed stone~~of approved size and grade and piping to distribute effluent to soil in one or more nitrification trenches and that does not include any other appurtenance.

~~(4) "Experimental wastewater system" means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.~~

(5) "Innovative wastewater system" means any wastewater system, other than a conventional wastewater system, provisional wastewater system, or any technology, device, or component of a wastewater system ~~that:~~that either:

a. ~~(i) has~~Has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; ~~(ii)~~ is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; and ~~(iii)~~ has been approved by the Department for general use or for one or more specific applications.

b. Remains on a list of the applicable nationally recognized standards for a period that exceeds two years and satisfies the treatment limits adopted by the Department.

An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate. A wastewater system approved by a nationally recognized certification body and in compliance with the ongoing verification program of such body may submit a sampling protocol for innovative system approval that reduces the data sets required for such approval by fifty percent (50%). Such an application shall include all of the data associated with the nationally recognized certification body's verification of the system's performance.

(6) "Nationally recognized certification body" means NSF International; the International Association of Plumbing and Mechanical Officials; the Bureau of Normalization of Quebec; or another certification body for wastewater systems or system components accredited by the American National Standards Institute or the Standards Council of Canada.

(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules for the approval and permitting of ~~experimental, controlled demonstration,~~ innovative, conventional, provisional, and accepted wastewater systems. The rules shall address the criteria to be considered prior to issuing ~~a permit~~ an approval for a system, requirements for preliminary design plans and specifications that must be submitted, methodology to be used, standards for monitoring and evaluating the system, research evaluation of the system, the plan of work for monitoring system performance and maintenance, and any additional matters the Commission ~~deems appropriate.~~determines are necessary for verification of the performance of a wastewater system or system component.

(c) ~~Approved Systems.~~ Procedure for Modifications or Revocations. – The Department may modify, suspend, or revoke the approval of a wastewater system if the Department determines that the approval is based on false, incomplete, or misleading information or if the Department finds that modification, suspension, or revocation is necessary to protect public health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental, controlled demonstration,~~ innovative, provisional, and accepted wastewater systems to the local health departments annually, and ~~more frequently, when the Department makes a final agency decision related to the approval of a wastewater system or the Commission adopts rules related to the~~ notify the local health departments within 30 days of any modification or revocation of an approval of a wastewater ~~system.~~system or system component.

(d) Evaluation Protocols. – The Department shall approve one or more nationally recognized protocols for the evaluation of ~~on-site subsurface~~ wastewater systems. Any protocol

approved by the Department shall specify a minimum number of sites that must be evaluated and the duration of the evaluation period. At the request of a manufacturer of a wastewater system, the Department may approve an alternative protocol for use in the evaluation of the performance of the manufacturer's wastewater system. A protocol for the evaluation of ~~an on-site subsurface~~ a wastewater system approved by the Department pursuant to this section is a scientific standard within the meaning of G.S. 150B-2(8a)h.

~~(e) Experimental Systems. – A manufacturer of a wastewater system that is intended for on-site subsurface use may apply to the Department to have the system evaluated as an experimental wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the experimental wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 50 experimental systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the experimental wastewater system fails to perform properly.~~

(f) ~~Controlled Demonstration~~ Provisional Systems. – A manufacturer of a wastewater system ~~intended for on-site subsurface use~~ may apply to the Department to have the system ~~evaluated as a controlled demonstration wastewater system as provided in this subsection.~~ provisionally approved for use in this State. Any wastewater system approved based on its approval by a nationally recognized certification body must be designed and installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal shall contain procedures for obtaining specified information necessary to achieve innovative status upon completion of the provisional status. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. ~~If the system was evaluated as an experimental system under subsection (e) of this section, the proposal shall include the results of the evaluation.~~ The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the controlled demonstration wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 200 ~~controlled demonstration~~provisional wastewater systems ~~pursuant to a protocol approved by the Department~~ on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the ~~controlled demonstration~~ provisional

wastewater system fails to perform properly. If the ~~controlled demonstration~~provisional wastewater system is intended for use on sites that are not ~~suitable, or that are provisionally suitable,~~suitable for a conventional wastewater system, the Department may approve the installation of the ~~controlled demonstration~~provisional wastewater system if the Department determines that the manufacturer can provide an acceptable alternative method for collection, treatment, and ~~disposal~~ dispersal of the wastewater. The Department shall approve applications for provisional systems based on approval by a nationally recognized certification body within 90 days of receipt of a complete application. A manufacturer that chooses to remove its product from the nationally recognized standard during the provisional approval may continue its application in this State pursuant to requirements and procedures established by the Department.

(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface use ~~that has been evaluated as an experimental~~may apply for and be considered for innovative system status by the Department in one of the following ways:

(1) If the wastewater system has been approved as a provisional wastewater system pursuant to subsection (f) of this section, the manufacturer may apply to have the system approved as an innovative wastewater system based on successful completion of the evaluation protocols established pursuant to subsection (d) of this section.~~wastewater system as provided in subsection (e) of this section or that has been evaluated as a controlled demonstration wastewater system as provided in subsection (f) of this section may apply to the Department to have the system approved as an innovative wastewater system as provided in this subsection.~~

(2) ~~A manufacturer of a~~If the wastewater system ~~for on-site subsurface use that~~ has not been evaluated or approved as ~~an experimental~~a provisional wastewater system ~~or as a controlled demonstration wastewater system~~ pursuant to subsection (f) of this section, the manufacturer may ~~also~~ apply to the Department to have the system approved as an innovative wastewater system on the basis of comparable research and testing conducted in other states. The manufacturer shall provide the Department with the data and findings of all evaluations of the performance of the system that have been conducted in any state by or on behalf of the manufacturer. The manufacturer shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer.

(3) If the wastewater system has not been evaluated or approved as a provisional system pursuant to subsection (f) of this section, but has been evaluated under protocol established by a nationally recognized certification body for at least two consecutive years, has been found to perform acceptably based on the criteria of the protocol, and is designed and will be installed in a manner consistent with the system evaluated and approved by the nationally recognized certification body, the manufacturer may apply to have the system approved as an innovative wastewater system.

Within 30 days of receipt of the initial application, the Department shall either (i) notify the manufacturer of any items necessary to complete the application or (ii) notify the manufacturer that its application is complete. The Department shall publish a notice that the manufacturer has submitted an application under this subsection in the North Carolina Register and may provide additional notice to the public via the Internet or by other means. The Department shall receive public comment on the application for at least 30 days after the date the notice is published in the North Carolina Register. In making a determination under this subsection, the Department shall consider the data, findings, and recommendations submitted by the manufacturer and all

public comment. The Department may also consider any other information that the Department determines to be relevant. The Department shall determine: (i) whether the system performs in a manner equal or superior to a conventional wastewater ~~system;~~system, in terms of structural integrity, treatment, and hydraulic performance; (ii) whether the system is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any conditions and limitations related to the use of the system. The Department shall make the determinations required by this subsection and approve or deny the application within ~~180~~ 90 days after the Department receives a complete application from a manufacturer. If the Department fails to act on the application within ~~180 days,~~90 days of the notice of receipt of the complete application, the manufacturer may treat the application as denied and challenge the denial by filing a contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the Department approves an innovative wastewater system, the Department shall notify the manufacturer of the approval and specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(g1) Approval of Functionally Equivalent Trench Systems as Innovative Systems. – A manufacturer of a wastewater trench system may petition the Commission to have the wastewater trench system approved as an innovative wastewater system as provided in this subsection.

(1) The Commission shall approve a wastewater trench system as an innovative wastewater system if it finds that there is clear, convincing, and cogent evidence that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system. A wastewater trench system shall be considered functionally equivalent to an accepted wastewater trench system if the performance characteristics of the wastewater trench system satisfy all of the following requirements:

a. The physical properties and chemical durability of the materials from which the wastewater trench system is constructed are equal to or superior to the physical properties and chemical durability of the materials from which the accepted wastewater trench system is constructed.

b. The permeable sidewall area and bottom infiltrative area of the wastewater trench system are equal to or greater than the permeable sidewall area and bottom infiltrative area of the accepted wastewater trench system at a field-installed size.

c. The wastewater trench system utilizes a similar method and manner of function for the conveyance and application of effluent as the accepted wastewater trench system.

d. The structural integrity of the wastewater trench system is equal to or superior to the structural integrity of the accepted wastewater trench system.

e. The wastewater trench system shall provide a field installed system storage volume equal to or greater than the field installed system storage volume of the accepted wastewater trench system.

(2) As part of its petition, the manufacturer shall provide to the Commission all of the following information:

a. Specifications of the wastewater trench system.

b. Data necessary to demonstrate that the wastewater trench system is functionally equivalent to a wastewater trench system that is approved as an accepted wastewater system.

c. A certified statement from an independent, third-party professional engineer or testing laboratory that, based on verified documentation, the wastewater trench system is functionally equivalent to an accepted wastewater system.

(3) Approval of a wastewater trench system as an innovative wastewater system shall not be conditioned on the manufacturer of the wastewater trench system having operational systems installed in the State.

(4) The Commission shall authorize the use of a wastewater trench system as an innovative wastewater system in the same applications as the accepted wastewater trench system.

(5) The Commission shall not include conditions and limitations in the approval of a wastewater trench system as an innovative wastewater system that are not included in the approval of the accepted wastewater trench system.

(h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative wastewater dispersal system that has been in general use in this State for ~~more than~~ a minimum of five years may petition the Commission to have the system designated as an accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the ~~system.~~system in this State and other states referenced in the petition, including disclosure of any conditions found to result in unacceptable structural integrity, treatment, or hydraulic performance. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater system as an accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at the time the Department approved the system as an innovative wastewater system and (ii) that the system performs in a manner that is equal or superior to a conventional wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(i) ~~Miscellaneous Provisions.~~ Nonproprietary Wastewater Systems. –

~~(1) In evaluating applications for approval under this section, the Department may consult with persons who have special training and experience related to on-site subsurface wastewater systems and may form a technical advisory committee for this purpose. However, the Department is responsible for making timely and appropriate determinations under this section.~~

~~(2)~~ The Department may initiate a review of a nonproprietary wastewater system and approve the system for ~~on-site subsurface~~ use ~~as an experimental wastewater system, a controlled demonstration wastewater system,~~ as a provisional wastewater system or an innovative wastewater system without having received an application from a manufacturer. The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.

~~(j) Warranty Required in Certain Circumstances. The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system or accepted wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide~~

~~conventional wastewater system unless the manufacturer of the innovative wastewater system or accepted wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the system for a warranty period of at least five years from the date on which the wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to provide a fully functional wastewater system. The Commission shall establish minimum terms and conditions for the warranty required by this subsection. This subsection shall not be construed to require that a manufacturer warrant a wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.~~

(j1) Clarification With Respect to Certain Dispersal Media. – In considering the application by a manufacturer of a wastewater system utilizing expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under this section, neither the Commission nor the Department may condition, delay, or deny the approval based on the particle or bulk density of the expanded polystyrene material. With respect to approvals already issued by the Department or Commission that include conditions or requirements related to the particle or bulk density of expanded polystyrene material, the Commission or Department, as applicable, shall promptly reissue all such approvals with the conditions and requirements relating to the density of expanded polystyrene material permanently deleted while leaving all other terms and conditions of the approval intact.

(k) Fees. – The Department shall collect the following fees under this section:

(1)	Review of an alternative protocol under subsection (d) of this section	$1,000.00
~~(2)~~	~~Review of an experimental system~~	~~$3,000.00~~
(3)	Review of a ~~controlled demonstration~~provisional system	$3,000.00
(4)	Review of an innovative system	$3,000.00
(5)	Review of an accepted system	$3,000.00
(6)	Review of a residential wastewater treatment system pursuant to G.S. 130A-342	$1,500.00
(7)	Review of a component or device required of a system	$ 100.00
(8)	Modification to approved accepted, provisional, or innovative system	$1,000.00

(l) On-Site Wastewater System Account. – The On-Site Wastewater System Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be placed in the On-Site Wastewater System Account and shall be applied only to the costs of implementing this section."

SECTION 4.15.(b) The Commission for Public Health shall review and amend its rules to implement Section 4.15(a) of this act.

SECTION 4.15.(c) Beginning October 1, 2015, and every quarter thereafter until all rules required pursuant to Sections 4.14 and 4.15 of this act are adopted or amended, the Commission for Public Health shall submit written reports as to its progress on adopting or amending rules as required by Sections 4.14 and 4.15 of this act to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services. The Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

SECTION 4.15.(d) The Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry, shall study the costs and benefits of requiring

treatment standards greater than those listed by nationally recognized standards, including the recorded advantage of such higher treatment standards for the protection of the public health and the environment. The Commission shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before January 1, 2016.

CONTESTED CASES FOR AIR PERMITS

SECTION 4.17. G.S. 143-215.108 reads as rewritten:

"**§ 143-215.108. Control of sources of air pollution; permits required.**

...

(e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is dissatisfied with a decision of the Commission on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third party~~applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review. The filing of a petition under this subsection will stay the Commission's decision until resolution of the contested case.

(e1) A person other than a permit applicant or permittee who is a person aggrieved by the Commission's decision on a permit application may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission provides notice of its decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on a publicly available Web site. The filing of a petition under this subsection does not stay the Commission's decision except as ordered by the administrative law judge under G.S. 150B-33(b).

...."

AMEND ISOLATED WETLANDS LAW

SECTION 4.18.(a) For the purposes of implementing Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code (Discharges to Isolated Wetlands and Isolated Waters), the isolated wetlands provisions of Section .1300 shall apply only to a Basin Wetland or Bog and no other wetland types as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October 2010 that are not jurisdictional wetlands under the federal Clean Water Act. The isolated wetlands provisions of Section .1300 shall not apply to an isolated man-made ditch or pond constructed for stormwater management purposes, any other man-made isolated pond, or any other type of isolated wetland, and the Department of Environment and Natural Resources shall not regulate such water bodies under Section .1300.

SECTION 4.18.(b) The Environmental Management Commission may adopt rules to amend Section .1300 of Subchapter 2H of Chapter 2 of Title 15A of the North Carolina Administrative Code consistent with subsection (a) of this section.

SECTION 4.18.(c) Section 54 of S.L. 2014-120 reads as rewritten:

"**SECTION 54.(a)** Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 54(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02H .1305 (Review of Applications) as provided in Section 54(b) of this act.

"**SECTION 54.(b)** Notwithstanding 15A NCAC 02H .1305 (Review of Applications), all of the following shall apply to the implementation of 15A NCAC 02H .1305:

(1) The amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) shall be less than or equal to one acre of isolated wetlands ~~east~~

~~of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95~~ for the entire project.

(2) Mitigation requirements for impacts to isolated wetlands shall only apply to the amount of impact that exceeds the threshold set out in subdivision (1) of this section. The mitigation ratio for impacts ~~of greater than one acre~~ exceeding the threshold for the entire project under 15A NCAC 02H .1305(g)(6) shall be 1:1 and may be located on the same parcel.

~~(3) For purposes of Section 54(b) of this section, "isolated wetlands" means a Basin Wetland or Bog as described in the North Carolina Wetland Assessment User Manual prepared by the North Carolina Wetland Functional Assessment Team, version 4.1 October, 2010, that are not jurisdictional wetlands under the federal Clean Water Act. An "isolated wetland" does not include an isolated man-made ditch or pond constructed for stormwater management purposes or any other man-made isolated pond.~~

(4) Impacts to isolated wetlands shall not be combined with the project impacts to 404 jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met.

"**SECTION 54.(c)** The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .1300 through 15A NCAC 02H .1305 consistent with Section 54(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subsection shall be substantively identical to the provisions of Section 54(b) of this act. Rules adopted pursuant to this subsection are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subsection shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 54.(d)** The Department of Environment and Natural Resources shall study (i) how the term "isolated wetland" has been previously defined in State law and whether the term should be clarified in order to provide greater certainty in identifying isolated wetlands; (ii) the surface area thresholds for the regulation of mountain bog isolated wetlands, including whether mountain bog isolated wetlands should have surface area regulatory thresholds different from other types of isolated wetlands; and (iii) whether impacts to isolated wetlands should be combined with the project impacts to jurisdictional wetlands or streams for the purpose of determining when impact thresholds that trigger a mitigation requirement are met. The Department shall report its findings and recommendations to the Environmental Review Commission on or before November 1, 2014.

"**SECTION 54.(e)** This section is effective when it becomes law. Section 54(b) of this act expires on the date that rules adopted pursuant to Section 54(c) of this act become effective."

AMEND COASTAL STORMWATER REQUIREMENTS

SECTION 4.19.(a) Section 2(b) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(b)** Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. – All nonresidential development activities that occur within the Coastal Counties ~~that will add more than 10,000 square feet of built-upon area or~~ that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a Coastal Area Management Act (CAMA) Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in this subsection. A development activity or project requires a Sedimentation and Erosion Control Plan if the activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre of land that is part of a larger common plan of

development. Whether an activity or project that disturbs less than one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

(1) Development Near Outstanding Resource Waters (ORW). – Development activities within the Coastal Counties and located within 575 feet of the mean high waterline of areas designated by the Commission as Outstanding Resource Waters (ORW) ~~shall meet the requirements of 15A NCAC 02H .1007 (Stormwater Requirements: Outstanding Resource Waters) and~~ shall be permitted as follows:

a. Low-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(1) if the development meets all of the following requirements:

1. The development has a built upon area of ~~twelve percent (12%)~~twenty-four percent (24%) or less. A development project with an overall density at or below the low-density threshold, but containing areas with a density greater than the overall project density, shall be considered low-density as long as the project meets or exceeds the requirements for low-density development and locates the higher density development in upland areas and away from surface waters and drainageways to the maximum extent practicable.

2. Stormwater runoff from the development is transported primarily by vegetated conveyances. As used in this sub-sub-subdivision, "conveyance system" shall not include a stormwater collection system. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.

3. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and maintained in grass or any other vegetative or plant material. The Division of Water Quality may, on a case-by-case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

b. High-Density Option. – Development shall be permitted pursuant to 15A NCAC 02H .1003(d)(2) if the development meets all of the following requirements:

1. The development has a built upon area of greater than ~~twelve percent (12%).~~twenty-four percent (24%).
2. The development has no direct outlet channels or pipes to Class SA waters unless permitted in accordance with 15A NCAC 02H .0126. Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow into and through these wetlands at a non-erosive velocity.
3. The development utilizes control systems that are any combination of infiltration systems, bioretention systems, constructed stormwater wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative low impact development stormwater management systems designed in accordance with 15A NCAC 02H .1008 to control and treat the runoff from all surfaces generated by one and one-half inches of rainfall, or the difference in the stormwater runoff from all surfaces from the predevelopment and postdevelopment conditions for a one-year, 24-hour storm, whichever is greater. Wet detention ponds may be used as a stormwater control system to meet the requirements of this sub-sub-subdivision, provided that the stormwater control system fully complies with the requirements of this sub-subdivision. If a wet detention pond is used within one-half mile of Class SA waters, installation of a stormwater best management practice in series with the wet detention pond shall be required to treat the discharge from the wet detention pond. Secondary stormwater best management practices that are used in series with another stormwater best management practice do not require any minimum separation from the seasonal high water table. Alternatives as described in 15A NCAC 02H .1008(h) may also be approved if they meet the requirements of this sub-subdivision.
4. Stormwater runoff from the development that is in excess of the design volume must flow overland through a vegetative filter designed in accordance with 15A NCAC 02H .1008 with a minimum length of 50 feet measured from mean high water of Class SA waters.
5. The development contains a 50-foot-wide vegetative buffer for new development activities and a 30-foot-wide vegetative buffer for redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with, and maintained in, grass or any other vegetative or plant material. Furthermore, stormwater control best management practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within this vegetative buffer. The Division of Water Quality may, on a case by case basis, grant a minor variance from the vegetative buffer requirements of this section pursuant to the procedures set out

in 15A NCAC 02B .0233(9)(b). Vegetative buffers and filters required by this section and any other buffers or filters required by State water quality or coastal management rules or local government requirements may be met concurrently and may contain, in whole or in part, coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

...."

SECTION 4.19.(b) Section 2(c) of S.L. 2008-211 reads as rewritten:

"**SECTION 2.(c)** Requirements for Limited Residential Development in Coastal Counties. – For residential development activities within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a built upon area greater than ~~twelve percent (12%),~~twenty-four percent (24%), that do not require a stormwater management permit under subsection (b) of this section, and that will add more than 10,000 square feet of built upon area, a one-time, nonrenewable stormwater management permit shall be obtained. The permit shall require recorded deed restrictions or protective covenants to ensure that the plans and specifications approved in the permit are maintained. Under this permit, stormwater runoff shall be managed using any one or combination of the following practices:

(1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate the reuse of the collected rain water on site and shall be installed in such a manner that any overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of permeable pavement or other pervious materials.

(3) Install any other stormwater best management practice that meets the requirements of 15A NCAC 02H .1008 to control and treat the stormwater runoff from all built upon areas of the site from the first one and one-half inches of rain."

SECTION 4.19.(c) As necessary to comply with federal stormwater management requirements, the rescission of designations of local governments within the 20 Coastal Counties as Phase 2 municipalities pursuant to Section 3 of S.L. 2008-211 is repealed.

SECTION 4.19.(d) This section becomes effective January 1, 2016.

EXEMPT LINEAR UTILITY PROJECTS FROM CERTAIN ENVIRONMENTAL REGULATIONS

SECTION 4.21. Article 17 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-351. Exempt linear utility projects from certain environmental regulations.**

Except as required by federal law, activities related to the construction, maintenance, or removal of a linear utility project shall be exempt from regulation by an agency authorized to implement and enforce State and federal environmental laws. For purposes of this section, "linear utility project" means an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, or natural gas pipeline. For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
(2) The Environmental Management Commission created pursuant to G.S. 143B-282.
(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The North Carolina Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The North Carolina Oil and Gas Commission created pursuant to G.S. 143B-293.1."

REPEAL DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES IDLING RULES

SECTION 4.24. The Secretary of Environment and Natural Resources shall repeal 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions) on or before December 1, 2015. Until the effective date of the repeal of the rule required pursuant to this section, the Secretary, the Department of Environment and Natural Resources, the Environmental Management Commission, or any other political subdivision of the State shall not implement or enforce 15A NCAC 02D .1010 (Heavy-Duty Vehicle Idling Restrictions).

AMBIENT AIR MONITORING

SECTION 4.25.(a) The Department of Environment and Natural Resources shall review its ambient air monitoring network and, in the next annual monitoring network plan submitted to the United States Environmental Protection Agency, shall request the removal of any ambient air monitors not required by applicable federal laws and regulations.

SECTION 4.25.(b) No later than September 1, 2016, the Department of Environment and Natural Resources shall discontinue all ambient air monitors not required by applicable federal laws and regulations if approval from the United States Environmental Protection Agency is not required for the discontinuance.

SECTION 4.25.(c) Nothing in this section is intended to prevent the Department from installing temporary ambient air monitors as part of an investigation of a suspected violation of air quality rules, standards, or limitations or in response to an emergency situation causing an imminent danger to human health and safety.

SECTION 4.25.(d) The Division of Air Quality, Department of Environment and Natural Resources, shall report to the Environmental Review Commission no later than November 1, 2016, on the status of the ambient air monitoring network and the Division's implementation of the requirements of this section.

DIVISION OF AIR QUALITY NOTICE REQUIREMENTS

SECTION 4.27. G.S. 143-215.110 reads as rewritten:

"**§ 143-215.110. Special orders.**

(a) Issuance. – The Commission is hereby empowered, after the effective date of standards and classifications adopted pursuant to G.S. 143-215.107, to issue (and from time to time to modify or revoke) a special order or other appropriate instrument, to any person whom it finds responsible for causing or contributing to any pollution of the air within the area for which standards have been established. Such an order or instrument may direct such person to take or refrain from taking such action, or to achieve such results, within a period of time specified by such special order, as the Commission deems necessary and feasible in order to

alleviate or eliminate such pollution. The Commission is authorized to enter into consent special orders, assurances of voluntary compliance or other similar documents by agreement with the person responsible for pollution of the air, subject to the provisions of subsection (a1) of this section regarding proposed orders, and such consent order, when entered into by the Commission after public review, shall have the same force and effect as a special order of the Commission issued pursuant to hearing.

(a1) Public Notice and Review of Consent Orders.

(1) The Commission shall give notice of a proposed consent order to the proper State, interstate, and federal agencies, to interested persons, and to the public. The Commission may also provide any other data it considers appropriate to those notified. The Commission shall prescribe the form and content of the notice. The notice shall be given at least ~~45~~ 30 days prior to any final action regarding the consent order. Public notice shall be given by publication of the notice ~~one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on the regulatory agency Web site.

(2) Any person who desires a public meeting on any proposed consent order may request one in writing to the Commission within 30 days following date of the notice of the proposed consent order. The Commission shall consider all such requests for meetings. If the Commission determines that there is significant public interest in holding a meeting, the Commission shall schedule a meeting and shall give notice of such meeting at least 30 days in advance to all persons to whom notice of the proposed consent order was given and to any other person requesting notice. At least 30 days prior to the date of meeting, the Commission shall also have a copy of the notice of the meeting published ~~at least one time in a newspaper having general circulation within the county in which the pollution originates.~~for 30 days on the regulatory agency Web site. The Commission shall prescribe the form and content of notices under this subsection.

...."

DISCLOSURE OF PERSONAL IDENTIFYING INFORMATION

SECTION 4.29.(a) G.S. 143-254.5 reads as rewritten:

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

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

SECTION 4.29.(b) G.S. 143B-289.52(h) reads as rewritten:

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

PROVIDE REGULATORY RELIEF BY INCREASING THRESHOLDS FOR MITIGATION OF LINEAR STREAM IMPACTS

SECTION 4.30.(a) The Environmental Management Commission shall amend its rules for water quality certifications (15A NCAC 2H .0501 through 2H .0507) to provide for all of the following:

(1) With respect to mitigation required for activities that result in the loss of a perennial stream or an ephemeral/intermittent stream, the requirement of

mitigation by the U.S. Army Corps of Engineers for less than 300 linear feet of streambed shall not be considered to be the mitigation required by the water quality certification, unless the Commission makes a specific finding based upon ecological, hydrological, or other scientific data that total, critical, and irreversible damage to existing uses of the stream will occur if no mitigation is required.

(2) In cases where more than 300 linear feet of streambed are lost, the Commission shall require mitigation at a one-to-one ratio only for the number of feet of streambed lost above 300 linear feet.

SECTION 4.30.(b) The Environmental Management Commission shall adopt temporary rules to implement this section no later than September 30, 2015. The Commission shall also adopt permanent rules to implement this section.

PIGEON HUNTING

SECTION 4.32. G.S. 113-129(15a) reads as rewritten:

"(15a) Wild Birds. – Migratory game birds; upland game birds; and all undomesticated feathered vertebrates. ~~The~~Except as otherwise provided in this subdivision, the Wildlife Resources Commission may by regulation list specific birds or classes of birds excluded from the definition of wild birds based upon the need for protection or regulation in the interests of conservation of wildlife resources. Pigeons are wild birds."

WILDLIFE RESOURCES COMMISSION STUDIES

SECTION 4.33.(a) The Wildlife Resources Commission shall review the methods and criteria by which it adds, removes, or changes the status of animals on the State protected animal list as defined in G.S. 113-331 and compare these to federal regulations and the methods and criteria of other states in the region. The Commission shall also review the policies by which the State addresses introduced species and make recommendations for improving these policies, including impacts associated with hybridization that occurs among federally listed, State-listed, and nonlisted animals.

SECTION 4.33.(b) The Wildlife Resources Commission shall report its findings and recommendations to the Environmental Review Commission by March 1, 2016.

SECTION 4.34.(a) The Wildlife Resources Commission shall establish a coyote management plan to address the impacts of coyotes in this State and the threats that coyotes pose to citizens, industries, and populations of native wildlife species within the State.

SECTION 4.34.(b) The Wildlife Resources Commission shall report its findings and recommendations, including any proposed legislation to address overpopulation of coyotes, to the Environmental Review Commission by March 1, 2016.

SECTION 4.35.(a) The Wildlife Resources Commission shall establish a pilot coyote management assistance program in Mitchell County. In implementing the program, the Commission shall document and assess private property damage associated with coyotes; evaluate effectiveness of different coyote control methodologies, including lethal removal; and evaluate potential for a scalable statewide coyote assistance program.

SECTION 4.35.(b) The Wildlife Resources Commission shall submit an interim report on the progress of the pilot program to the Environmental Review Commission by March 1, 2016. The Wildlife Resources Commission shall submit a final report on the results of the pilot program, including any proposed legislation, to the Environmental Review Commission by January 1, 2017.

ANIMAL WELFARE HOTLINE AND COURT FEE TO SUPPORT THE INVESTIGATION OF ANIMAL CRUELTY VIOLATIONS

SECTION 4.36.(a) Article 1 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-8.7. Reports of animal cruelty and animal welfare violations.**

(a) The Attorney General shall establish a hotline, to be known as the "NC Pets We Care Hotline," to receive reports of allegations of animal cruelty or violations of the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes, against animals under private ownership, by means including telephone, electronic mail, and Internet Web site. The Attorney General shall periodically publicize the hotline telephone number, electronic mail address, Internet Web site address, and any other means by which the Attorney General may receive reports of allegations of animal cruelty or violations of the Animal Welfare Act. Any individual who makes a report under this section shall disclose his or her name and telephone number and any other information the Attorney General may require.

(b) When the Attorney General receives allegations involving activity that the Attorney General determines may involve cruelty to animals under private ownership in violation of Article 47 of Chapter 14 of the General Statutes, the allegations shall be referred to the appropriate local animal control authority for the unit or units of local government within which the violations are alleged to have occurred. When the Attorney General receives allegations involving activity that the Attorney General determines may involve violations of the Animal Welfare Act, the allegations shall be referred to the Department of Agriculture and Consumer Services. The Attorney General shall record the total number of reports received on the hotline and the number of reports received against any individual on the hotline."

SECTION 4.36.(b) G.S. 7A-304(a) is amended by adding a new subdivision to read:

"**§ 7A-304. Costs in criminal actions.**

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section.

...

(14) For support of law enforcement in the investigation of violations of Article 47 of Chapter 14 of the General Statutes and Animal Welfare Act violations, the district or superior court judge shall, upon conviction of the defendant, order payment of the sum of two hundred fifty dollars ($250.00) to be remitted to the general fund of the local governmental unit that investigated the crime to be used for local animal control authorities."

SECTION 4.36.(c) Section 4.36(b) of this act becomes effective January 1, 2016, and applies to fees assessed or collected on or after that date. The remainder of this section is effective when this act becomes law.

AMEND STORMWATER MANAGEMENT LAW

SECTION 4.37.(a) Section 3 of S.L. 2013-82 reads as rewritten:

"**SECTION 3.** The Environmental Management Commission shall adopt rules implementing Section 2 of this act no later than ~~July 1, 2016.~~November 1, 2016."

SECTION 4.37.(b) G.S. 143-214.7 reads as rewritten:

"**§ 143-214.7. Stormwater runoff rules and programs.**

...

(b2) For purposes of implementing ~~stormwater programs,~~ State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(1) ~~"built-upon area"~~"Built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck or the water area of a swimming pool.

(2) Vegetative buffers adjacent to intermittent streams shall be measured from the center of the streambed.

(3) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(4) Development may occur within a vegetative buffer if the development complies with all applicable State and federal stormwater management requirements.

(5) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries.

...

(d) The Commission shall review each stormwater management program submitted by a State agency or unit of local government and shall notify the State agency or unit of local government that submitted the program that the program has been approved, approved with modifications, or disapproved. The Commission shall approve a program only if it finds that the standards of the program equal ~~or exceed~~ those of the model program adopted by the Commission pursuant to this section.

...."

SECTION 4.37.(c) No later than January 1, 2016, a State agency or local government that implements a stormwater management program approved pursuant to subsection (d) of G.S. 143-214.7 shall submit its current stormwater management program or a revised stormwater management program to the Environmental Management Commission. No later than July 1, 2016, the Environmental Management Commission shall review and act on each of the submitted stormwater management programs in accordance with subsection (d) of G.S. 143-214.7, as amended by this section.

SECTION 4.37.(d) The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall review the current status of State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State. The Commission shall specifically examine whether State statutes, session laws, rules, and guidance documents related to the management of stormwater in the State should be recodified or reorganized in order to clarify State law for the management of stormwater. The Commission shall submit legislative recommendations, if any, to the 2016 Regular Session of the 2015 General Assembly.

STUDY FLOOD ELEVATIONS AND BUILDING HEIGHT REQUIREMENTS

SECTION 4.38. The Department of Insurance, the Department of Public Safety, and the Building Code Council shall jointly study how flood elevations and building heights for structures are established and measured in the coastal region of the State. The Departments and the Council shall specifically consider how flood elevations and coastal building height requirements affect flood insurance rates and how height calculation methods might be made more consistent and uniform in order to provide flood insurance rate relief. In conducting this study, the Departments and the Council shall engage a broad group of stakeholders, including property owners, local governments, representatives of the surveying industry, and representatives of the development industry. No later than January 1, 2016, the Departments and the Council shall jointly submit the results of their study, including any legislative recommendations, to the 2015 General Assembly.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 5.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 5.2. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 765

Short Title:	Env. Technical Corrections.	(Public)
Sponsors:	Representative McElraft (Primary Sponsor). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-116 reads as rewritten:

"**§ 20-116. Size of vehicles and loads.**

...

(g) ...

(3) A truck, trailer, or other ~~vehicle:~~

~~a.~~ ~~Licensed~~ vehicle licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, or sift, or licensed for any gross vehicle weight and loaded with ~~sand; or~~sand,

~~b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;~~

shall not be driven or moved on any highway unless:

a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;

b. The load is securely covered by tarpaulin or some other suitable covering; or

c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

...."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-ASB-67 [v.2]

Amends Title [NO]
H765-PCS10404-TAf-7

Date _____,2015

Senator Alexander

moves to amend the bill on page 49, lines 16 through 33, by rewriting the lines to read:

"(4) Development may occur within a vegetative buffer if the development complies with all applicable State and federal stormwater management requirements and State requirements for protection of watersheds, control and prevention of sedimentation and erosion, and reduction and control of the pollutant loading that caused impaired water designations to be established by the Commission.

(5) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries.

...

(d) The Commission shall review each stormwater management program submitted by a State agency or unit of local government and shall notify the State agency or unit of local government that submitted the program that the program has been approved, approved with modifications, or disapproved. The Commission shall approve a program only if it finds that the standards of the program equal ~~or exceed~~ those of the model program adopted by the Commission pursuant to this ~~section.~~section and any other model program or regulatory requirement that the Commission applies to local governments for protection of water supply watersheds, control of erosion and sedimentation, and permits and programs to address impairments of water quality standards and uses.

...."".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-ASB-67 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-AST-104 [v.2]

Amends Title [NO]
H765-PCS10404-TAf7

Date _____,2015

Senator Wade

moves to amend the bill on page 11, lines 12-13, by inserting the following between those lines:

"OPEN AND FAIR COMPETITION WITH RESPECT TO THE MATERIALS USED IN WASTEWATER, STORMWATER, AND OTHER WATER PROJECTS

SECTION 3.9.(a) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.10. Public entities shall consider all acceptable piping materials in State funded water, wastewater, or stormwater projects.**

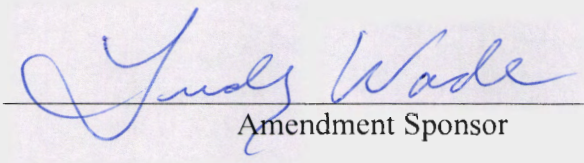
(a) Consideration of All Acceptable Piping Materials Required. – A public entity shall consider all acceptable piping materials before determining which piping material should be used in the construction, development, financing, maintaining, rebuilding, improving, repairing, procuring, or operating of a water, wastewater, or stormwater drainage project that is funded in whole or in part with State funds unless sound engineering practices, as determined by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes, suggest that one type of acceptable piping material is more suitable for a particular project.

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

(1) Acceptable Piping Material. – Piping material that meets or exceeds the standards issued by the American Society for Testing and Materials, the American Water Works Association, or the American Association of State Highway & Transportation Officials.

(2) Public Entity. – A State agency, county, city, sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes, authority created under Article 1 of Chapter 162A of the General Statutes, metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes, county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, or any other political subdivision of the State."

SECTION 3.9.(b) This section becomes effective October 1, 2015, and applies to projects initiated on or after that date.".

SIGNED  _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-ATQ-42 [v.7]

Amends Title [NO]
H765-pCS10404-TAf-7

Date _____,2015

Senator Brock

moves to amend the bill on page 13, lines 18 and 19, by inserting between those lines:

"CONFORM NORTH CAROLINA ALL-TERRAIN VEHICLE LAWS TO NATIONAL SAFETY AND DESIGN STANDARDS FOR YOUTH OPERATORS

SECTION 3.13(a) G.S. 20-171.15 reads as rewritten:

"**§ 20-171.15. Age restrictions.**

(a) It is unlawful for any parent or legal guardian of a person less than six~~eight~~ years of age to knowingly permit that person to operate an all-terrain vehicle.

~~(b) It is unlawful for any parent or legal guardian of a person less than 12 years of age to knowingly permit that person to operate an all-terrain vehicle with an engine capacity of 70 cubic centimeter displacement or greater.~~

(c) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle ~~with an engine capacity greater than 90 cubic centimeter displacement.~~in violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard.

(d) It is unlawful for any parent or legal guardian of a person less than 16 years of age to knowingly permit that person to operate an all-terrain vehicle unless the person is under the continuous visual supervision of a person 18 years of age or older while operating the all-terrain vehicle.

(e) ~~Subsections (b) and~~ Subsection (c) of this section ~~do~~ does not apply to any parent or legal guardian of a person born on or before August 15, 1997, who permits that person to operate an all-terrain vehicle and who establishes proof that the parent or legal guardian owned the all-terrain vehicle prior to August 15, 2005."

SECTION 3.13(b) G.S. 20-171.17 reads as rewritten:

"**§ 20-171.17. Prohibited acts by sellers.**

No person shall knowingly sell or offer to sell an all-terrain vehicle:

(1) For use by a person under the age of six~~eight~~ years.

(2) In violation of the Age Restriction Warning Label affixed by the manufacturer as required by the applicable American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) design standard for use by a person less than 16 years of age.~~With an engine~~

~~capacity of 70 cubic centimeter displacement or greater for use by a person less than 12 years of age.~~

~~(3) With an engine capacity of greater than 90 cubic centimeter displacement for use by a person less than 16 years of age.~~"

and on page ~~46~~ 47, lines ~~3~~ 13 and ~~4~~ 14, by inserting between those lines:

"**PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS**

SECTION 4.31.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.**

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.31.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-ATA-17 [v.2]

Amends Title [NO]
H765-PCS10404-TAf-7

Date _____,2015

Senator Barefoot

moves to amend the bill on page 18, lines 27 and 28,
by inserting between those lines:

"PROHIBIT IMPLEMENTATION AND ENFORCEMENT OF FEDERAL STANDARDS FOR WOOD HEATERS AND FOR FUEL SOURCES THAT PROVIDE HEAT OR HOT WATER TO A RESIDENCE OR BUSINESS

SECTION 4.3.(a) G.S. 143-215.107 reads as rewritten:

"**§ 143-215.107. Air quality standards and classifications.**

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

...

(10) ~~To~~ Except as provided in subsections (h) and (i) of this section, to develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

...

(h) With respect to any regulation adopted by the United States Environmental Protection Agency limiting emissions from wood heaters and adopted after May 1, 2014, neither the Commission nor the Department shall do any of the following:

(1) Issue rules limiting emissions from wood heaters to implement the federal regulations described in this subsection.

(2) Enforce against a manufacturer, distributor, or consumer the federal regulations described in this subsection.

(i) Neither the Commission nor the Department shall enforce any federal air emissions standard adopted by the United States Environmental Protection Agency after May 1, 2014, that would jeopardize the health, safety, or economic well-being of a citizen of this State through the regulation of fuel combustion that is used directly or indirectly to provide (i) hot water or comfort heating to a residence or (ii) comfort heating to a business."

SECTION 4.3.(b) G.S. 143-213 is amended by adding a new subdivision to read:

"(31) "Wood heater" means a fireplace, wood stove, pellet stove, wood-fired hydronic heater, wood-burning forced-air furnace, or masonry wood heater

or other similar appliance designed for heating a residence or business or for heating water for use by a residence through the combustion of wood or products substantially composed of wood."

AMEND PROCESS FOR STATE ADOPTION OF FEDERAL AIR QUALITY STANDARDS

SECTION 4.4.(a) 15A NCAC 02D .0524(c) (New Source Performance Standards). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.4(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .0524(c) (New Source Performance Standards) as provided in Section 4.4(b) of this act.

SECTION 4.4.(b) Implementation. – Notwithstanding 15A NCAC 02D .0524(c) (New Source Performance Standards), the Commission shall not adopt a new source performance standard promulgated in Part 60 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts new source performance standards promulgated in Part 60 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .0524(c) (New Source Performance Standards) consistent with Section 4.4(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.4(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.4.(d) Sunset. – Section 4.4(b) of this act expires on the date that the rule adopted pursuant to Section 4.4(c) of this act becomes effective.

SECTION 4.5.(a) 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.5(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) as provided in Section 4.5(b) of this act.

SECTION 4.5.(b) Implementation. – Notwithstanding 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology), the Commission shall not adopt maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts maximum achievable control technology standards promulgated in Part 63 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to

legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1111(c) (Maximum Achievable Control Technology) consistent with Section 4.5(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.5(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.5.(d) Sunset. – Section 4.5(b) of this act expires on the date that the rule adopted pursuant to Section 4.5(c) of this act becomes effective.

SECTION 4.6.(a) 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants). – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 4.6(c) of this act, the Commission and the Department of Environment and Natural Resources shall implement 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) as provided in Section 4.6(b) of this act.

SECTION 4.6.(b) Implementation. – 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants), the Commission shall not adopt national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations except by a three-fifths vote of the Commission. If the Commission adopts national emissions standards for hazardous air pollutants promulgated in Part 61 of Title 40 of the Code of Federal Regulations as provided in this section, those rules shall be subject to legislative review as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(c) Additional Rule-Making Authority. – The Environmental Management Commission shall adopt a rule to amend 15A NCAC 02D .1110(b) (National Emissions Standards for Hazardous Air Pollutants) consistent with Section 4.6(b) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 4.6(b) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.6.(d) Sunset. – Section 4.6(b) of this act expires on the date that the rule adopted pursuant to Section 4.6(c) of this act becomes effective.

SECTION 4.6A Effective January 1, 2016, the Environmental Management Commission shall not enforce any federal standard that was adopted by reference pursuant to 15A NCAC 02D .0524(c), 15A NCAC 02D .1111(c), and 15A NCAC 02D .1110(b) until such standards are readopted by the Commission as provided in sections 4.4, 4.5, and 4.6 of this act.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 765

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

H765-ATA-17 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name) Sign up - Speaker

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brooks Rainey Person	SELC
Matthew Starr	Upper Neuse Riverkeeper
Mary Maclean Asbill	SELC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Beam	EDF, NCWF
Cassie Gavin	Sierra Club
Name illegible	DPH DRUP/Bra & Co
Matthew Starr	Upper Neuse Riverkeeper
Brooks Rainey Pearson	SELC
Meg Macklin Ashley	SELC
Betsy McCorkle	NCSEA
Julie Robinson	NCSEA
Mia Bailey	Electricities
Phil Carter	WI
Skye David	KLG
Annaliese Dolph	DL
Dana Fenton	City of Charlotte
Matthew Dochen	NCDENR
Bruce Thompson	PARKER POE
Kathryn Robison	NCRMA
Molly Diggins	Sierra Club

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dusti Chard-Bayard	Sierra Club
Jonathan Hill	CTNC
Katie Buffkin	NCAEC
Amanda Tanaka	Troutman Sanders
Meghan Cook	OITS
Betsy Bailey	CAGC
David Crawford	AIA NC
Carr McLamb	TSS
[illegible]	Done
Hayden Bourgeois	FSP
[illegible]	MWC
Alex Hill	KCLG
Susan Kirk	Duke Energy
Nelson Freeman	NCDOR
Margaret Duke	OSHR
Reston Jones	NCDOT

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Pauy-Hiers	NCHFA
Natalie Hobson	NCHFA
Doug Lassiter	NCSTA
Chris Lindberg	
Jerry Sabill	NCFA
[illegible]	NA
Steven Wands	NCASA
[illegible]	[illegible]
[illegible]	[illegible]
Porky Pig	Warner Bros
Jay Stem	NCAA
[illegible]	Troutman Sanders
[illegible]	K&L Gates
David McGowan	NCPC
Tommy Sevier	NWA
Elizabeth Bise	BP
Deans Eatman	NCPC
Paul Sherman	NCFB

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Carpenter	NCFB
Colleen Kochanek	KCG
Joe Padilla	REBIC
[illegible]	NCDA&CS
[illegible]	CAA
Lisa Martin	CAA
Carson Thuis	MVA
David Lentz	Infiltration Water Technologies
Steven [illegible]	KTS
A Godwin	WRC
J Evans	WRC
Dan McLawhorn	Raleigh
Kevin McClees	McClees Consulting, Inc
Sarah Collins	NCLM
Erin Wynia	NCLM
Elizabeth Meredith	NCMB
Eric Mintz	NCRDC

VISITOR REGISTRATION SHEET

Argriculture/Environment/Natural Resources
(Committee Name)

June 29, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Hunser	T+TCG

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, July 15, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks – Senator Trudy Wade

Introduction of Pages

Introduction of Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 186	Cape Fear Water Resources Availability Study.	Representative Catlin Representative Szoka Representative Glazier

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, July 15, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on July 15, 2015 in Room 544 of the Legislative Office Building. Ten (10) members were present.

Senator Trudy Wade presided.

Senator Wade introduced the pages: Jenna Albert from Greensboro, NC sponsored by Senator Alexander, Kris Anna McLamb from Dunn, NC sponsored by Senator Brown, and Anna Beth McCormick from Apex sponsored by Senator Stein.

The Sgt-at-Arms were Terry Barnhardt and Carlton Lewis.

The following bill was discussed:

HB 186 Cape Fear Water Resources Availability Study. (Representatives Catlin, Szoka, Glazier)

There was a PCS to this bill. Senator Brock made a motion to accept the PCS. The motion carried.

Representative Catlin explained the bill which is a study bill.

There were questions from Senator Brent Jackson and also Senator Fletcher Hartsell for which Representative Catlin responded.

Senator Alexander made a motion for a Favorable Report to the PCS and Unfavorable Report to the Original Bill. The motion carried.

The meeting adjourned at 10:11 AM.

Trudy Wade
Senator Trudy Wade
Presiding

Robert Mays
Robert Mays, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, July 15, 2015

Senator Wade,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **186** **(CS#1)** Cape Fear Water Resources Availability Study.

Draft Number:	H186-PCS40482-TA-12
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Michael Lee will handle HB 186

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 186
Committee Substitute Favorable 4/16/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H186-PCS40482-TA-12

Short Title: Cape Fear Water Resources Availability Study. (Public)

Sponsors:

Referred to:

March 11, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO CONDUCT A STUDY OF WATER RESOURCES AVAILABILITY IN THE CAPE FEAR RIVER BASIN.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the aggregate uses of groundwater and surface water in or affecting the Cape Fear River Basin by all users, including, but not limited to, public water systems, industrial facilities, and agricultural operations. The study shall include all of the following elements: (i) a summary of the current and 50-year projected water-use demands along with the available water supplies for those portions of Alamance, Bladen, Brunswick, Caswell, Chatham, Columbus, Cumberland, Duplin, Durham, Guilford, Harnett, Hoke, Lee, Moore, New Hanover, Onslow, Orange, Pender, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, and Wake counties within the Cape Fear River Basin; (ii) an evaluation of the adequacy of currently available supplies to meet the expected long-term needs for all water demands, including the identification of those areas of the basin that do not have a sustainable long-term water supply for the anticipated growth of that area; (iii) the identification of potential conflicts among the various users and recommendations for developing and enhancing coordination among users and groups of users in order to avoid or minimize those conflicts; and (iv) an enhanced review of the portions of the Cape Fear River Basin within Brunswick, New Hanover, and Pender counties addressing the increased demands on groundwater and limited surface water options in that area.

All the information and any analytical tools, such as models, employed in the conduct of the study shall be made available electronically for public review and use on the Web site of the Department's Division of Water Resources.

The Environmental Review Commission may submit an interim report to the 2016 Regular Session of the 2015 General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the 2017 General Assembly.

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

HOUSE BILL 186:
Cape Fear Water Resources Availability Study

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	July 15, 2015
Introduced by:	Reps. Catlin, Szoka, Glazier	**Prepared by:**	Jennifer Mundt Committee Staff
Analysis of:	PCS to Second Edition H186-CSTA-12 [v.1]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 186 would direct the Environmental Review Commission (ERC), with the assistance of the Department of Environment and Natural Resources (DENR), to study the availability of surface water and groundwater resources in the Cape Fear River Basin.***

CURRENT LAW: G.S. 143-355(o) directs DENR to develop basinwide hydrologic models for each of the 17 major river basins in North Carolina that include surface water and groundwater resources within the river basin, transfers into and out of the river basin that are required to be registered pursuant to the statutes governing interbasin transfers, other withdrawals, ecological flow, in-stream flow requirements, projections of future withdrawals, an estimate of return flows within the river basin, inflow data, local water supply plans, and other information DENR deems relevant. The statute directs DENR to submit completed models to the Environmental Management Commission (EMC) for approval following notice and receipt of public comment.

BILL ANALYSIS: The PCS would direct the ERC, with DENR's assistance, to study the aggregate uses of and surface water and groundwater in or affecting the Cape Fear River Basin (Basin) by all users. The study must include the following:

- A summary of the current and 50-year projected water-use demands and the available water supply for the portions of the counties that are within the Basin.
- An evaluation of the adequacy of currently available supplies to meet long-range demand and identification of areas that do not have a sustainable long-term water supply to meet anticipated demand.
- Identification of potential conflicts among users and mechanisms for minimizing conflicts.
- An enhanced review of the increased demands on groundwater and limited surface water resources in the portions of Brunswick, New Hanover, and Pender counties located within the Basin.

The ERC may make an interim report to the 2016 General Assembly and must submit a final report of its findings and recommendations, including legislative proposals, to the 2017 General Assembly.

The PCS (i) removes the requirement that the study's findings be included in DENR's Basin Plan and (ii) makes technical changes.

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

O. Walker Reagan
Director

H186-SMTA-24 CSTA-12 -V3

Research Division
(919) 733-2578

BACKGROUND: According to the November 2014 DENR report on the development of basinwide hydrologic models, the Cape Fear River Basin model was first completed in 2003, was updated and validated by DENR in 2013, and presented to the EMC in 2014 for approval.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 186
Committee Substitute Favorable 4/16/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H186-CSTA-12 [v.1]

6/12/2015 3:53:03 PM

Short Title: Cape Fear Water Resources Availability Study. (Public)

Sponsors:

Referred to:

March 11, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO CONDUCT A STUDY OF WATER RESOURCES AVAILABILITY IN THE CAPE FEAR RIVER BASIN.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the aggregate uses of groundwater and surface water in or affecting the Cape Fear River Basin by all users, including, but not limited to, public water systems, industrial facilities, and agricultural operations. The study shall include all of the following elements: (i) a summary of the current and 50-year projected water-use demands along with the available water supplies for those portions of Alamance, Bladen, Brunswick, Caswell, Chatham, Columbus, Cumberland, Duplin, Durham, Guilford, Harnett, Hoke, Lee, Moore, New Hanover, Onslow, Orange, Pender, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, and Wake counties within the Cape Fear River Basin; (ii) an evaluation of the adequacy of currently available supplies to meet the expected long-term needs for all water demands, including the identification of those areas of the basin that do not have a sustainable long-term water supply for the anticipated growth of that area; (iii) the identification of potential conflicts among the various users and recommendations for developing and enhancing coordination among users and groups of users in order to avoid or minimize those conflicts; and (iv) an enhanced review of the portions of the Cape Fear River Basin within Brunswick, New Hanover, and Pender counties addressing the increased demands on groundwater and limited surface water options in that area.

All the information and any analytical tools, such as models, employed in the conduct of the study shall be made available electronically for public review and use on the Web site of the Department's Division of Water Resources.

The Environmental Review Commission may submit an interim report to the 2016 Regular Session of the 2015 General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the 2017 General Assembly.

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

H 2

HOUSE BILL 186
Committee Substitute Favorable 4/16/15

Short Title: Cape Fear Water Resources Availability Study. (Public)

Sponsors:

Referred to:

March 11, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ENVIRONMENTAL REVIEW COMMISSION TO CONDUCT A STUDY OF WATER RESOURCES AVAILABILITY IN THE CAPE FEAR RIVER BASIN.

The General Assembly of North Carolina enacts:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall study the aggregate uses of groundwater and surface water in or affecting the Cape Fear River Basin by all users, including, but not limited to, public water systems, industrial facilities, and agricultural operations. The study will include all of the following elements: (i) a summary of the current and 50-year projected water-use demands along with the available water supplies for those portions of Alamance, Bladen, Brunswick, Caswell, Chatham, Columbus, Cumberland, Duplin, Durham, Guilford, Harnett, Hoke, Lee, Moore, New Hanover, Onslow, Orange, Pender, Randolph, Richmond, Robeson, Rockingham, Sampson, Scotland, and Wake counties within the Cape Fear River Basin; (ii) an evaluation of the adequacy of currently available supplies to meet the expected long-term needs for all water demands, including the identification of those areas of the basin that do not have a sustainable long-term water supply for the anticipated growth of that area; (iii) the identification of potential conflicts among the various users and recommendations for developing and enhancing coordination among users and groups of users in order to avoid or minimize those conflicts; and (iv) an enhanced review of the portions of the Cape Fear River Basin within Brunswick, New Hanover, and Pender counties addressing the increased demands on groundwater and limited surface water options in that area.

The findings of the study will be included within the Department's Cape Fear River Basin Plan. All the information and any analytical tools, such as models, employed in the conduct of the study will be made available electronically for public review and use from the Web site of the Department's Division of Water Resources.

The Environmental Review Commission may submit an interim report to the 2016 Regular Session of the 2015 General Assembly and shall submit a final report of its findings and recommendations, including any legislative proposals, to the 2017 General Assembly.

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

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources

July 15, 2015

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
CHRIS DILLON	WAKE CO
Joy Hicks	NCDA&CS
Jackson Stancil	CCJ
Wynde Ring	NCDA & CJ
Clayton Dellinger	NCDA & CS
J. GRAMER SHERRILL	NCFB
Paul Sherman	NCFB
Tommy Stevens	NEPC
Wilson Jones	Jordan Price
Jamey Londerville	CFSA

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources

July 15, 2015

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cassie Gavin	Sierra Club
Jonathan Hill	CTNC
Boykin Lucas	NCCH
Nancy LaPlaca	NC WARN
Mia Bailey	ElectriCities
Peter Magnor	NCLCV
Tom Fransen	DWR NCDENR
M. Docklen	NCDENR
B. Knott	NC DENR
Donna B. Clark	UNC Dept Env.
Phoebe Landon	Brooks Pierce
Carr McLamb	TSS
Dev Sashidhar	—

09-21-201

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, July 22, 2015, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks – Senator Bill Cook

Introduction of Pages

Introduction of Sgt. at Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 553	Ordinances Regulating Animals.	Representative McGrady Representative Whitmire Representative Langdon Representative Dixon
HB 571	Implementation of Carbon Dioxide Regulations.	Representative McGrady Representative Hager Representative Robinson
HB 638	Capitalize on Wetland Mitigation.	Representative Millis Representative J. Bell Representative Pendleton

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, July 22, 2015 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on July 22, 2015 in Room 544 of the Legislative Office Building. Eighteen (18) members were present.

Senator Bill Cook presided.

Sgt.-at-Arms for today's meeting were Terry Barnhardt, Canton Lewis and Hal Roach

The pages for the meeting were: Maddie Cashion from High Point sponsored by Senator Brock, Joe Rodri from Raleigh sponsored by Senator Newton, Tristian Beard from Goldsboro sponsored by Senator Pate, Chase Cross from Denton sponsored by Senator Bingham, Rees Massarelli from Raleigh sponsored by Senator Stein, Taylor Dozier from Raleigh sponsored by Senator Stein, and Sam Stein of Raleigh sponsored by Senator Stein.

The following bills were discussed:

HB 553 Ordinances Regulating Animals. (Representatives McGrady, Whitmire, Langdon, Dixon)

Representative McGrady explained the bill. Senator Jackson presented an amendment. Representative McGrady did not have a problem with the amendment. The committee passed the amendment. Senator Ford made a motion for a Favorable Report to the Senate Committee Substitute Bill as amended and Unfavorable to Committee Substitute Bill No. 1. The motion carried.

HB 638 Capitalize on Wetland Mitigation. (Representatives Millis, J. Bell, Pendleton)

Representative Millis explained the bill. After discussion on this bill from members of the committee, Senator Bryant moved for a Favorable Report to the bill. The motion carried.

HB 571 Implement Clean Power Plan. (Representatives McGrady, Hager, Robinson)

There was a PCS on this bill. Senator Rabin made a motion to accept the PCS and the motion carried.

Senator Trudy Wade explained the bill. After much discussion from the members of the committee, the floor was opened for public comment. The following people spoke on the bill:

Secretary Donald van der Vaart of DENR spoke about his concern for this bill.

Harvey Richmond of the Sierra Club spoke against the bill (PCS).

Donald Bryson of Americans for Prosperity spoke in support of the PCS.

Brooks Rainey Pierson of the Southern Environmental Law Center spoke to counter the false information that the Clean Power Plan would increase costs for businesses, and energy consumers in North Carolina.

Senator Bingham moved for a Favorable Report to the PCS and Unfavorable to the Original Bill. The motion carried.

The meeting adjourned at 10:48 AM.

Bill Cook

Senator Bill Cook, Presiding

Judy Edwards

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, July 22, 2015

Senator Cook,
submits the following with recommendations as to passage:

FAVORABLE

HB **638** Capitalize on Wetland Mitigation.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **571** Implementation of Carbon Dioxide Regulations.

Draft Number:	H571-PCS30408-SB-15
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **553 (CS#1)** Ordinances Regulating Animals.

Draft Number:	H553-PCS10421-TQ-30
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 3

Senator Andrew Brock will handle HB 638
Senator Trudy Wade will handle HB 571
Senator W. Jackson will handle HB 553

HOUSE BILL 553:
Ordinances Regulating Animals

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	July 22, 2015
Introduced by:	Reps. McGrady, Whitmire, Langdon, Dixon	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 553 would limit the authority of cities and counties to enact ordinances regulating standards of care for farm animals.

CURRENT LAW: Cities and counties are authorized by ordinance to:

- Define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances (G.S. 160A-174; G.S. 153A-121).
- Define and prohibit the abuse of animals (G.S. 160A-182; G.S. 153A-127).
- Regulate, restrict, or prohibit the possession or harboring within the city of animals which are dangerous to persons or property (G.S. 160A-187; G.S. 153A-131).

Farm animals are covered by the criminal prohibition against cruelty to animals (G.S. 14-360) subject to the exceptions in that section, but there are no other State standards of care for farm animals.

BILL ANALYSIS: House Bill 553 would limit the authority of cities and counties to enact ordinances regulating standards of care for farm animals. Under the bill, "farm animals" include the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry; and "standards of care for farm animals" includes the construction, repair, or improvement of farm animal shelter or housing, restrictions on the type of feed or medicines that may be administered to farm animals, and exercise and social interaction requirements.

EFFECTIVE DATE: This act would become effective when it becomes law.

Layla Cummings, committee counsel to House Agriculture, substantially contributed to this summary.

O. Walker Reagan
Director

H553-SMTQ-55 E2 -V2

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 553
Committee Substitute Favorable 4/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H553-PCS10421-TQ-30

Short Title: Ordinances Regulating Animals. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY OF CITIES AND COUNTIES TO ADOPT ORDINANCES REGARDING ANIMALS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-145.4. Limitations on standards of care for farm animals.**

Notwithstanding any other provision of law, no county ordinance may regulate standards of care for farm animals. For purposes of this section, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-203.1. Limitations on standards of care for farm animals.**

Notwithstanding any other provision of law, no city ordinance may regulate standards of care for farm animals. For purposes of this section, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry flocks of greater than 20 birds."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 553
Committee Substitute Favorable 4/21/15

Short Title: Ordinances Regulating Animals. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY OF CITIES AND COUNTIES TO ADOPT ORDINANCES REGARDING ANIMALS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-145.3. Limitations on standards of care for farm animals.**

Notwithstanding any other provision of law, no county ordinance may regulate standards of care for farm animals. For purposes of this section, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-203.1. Limitations on standards of care for farm animals.**

Notwithstanding any other provision of law, no city ordinance may regulate standards of care for farm animals. For purposes of this section, "standards of care for farm animals" includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and exercise and social interaction requirements. For purposes of this section, the term "farm animals" includes the following domesticated animals: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 553

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

H553-ATQ-49 [v.2]

Amends Title [NO]
Second Edition

Date _____,2015

Senator _____

moves to amend the bill on page 1, line 7, by rewriting the line to read:

""**§ 153A-145.4. Limitations on standards of care for farm animals.**";

and on page 1, line 26, by rewriting the line to read:

"poultry flocks of greater than 20 birds."".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 638:
Capitalize on Wetland Mitigation

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	July 21, 2015
Introduced by:	Reps. Millis, J. Bell, Pendleton	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 639 would direct the Department of Environment and Natural Resources (DENR) to work in cooperation with the Wildlife Resources Commission (WRC) to take various actions to facilitate increased wildlife habitats and hunting opportunities in compensatory mitigation activities. In addition, the bill would require that DENR inventory all land holdings of its Office of Land and Water Stewardship to determine how many of those holdings are potential wildlife habitats, issue a request for proposal to all parties interested in purchase of the land, and dispose of the land if certain criteria are met concerning maintenance of management measures and provision of recreational access.

BACKGROUND AND CURRENT LAW:

Federal and State law requires developers, which can include the State, the federal government, and local governments, as well as private developers, to avoid, minimize, or mitigate damage to wetlands. One of the measures available to developers is the payment of fees into public or private programs that offset the actions of the developers with projects that restore, create, enhance, or preserve natural resources similar to those that were lost. A developer may generally do this in one of two ways.

- The developer may buy credits from a compensatory mitigation bank that has already restored, created, enhanced, or preserved natural resources. There are a number of such approved banks operating in North Carolina.
- The developer may pay compensatory mitigation to public entities or private nonprofit conservation organizations. Under this type of arrangement, the fees are typically accumulated to establish consolidated mitigation projects. This is the system employed by the Division of Mitigation Services in DENR, which operates programs for wetlands mitigation, among other things.

BILL ANALYSIS: House Bill 638 would direct DENR to:

- Seek more net gains of aquatic resources through compensatory mitigation by increasing wetland establishment of diverse habitats, including emergent marsh habitat, shallow open water, and other forested and non-forested wetland habitats.
- Establish with the district engineer of the Wilmington District of the United States Army Corps of Engineers compensatory mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats to support waterfowl and other wildlife.

O. Walker Reagan
Director

* H 6 3 8 - S M R I - 2 7 E 2 - V 2 *

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- Work in cooperation with the WRC to ensure that all purchased mitigation lands or conservation easements on such lands maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity. DENR and WRC must pursue the voluntary involvement of third-party groups to leverage resources and ensure that there is no additional cost to private mitigation bankers or the taxpayers in achieving these mitigation credits.
- Catalog an inventory of all land holdings of the Office of Land and Water Stewardship (Office), and determine how many of those holdings are potential wildlife habitats, either as currently held or with some modification. WRC must conduct a third-party review of this inventory.

The bill would provide that if private individuals, corporations, or other nongovernmental entities wish to purchase any of the inventory of land suitable for wildlife habitat, then the Office must issue a request for proposal to all interested respondents for the purchase of the land, and the State must accept a proposal and proceed to dispose of the land only if the Department determines that the proposal meets both of the following requirements:

(1) The proposal provides for the maintenance in perpetuity of management measures listed in the original mitigation instrument or otherwise needed on an ongoing or periodic basis to maintain the functions of the mitigation site.

(2) Where the functions of the mitigation site include provision of recreation or hunting opportunities to members of the general public, the proposal includes measures needed to continue that level of access.

DENR would be required to report to the Environmental Review Commission by March 1 of each year on its progress in complying with the provisions of the bill.

EFFECTIVE DATE: This bill would be effective when it becomes law.

HOUSE BILL 638
Second Edition Engrossed 4/20/15

Short Title:	Capitalize on Wetland Mitigation.	(Public)
Sponsors:	Representatives Millis, J. Bell, and Pendleton (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Environment.	

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN COOPERATION WITH THE WILDLIFE RESOURCES COMMISSION, TO TAKE ACTION THAT ENCOURAGES WETLAND MITIGATION PRACTICES SUPPORTIVE OF PUBLIC RECREATION AND HUNTING ON MITIGATION SITES.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to capitalize on the establishment of public and private wetland mitigation banks that serve to meet federal mitigation requirements for wildlife habitat and hunting opportunities. The directives to Department of Environment and Natural Resources and the Wildlife Resources Commission enacted in this act are intended to facilitate voluntary cooperation by third-party groups to realize the goal of increased wildlife habitats and hunting opportunities on lands contained within public and private wetland mitigation banks through the pursuit of federal mitigation credits without increasing the cost of achieving those credits.

SECTION 2. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.15. Compensatory mitigation for diverse habitats.**

(a) The Department of Environment and Natural Resources shall seek more net gains of aquatic resources through compensatory mitigation by increasing wetland establishment of diverse habitats, including emergent marsh habitat, shallow open water, and other forested and non-forested wetland habitats.

(b) The Department of Environment and Natural Resources shall further establish with the district engineer of the Wilmington District of the United States Army Corps of Engineers compensatory mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats to support waterfowl and other wildlife.

(c) The Department of Environment and Natural Resources shall work in cooperation with the Wildlife Resources Commission to ensure that all purchased mitigation lands or conservation easements on these lands maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity. The Department and the Commission shall pursue the voluntary involvement of third-party groups to leverage resources and ensure that there is no additional cost to private mitigation bankers or the taxpayers in achieving these mitigation credits.

(d) The Office of Land and Water Stewardship of the Department of Environment and Natural Resources shall catalog an inventory of all its land holdings and determine how many

of those holdings are potential wildlife habitats, either as currently held or with some modification. The Wildlife Resources Commission shall conduct a third-party review of this inventory, and the Commission and the Office of Land and Water Stewardship shall both report their findings to the Environmental Review Commission as part of the report required under subsection (f) of this section.

(e) If private individuals, corporations, or other nongovernmental entities wish to purchase any of the inventory of land suitable for wildlife habitat, then the Office of Land and Water Stewardship of the Department of Environment and Natural Resources shall issue a request for proposal to all interested respondents for the purchase of the land, and the State shall accept a proposal and proceed to dispose of the land only if the Department determines that the proposal meets both of the following requirements:

(1) The proposal provides for the maintenance in perpetuity of management measures listed in the original mitigation instrument or otherwise needed on an ongoing or periodic basis to maintain the functions of the mitigation site.

(2) Where the functions of the mitigation site include provision of recreation or hunting opportunities to members of the general public, the proposal includes measures needed to continue that level of access.

The instrument conveying a property interest in a mitigation site shall be executed in the manner required by Article 16 of Chapter 146 of the General Statutes, and shall reflect the requirements of this subsection.

(f) The Department of Environment and Natural Resources shall report to the Environmental Review Commission by March 1 of each year on its progress in complying with the provisions of this section."

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

HOUSE BILL 571:
Judicial Review of EPA Clean Power Plan

2015-2016 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	July 22, 2015
Introduced by:	Reps. McGrady, Hager, Robinson	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H571-CSSB-15 [v.5]		

SUMMARY: The Proposed Committee Substitute for House Bill 571 (PCS) would prohibit the State from implementing the EPA Clean Power Plan until such time as federal judicial review of the Plan has been fully resolved or July 1, 2016, whichever is later.

BACKGROUND: The United States Environmental Protection Agency (EPA) is currently developing regulations for emissions of carbon dioxide from power plants (EPA Clean Power Plan). These regulations are expected to be finalized during August of 2015 and are expected to require states to develop plans to implement the regulations (State Plan).

BILL ANALYSIS: The PCS would provide that no State agency, board, or commission could adopt rules, expend funds, or take any other action to develop a State Plan or implement the EPA Clean Power Plan until such time as federal judicial review of the EPA Clean Power Plan has been fully resolved or July 1, 2016, whichever is later.

EFFECTIVE DATE: The PCS would become effective when it becomes law.

O. Walker Reagan
Director

H571-SMSB-28 CSSB-15 -V3

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 571
PROPOSED SENATE COMMITTEE SUBSTITUTE H571-PCS30408-SB-15

Short Title: Judicial Review of EPA Clean Power Plan. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT STATE AGENCIES, BOARDS, AND COMMISSIONS FROM IMPLEMENTING THE EPA CLEAN POWER PLAN UNTIL JUDICIAL REVIEW OF THE PLAN IS RESOLVED OR JULY 1, 2016, WHICHEVER IS LATER.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act:

(1) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.

(2) "EPA Clean Power Plan" means the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA.

(3) "State Plan" means the State Plan authorized by the EPA Clean Power Plan.

SECTION 2. Notwithstanding any other provision of law, no State agency, board, or commission may adopt rules, expend funds, or take any other action to develop a State Plan or implement the EPA Clean Power Plan until such time as federal judicial review of the EPA Clean Power Plan has been fully resolved or July 1, 2016, whichever is later.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 571
PROPOSED SENATE COMMITTEE SUBSTITUTE H571-CSSB-15 [v.5]

7/15/2015 11:08:44 AM

Short Title: Judicial Review of EPA Clean Power Plan. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT STATE AGENCIES, BOARDS, AND COMMISSIONS FROM IMPLEMENTING THE EPA CLEAN POWER PLAN UNTIL JUDICIAL REVIEW OF THE PLAN IS RESOLVED OR JULY 1, 2016, WHICHEVER IS LATER.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act:

(1) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.

(2) "EPA Clean Power Plan" means the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA.

(3) "State Plan" means the State Plan authorized by the EPA Clean Power Plan.

SECTION 2. Notwithstanding any other provision of law, no State agency, board, or commission may adopt rules, expend funds, or take any other action to develop a State Plan or implement the EPA Clean Power Plan until such time as federal judicial review of the EPA Clean Power Plan has been fully resolved or July 1, 2016, whichever is later.

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

HOUSE BILL 571

Short Title:	Implementation of Carbon Dioxide Regulations.	(Public)
Sponsors:	Representatives McGrady, Hager, and Robinson (Primary Sponsors). *For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*	
Referred to:	Environment.	

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A STATE IMPLEMENTATION PLAN IN COMPLIANCE WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S REGULATION OF CARBON DIOXIDE EMISSIONS FOR EXISTING STATIONARY SOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act:

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

(2) "Electric generating unit" means a steam generating unit, an integrated gasification combined cycle facility, or a stationary combustion turbine regulated under the EPA Clean Power Plan.

(3) "Electric power supplier" means a public utility, an electric membership corporation, or a municipality that sells electric power to the retail electric power customers in the State.

(4) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.

(5) "EPA Clean Power Plan" means the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA.

(6) "State Plan" means the State Plan authorized by the EPA Clean Power Plan.

SECTION 2. In accordance with the requirements of the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA, the Department of Environment and Natural Resources shall develop a State Plan for compliance with the EPA Clean Power Plan. In developing the State Plan, the Department shall do all of the following:

(1) Develop the State Plan in consultation with the Environmental Management Commission and the Utilities Commission.

(2) Establish a State Plan Advisory Board to assist it with the development of the State Plan. The State Plan Advisory Board shall consist of all of the following:

a. Representatives of other State agencies with expertise related to the development of the State Plan or responsibility for implementing the State Plan, including the Governor's Office.
b. Representatives of electric power consumers, including the Public Staff of the Utilities Commission.
c. Representatives of electric power suppliers.
d. Representatives of nongovernmental environmental protection and conservation organizations.
e. Representatives of businesses that provide renewable energy or renewable energy equipment and infrastructure.
f. Representatives of scientific, academic, or research institutions with expertise in electric power generation and supply, the regulation and management of carbon dioxide emissions, and the public health effects of carbon dioxide emissions.
g. Persons or representatives of any other entities that the Department determines could provide assistance in the development of the State Plan.

(3) Hold at least three public hearings no later than February 1, 2016, for the purpose of obtaining evidence and information regarding the development of the State Plan. The Department shall have the power to subpoena witnesses for such purposes. One of these public hearings shall be held in the mountain region of the State, one in the central region of the State, and one in the coastal region of the State. The Department may hold additional public hearings for the purpose of obtaining evidence and information regarding the development of the State Plan. The Department shall accept and consider all oral testimony received regarding the development of the State Plan.

(4) Establish a Web site capable of receiving written testimony regarding the development of the State Plan and to inform the public of the Department's progress in implementing this act. The Department shall accept and consider all written testimony submitted regarding the development of the State Plan.

(5) Determine how much credit the State will receive toward meeting carbon dioxide reduction goal set out in the EPA Clean Power Plan based on actions the State has already taken to encourage the development of renewable energy sources and to reduce emissions from electric generating units.

(6) Consider all of the following in the development of the State Plan:

a. Whether to rely on measures the Environmental Protection Agency used to calculate the carbon dioxide reduction goal, as well as other measures that were not part of the Environmental Protection Agency's goal-setting process.
b. Whether the State should participate in multistate carbon dioxide reduction programs that already exist, or whether a new multistate carbon dioxide reduction program should be established.
c. Whether the State should collaborate with one or more other states for purposes of compliance with the EPA Clean Power Plan.
d. Whether the State should invest in energy efficiency programs to assist in complying with the EPA Clean Power Plan.
e. When individual electric generating units must make reductions.
f. How to provide flexibility to electric power suppliers in complying with the State Plan.
g. The extent to which any of the following should be included in the State Plan:

1. Demand-side energy efficiency programs.
2. Renewable energy standards.
3. Efficiency improvements at existing electric generating units.
4. Cofiring or switching to natural gas, transmission efficiency improvements, and energy storage technologies, to the extent the EPA allows these measures for compliance with the EPA Clean Power Plan.
5. The retirement or deactivation of existing electric generating units.
6. The expansion of nonremitting sources, such as nuclear power.
7. Market-based trading.
8. Other energy conservation programs.
9. Other methods of compliance.

h. How best to avoid stranded investments in existing electric generating units, including a consideration of the remaining useful life of each electric generating unit.

(7) Prioritize the components of the State Plan based on a least-cost compliance approach to benefit the retail electric power customers in the State.

(8) Consider the necessity and value of having a diverse generation fleet to ensure electric reliability in the State.

(9) Consider the feasibility and value of including in the State Plan a process that would allow exceedances of the EPA Clean Power Plan to occur within the State when necessary to ensure reliable electric service, maintain safe operations, or prevent excessive increases in rates. If the Department determines that the State Plan should include such a process, the Department shall work with the Utilities Commission and the State Plan Advisory Board to define excessive increases in rates.

(10) Consider whether to request from the Environmental Protection Agency an extension of time from the June 30, 2016, State Plan submission deadline in order to fully consider the factors set out in this act and to allow adequate time for the State to enact or amend applicable State law necessary for establishment of a State Plan that will comply with the requirements of the EPA Clean Power Plan. Notwithstanding this subdivision, the Department shall submit all the information required for initial submittals under the EPA Clean Power Plan.

(11) Meet at least monthly with the Environmental Management Commission, the Utilities Commission, and the Advisory Board in the development of the State Plan.

SECTION 3. The Department shall provide interim reports on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than October 1, 2015, and January 1, 2016. The Department shall provide a final report on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than April 1, 2016.

SECTION 4. The State Plan established by the Department pursuant to this act or any other State or federal law shall have no legal effect if any of the following occurs:

(1) The Environmental Protection Agency fails to issue or withdraws the EPA Clean Power Plan.

(2) A court of competent jurisdiction invalidates the EPA Clean Power Plan.

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

VISITOR REGISTRATION SHEET

Joint Oversight Committee on Information Technology
(Committee Name)

July 22, 2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Becki Gray	GOT
Donald Bryson	AFP
[illegible]	[illegible]
Jonathan [illegible]	CTNC
Sam Mon[illegible]	Gov. Office
[illegible]	[illegible]
Rick Zechini	WR
Clayton Pellinger	NCDA&CS
JEFF BARNHART	MWC
Laura Payne	NC Grange
Phoebe Landon	Brooks Pierce
Evan Miller	NMRS
JERRY COHEN	NMRS
[illegible]	Gov. office
[illegible]	NC Gov

09-21-201

VISITOR REGISTRATION SHEET

Joint Oversight Committee on Information Technology
(Committee Name)

July 22, 2015
Date

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NAME	FIRM OR AGENCY AND ADDRESS
Kara Weishaar	SA
Mark Swanson	Sierra Club
Jacqueline Ayala	Sierra Club
Emily Cedzo	Sierra Club
Will Summer	DENR
Tony Wike	NCUC - Public Staff
Tim Baumgarten	DENR - DMS
John Evans	DENR
D. van der Vaart	DENR
Matthew Dochtom	DENR
Stephanie Hawco	DENR
Crystal Feldman	DENR
Cindy McCall	NCCN
Mary Maddux Ashley	SELC
Brooks Rainey Pearson	SELC
Dustin Chicurel-Barger	Sierra Club.

VISITOR REGISTRATION SHEET

Joint Oversight Committee on Information Technology
(Committee Name)

July 22, 2015
Date

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NAME	FIRM OR AGENCY AND ADDRESS
Harvey Richmond	Sierra Club, 106 Hebridge Ct Cary, NC 27513
Tom BEAN	EDF
Paul Sherman	NCFB
JAKE PARKER	NCFB
GRAYER SHERILL	NCFB
Jake Cashion	PCC
JGOODMAN	NC CHAMBER
Tommy Stevens	NCPC
Sarah Collins	NCLM
Welden	Jordan Price
Will Culpepper	MVA
Jon Carr	Jordan Price
STEVEN WARREN	NCHBA
CHRIS DILLON	AALE
J Peters	CSS
Jacob Yarborough	Millis Intern
LC Penegar	CSS

09-21-201

Rob Hunter

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Joint Oversight Committee on Information Technology
(Committee Name)

July 22, 2015
Date

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Brad Knott	DENR
John McMillan	MF+S
John Hardi	MF+S
Peter Maguer	NCLCV
Brandon Anderson	NCGA
DAN Crawford	NCLCV
Paul Nanaste	Sierra Club
Rochelle Sparko	CFSA
Daniel Choyce	Sierra Club
Alex Bowen	CCS
Brad Horick	NCDEFA
Jackson Jenkins	CCS
Sue Leary	NCHC
John Cooper	CCS
Mio Bailey	ElectriCities
Anne Link	CFSA

09-21-201

VISITOR REGISTRATION SHEET

Joint Oversight Committee on Information Technology
(Committee Name)

July 22, 2015
Date

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NAME	FIRM OR AGENCY AND ADDRESS
Richard Eder	NCCN
Tracy Kimbrell	Parker Poe
Whitney Christianson	Ward & Smith, P.A.

09-21-201

MEMBERSHIP

SENATE AGRICULTURE / ENVIRONMENT / NATURAL RESOURCES COMMITTEE

2015 -2016

Senator Andrew Brock, Co-Chair
Room 523, LOB (919) 715-0690
Judy Edwards

Senator Bill Cook, Co-Chair
Room 525, LOB (919) 715-8293
Jordan Hennessy

Senator Trudy Wade, Co -Chair
Room 2106, LB (919) 733-5856
Robert Mays, Kathy Hartsell

Senator John Alexander
Room 2115, LB (919) 733-5850
Danielle Albert

Senator Chad Barefoot
Room 308, LOB (919)715-3036
Eric Naisbitt

Senator Stan Bingham
Room 625, LOB (919) 733-5665
Maria Kinnaird

Senator Angela Bryant
Room 520, LOB (919)733-5878
Karon Hardy

Senator Joel Ford
Room 1119, LB (919)733-5955
Jackie Ray

Senator Valerie Foushee
Room 517 LOB (919) 733-5804
James Spivey

Senator Fletcher Hartsell
Room 627, LOB (919) 733-7223
Gerry Johnson

Senator Brent Jackson
Room 2022, LB (919)733-5705
Ross Barnhardt

Senator Jeff Jackson
Room 1104, LB (919) 715-8331
Ted Harrison

Senator Tom McInnis
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Libby Spain

Senator Ronald Rabin
Room 411, LOB (919)733-5748
Sherri Hood

Senator Bill Rabon
Room 311, LOB (919) 733-5963
Paula Covington Fields

Senator Shirley Randleman
Room 628, LOB (919) 733-5743
Jeb Kelly

Senator Erica Smith-Ingram
Room 1121, LB (919)715-3040
Angelicia Simmons

Senator Tommy Tucker
Room 1127, LB (919) 733-7659
Joey Stansbury

Bill Index

DATE	Bill No.	Title of Bill
May 25, 2016	SB 770	NC Farm Act of 2016
June 9, 2016	HB 591	Study Roanoke Island Festival at Park Governance
June 15, 2016	HB 763	Military Operations Protection Act of 2016
June 16, 2016	HB 593	Amend Environmental & Other Laws
June 22, 2016	HB 992	Amend Industrial Hemp Program
	HB 345	Northampton Shooting Ranges

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Thursday, May 19, 2016 12:01 PM
To: Sen. Andrew Brock; Sen. Brent Jackson; Sen. Bill Cook
Cc: Judy Edwards (Sen. Andrew Brock); Ross Barnhardt (Sen. Brent Jackson); Angela McMillan (Rep. Darren Jackson); Jordan Hennessy (Sen. Bill Cook)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, May 25, 2016 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	May 25, 2016	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 770	DACS Enforcement Authority/Bedding.	Senator B. Jackson Senator Brock Senator Cook

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 25, 2016, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Trudy Wade

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 770	DACS Enforcement Authority/Bedding.	Senator B. Jackson Senator Brock Senator Cook

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 25, 2016 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 25, 2016 in Room 544 of the Legislative Office Building. There were 15 members present.

Senator Trudy Wade presided.

Senator Wade introduced the Sgt.-At-Arms – Steve McKaig, Hal Roach, and Steve Wilson.

Senator Wade introduced the pages: Benji Jack from Cliffsive sponsored by Senator Hise; Jay Craig from Holden Beach, sponsored by Senator Rabon; Kameron Ketner from Durham sponsored by Curtis; Carolina Sanchez from Burnsville sponsored by Senator Hise; Elise Tison from Bakersville sponsored by Senator Hise; Avery Hilbert from Wilmington sponsored by Senator Lee; Aubrey Hill from Charlotte sponsored by Senator Pate; McCall Holland from Ocean Isle Beach sponsored by Senator Rabon; Louis Frink from Wilbon sponsored by Senator Barringer.

The following bill was heard:

SB 770 NC Farm Act of 2016. (Senators B. Jackson, Brock, Cook)

There was a PCS for this bill. Senator Brock made a motion to accept the PCS. The motion carried.

Senator Brent Jackson and Senator Andrew Brock explained the bill.

Senator Wade turned the floor over to the members for questions. There were questions from Senator Bryant, Senator Smith-Ingram, Senator Wade, Senator Jeff Jackson, and Senator Tucker. After much discussion on the bill from the members, Senator Wade opened the floor for public comment.

Public Comment on the bill:

Tim Minton – North Carolina Homebuilders Association thanked the committee for Section 13 of the bill.

Matthew Starr – Upper Neuse Riverkeepers stated that they have problems with Section 12 & 14 of the bill.

Senator McInnis made a motion for a Favorable Report to the PCS. The motion carried. There was a recommended referral to Finance or JI or JII.

The meeting adjourned at 10:44 AM

Senator Trudy Wade, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, May 25, 2016

Senator Wade,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB **770** DACS Enforcement Authority/Bedding.

Draft Number:	S770-PCS15378-TQxf-37
Sequential Referral:	Judiciary II
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Brent Jackson will handle SB 770

SENATE BILL 770:
NC Farm Act of 2016.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	May 25, 2016
Introduced by:	Sens. B. Jackson, Brock, Cook	**Prepared by:**	Chris Saunders Committee Counsel
Analysis of:	PCS to First Edition S770-CSTQxf-37 [v.16]		

SUMMARY: ***The Proposed Committee Substitute (PCS) to Senate Bill 770 would make various changes to agricultural, wildlife, taxation, and Building Code laws.***

[As introduced, this bill was identical to H993, as introduced by Reps. Brody, Dixon, Langdon, Steinburg, which is currently in House Agriculture.]

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would grant the Department of Agriculture and Consumer Services (DACS) several new powers to enforce the DACS bedding sanitation program. This section would grant DACS the authority to detain or embargo bedding products suspected of being adulterated or misbranded, and allow DACS to petition for the products to be condemned. This section would also authorize the Commissioner of Agriculture (Commissioner) to petition the superior court for an injunction and assess a civil penalty of not more than $2,500 against a person in violation of the bedding laws. This section would also make a violation of the bedding laws a Class 2 misdemeanor.

This section would become effective December 1, 2016, and would apply to offenses committed on or after that date.

Section 2 would authorize DACS to appoint and deploy agricultural emergency response teams (AERTs) to respond to agricultural emergencies. AERTs would be employees of DACS and personnel operating with DACS as a contracted service, whom the Commissioner designates to respond to agricultural emergencies. AERTs would have the same immunity from liability in responding to agricultural emergencies as other emergency response agencies covered by the North Carolina Emergency Management Act. DACS would be authorized to use any unrestricted funds available to it that have been allocated by the General Assembly from the General Fund.

This section would become effective July 1, 2016.

Section 3 would authorize employees of the Wildlife Resources Commission and employees of federal agencies whose responsibilities include fisheries and wildlife management, such as the Animal and Plant Health Inspection Service of the United States Department of Agriculture (USDA-APHIS), to cull feral swine from aircraft with the written permission of the landowner. This activity would be prohibited in coastal counties during waterfowl season.

Section 4 would eliminate the rendering plant inspection committee, which is composed of an employee of DACS, an employee of the Department of Health and Human Services, and a person having practical knowledge of rendering operations, and direct the Commissioner or the Commissioner's designee to inspect rendering operations.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

Section 5 would require that both elected and appointed soil and water district supervisors annually receive six hours of training in soil, water, and natural resources conservation and the duties and responsibilities of district supervisors. Under current law, training is required only for elected district supervisors.

Section 6 would direct the Board of Agriculture, rather than the Animal Welfare Section of DACS, to adopt rules detailing eligible expenses and application guidelines for the Animal Shelter Support Fund ("Fund"). The Animal Welfare Section does not have rulemaking authority. This section would also give the Board of Agriculture temporary rulemaking authority to administer the Fund.

Section 7 would exempt the Board of Agriculture from the rulemaking requirements of the Administrative Procedure Act with respect to the adoption of fee schedules for the preparation of forest management plans by the North Carolina Forest Service.

Section 8 would allow local school boards to develop and implement policies to facilitate and maximize purchases of food grown or raised in North Carolina, including policies that allow a percentage price preference for the purpose of procuring food grown or manufactured within the State. The federal Food, Conservation, and Energy Act of 2008 authorized institutions receiving funds under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to use a geographic preference for procurement of local unprocessed agricultural products (Public Law No. 110-234, Section 4302).

Section 9 would create an exemption for chorionic gonadotropin from the list of Schedule III controlled substances when administered by injection for veterinary use by or upon the order of a licensed veterinarian.

Section 10 would extend the sunset for the production credit for commercial facilities for processing renewable fuel from January 1, 2017 to January 1, 2020.

Section 11 would create a voluntary assessment on farmed cervid feed to be administered by the North Carolina Deer and Elk Farmers Association ("Association"), not to exceed four dollars ($4.00) per ton of farmed cervid feed. The assessment may not be levied for a period longer than ten years. All funds paid into the assessment are refundable upon written request to the Association.

Section 12 would exempt water withdrawals for agricultural purposes on a bona fide farm or a silviculture operation from capacity use area water withdrawal permitting requirements. Agricultural water users would be required to register their surface and groundwater withdrawals with the Division of Water Resources and report that information to DACS.

Section 13 would provide that no permit is required to conduct any construction, installation, repair, replacement, or alteration activities costing $15,000 or less in residential and farm structures if the work involves:

- Replacements of windows; doors; exterior siding; or pickets, railings, stair treads, and decking of porches and exterior decks.
- Plumbing replacements that do not change size or capacity.
- Replacement of roofing.

This section would further provide that no permit is required for:

- Replacement of water heaters in one- or two-family dwellings, if (1) the energy use or thermal input does not exceed that of the water heater being replaced and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping, and (2) the work is

performed by a person licensed by the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.

- Repair or replacement of dishwashers, disposals, electrical devices, or lighting fixtures in residential or commercial structures, if (1) the repair or replacement does not require addition or relocation of additional electrical wiring, and (2) the work is performed by a person licensed by the State Board of Examiners of Electrical Contractors.

This section would also provide that no permit is required, either under the State Building Code or any local variant, for routine maintenance of fuel dispensing pumps and other dispensing devices.

This section would become effective October 1, 2016.

Section 14 would exempt any activity that constitutes a bona fide farm use, including the production of mulch, ornamental plants, sod, and other horticultural products from the Sedimentation Pollution Control Act.

Section 15 would modify the eligibility requirements for the Expanded Gas Products Service to Agriculture Fund by providing that an eligible project is a project for an agricultural operation or agricultural processing facility that requests natural gas or propane gas service. Under current law, an eligible project must expand the agricultural or processing capabilities of the facility.

Section 16 would make an automatic contract renewal for the sale, lease of products or services for a term exceeding 30 days void and unenforceable unless the consumer is given written notice that the contract will automatically renew if the consumer does not cancel it, and would require the notice to be given no sooner than 30 days and no later than 15 days before the renewal. This section would limit the notice requirement to automatic renewals for periods exceeding 30 days, provide for notice by personal delivery, electronic mail or first-class mail, and exclude entities regulated by the Federal Communications Commission under federal law, by the N.C. Utilities Commission under State law, or doing business under authorization issued by a political subdivision of the State or any agency thereof. These exclusions would be in addition to entities excluded under current law, including insurers licensed under Chapter 58 of the General Statutes, banks, trust companies, savings and loan associations, savings banks, and credit unions licensed or organized under the laws of any state or the United States, and any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or affiliate thereof.

This section would become effective when it becomes law, and would apply to contracts entered into on or after that date.

Section 17 would waive or prorate deferred taxes when property under present use valuation (PUV) is transferred for less than its true value to a nonprofit entity for conservation or historical preservation. Specifically, this section would waive deferred taxes if the property loses its eligibility for PUV because the property is conveyed to a nonprofit organization and qualifies for exclusion from property tax under G.S. 105-275(12) or G.S. 105-275(29):

- If the property is conveyed at or below present use value, no deferred taxes are due.
- If the property is conveyed for more than present use value, a portion of the deferred taxes for the preceding three years is due equal to the lesser of the following:
    - Amount of the deferred taxes.
    - Deferred taxes multiplied by a fraction, where:
        - The numerator is the sale price minus the present use value.

- The denominator is the true value minus the present use value.

This section would become effective for taxes imposed for taxable years beginning on or after July 1, 2016.

Section 18 would authorize certified well contractors to install both water pipes and electrical wiring in a single ditch when running electrical wires from the well pump to the pressure switch and water pipes from the well to the water tank. The ditch must be as deep as the deepest applicable minimum cover requirement for the electrical wiring or water pipes. The local health department would be solely responsible for inspecting the ditch and its contents. This section would also direct the Building Code Council to amend the State Electrical Code and the State Plumbing Code consistent with this section.

This section would become effective October 1, 2016.

Section 19 would decrease the average gross income requirement exemption from sales and use tax for certain tangible personal property, digital property, and services purchased by a qualifying farmer for farming purposes from $10,000 to $5,000. Under current law, a qualifying farmer is a person who has an annual gross income for the preceding income tax year of ten thousand dollars ($10,000) or more from farming operations or who has an average annual gross income for the three preceding income tax years of ten thousand dollars ($10,000) or more from farming operations.

This section would become effective for taxes imposed for taxable years beginning on or after July 1, 2016.

Section 20 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S D

SENATE BILL 770
PROPOSED COMMITTEE SUBSTITUTE S770-CSTQxf-37 [v.16]
05/24/2016 11:27:47 AM

Short Title: NC Farm Act of 2016. (Public)

Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE AGRICULTURAL COMMUNITY.

The General Assembly of North Carolina enacts:

PROVIDE THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES WITH ENFORCEMENT AUTHORITY FOR THE PROGRAM GOVERNING BEDDING IMPROPERLY MADE, SANITIZED, OR TAGGED

SECTION 1.(a) Article 4H of Chapter 106 of the General Statutes is amended by adding five new sections to read:

"**§ 106-65.105A. Detention or embargo of product or item suspected of being adulterated or misbranded.**

(a) If an authorized agent of the Department of Agriculture and Consumer Services finds or has probable cause to believe that any bedding, secondhand bedding, material, or other item regulated under this Article is unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or is otherwise in violation of the requirements of this Article, the agent may affix to the item a tag or other appropriate marking giving notice that the item has been detained or embargoed with information identifying the violation(s). It shall be a violation of this Article for any person to remove or alter a tag authorized by this subsection, or to remove or dispose of a detained or embargoed item by sale or otherwise, without such permission, and the tag or marking shall include a warning to that effect.

(b) When an item is detained or embargoed under subsection (a) of this section, an authorized agent of the Department of Agriculture and Consumer Services may petition a judge of the district or superior court in whose jurisdiction the item is detained or embargoed for an order for condemnation of the item. When an authorized agent has found that an item detained or embargoed is not unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or otherwise in violation of the requirements of this Article, the agent shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed item is unsanitary, mislabeled, or contains toxic materials, the item shall, after entry of the decree, be destroyed at the expense of the item's claimant, under the supervision of an authorized agent of the Department of Agriculture and Consumer Services; and all court costs and fees, storage, and other proper expenses shall be levied against the claimant of the item or the claimant's agent; provided, that when the unsanitary condition, mislabeling, safety concerns, or other violation can be corrected by proper labeling or processing of the item, the court, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the item shall be properly labeled or

processed, has been executed, may by order direct that the item be delivered to the item's claimant for proper labeling or processing under the supervision of an agent of the Department of Agriculture and Consumer Services. The expense of the Department's supervision shall be paid by the claimant. The amount of any bond paid shall be returned to the claimant of the item on representation to the court by the Department of Agriculture and Consumer Services that the item is no longer in violation of this Article and that the expenses of the Department's supervision have been paid.

"**§ 106-65.105B. Injunctions restraining violations.**

In addition to any other remedies provided by this Article, the Commissioner is authorized to apply to the superior court for, and the court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of this Article or any rule promulgated thereunder, irrespective of whether or not there exists an adequate remedy at law.

"**§ 106-65.105C. Civil penalties.**

(a) The Commissioner may assess a civil penalty of not more than two thousand five hundred dollars ($2,500) per violation against any person, firm, or corporation that violates or directly causes a violation of any provision of this Article, rules, regulations, or standards promulgated thereunder, or lawful order of the Commissioner. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, the Commissioner may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to additional civil penalties. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused or potentially caused by the violation.

(b) Prior to assessing a civil penalty, the Commissioner shall give the person written notice of the violation and a reasonable period of time in which to correct the violation. However, the Commissioner shall not be required to give a person time to correct a violation before assessing a penalty if the Commissioner determines the violation has the potential to cause physical injury or illness.

(c) The Commissioner may consider the training and management practices implemented by the person, firm, or corporation for the purpose of complying with this Article as a mitigating factor when determining the amount of the civil penalty.

(d) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"**§ 106-65.105D. Violation a misdemeanor.**

(a) Except as otherwise provided, any person, firm, or corporation that violates any of the provisions of this Article, or any of the rules, regulations, or standards promulgated hereunder, shall be deemed guilty of a Class 2 misdemeanor.

(b) Any person, firm, or corporation that provides the Commissioner or a duly authorized agent of the Commissioner with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class 2 misdemeanor.

(c) Any person, firm, or corporation that alters or removes a tag indicating that an item has been detained or embargoed pursuant to G.S. 106-65.105A(a) without first receiving permission from the court or a duly authorized agent under this Article shall be deemed guilty of a Class 2 misdemeanor.

(d) Any person, firm, or corporation that removes or disposes of any item detained or embargoed under G.S. 106-65.105A(a) without first receiving permission from the court or a duly authorized agent under this Article shall be deemed guilty of a Class 2 misdemeanor.

(e) Any person who willfully assaults, resists, opposes, impedes, intimidates, or interferes with any duly authorized agent while engaged in or on account of the performance of the duly authorized agent's official duties under this Article shall be guilty of a Class 2 misdemeanor. For

the purposes of this subsection, "impede," "oppose," "intimidate," or "interfere" shall include the use of profane and indecent language, or any act or gesture, verbal or nonverbal, which tends to cast disrespect on an inspector. Whoever, in the commission of any such acts, uses a deadly weapon shall be guilty of a Class 1 misdemeanor.

(f) If any person continues to violate or further violates any provision of this Article after receiving written notice from the Commissioner, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation.

"**§ 106-65.105E. Report of minor violations in discretion of Commissioner.**

Nothing in this Article shall be construed to require the Commissioner to initiate, or attempt to initiate, any criminal or administrative proceedings under this Article for minor violations of this Article whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning."

SECTION 1.(b) This section becomes effective December 1, 2016, and applies to offenses committed on or after that date.

AUTHORIZE THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO APPOINT AND DEPLOY AGRICULTURAL EMERGENCY RESPONSE TEAMS IN AGRICULTURAL EMERGENCIES.

SECTION 2.(a) Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 85.

"Agricultural Emergency Response.

"**§ 106-1033. Short title.**

This Article shall be known as the "Agricultural Emergency Response Act."

§ 106-1034. Statement of purpose and authorization.

The North Carolina Department of Agriculture and Consumer Services is authorized to aid and assist agricultural operations and landowners in the preparedness, response and recovery from agricultural emergencies. This authorization is given separate and apart from the authorities authorized by Chapter 166A of the General Statutes and shall not require declaration of a state of emergency pursuant to G.S. 166A-19.20 for its implementation. In the event of a state of emergency declaration and where this Article is inconsistent with the provisions of Chapter 166A of the General Statutes, the provisions of Chapter 166A shall control as to the areas covered under the declaration. The Board of Agriculture may adopt rules necessary for the implementation and administration of this Article.

§ 106-1035. Definitions.

For purposes of this Article, the following definitions apply:

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

(2) "Department" means the North Carolina Department of Agriculture and Consumer Services.

(3) "Agricultural Emergency Response Team" means employees of the North Carolina Department of Agriculture and Consumer Services who have been designated by the Commissioner to respond to agricultural emergencies as authorized by G.S. 106-1036, and any personnel operating under agreement with the Department as a contracted service, including but not limited to private companies and units of local government.

(4) "Agricultural emergency" means an emergency, as defined in G.S. 166A-19.3, that results in exposure of or damage to pre- or post-harvest of plants, livestock, feed, water resources, or infrastructure which adversely affects one or more members of the agricultural community and the economic viability of the agriculture industry within the State.

§ 106-1036. Agricultural Emergency Response Teams authorized.

When the Commissioner determines, in consultation with the Governor, that there is an imminent threat of an agricultural emergency or that an agricultural emergency exists within the

State that threatens to cause damage to or has caused damage to agricultural lands, facilities, and operations, the Commissioner is authorized to deploy Agricultural Emergency Response Teams to aid in prevention measures and recovery efforts on the premises of agricultural landowners throughout the State, wherever located.

§ 106-1037. Immunity and liability.

All functions authorized by this Article and all other activities relating to agricultural emergencies are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence, or bad faith, any Agricultural Emergency Response Team worker, firm, partnership, association, or corporation complying with or reasonably attempting to comply with this Article or any order, rule, or regulation promulgated pursuant to the provisions of this Article shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

§ 106-1038. No private liability.

Any person, firm, or corporation, together with any successors in interest, if any, owning or controlling real or personal property who, voluntarily or involuntarily, knowingly or unknowingly, with or without compensation, grants a license or privilege or otherwise permits or allows the designation or use of the whole or any part or parts of such real or personal property for the purpose of activities or functions relating to agricultural emergency response as provided for in this Article or elsewhere in the General Statutes shall not be civilly liable for the death of or injury to any person or the loss of or damage to the property of any persons where such death, injury, loss, or damage resulted from, through, or because of the use of the said real or personal property for any of the above purposes, provided that the use of said property is subject to the order or control of or pursuant to a request under the authority of this Article.

§ 106-1039. Funding for agricultural emergency response.

In order to fully execute the authorities prescribed in this Article, the North Carolina Department of Agriculture may, at the discretion of the Commissioner, use any funds available to the Department which have been allocated by the General Assembly from the General Fund of the State, use of which is not otherwise restricted by law.

§ 106-1040. Nondiscrimination in agricultural emergency response.

State and local governmental bodies and other organizations and personnel who carry out functions under the provisions of this Article shall do so in an equitable and impartial manner. Such State and local governmental bodies, organizations, and personnel shall not discriminate on the grounds of race, color, religion, nationality, sex, age, or economic status in the relief and assistance activities.

SECTION 2.(b) Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"**§ 166A-19.77A. Agricultural Emergency Response Teams authorized.**

The Department of Agriculture and Consumer Services is designated as an emergency response agency for purposes of the following:

(1) Deploying Agricultural Emergency Response Teams, as that term is defined in G.S. 106-1035, to respond to agriculture-related incidents.

(2) Receipt of any applicable State or federal funding.

(3) Training of other State and local agencies in agricultural emergency response.

(4) Any other emergency response roles for which Agricultural Emergency Response Teams have special training or qualifications."

SECTION 2.(c) This section is effective when it becomes law.

ALLOW WILDLIFE MANAGEMENT AGENCIES TO CULL FERAL SWINE FROM AIRCRAFT

SECTION 3. Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-299. Aerial management of feral swine.

Notwithstanding G.S. 113-291.1(b)(1), employees of the Wildlife Resources Commission and employees of federal agencies whose responsibilities include fisheries and wildlife management, in the performance of such employees' official duties, may cull feral swine from aircraft, with the written permission of the landowner. However, no such activity shall occur in coastal counties, as defined in G.S. 113A-103(2) during waterfowl season."

DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO INSPECT RENDERING PLANTS

SECTION 4.(a) G.S. 106-168.5 is repealed.

SECTION 4.(b) G.S. 106-168.6 reads as rewritten:

"**§ 106-168.6. ~~Inspection by committee;~~Inspection; certificate of specific findings.**

The ~~committee upon notification by~~ Upon receipt of an application for license, the Commissioner or the Commissioner's designee shall promptly inspect the plans, specifications, and selected site in the case of proposed rendering plants and shall inspect the buildings, grounds, and equipment of established rendering plants. If the ~~committee~~ Commissioner or the Commissioner's designee finds that the plans, specifications, and selected site in the case of proposed plants, or the buildings, grounds, and equipment in the case of established plants, comply with the requirements of this Article and the rules and regulations promulgated ~~by the Commissioner not inconsistent therewith, it~~under the authority of this Article, the Commissioner shall certify ~~its~~ the findings in ~~writing and forward same to the Commissioner.~~writing. If there is a failure in any respect to meet such requirements, the ~~committee~~ Commissioner or the Commissioner's designee shall notify the applicant in writing of such deficiencies and ~~the committee shall~~ shall, within a reasonable time to be determined by the ~~Commissioner~~ Commissioner, make a second inspection. If the specified defects are remedied, the ~~committee~~ Commissioner or the Commissioner's designee shall ~~thereupon~~ certify ~~its~~ the findings in ~~writing to the Commissioner.~~writing. Not more than two inspections shall be required ~~of the committee~~ under any one application."

SECTION 4.(c) G.S. 106-168.7 reads as rewritten:

"**§ 106-168.7. Issuance of license.**

Upon ~~receipt of the certificate of compliance from the committee,~~certification in accordance with G.S. 105-168.6, the Commissioner shall issue a license to the applicant to conduct rendering operations as specified in the application. A license shall be valid until revoked for cause as hereinafter provided."

SECTION 4.(d) G.S. 106-168.10 reads as rewritten:

"**§ 106-168.10. Disposal of diseased animals.**

Any person holding a license under the provisions of this Article is authorized to kill diseased, sick, ~~old~~ old, or crippled animals on the premises of the owner upon ~~his~~ the Commissioner's request; provided that no animal known to have tuberculosis, Bang's disease, anthrax, or any other disease for which quarantine may be imposed, shall be removed from any premises placed under quarantine without permission of the State Veterinarian, or his authorized agent. The licensee shall keep and make available to the Commissioner, upon request, such records as the Commissioner may require with respect to the collection and disposal of dead animals."

SECTION 4.(e) G.S. 106-168.12 reads as rewritten:

"**§ 106-168.12. Commissioner authorized to adopt rules and regulations.**

The Commissioner of Agriculture is hereby authorized to make and establish reasonable rules and regulations, ~~not inconsistent~~consistent with the provisions of this Article, ~~after consulting the committee,~~ for the proper administration and enforcement thereof."

SECTION 4.(f) G.S. 106-168.13 reads as rewritten:

"**§ 106-168.13. Effect of failure to comply.**

Failure to comply with the provisions of this Article or rules and regulations ~~not inconsistent therewith~~adopted pursuant to this Article shall be cause of revocation of license, if such failure shall not be remedied within a reasonable time after notice to the licensee. Any person whose license is revoked may reapply for a license in the manner provided in this Article for an initial application, except that the Commissioner shall not be required to cause the rendering plant and equipment of the applicant to be inspected ~~by the committee~~until the expiration of 30 days from the date of revocation."

REQUIRE TRAINING FOR APPOINTED AND ELECTED SOIL AND WATER DISTRICT SUPERVISORS

SECTION 5.(a) G.S. 139-4(d) reads as rewritten:

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

...

(13) To establish a training program required for all district supervisors."

SECTION 5.(b) Article 1 of Chapter 139 of the General Statutes is amended by adding a new section to read:

"**§ 139-7.2. Training of elective and appointive district supervisors.**

(a) All district supervisors, whether elected or appointed, shall complete a minimum of six clock hours of training annually.

(b) The training shall include soil, water, and natural resources conservation; and the duties and responsibilities of district supervisors.

(c) The training may be provided by the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources as approved by the Soil and Water Conservation Commission."

BOARD OF AGRICULTURE RULEMAKING AUTHORITY FOR ANIMAL SHELTER SUPPORT FUND

SECTION 6.(a) G.S. 19A-67 reads as rewritten:

"**§ 19A-67. Animal Shelter Support Fund.**

(a) Creation. – The Animal Shelter Support Fund is established as a special fund in the Department of Agriculture and Consumer Services. The Fund consists of appropriations by the General Assembly or contributions and grants from public or private sources.

(b) Use. – The Fund shall be used by the Animal Welfare Section of the Department of Agriculture and Consumer Services to reimburse local governments for expenses related to their operation of a registered animal shelter due to any of the following:

(1) The denial, suspension, or revocation of the shelter's registration.

(2) An unforeseen catastrophic disaster at an animal shelter.

(c) Rules. – The ~~Animal Welfare Section~~ Board of Agriculture shall issue rules detailing eligible expenses and application guidelines that comply with the requirements of this Article.

(d) Reversion. – Any appropriated and unencumbered funds remaining at the end of each fiscal year in excess of two hundred fifty thousand dollars ($250,000) shall revert to the General Fund."

SECTION 6.(b) The Board of Agriculture may adopt temporary rules to administer the Animal Shelter Support Fund in accordance with subsection (a) of this section.

RULEMAKING EXEMPTION FOR FOREST MANAGEMENT PLANS

SECTION 7.(a) G.S. 150B-1(d) reads as rewritten:

"**§ 150B-1. Policy and scope.**

...

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

...

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

a. Annual admission fees for the State Fair.

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

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

c. Fee schedules for the preparation of forest management plans developed pursuant to G.S. 106-1004.

..."

SECTION 7.(b) G.S. 106-1004 reads as rewritten:

"**§ 106-1004. Fees for forest management plans.**

The Board of Agriculture shall establish ~~by rule~~ a schedule of fees for the preparation of forest management plans developed pursuant to this Chapter. The fees established by the Board shall not exceed the amount necessary to offset the costs of the Department of Agriculture and Consumer Services to prepare forest management plans."

ALLOW LOCAL PREFERENCE FOR SCHOOL FOOD PROCUREMENT

SECTION 8. Part 2 of Article 17 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-264.4. Local preference for produce in schools.**

A local school board may develop and implement policies and procedures to facilitate and maximize to the extent practicable, purchases of food grown or raised in North Carolina, including but not limited to policies that permit a percentage price preference for the purpose of procuring food grown or raised within the State. As used in this section, "price percentage preference" means the percent by which a responsive bid from a responsible bidder whose product is grown or raised in North Carolina may exceed the lowest responsive bid submitted by a responsible bidder whose product is not grown or raised in North Carolina."

ALLOW CHORIONIC GONADOTROPIN INJECTIONS FOR VETERINARY USE

SECTION 9. G.S. 90-91 reads as rewritten:

"**§ 90-91. Schedule III controlled substances.**

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a potential for abuse less than the substances listed in Schedules I and II; currently accepted medical use in the United States; and abuse may lead to moderate or low physical dependence or high psychological dependence. The following controlled substances are included in this schedule:

...

(k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, including, but not limited to, the following:

1. Methandrostenolone,
2. Stanozolol,
3. Ethylestrenol,
4. Nandrolone phenpropionate,
5. Nandrolone decanoate,

6. Testosterone propionate,
7. Chorionic gonadotropin,
8. Boldenone,
9. Chlorotestosterone (4-chlorotestosterone),
10. Clostebol,
11. Dehydrochlormethyltestosterone,
12. Dibydrostestosterone (4-dihydrotestosterone),
13. Drostanolone,
14. Fluoxymesterone,
15. Formebulone (formebolone),
16. Mesterolene,
17. Methandienone,
18. Methandranone,
19. Methandriol,
20. Methenolene,
21. Methyltestosterone,
22. Mibolerone,
23. Nandrolene,
24. Norethandrolene,
25. Oxandrolone,
26. Oxymesterone,
27. Oxymetholone,
28. Stanolone,
29. Testolactone,
30. Testosterone,
31. Trenbolone, and
32. Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth. Except such term does not include (i) an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such ~~administration.~~administration, or (ii) chorionic gonadotropin when administered by injection for veterinary use by or upon the order of a licensed veterinarian. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.

...."

EXTEND SUNSET FOR CONSTRUCTING CERTAIN RENEWABLE FUEL FACILITIES

SECTION 10. G.S. 105-129.16D(b) reads as rewritten:

"**§ 105-129.16D. (Repealed effective for facilities placed in service on or after January 1, 2014) Credit for constructing renewable fuel facilities.**

(b) **Production Credit.** – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take

the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

Notwithstanding subsection (d) of this section, this section is repealed effective for facilities placed in service on or after January 1, ~~2017,~~2020, in the case of a taxpayer that meets both of the following conditions:

(1) Signs a letter of commitment with the Department of Commerce on or before September 1, 2013, stating the taxpayer's intent to construct and place into service in this State a commercial facility for processing renewable fuel.

(2) Begins construction of the facility on or before December 31, 2013."

ESTABLISH VOLUNTARY ASSESSMENT ON DEER FEED

SECTION 11. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"Article 86.

"Farmed Cervid Industry Promotion Act.

"**§ 106-1041. Title.**

This Article shall be known as the Farmed Cervid Industry Promotion Act.

§ 106-1042. Definitions.

As used in this Article:

(1) "Association" means the North Carolina Deer and Elk Farmers Association.

(2) "Cervid farmer" means a person who (i) is a North Carolina resident and (ii) holds at least one cervid in captivity subject to a captivity license issued by the Department.

(3) "Department" means the Department of Agriculture and Consumer Services.

(4) "Farmed cervid" means any member of the Cervidae family that is held in captivity and produced, bought, or sold for commercial purposes.

(5) "Farmed cervid feed" means any commercial feed, as defined in G.S. 106-284.33, labeled or marketed for farmed cervid use.

§ 106-1043. Referendum.

(a) The Association may conduct a referendum among cervid farmers upon the question of whether an assessment shall be levied consistent with this Article.

(b) The Association shall determine all of the following:

(1) The amount of the proposed assessment, not to exceed four dollars ($4.00) per ton of farmed cervid feed.

(2) The period for which the assessment shall be levied, not to exceed 10 years.

(3) The time and place of the referendum.

(4) Procedures for conducting the referendum and counting votes.

(5) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment and the method of collection shall be set forth on the ballot.

(d) All cervid farmers are eligible to vote in the referendum. The Association shall send press releases about the referendum to at least 10 daily and 10 weekly or biweekly newspapers having general circulation in a county in the State, and to any trade journals deemed appropriate by the Association. Notice of the referendum also shall be posted in every place the Association identifies as selling farmed cervid feed. Any questions concerning eligibility to vote shall be resolved by the board of directors of the Association.

§ 106-1044. Majority vote required; collection of assessment.

(a) The assessment shall not be collected unless a majority of the votes cast in the referendum are in favor of the assessment. If a majority of the votes cast in the referendum are in favor of the assessment, the Department shall notify all farmed cervid feed manufacturers and distributors of the assessment. The assessment shall apply to all farmed cervid feed subject to the

provisions of G.S. 106-284.40(b), and the assessment shall be remitted to the Department with the inspection fee imposed by G.S. 106-284.40. The Department shall provide forms for reporting the assessment. Persons who purchase farmed cervid feed on which the assessment has not been paid shall report these purchases and pay the assessment to the Department.

(b) The Association may bring an action to collect unpaid assessments against any feed manufacturer or distributor who fails to pay the assessment.

§ 106-1045. Use of funds; refunds.

(a) The Department shall remit all funds collected under this Article to the Association at least quarterly. The Association shall use these funds to promote the interests of the farmed cervid industry and may use these funds for those administrative expenses that are reasonably necessary to carry out this function.

(b) Any person who purchases farmed cervid feed upon which the assessment has been paid shall have the right to receive a refund of the assessment by making a demand in writing to the Association within one year of purchase of the feed. This demand shall be accompanied by proof of purchase satisfactory to the Association."

EXEMPT AGRICULTURE FROM CAPACITY USE AREA WITHDRAWAL PERMITTING REQUIREMENTS

SECTION 12.(a) G.S. 143-215.15 is amended by adding a new subsection to read:

"**§ 143-215.15. Permits for water use within capacity use areas – Procedures.**

(a) In areas declared by the Commission to be capacity use areas no person shall (after the expiration of such period, not in excess of six months, as the Commission may designate) withdraw, obtain, or utilize surface waters or groundwaters or both, as the case may be, in excess of 100,000 gallons per day for any purpose unless such person shall first obtain a permit therefor from the Commission.

(a1) This section, and rules adopted pursuant to this Part, shall not apply to water uses for agricultural purposes on a bona fide farm, as defined in G.S. 153A-340, or a silviculture operation. Agricultural water users shall register surface water and groundwater withdrawals with the Division of Water Resources on a form provided by the Division and provide the information to the North Carolina Department of Agriculture and Consumer Services.

(b) When sufficient evidence is provided by the applicant that the water withdrawn or used from a stream or the ground is not consumptively used, a permit therefor shall be issued by the Commission without a hearing and without the conditions provided in subsection (c) of this section. Applications for such permits shall set forth such facts as the Commission shall deem necessary to enable it to establish and maintain adequate records of all water uses within the capacity use area.

..."

SECTION 12.(b) The Environmental Management Commission shall revise its rules consistent with Section 12.(a) of this act.

EXCLUDE CERTAIN MINOR REPAIRS FROM BUILDING PERMIT REQUIREMENTS

SECTION 13.(a) G.S. 143-138 reads as rewritten:

"**§ 143-138. North Carolina State Building Code.**

...

(b5) Exclusion for Certain Minor Activities in Residential and Farm Structures. – No ~~building~~ permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work ~~involves:~~involves any of the following:

(1) ~~the~~The addition, repair, or replacement of load bearing ~~structures;~~structures. However, no permit is required for replacements of windows, doors, exterior

siding, or the pickets, railings, stair treads, and decking of porches and exterior decks that otherwise meet the requirements of this subsection.

(2) ~~the~~The addition ~~(excluding replacement of same capacity)~~ or change in the design of ~~plumbing;~~plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) ~~the~~The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, ~~devices, fixtures (excluding repair or replacement of electrical lighting devices and fixtures of the same type), appliances (excluding replacement of water heaters, provided that the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping),~~appliances, or ~~equipment,~~equipment.

(4) ~~the~~The use of materials not permitted by the North Carolina ~~Uniform Residential Building Code;~~Residential Code for One- and Two-Family Dwellings.

(5) ~~or the~~The addition (excluding replacement ~~of like grade of fire resistance~~) of roofing.

~~The exclusions from building permit requirements set forth in this paragraph for electrical lighting devices and fixtures and water heaters shall apply only to work performed on a one- or two-family dwelling. In addition, exclusions for electrical lighting devices and fixtures and electric water heaters shall apply only to work performed by a person licensed under G.S. 87-43 and exclusions for water heaters, generally, to work performed by a person licensed under G.S. 87-21.~~"

(b6) No State Agency Permit. – No ~~building~~ permit shall be required under ~~such~~ the Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

...

(b10) Replacement Water Heaters. –

(1) Exclusion. – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for replacement of water heaters in one- or two-family dwellings, provided (i) the energy use rate or thermal input is not greater than that of the water heater which is being replaced, and there is no change in fuel, energy source, location, capacity, or routing or sizing of venting and piping; and (ii) the work is performed by a person licensed under G.S. 87-21.

(2) Energy Efficiency. – The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

...

(b14) ~~[Exclusion for Routine Maintenance. –]~~Exclusion for Routine Maintenance of Pumps and Dispensers. – No ~~building~~ permit shall be required under the Code or any local variant approved under subsection (e) of this section for routine maintenance on fuel dispensing pumps and other dispensing devices. For purposes of this subsection, "routine maintenance" includes repair or replacement of hoses, O-rings, nozzles, or emergency breakaways."

...

(b16) Exclusion for Electrical Devices and Lighting Fixtures. – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for the repair or

replacement of dishwashers, disposals, electrical devices, or lighting fixtures in residential or commercial structures, provided that all of the following apply:

(1) The repair or replacement does not require the addition or relocation of electrical wiring.

(2) The work is performed by a person licensed under G.S. 87-43.

...."

SECTION 13.(b) G.S. 153A-357 reads as rewritten:

"...

(a2) No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing fifteen thousand dollars ($15,000) or less in any single-family residence or farm building unless the work ~~involves:~~involves any of the following:

(1) ~~the~~The addition, repair or replacement of load bearing ~~structures;~~structures. However, no permit is required for replacements of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.

(2) ~~the~~The addition ~~(excluding replacement of same size and capacity)~~ or change in the design of ~~plumbing;~~plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) ~~the~~The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or ~~equipment;~~equipment, other than like-kind replacement of electric devices and lighting fixtures.

(4) ~~the~~ The use of materials not permitted by the North Carolina ~~Uniform Residential Building Code;~~ Residential Code for One- and Two-Family Dwellings.

(5) ~~or the~~The addition (excluding replacement ~~of like grade of fire resistance~~) of roofing.

~~Violation of this section constitutes a Class 1 misdemeanor.~~

...

(g) Violation of this section constitutes a Class 1 misdemeanor."

SECTION 13.(c) G.S. 160A-417 reads as rewritten:

"...

(a2) No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing fifteen thousand dollars ($15,000) or less in any single family residence or farm building unless the work ~~involves:~~involves any of the following:

(1) ~~the~~The addition, repair or replacement of load bearing ~~structures;~~structures. However, no permit is required for replacements of windows, doors, exterior siding, or the pickets, railings, stair treads, and decking of porches and exterior decks.

(2) ~~the~~The addition ~~(excluding replacement of same size and capacity)~~ or change in the design of ~~plumbing;~~plumbing. However, no permit is required for replacements otherwise meeting the requirements of this subsection that do not change size or capacity.

(3) ~~the~~The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or ~~equipment;~~equipment, other than like-kind replacement of electric devices and lighting fixtures.

(4) ~~the~~ The use of materials not permitted by the North Carolina ~~Uniform Residential Building Code;~~ Residential Code for One- and Two-Family Dwellings.

(5) ~~or the~~The addition (excluding replacement~~ of like grade of fire resistance~~) of roofing.

~~Violation of this section constitutes a Class 1 misdemeanor.~~

...

(f) Violation of this section constitutes a Class 1 misdemeanor."

SECTION 13.(d) This section becomes effective October 1, 2016.

EXEMPT HORTICULTURAL USES FROM THE SEDIMENTATION POLLUTION CONTROL ACT

SECTION 14. G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

(1) Activities, including the breeding and grazing of livestock and any activity that constitutes a bona fide farm use under G.S. 153A-340(b)(2), undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

f. Fur producing animals.

g. Mulch, ornamental plants, sod, and other horticultural products.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).

(5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

(6) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition)."

CLARIFY ELIGIBILITY FOR EXPANDED GAS PRODUCTS SERVICE TO AGRICULTURE FUND

SECTION 15. G.S. 143B-437.020(a) reads as rewritten:

"**§ 143B-437.020. Natural gas and propane gas for agricultural projects.**

(a) Definitions. –

(1) Agriculture. – Activities defined in G.S. 106-581.1, whether performed on or off the farm.

(2) Repealed by Session Laws 2014-100, s. 15.13(a), effective July 1, 2014.

(3) Eligible project. – A discrete and specific economic development project ~~that would expand~~for an agricultural ~~production~~ operation or agricultural processing

~~capabilities~~ facility that ~~requires new or expanded~~ requests natural gas or propane gas service. A project intended for the purpose of commercial resale of natural gas or propane gas shall not be an eligible project.

(4) Excess infrastructure costs. – Any project carrying costs incurred by a natural gas local distribution company to provide new or expanded natural gas service to an eligible project that exceed the income the infrastructure generates for the local natural gas distribution company, including any standard rates, special contract rates, minimum margin agreements, and contributions in aid of construction collected by the natural gas local distribution company.

(5) Project carrying costs. – All costs, including depreciation, taxes, operation and maintenance expenses, and, for a natural gas local distribution company, a return on investment equal to the rate of return approved by the Utilities Commission in the natural gas local distribution company's most recent general rate case under G.S. 62-133.

(6) Secretary. – The Secretary of Commerce."

REQUIRE WRITTEN NOTICE OF AUTOMATIC CONTRACT RENEWAL FIFTEEN TO THIRTY DAYS PRIOR TO THE AUTOMATIC RENEWAL

SECTION 16.(a) G.S. 75-41 reads as rewritten:

"**§ 75-41. Contracts with automatic renewal clauses.**

(a) Any ~~person, firm, or corporation~~ person engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, shall do all of the following:

(1) ~~disclose~~ Disclose the automatic renewal clause clearly and conspicuously in the contract or contract offer.

~~(b) Any person, firm, or corporation engaged in commerce that sells, leases, or offers to sell or lease, any products or services to a consumer pursuant to a contract, where the contract automatically renews unless the consumer cancels the contract, shall disclose~~

(2) Disclose clearly and conspicuously how to cancel the contract in the initial contract, contract offer, or with delivery of products or services.

(3) For any automatic renewal exceeding 30 days, provide written notice to the consumer by personal delivery, electronic mail, or first-class mail, at least 15 days but no earlier than 30 days before the date the contract is to be automatically renewed, stating the date on which the contract is scheduled to automatically renew and notifying the consumer that the contract will automatically renew unless it is cancelled by the consumer prior to that date.

(c) A ~~person, firm, or corporation~~person that fails to comply with the requirements of this section is in violation of this section unless the ~~person, firm, or corporation~~ person demonstrates that all of the following are its routine business practice:

(1) ~~It~~ The person has established and implemented written procedures to comply with this section and enforces compliance with the procedures.

(2) Any failure to comply with this section is the result of error.

(3) Where an error has caused the failure to comply with this section, ~~it~~ the person provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the contract, or the date of the subsequent notice of renewal, whichever occurs first.

(d) This section does not apply to insurers licensed under Chapter 58 of the General Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed under the laws of the United States, or any subsidiary or

affiliate ~~thereof.~~thereof, nor does this section apply to any entity subject to regulation by the Federal Communications Commission under Title 47 of the United States Code or by the North Carolina Utilities Commission under Chapter 62 of the General Statutes, or to any entity doing business directly or through an affiliate pursuant to a franchise, license, certificate, or other authorization issued by a political subdivision of the State or an agency thereof.

(e) A violation of this section renders the automatic renewal clause void and unenforceable."

SECTION 16.(b) This section is effective when it becomes law and applies to contracts entered into on or after that date.

MODIFY WHEN THE LIEN FOR DEFERRED TAXES ON LAND ELIGIBLE FOR PRESENT USE VALUE CLASSIFICATION IS EXTINGUISHED IN ORDER TO PROMOTE SALES FOR LAND CONSERVATION USES

SECTION 17.(a) G.S. 105-277.4 reads as rewritten:

"**§ 105-277.4. Agricultural, horticultural and forestland. – Application; appraisal at use value; appeal; deferred taxes.**

...

(d) Set Exceptions. – Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present use value classification solely due to one of the following reasons, no deferred taxes are due and the lien for the deferred taxes is extinguished:

...

~~(2) The property is conveyed by gift to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29).~~

...

(g) Variable Exception. – Notwithstanding the provisions of subsection (c) of this section, if property loses its eligibility for present-use value classification because the property is conveyed to a nonprofit organization and qualifies for exclusion from the tax base pursuant to G.S. 105-275(12) or G.S. 105-275(29). Deferred taxes are due as follows:

(1) If the property is conveyed at or below present-use value, no deferred taxes are due, and the lien for the deferred taxes is extinguished.

(2) If the property is conveyed for more than present-use value, a portion of the deferred taxes for the preceding three fiscal years is due and payable in accordance with G.S. 105-277.1F. The portion due is equal to the lesser of the amount of the deferred taxes or the deferred taxes multiplied by a fraction, the numerator of which is the sale price of the property minus the present-use value of the property and the denominator of which is the true value of the property minus the present-use value of the property."

SECTION 17.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2016.

AUTHORIZE CERTIFIED WELL DRILLERS TO INSTALL CERTAIN WATER PIPES AND ELECTRICAL WIRING IN A SINGLE DITCH

SECTION 18.(a) G.S. 87-97 reads as rewritten:

"**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

...

(b1) Permit to Include Authorization for Piping and Electrical. – When a permit is issued under this section, the local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit. ~~that~~ A permit issued under this section shall also be deemed to include authorization ~~for~~ for all of the following:

(1) ~~the~~ The installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor

under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch. ~~The local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit.~~

(2) The installation, construction, maintenance, or repair of water pipes by a person certified as a well contractor under Article 7A of this Chapter when running water pipes from the well to the water tank.

(3) The installation of both water pipes and electrical wiring in a single ditch by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch and water pipes from the well to the water tank. The ditch shall be as deep as the minimum cover requirements for either electrical wiring or water pipes, whichever is greater. The local health department shall be solely responsible for inspecting the ditch and the contents of the ditch.

This subsection shall not be interpreted to prohibit any person licensed by an independent occupational licensing board from performing any authorized services within the scope of practice of the person's license.

..."

SECTION 18.(b) The Building Code Council shall amend the State Electrical Code and the State Plumbing Code consistent with this section.

SECTION 18.(c) This section becomes effective October 1, 2016.

SECTION 19.(a) G.S. 105-164.13E reads as rewritten:

"**§ 105-164.13E. Exemption for farmers.**

(a) Exemption. – A qualifying farmer is a person who has an annual income from farming operations for the preceding taxable year of ~~ten~~ five thousand dollars ~~($10,000)~~($5,000) or more or who has an average annual income from farming operations for the three preceding taxable years of ~~ten~~ five thousand dollars ~~($10,000)~~($5,000) or more. For purposes of this section, the term "income from farming operations" means sales plus any other amounts treated as gross income under the Code from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption certificate number under G.S. 105-164.28A. The exemption certificate expires when a person fails to meet the income threshold for three consecutive taxable years or ceases to engage in farming operations, whichever comes first.

..."

SECTION 19.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2016.

EFFECTIVE DATE AND SEVERABILITY CLAUSE

SECTION 20.(a) 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 20.(b) Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S 1

SENATE BILL 770*

Short Title:	DACS Enforcement Authority/Bedding.	(Public)
Sponsors:	Senators B. Jackson, Brock, Cook (Primary Sponsors); and McInnis.	
Referred to:	Agriculture/Environment/Natural Resources	

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ENFORCEMENT AUTHORITY ASSOCIATED WITH THE PROGRAM GOVERNING BEDDING IMPROPERLY MADE, SANITIZED, OR TAGGED, AS RECOMMENDED BY THE AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 106 of the General Statutes is amended by adding five new sections to read:

"**§ 106-65.105A. Detention or embargo of product or item suspected of being adulterated or misbranded.**

(a) If an authorized agent of the Department of Agriculture and Consumer Services finds or has probable cause to believe that any bedding, secondhand bedding, material, or other item regulated under this Article is unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or is otherwise in violation of the requirements of this Article, the agent may affix to the item a tag or other appropriate marking giving notice that the item has been detained or embargoed with information identifying the violation(s). It shall be a violation of this Article for any person to remove or alter a tag authorized by this subsection, or to remove or dispose of a detained or embargoed item by sale or otherwise, without such permission, and the tag or marking shall include a warning to that effect.

(b) When an item is detained or embargoed under subsection (a) of this section, an authorized agent of the Department of Agriculture and Consumer Services may petition a judge of the district or superior court in whose jurisdiction the item is detained or embargoed for an order for condemnation of the item. When an authorized agent has found that an item detained or embargoed is not unsanitary, mislabeled, unsafe for its intended use, a danger to the public, or otherwise in violation of the requirements of this Article, the agent shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed item is unsanitary, mislabeled, or contains toxic materials, the item shall, after entry of the decree, be destroyed at the expense of the item's claimant, under the supervision of an authorized agent of the Department of Agriculture and Consumer Services; and all court costs and fees, storage, and other proper expenses shall be taxed against the claimant of the item or the claimant's agent; provided, that when the unsanitary condition, mislabeling, safety concerns, or other violation can be corrected by proper labeling or processing of the item, the court, after entry of the decree and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the item shall be properly labeled or processed, has been executed, may by order direct that the item be delivered to the item's claimant for proper labeling or processing under the supervision of an agent of the Department of

Agriculture and Consumer Services. The expense of the Department's supervision shall be paid by the claimant. The amount of any bond paid shall be returned to the claimant of the item on representation to the court by the Department of Agriculture and Consumer Services that the item is no longer in violation of this Article and that the expenses of the Department's supervision have been paid.

"**§ 106-65.105B. Injunctions restraining violations.**

In addition to any other remedies provided by this Article, the Commissioner is authorized to apply to the superior court for, and the court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of this Article or any rule promulgated thereunder, irrespective of whether or not there exists an adequate remedy at law.

"**§ 106-65.105C. Civil penalties.**

(a) The Commissioner may assess a civil penalty of not more than two thousand five hundred dollars ($2,500) per violation against any person, firm, or corporation that violates or directly causes a violation of any provision of this Article, rule promulgated thereunder, or lawful order of the Commissioner. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, the Commissioner may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to additional civil penalties. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused or potentially caused by the violation.

(b) Prior to assessing a civil penalty, the Commissioner shall give the person written notice of the violation and a reasonable period of time in which to correct the violation. However, the Commissioner shall not be required to give a person time to correct a violation before assessing a penalty if the Commissioner determines the violation has the potential to cause future physical injury or illness.

(c) The Commissioner may consider the training and management practices implemented by the person, firm, or corporation for the purpose of complying with this Article as a mitigating factor when determining the amount of the civil penalty.

(d) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"**§ 106-65.105D. Violation a misdemeanor.**

(a) Except as otherwise provided, any person, firm, or corporation that violates any of the provisions of this Article, or any of the rules, regulations, or standards promulgated hereunder, shall be deemed guilty of a Class 2 misdemeanor.

(b) Any person, firm, or corporation that provides the Commission or a duly authorized agent of the Commissioner with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class 2 misdemeanor.

(c) Any person, firm, or corporation that alters or removes a tag indicating that an item has been detained or embargoed under G.S. 106-65.105A(a) without first receiving permission from the court or a duly authorized agent under this Article shall be deemed guilty of a Class 2 misdemeanor.

(d) Any person, firm, or corporation that removes or disposes of any item detained or embargoed under G.S. 106-65.105A(a) without first receiving permission from the court or a duly authorized agent under this Article shall be deemed guilty of a Class 2 misdemeanor.

(e) Any person who willfully assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of the person's official duties under this Article shall be guilty of a Class 2 misdemeanor. For the purposes of this subsection, "impede," "oppose," "intimidate," or "interfere" shall include the use of profane and indecent language, or any act or gesture, verbal or nonverbal, which tends to cast disrespect on an inspector.

Whoever, in the commission of any such acts, uses a deadly weapon shall be guilty of a Class 1 misdemeanor.

(f) If any person continues to violate or further violates any provision of this Article after written notice from the Commissioner, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation.

"**§ 106-65.105E. Report of minor violations in discretion of Commissioner.**

Nothing in this Article shall be construed to require the Commissioner to initiate, or attempt to initiate, any criminal or administrative proceedings under this Article for minor violations of this Article whenever the Commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning."

SECTION 2. This act becomes effective December 1, 2016, and applies to offenses committed on or after that date.

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 25, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Willo Kelly	Outer Banks HBA
KAREN BECK	NCDA+CS
R. D. Meckes	NCDA+CS
[signature]	NCCN
Ben Agsten	CTNC
SHARRON STEWART	NCDA&CS MSC 1035 Ral 27699-1035
Sarah MASON	NCDA+CS
MICHAEL NEAULT	NCDA&CS
Jimmy Tickel	NCDA+CS
John Robertson	NCDA + CS
KAY HARRIS	NCDA+CS
Hayes Finley	Marlies Kelley Law
Miles Robin	Ravenscroft School
[signature]	SELC
Brooks Rainey Pearson	SELC
Molly Diggins	Sierra Club

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 25, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rhian Merwald	WM
Elizabeth Robinson	NCRMA
Evelyn Miller	CONC
Tom Beason	EDF, NCWF
Jesse Way	NCLCV
DAN CRAWFORD	NCLCV
Nick Younger	NCLCV
Matthew Starr	Riverkeeper
Caroline Christman	Dep. Commerce
Kyle Wilhelm	DOC
James Estes	DOC
Peter Raabe	American Rivers
Vanessa Waller	American Rivers
Amanda Donovan	TSS
Tonya Horton	TSS
Shaunda Martin	NC DOJ
MAXINE ROSSMAN	Outer Banks Home Bldrs Assoc

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 25, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Swain	NCDA
Caroline Thomas	DEQ
Duke Geraghty	OBHBA
Mark Martin	NCHBA/OBHBA
JAY OVERTON	OBHBA
Hugh Johnson	NCACC
JERRY SCHILL	NCFA
[illegible]	Policy Group
[illegible]	Policy Group
SCOTT COOPER	CCS
Peter Daniel	CCS
Catherine Harward	NCFB
Paul Sherman	NCFB
[illegible]	UNC86
Sarah McQuillan	SSG-NC
Will Polk	NC DPS
Patricia Gibbons	CCS
ROB LAMM	FBA

09-21-201

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources
(Committee Name)

May 25, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Jewkin	DNCR
Dave Stormont	Storm Coast Homes - NCHBA
Aaron Oxendine	NCDA&CS
Allison Pitts	NCDA&CS
Joy Hicks	NCDA&CS
Alan Wade	NCDA&CS
Mike Carnette	NCHBA
Tim Minshew	NC Home Builders
ROBERT ELLIOTT	NCHBA
Steven Wicker	NCHBA
Caroline Daly	Governors Office

09-21-201

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Wednesday, June 08, 2016 10:08 AM
To: Rep. Paul Tine
Cc: Wanda Kay (Rep. Paul Tine)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Thursday, June 09, 2016 at 9:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 9, 2016	9:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 591	Cities/Public Trust Areas.	Representative Tine

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 9, 2016
Room 544

AGENDA

Welcome and Opening Remarks - Senator Andrew Brock

Introduction of Pages

Bills:

BILL NO.	SHORT TITLE	SPONSOR
H591	Cities/Public Trust Areas	Rep. Paul Tine

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 9, 2016 at 9:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00 AM on June 9, 2016 in Room 544 of the Legislative Office Building. There were 8 members present.

Senator Andrew Brock presided.

Sgt-At-Arms for today's meeting – Terry Barnhardt, Sham Patel, and Becky Myrick

Senator Brock introduced the pages: Katie Sutton from LaGrange sponsored by Senator D. Davis; Isabella Dyson from Charlotte sponsored by Senator Tarte; Grace Strickland from Elon sponsored by Senator Gunn; Ona Ojo from Fayetteville sponsored by Senator Meredith; Bennett Sapp from Burlington sponsored by Senator Gunn; Hanna Williams from Elon sponsored by Senator Gunn; Jake Fain from Winston-Salem sponsored by Senator Krawiec; Elias Moore from Nashville sponsored by Senator Newton.

The following bill was heard:

HB 591 Study Roanoke Island Festival Park Governance. (Representative Tine)

There was a PCS to the bill. Senator Bill Cook made a motion to accept the PCS. The motion carried.

Senator Cook explained the bill. After Senator Cook's presentation, Senator Brock opened the floor to the members for questions. There were questions from Senator Tucker and Senator B. Jackson. After much discussion, Senator Tucker made a motion for a Favorable Report to the PCS. The motion carried.

The meeting adjourned 9:08 AM

Senator Andrew Brock, Presided

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Thursday, June 09, 2016

Senator Brock,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **591** **(CS#1)** Cities/Public Trust Areas.

Draft Number:	H591-PCS40654-MH-22
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Bill Cook will handle HB 591

HOUSE BILL 591:
Study Roanoke Island Festival Park Governance.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 9, 2016
Introduced by:		**Prepared by:**	Jeff Cherry Staff Attorney
Analysis of:	PCS to Second Edition H591-CSMH-22		

SUMMARY: House Bill 591 would create the Roanoke Island Tourism Coordination Task Force to improve operations of the Roanoke Island Festival Park and the Elizabeth II State Historic Site, and make an unrelated change to the meeting frequency of the Roanoke Island Commission.

CURRENT LAW: The Roanoke Island Commission is the current incarnation of several predecessor state entities created to commemorate the 1987 400th Anniversary of the Roanoke Voyages. It is charged with the "protection, preservation, development, and interpretation of the historical and cultural assets of Roanoke Island" (G.S. 143B-131.1), and, in particular, with the operation of Roanoke Island Festival Park, a 25 acre interactive historic site created to commemorate the Roanoke settlements. The Festival Park includes the home port for the Elizabeth II, a replica of a sixteenth century merchant vessel similar to those that took part in the Roanoke Voyages from 1585 to 1587. The 2014 Appropriations Act reorganized the Roanoke Island Commission transforming it from an independent Commission to an advisory body within the Department of Natural and Cultural Resources. The Festival Park depends on an annual State appropriation ($523,384 in FY 2015-2016) to support its operations.

The Roanoke Island Historical Association is a quasi-public entity established in 1932 that produces the outdoor historical drama "The Lost Colony". It was placed under State patronage in 1945, but it is not a State agency (G.S. 143B-93). It also receives an annual State appropriation.

BILL ANALYSIS: Sections 1 and 2 establish the Roanoke Island Tourism Coordination Task Force, composed of representatives of the Roanoke Island Commission ("Commission"), the Roanoke Island Historical Association ("Association"), as well as the Secretary of the Department of Natural and Cultural Resources, chair of the Dare County Board of Commissioners, and the Supervisor of the National Park Service's operations for Roanoke Island and the Northern Outer Banks.

Section 3 charges the Task Force with studying the operations and governance of the Commission and the Association to provide for more efficient and cost effective operation of the Roanoke Island Festival Park and the Elizabeth II. The Task Force is given permission to develop a Memorandum of Agreement among the Department, the Commission, and the Association if needed to foster financially sustainable operation of those attractions.

Section 4 requires the Task Force to report to the Joint Legislative Oversight Committee on Ag/NER by March 1, 2017. The Task Force terminates upon filing the report or on March 1, 2017.

Section 5 removes the statutory requirement that the Roanoke Island Commission meet four times per year.

Section 6 provides that the bill becomes effective when it becomes law.

Kory Goldsmith
Director

H591-SMMH-24 CSMH-21 -V-6

Legislative Drafting
919-733-6660

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 591
Committee Substitute Favorable 4/27/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H591-PCS40654-MH-22

Short Title: Study Roanoke Island Festival Park Governance. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO CREATE A TASK FORCE TO EXAMINE THE GOVERNING STRUCTURE AND MORE EFFICIENT OPERATION OF THE ROANOKE ISLAND FESTIVAL PARK AND TO PROVIDE FOR THE MORE EFFICIENT OPERATION OF THE ROANOKE ISLAND COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Establishment. – The Roanoke Island Tourism Coordination Task Force is established.

SECTION 2. Membership. – The Task Force shall be composed of seven members as follows:

(1) The Secretary of the Department of Natural and Cultural Resources, or the Secretary's designee.
(2) The Chair of the Dare County Board of Commissioners, or the Chair's designee.
(3) The Chair of the Board of the Roanoke Island Historical Association and one other member of the Board chosen by the Chair of the Board.
(4) The Chair and one other member of the Roanoke Island Commission.
(5) The Superintendent of the Outer Banks Group of the National Park Service or the Superintendent's designee.

The Chair of the Roanoke Island Historical Association and the Chair of the Roanoke Island Commission shall be the cochairs of the Task Force. The Task Force shall meet upon the call of the cochairs. Vacancies shall be filled by the appointing authority. Staff and administrative support to the Task Force shall be provided by the Department of Natural and Cultural Resources.

SECTION 3. Duties. – The Task Force shall study the operations and governance of the Roanoke Island Commission and the Roanoke Island Historical Association and the cultural and historic attractions managed or operated by each body in order to provide for the most efficient, effective, and financially sustainable operation of the Roanoke Island Festival Park and the Elizabeth II State Historic Site. The Task Force may develop a proposed Memorandum of Agreement between the Department of Natural and Cultural Resources, the Commission, and the Association if it finds that such an agreement would further the purposes set forth in this section.

SECTION 4. Report. – The Task Force shall report its findings and recommendations to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than March 1, 2017. The Task Force shall terminate on March 1, 2017, or upon the filing of its final report, whichever occurs first.

SECTION 5. Roanoke Island Commission Meetings. – G.S. 143B-131.6(g) reads as rewritten:

"(g) The chair shall convene the Commission. Meetings shall be held as often as ~~necessary, but not less than four times a year.~~necessary."

SECTION 6. Effective Date. – This act is effective when it becomes law.

HOUSE BILL 591
Committee Substitute Favorable 4/27/15

Short Title: Cities/Public Trust Areas. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT AUTHORIZING CITIES TO REGULATE CERTAIN STRUCTURES THAT UNREASONABLY RESTRICT THE PUBLIC'S RIGHTS TO USE THE STATE'S OCEAN BEACHES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-205 reads as rewritten:

"**§ 160A-205. Cities enforce ordinances within public trust areas.**

(a) Notwithstanding the provisions of G.S. 113-131 or any other provision of law, a city may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's rights to use the State's ocean beaches. In addition, a city may, in the interest of promoting the health, safety, and welfare of the public, regulate, restrict, or prohibit the placement, maintenance, location, or use of structures that are uninhabitable and without water and sewer services for more than 60 days, as determined by the city with notice provided to the owner of record of the determination by certified mail at the time of the determination, equipment, personal property, or debris upon the State's ocean beaches. A city may enforce any ordinance adopted pursuant to this section or any other provision of law upon the State's ocean beaches located within or adjacent to the city's jurisdictional boundaries to the same extent that a city may enforce ordinances within the city's jurisdictional boundaries. A city may enforce an ordinance adopted pursuant to this section by any remedy provided for in G.S. 160A-175. For purposes of this section, the term "ocean beaches" has the same meaning as in G.S. 77-20(e).

(b) Nothing in this section shall be construed to (i) limit the authority of the State or any State agency to regulate the State's ocean beaches as authorized by G.S. 113-131, or common law as interpreted and applied by the courts of this State; (ii) limit any other authority granted to cities by the State to regulate the State's ocean beaches; (iii) deny the existence of the authority recognized in this section prior to the date this section becomes effective; (iv) impair the right of the people of this State to the customary free use and enjoyment of the State's ocean beaches, which rights remain reserved to the people of this State as provided in G.S. 77-20(d); (v) change or modify the riparian, littoral, or other ownership rights of owners of property bounded by the Atlantic Ocean; or (vi) apply to the removal of permanent residential or commercial structures and appurtenances thereto from the State's ocean ~~beaches.~~beaches, except as provided in subsection (a) of this section."

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

Senate Committee on Agriculture/Enviromental/Natural Resources

June 9, 2016 – Room 544 – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tommy Senn	NWA
Paul Sherman	NCFB
Phoebe Landon	NWC
David Schwartz	Duke ELPC
Wilson Jones	Jordan Price
M. Smallwood	UNC SOG
Rick Zechini	Williams Mullen

Senate Committee on Agriculture/Enviromental/Natural Resources

June 9, 2016 – Room 544 – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Scott Lasta	SSGNC
Mark Landreth	American Hunt Ass'n
Betsy Yates	American Heart Assn
Meredith Frenchmeyer	NCCN
Cassie Gavin	Sierra Club
	WRC

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, June 14, 2016 04:04 PM
To: Rep. Chris Millis; Rep. John Bell; Rep. Dennis Riddell
Cc: John Ganem (Rep. Chris Millis); Susan West Horne (Rep. John Bell); Polly Riddell (Rep. Dennis Riddell)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, June 15, 2016 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 15, 2016	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 763	Task Force on Regulatory Reform.	Representative Millis Representative J. Bell Representative Riddell

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 15, 2016, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Bill Cook

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 763	Task Force on Regulatory Reform.	Representative Millis Representative J. Bell Representative Riddell

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 15, 2016 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on June 15, 2016 in Room 544 of the Legislative Office Building. There were 14 members present.

Senator Bill Cook presided.

Sgt.-At-Arms for today's meeting – Giles Jeffreys, Frances Patterson, and Matt Urben

Senator Cook introduced the pages: Sam Britt from Cary sponsored by Senator Smith; Xan Britt from Cary sponsored by Senator Smith; Seth Norwood from Greensboro sponsored by Senator Berger; Trevor Hartleg from Jacksonville sponsored by Senator Brown; Owen Tierney, III from Raleigh sponsored by Senator Berger.

The following bill was heard:

HB 763 Military Operations Protection Act of 2016. (Representatives Millis, J. Bell, Riddell)

There was a PCS on the bill. Senator John Alexander made a motion to accept the PCS. The motion carried.

Senator Harry Brown explained the bill. Senator Cook opened the floor for questions from the members. There were questions from the following members: Senator Bingham, Senator Hartsell, Senator Rabin, Senator Smith-Ingram, Senator Ford, Senator Bryant, Senator McInnis, and Senator J. Jackson. Senator Brock thanked Senator Brown for introducing this legislation. After much discussion, Senator Cook asked for public comment on the bill.

Public Comment

Matt Wolf, Parker Poe on behalf of RES and Apex Clean Energy spoke the two Eastern NC projects that would not be affected by this legislation and also the map that was handed out.

Henry Campon, Parker Poe on behalf of RES and Apex Clean Energy – Spoke regarding the DEQ process.

Cornell Wilson, Secretary of Military and Veterans Affairs – Stated that they would monitor this process and if problems arise, they would address this with the Governor.

Joy Hicks – NCDA – Spoke in favor of this bill.
Senator Rabin made a motion for a Favorable Report to the PCS. The motion carried.

The meeting adjourned at 11:04 AM.

Senator Bill Cook, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, June 15, 2016

Senator Cook,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **763** Task Force on Regulatory Reform.

Draft Number:	H763-PCS10552-TA-22
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Harry Brown will handle HB 763

HOUSE BILL 763:
Military Operations Protection Act of 2016.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 15, 2016
Introduced by:	Reps. Millis, J. Bell, Riddell	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to Second Edition H763-CSTA-22 [v.12]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 763 would: (1) modify the permitting process for wind energy facilities, the endorsement process for construction of tall buildings and structures, and the procedure for adopting, amending, or repealing ordinances in order to provide the Department of Military and Veterans Affairs with the responsibility for consideration and review of military-related criteria and (2) establish the North Carolina Sentinel Lands Committee to coordinate the overlapping priority areas in the vicinity of the State's major military installations.***

CURRENT LAW: Article 21C of Chapter 143 of the General Statutes (Permitting of Wind Energy Facilities) provides a framework, implemented and administered by the Department of Environmental Quality (DEQ), for the siting and operation of wind energy facilities in the State.

Article 9G of Chapter 143 of the General Statutes (Military Lands Protection Act of 2013) provides a framework, implemented and administered by the State Construction Office (SCO) in the Department of Administration, for the siting and construction of tall buildings and structures that are 200' or taller in an area that extends 5 miles beyond the boundary of a major military installation in the State.

BILL ANALYSIS: The PCS for House Bill 763 would amend the statutes governing the permitting of wind energy facilities and the endorsement of tall buildings and structures and would also provide the Department of Military and Veterans Affairs (DMVA) with the authority to consider and review the military-related criteria required by each of those programs as follows:

Section 1, effective when the act becomes law, would amend the permitting program for wind energy facilities to:

- Add Camp Butner and North Carolina National Guard Joint Force Headquarters to the definition of "major military installation."
- Prohibit the construction of wind energy facilities or expansions in any location identified as a "Red Zone," "Orange Zone," "Yellow Zone," "Green Zone," or "Grey Zone-Rotary Operations Area" as those zones are identified on the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas (*see attached map).*
- Require a permit applicant to provide copies of the noise and shadow flicker studies to the Department of Health and Human Services (DHHS) for review of potential health effects.

- Direct DHHS to notify DEQ in writing, if in its review, DHHS finds that either noise impacts, shadow flicker impacts, or both would be deleterious to human health and, if so, recommend that DEQ deny the permit.
- Include significant adverse impact on human health, as evidenced by the written notice by DHHS to DEQ required above, as criterion on which DEQ must deny a permit application.
- Direct DMVA, rather than DEQ, to annually review information regarding potentially impacted military operations.

Direct DMVA to adopt rules necessary to administer provisions of the Article.

Section 2, effective when the act becomes law, would amend the tall buildings and structures endorsement program to:

- Include the terms "Adjutant General," "National Guard facilities," and "Secretary," as well as make other conforming and technical amendments.
- Set out a separate endorsement process for construction of tall buildings or structures located within ¼ mile of a National Guard facility.
- Change the default action to a denial, rather than an endorsement of a tall building or structure, if the State Construction Office (SCO) fails to act within the time periods established in the Article.
- Include provisions for the institution of civil actions for violations of the Article.

Section 3 would authorize DMVA to review the military-related criteria in permit applications for wind energy facilities. Specifically, this section creates a new statute (G.S. 143-215.120A) that establishes a process by which DMVA makes a recommendation, including findings of fact, to DEQ to either approve or deny a permit based on DMVA's evaluation of the proposed facility's potential impact on any military installation in the State. DMVA must issue its recommendation to DEQ within 60 days following receipt of a completed application. If DMVA does not act within the timeframe set out in this section, DEQ must treat the failure to act as a recommendation from DMVA to deny the application for a permit. DEQ cannot issue a permit for a wind energy facility if DMVA issues a recommendation to deny the permit. **Section 3 would become effective October 1, 2018, and applies to applications for permits wind energy facilities submitted on or after that date.**

Section 4 would transfer to DMVA, from SCO, the administration and implementation of the Military Lands Protection Act of 2013 (Act). This section also recodifies the Act into Article 14 of Chapter 143B of the General Statutes, within the statutory jurisdiction of DMVA. **Section 4 would become effective October 1, 2018, and applies to requests for endorsements for tall buildings or structures submitted on or after that date.**

Section 5 would modify the statutory local government ordinance making procedures to direct a unit of local government, in addition to notifying the commander of a military base, to also notify DMVA when the adoption or modification of an ordinance would result in changes located five miles or less from the perimeter boundary of a military base. This section also clarifies that the proposed changes include those relating to tall buildings and structures and wind energy facilities.

Section 6 would make conforming changes to transfer the responsibility for maintaining and making available accurate maps of areas of (i) the zones identified on the Low Level Flight Compatibility, Figure 3 1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas and (ii) the areas surrounding military installations from SCO to DMVA.

Section 7 would amend the powers and duties of DMVA to conform to the changes made in Sections 3 and 4 of this act directing the agency to issue recommendations to DEQ to either permit or deny wind energy facility applications and to issue endorsements for tall buildings and structures. **Section 7 would become effective October 1, 2018, and applies to certifications and endorsements issued on or after that date.**

Section 8 would establish the North Carolina Sentinel Landscape Committee (Committee), administratively housed within the Department of Agriculture and Consumer Services (DACS). The Committee is directed to:

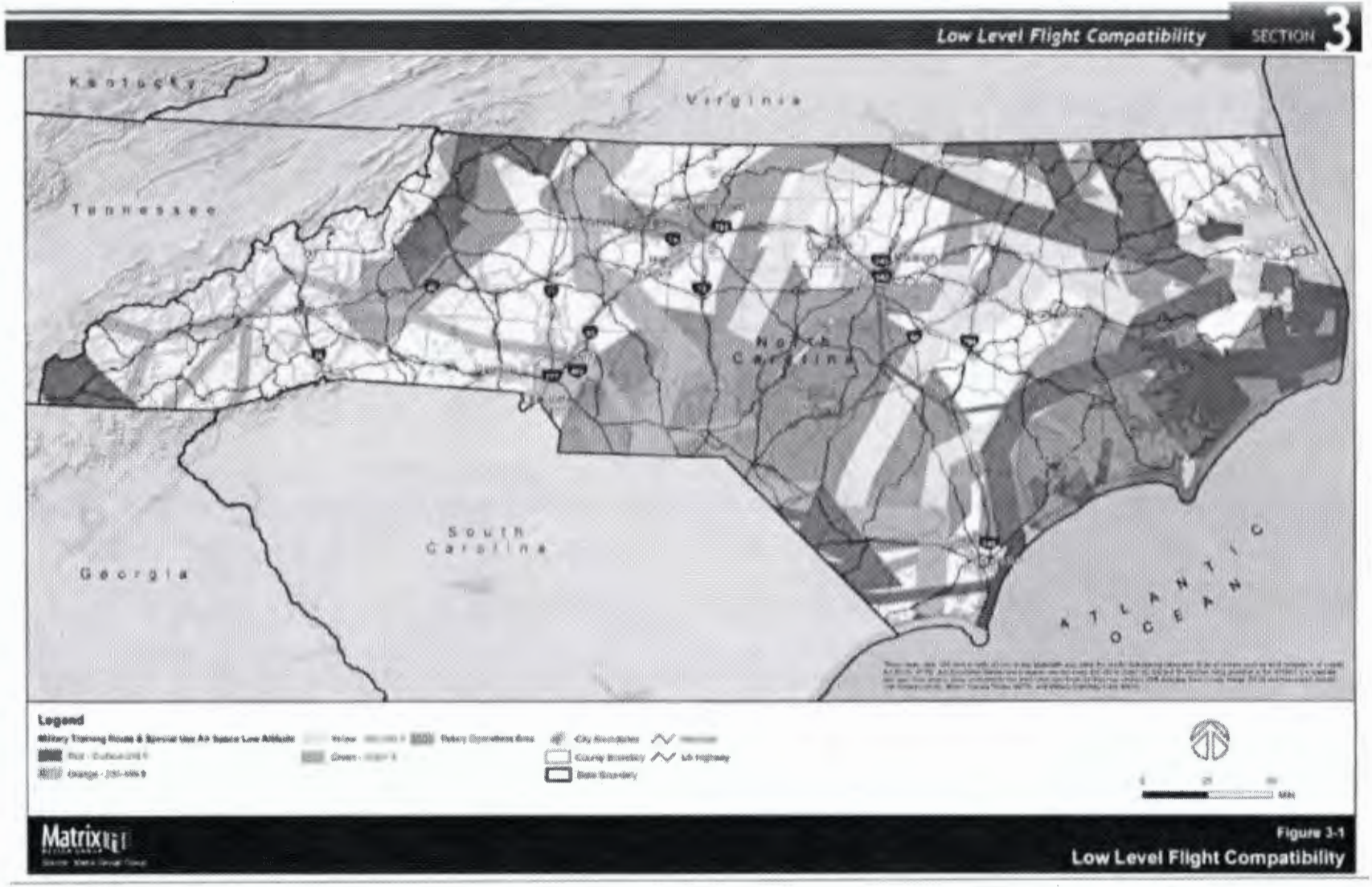
1. Identify and designate certain lands to be contained in the sentinel landscape of this State that are of particular import to the nation's defense and in the vicinity of major military installations.
2. Evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions in the State.
3. Develop recommendations to encourage landowners located within the sentinel landscapes (as designated above) to voluntarily participate in and begin or continue land uses that are compatible with the United States Department of Defense operations in this State.
4. Provide technical support and assistance to landowners who voluntarily participate in the sentinel landscape program.

In addition to the chair appointing members who represent other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands, the Committee is made up of the following four members: (i) the Commissioner of Agriculture, or the Commissioner's designee, who will serve as chair; (ii) the Secretary of DMVA, or the Secretary's designee; (iii) the Secretary of Natural and Cultural Resources, or the Secretary's designee; and (iv) the chair of the Soil and Water Conservation Commission.

The Committee must report on its activities to implement this section along with any findings, recommendations, and legislative proposals to both the Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2016, and every six months thereafter until such time as the Committee completes its work.

Section 9 would direct DMVA, in consultation with the Division of Energy, Mineral, and Land Resources in DEQ, to study the potential conflicts posed by energy-related infrastructure development within the Red, Orange, and Yellow Zones, identified in the Low Level Flight Compatibility map. Specifically, DMVA must evaluate on- and near-shore infrastructure development related to wind, solar, oil, and gas energy activities and infrastructure that has the potential to disrupt or weaken radar operability or reliability. DMVA must report its findings, recommendations, and any legislative proposals to the Joint Legislative Energy Policy Commission by December 15, 2017.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.



Low Level Flight Compatibility Figure 3-1 of the
March 2016 Edition of the NC Military Affairs Commission Compatible Use Map Atlas

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 763
Second Edition Engrossed 4/28/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H763-PCS10552-TA-22

Short Title: Military Operations Protection Act of 2016. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT NORTH CAROLINA'S MILITARY FOOTPRINT BY (1) MODIFYING THE PERMITTING PROCESS FOR WIND ENERGY FACILITIES, THE ENDORSEMENT PROCESS FOR CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES, AND THE PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING ORDINANCES IN ORDER TO PROVIDE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS WITH THE RESPONSIBILITY FOR CONSIDERATION AND REVIEW OF MILITARY-RELATED CRITERIA AND (2) ESTABLISHING THE NORTH CAROLINA SENTINEL LANDS COMMITTEE TO COORDINATE THE OVERLAPPING PRIORITY AREAS IN THE VICINITY OF THE STATE'S MAJOR MILITARY INSTALLATIONS.

The General Assembly of North Carolina enacts:

PART I. MODIFY THE APPROVAL PROCESS FOR PERMITTING WIND ENERGY FACILITIES

SECTION 1.(a) Article 21C of Chapter 143 of the General Statutes reads as rewritten:

"Article 21C.

"Permitting of Wind Energy Facilities.

"**§ 143-215.115. Definitions.**

In addition to the definitions set forth in G.S. 143-212, the following definitions apply to this Article:

(1) "Major military installation" means Fort Bragg, Pope Army Airfield, Marine Corps Base Camp Lejeune, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, Camp Butner, North Carolina National Guard Joint Force Headquarters, and any facility located within the State that is subject to the installations' oversight and control.

(2) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

(3) "Wind energy facility expansion" means any activity that (i) adds or substantially modifies turbines or transmission facilities, including increasing the height of such equipment, over that which was initially permitted or (ii) increases the footprint of the wind energy facility over that which was initially permitted.

"**§ 143-215.116. Permit to site wind energy facilities.**

No person shall undertake construction, operation, or expansion activities associated with a wind energy facility in this State without first obtaining a permit from the Department.

"**§ 143-215.116A. Prohibitions; low level flight compatibility.**

(a) Construction, operation, or expansion activities associated with a wind energy facility shall be prohibited in any location identified as a "Red Zone," "Orange Zone," "Yellow Zone," "Green Zone," or "Grey Zone-Rotary Operations Area" as those zones are identified on the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas.

(b) The Department shall consult with the Military Affairs Commission and the Department of Military and Veterans Affairs, at least annually, to ensure that the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas, is up-to-date to reflect potential development conflicts to existing military operations and to future military operations that may be considered for military's mission, readiness, and training. Based on their review, the Department of Military and Veterans Affairs and the Commission may update Figure 3-1 from time-to-time. After an update has occurred, the agencies shall present the new map and relevant data to the General Assembly for the General Assembly's consideration of a statutory revision to incorporate the updated map.

(c) The Department is authorized to withhold from the public record any relevant data that it deems critical to national security but, when queried, shall identify where such data has been protected from inclusion in public records.

"**§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.**

...

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the Department. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion, including (i) the approximate number, type, and height of wind turbines to be constructed; (ii) the total planned capacity of the facility; and (iii) a description of any ancillary facilities.

(2) A map showing the approximate location of the proposed wind energy facility or proposed wind energy facility expansion.

(3) A description of any known potential impacts of the proposed wind energy project location on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations. The applicant may use data made available by the Department of Military and Veterans Affairs pursuant to G.S. 143-215.123 to satisfy this requirement.

(4) A description of species of concern, habitats that support species of concern, critical areas of wildlife congregation, and protected lands, as those species, habitats, and critical areas are referenced in the March 23, 2012, United States

Fish and Wildlife Service Land-Based Wind Energy Guidelines (OMB Control No. 1018-0148) that are or believed to be present at the site of the proposed wind energy facility or proposed wind energy facility expansion. The applicant may use data made available by the North Carolina Wildlife Resources Commission, the Department, or other governmental agency to satisfy this requirement.

(5) A list of the federal, State, and local agencies from which approvals will be obtained and the name of those approvals required in order to authorize the construction, operation, or expansion of the proposed wind energy facility.

(6) A schedule showing the anticipated dates for commencement of construction, testing, and commercial operation of the proposed wind energy facility or proposed wind energy facility expansion.

...

"**§ 143-215.118. Permit application scoping meeting and notice.**

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant and the Department. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion. ~~The applicant and the Department shall review the permit for the proposed wind energy facility or proposed facility expansion at the scoping meeting.~~

...

"**§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.**

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the permit:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion.

(2) A map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that identifies the specific location of each turbine.

(3) A copy of a deed, purchase agreement, lease agreement, or other legal instrument demonstrating the right to construct, expand, or otherwise develop a wind energy facility on the property.

(4) Identification by name and address of property owners ~~adjacent to~~living within one-half mile of the proposed wind energy facility or proposed wind energy facility expansion. The applicant shall notify every property owner identified pursuant to this subdivision by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4, in a form approved by the Department. The notice shall include all of the following:

a. The location of the proposed wind energy facility or proposed wind energy facility expansion and the specific location of each turbine proposed to be located within one-half mile of the ~~boundary of the adjacent property owner.~~property.

b. A description of the proposed wind energy facility or proposed wind energy facility expansion.

(5) A description of civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other military operations that may be affected by the construction or operation of the proposed wind energy facility or proposed wind energy facility expansion.

(6) Documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense Clearinghouse pursuant to Part 211 of Title 32 Code of Federal Regulations (July 1, 2012 edition) and any mitigation actions agreed to by the applicant.

(7) Documentation that the applicant has either (i) submitted Federal Aviation Administration Form 7460-1 for the turbines associated with the proposed wind energy facility or proposed wind energy facility expansion or (ii) initiated an informal review by the Department of Defense Siting Clearinghouse of the proposed wind energy facility or proposed wind energy facility expansion. If the applicant has submitted Federal Aviation Administration Form 7460-1 in order to fulfill the requirements of this subdivision, the applicant shall provide any determination reached by the Federal Aviation Administration at the time the application is submitted to the Department. If the Federal Aviation Administration has not made a determination at the time the application is submitted to the Department, the application shall include a description of the status of the applicant's engagement with the Federal Aviation Administration and the Department of Defense Siting Clearinghouse.

(8) A study of the noise impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion.

(9) A study on shadow flicker impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion, unless the turbines will be located in a sound or in offshore waters.

(10) A study of the impact of the proposed wind energy facility or proposed wind energy facility expansion on natural resources and uses, including avian, bat, and endangered and threatened species.

(11) An explanation of how the proposed wind energy facility or proposed wind energy facility expansion would be consistent with the criteria in subsection (a) of G.S. 143-215.120.

(12) The application fee required by subsection (c) of this section.

(13) A plan regarding the action to be taken upon the decommissioning and removal of the wind energy facility. The plan shall include an estimate of the cost to decommission and remove the wind energy facility. The plan shall also include the anticipated life of the project, an estimate of the cost to decommission and remove the wind energy facility, a description of the manner in which the facility will be decommissioned, and a description of the expected condition of the site once the wind energy facility has been decommissioned and removed.

(14) Other data or information the Department may reasonably require.

(a1) A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall provide copies of the noise and shadow flicker studies required pursuant to subdivisions (8) and (9) of subsection (a) of this section to the Department of Health and Human Services for review of the potential health effects posed by the proposed facility. The Department of Health and Human Services shall provide the results of its review of the studies and its recommendations for further action, if any, to the Department. If in the conduct of its review of either the noise or shadow flicker impact studies, or both, the Department of Health and Human Services determines that those impacts would be deleterious to human health, the Department of Health and Human Services shall notify the Department accordingly, in writing, with a recommendation that the Department deny the permit.

...

"**§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.**

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the ~~Department~~ Department, the Department of Military and Veterans Affairs, or any other provision of law.

(2) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.

(3) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would result in significant adverse impacts to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance; including national or State parks or forests, wilderness areas, historic sites, recreation areas, segments of the natural and scenic rivers system, wildlife refuges, preserves and management areas, areas that provide habitat for threatened or endangered species, primary nursery areas designated by the Marine Fisheries Commission and the Wildlife Resources Commission, and critical fisheries habitat identified pursuant to the Coastal Habitat Protection Plan.

(4) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on fish or wildlife.

(5) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on views from any State or national park, wilderness area, significant natural heritage area as compiled by the North Carolina Natural Heritage Program, or other public lands or private conservation lands designated or dedicated due to their high recreational values.

(6) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would obstruct major navigation channels or create a significant obstacle to navigation in coastal waters, as determined by the United States Army Corps of Engineers and the United States Coast Guard.

(7) A permit for a proposed wind energy facility or proposed wind energy facility expansion would be denied under any other criteria set out in G.S. 113A-120.

(8) Construction of the proposed wind energy facility or proposed wind energy facility expansion would be prohibited under Article 14 of Chapter 113A of the General Statutes, the Mountain Ridge Protection Act of 1983.

(9) The applicant is not in compliance with all applicable federal, State, or local permit requirements, licenses, or approvals, including local zoning requirements.

(10) That construction of the proposed wind energy facility or proposed wind energy facility expansion would pose a significant adverse impact on human health, as evidenced by receipt of the written notice from the Department of Health and Human Services submitted pursuant to G.S. 143-215.119(a1).

...

"**§ 143-215.123. Annual review of military presence.**

The Department of Military and Veterans Affairs shall consult with representatives of the major military installations to review information regarding military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations at least once per ~~year.~~year and shall provide such information to the Department. The Department shall provide relevant information on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations to permit applicants as requested.

...

"**§ 143-215.125. Rule making.**

The Department of Military and Veterans Affairs and the Environmental Management Commission shall adopt any rules necessary ~~for the implementation of~~ pertaining to their respective jurisdictions to implement this Article. In adopting rules, the Environmental Management Commission shall consult with the Coastal Resources Commission to ensure that the development of statewide permitting requirements is consistent with and in consideration of the characteristics unique to the coastal area of the State to the maximum extent practicable.

...."

SECTION 1.(b) This section becomes effective when this act becomes law and applies to applications for permits for a proposed wind energy facility or a proposed wind energy facility expansion submitted on or after that date.

PART II. DISCRETE MODIFICATION OF THE ENDORSEMENT PROCESS FOR THE CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES

SECTION 2.(a) Article 9G of Chapter 143 of the General Statutes reads as rewritten:

"Article 9G.

"Military Lands Protection.

"**§ 143-151.70. Short title.**

This Article shall be known as the Military Lands Protection Act of 2013.

"**§ 143-151.71. Definitions.**

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

(1a) "Adjutant General" means the Adjutant General of the North Carolina National Guard or the Adjutant General's designee.

(2) Repealed by Session Laws 2014-79, s. 2, effective July 22, 2014.

~~(3) "Commissioner" means the Commissioner of Insurance.~~

(4) "Construction" includes reconstruction, alteration, or expansion.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(5a) "National Guard facilities" means Camp Butner and the North Carolina National Guard Joint Force Headquarters.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "Secretary" means the Secretary of the Department of Administration.

~~(6a)~~(6b) "State Construction Office" means the State Construction Office of the Department of Administration.

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.

"**§ 143-151.72. Legislative findings.**

North Carolina has a vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major ~~installations.~~military installations and National Guard facilities. Development located proximate to military installations has been identified as a critical issue impacting the long-term viability of the military in this State. Additional concerns associated with development include loss of access to air space and coastal and marine areas and radio frequency encroachment. The construction of tall buildings or structures in areas surrounding major military installations is of utmost concern to the State as those buildings and structures may interfere with or impede the military's ability to carry out activities that are vital to its function and future presence in North Carolina.

"**§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the State Construction Office pursuant to ~~G.S. 143-151.75 or proof of the State Construction Office's failure to act within the time allowed pursuant to~~ G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

"**§ 143-151.74. Exemptions from applicability.**

(a) Wind energy facilities and wind energy facility expansions, as those terms are defined in Article 21C of Chapter 143 of the General Statutes, that are subject to the applicable permit requirements of that Chapter shall be exempt from obtaining the endorsement required by this Article.

(b) Cellular, radio, and television towers erected to temporarily replace cellular, radio, and television towers that are damaged or destroyed due to a natural disaster shall be exempt from obtaining the endorsement required by this Article provided all of the following conditions are met:

(1) The height of the cellular, radio, or television tower that is erected to temporarily replace the cellular, radio, or television tower that is damaged or destroyed does not exceed the height of the original cellular, radio, or television tower.

(2) A disaster has been declared pursuant to Chapter 166A of the General Statutes for the area in which the damaged or destroyed cellular, radio, or television tower is located.

(3) The temporary cellular, radio, or television tower shall only remain in place until the expiration of the declared disaster.

(c) The modification, replacement, removal, or addition of antennas on cellular, radio, or television towers in an area surrounding a major military installation shall be exempt from obtaining the endorsement required by this Article provided the modification, replacement, removal, or addition does not increase the vertical height of the structure.

"**§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without ~~either~~ first obtaining the endorsement from the State Construction ~~Office or proof of the State Construction Office's failure to act within the time allowed.~~Office.

(a1) No person shall undertake construction of a tall building or structure in any area located within one-quarter mile (1/4 mile) of a National Guard facility without first obtaining an endorsement from the State Construction Office.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the State Construction Office:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the ~~applicant~~ person pursuant to subsection (b) of this section, the State Construction Office shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The State Construction Office shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within ~~a protected~~an area that surrounds the major military installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The State Construction Office shall not endorse a tall building or structure if the State Construction Office finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by

members of affected communities. Provided, however, if the State Construction Office does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the State Construction Office shall deem the tall building or structure as ~~endorsed~~ denied by the base commander.

(2) The State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(d1) A person seeking endorsement for a proposed tall building or structure in any area located within one-quarter mile (1/4 mile) of a National Guard facility shall consult with the Adjutant General to determine whether any activities of the facility may be adversely affected by the proposed tall building or structure. A written summary of the consultation between the person and the Adjutant General, including findings and recommendations of the Adjutant General as to whether or not to endorse the proposed tall building or structure, shall be submitted to the State Construction Office and evaluated in accordance with subsections (d2) and (e) of this section.

(d2) The State Construction Office shall not endorse a tall building or structure in any area located within one-quarter mile (1/4 mile) of a National Guard facility if the State Construction Office finds any one or more of the following:

(1) As evidenced by receipt of the written summary from the Adjutant General submitted pursuant to subsection (d1) of this section, construction of the proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of National Guard facility and result in a detriment to its continued presence in the State. In its evaluation, the State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received as provided in subsection (d1) of this section. Provided, however, if the State Construction Office does not receive the written statement pursuant to subsection (d1) of this section within 45 days of the date of the consultation between the person and the Adjutant General, the State Construction Office shall construe the Adjutant General's failure to submit the written statement as a recommendation to deny endorsement of the tall building or structure.

(2) The State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The State Construction Office shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which either (i) the State Construction Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this ~~section.~~section or (ii) the State Construction Office received the written summary of the consultation between the person and the Adjutant General submitted in accordance with subsection (d1) of this section. If the State Construction Office determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the State Construction Office shall deny the request. The State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the State Construction Office fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to ~~endorse~~ deny endorsement of the tall building or structure.

~~(f) The State Construction Office may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section.~~

"§ 143-151.76. Application to existing tall buildings and structures.

G.S. 143-151.73 applies to tall buildings or structures that existed in an area surrounding major military installations ~~upon the effective date of this Article~~on October 1, 2013, as follows:

(1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with G.S. 143-151.73 ~~upon its effective date.~~on October 1, 2013.

(2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with G.S. 143-151.73 ~~upon its effective date.~~on October 1, 2013.

"§ 143-151.77. Enforcement and penalties.

(a) In addition to injunctive ~~relief,~~relief, as provided by subsection (e) of this section, the ~~Commissioner~~ Secretary may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this section. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(b) The ~~Commissioner~~ Secretary 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 Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar 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 ~~Commissioner~~ Secretary within 30 calendar days after it is due, the ~~Commissioner~~ Secretary shall request that the Attorney General 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. A civil action must be filed within one year 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.

(c) In determining the amount of the penalty, the ~~Commissioner~~ 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, the prior record of the violator in complying or failing to comply with this Article, and the action of the person to remedy the violation.

(d) The clear proceeds of civil penalties collected by the ~~Commissioner~~ Secretary under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Whenever the Secretary has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article, a rule implementing this Article, or any of the terms of any endorsement issued pursuant to this Article, the State Construction Office may, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the request of the State Construction Office 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 the Attorney General's discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has the person's principal place of business. Upon a determination by the court that the alleged

violation of the provisions of this Article or the regulations of the State Construction Office 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 Article."

SECTION 2.(b) This section is effective when this act becomes law and applies to requests for endorsements to construct tall buildings or structures submitted on or after that date.

PART III. AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW MILITARY-RELATED CRITERIA FOR PERMITTING WIND ENERGY FACILITIES

SECTION 3.(a) Article 21C of Chapter 143 of the General Statutes, as amended by Section 1(a) of this act, reads as rewritten:

"Article 21C.

"Permitting of Wind Energy Facilities.

...

"**§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.**

(a) Permit Preapplication Site Evaluation Meeting. – No less than 180 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility, a person shall request a preapplication site evaluation meeting to be held between the ~~applicant and the Department.~~applicant, the Department, and the Department of Military and Veterans Affairs. The preapplication site evaluation meeting shall be held no less than 120 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility and may be used by the participants to:

...

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the ~~Department.~~ Department and the Department of Military and Veterans Affairs. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

...

"**§ 143-215.118. Permit application scoping meeting and notice.**

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant, the Department, and the Department of Military and Veterans Affairs. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion.

...

"**§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.**

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the ~~permit:~~permit to be submitted to the Department and the Department of Military and Veterans Affairs:

...

(f) Public Hearing and Comment. – The Department shall hold a public hearing in each county in which the wind energy facility or wind energy facility expansion is proposed to be

located within 75 days of receipt of a completed permit application. The Department shall provide notice including the time and location of the public hearing in a newspaper of general circulation in each applicable county. The notice of public hearing shall be published for at least two consecutive weeks beginning no less than 45 days prior to the scheduled date of the hearing. The notice shall provide that any comments on the proposed wind energy facility or proposed wind energy facility expansion should be submitted to the Department by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after distribution of the mailed notice, whichever is later. No less than 30 days prior to the scheduled public hearing, the Department shall provide written notice of the hearing to:

(1) The North Carolina Utilities Commission.
(2) The Office of the Attorney General of North Carolina.
(3) The commanding military officer of any potentially affected major military installation or the commanding military officer's designee.
(4) The board of commissioners for each county and the governing body of each municipality with jurisdictions over areas in which a potentially affected major military installation is located.
(5) The Department of Military and Veterans Affairs.

"§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the Department, the Department of Military and Veterans Affairs, or any other provision of law.
(2) ~~Construction~~ The Department of Military and Veterans Affairs has issued a recommendation to deny the permit pursuant to G.S. 143-215.120A(b), on the basis that construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. ~~In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.~~

...

(b) Permit Decision. –The Department shall make a final decision on a permit application within 90 days following receipt of a completed application, except that the Department shall not be required to make a final decision until the Department has ~~received~~ received both (i) a recommendation, issued pursuant to G.S. 143-215.120A, from the Department of Military and Veterans Affairs as to whether approve or deny a permit for the proposed wind energy facility or proposed wind energy facility expansion, and (ii) a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition). If the Department requests additional information following the receipt of a completed application, the Department shall make a final decision on a permit application within 30 days of receipt of the requested

information. If the Department determines that an application for a wind energy facility or a wind energy facility expansion fails to meet the requirements for a permit under this section, the Department shall deny the application, and the application shall be returned to the applicant accompanied by a written statement of the reasons for the denial and any modifications to the permit application that would make the application acceptable. If the Department fails to act within the time period set forth in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided under Chapter 150B of the General Statutes.

...

"**§ 143-215.120A. Evaluation of military-related criteria required from the Department of Military and Veterans Affairs; recommendation to Department of Environmental Quality.**

(a) The Department of Military and Veterans Affairs shall evaluate whether the construction or operation of the proposed wind energy facility or wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department of Military and Veterans Affairs may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.

(b) Based on its evaluation of the criteria set forth in subsection (a) of this section, the Department of Military and Veterans Affairs shall issue a recommendation to the Department as to whether the Department should approve or deny an application for a proposed wind energy facility or wind energy facility expansion, which shall include findings of fact that document the basis for the recommendation. The Department of Military and Veterans Affairs shall issue its recommendation as to whether to approve or deny an application for a permit within 60 days following receipt of a completed application. If the Department of Military and Veterans Affairs fails to act within the time period set forth in this subsection, the Department shall treat the failure to act as a recommendation to deny an application for a proposed wind energy facility or wind energy facility expansion on the basis that the facility or expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State.

...."

SECTION 3.(b) This section becomes effective October 1, 2018, and applies to applications for permits for a proposed wind energy facility or a proposed wind energy facility expansion submitted on or after that date.

PART IV. AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW MILITARY-RELATED CRITERIA AND ENDORSE THE CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES

SECTION 4.(a) The Revisor of Statutes shall make the following recodifications in connection with the transfer of the Military Lands Protection Act of 2013:

(1) Article 9G of Chapter 143 of the General Statutes (Military Lands Protection) is recodified into Part 12 of Article 14 of Chapter 143B of the General Statutes with the sections to be numbered as G.S. 143B-1315A through 143B-1315H, respectively.

SECTION 4.(b) Part 12 of Article 14 of Chapter 143B of the General Statutes, as recodified by subsection (a) of this section and as amended by Section 2(a) of this act, reads as rewritten:

"~~Article 9G.~~Part 12. Military Lands Protection.

"§ 143B-1315A. Short title.

This ~~Article~~ Part shall be known as the Military Lands Protection Act of 2013.

"§ 143B-1315B. Definitions.

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

(1a) "Adjutant General" means the Adjutant General of the North Carolina National Guard, or the Adjutant General's designee.

(2) Repealed by Session Laws 2014-79, s. 2, effective July 22, 2014.

(3) Repealed.

(4) "Construction" includes reconstruction, alteration, or expansion.

(4a) "Department" means the Department of Military and Veterans Affairs.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(5a) "National Guard facilities" means Camp Butner and the North Carolina National Guard Joint Force Headquarters.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "Secretary" means the Secretary of the Department of ~~Administration.~~Military and Veterans Affairs.

~~(6b) "State Construction Office" means the State Construction Office of the Department of Administration.~~

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet (200') measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.

...

"§ 143B-1315D. Certain buildings and structures prohibited without endorsement.

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the ~~State Construction Office~~Department pursuant to ~~G.S. 143-151.75.~~G.S. 143B-1315F.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

...

"**§ 143B-1315F. Endorsement for proposed tall buildings or structures required.**

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without first obtaining the endorsement from the ~~State Construction Office.~~Department.

(a1) No person shall undertake construction of a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility without first obtaining an endorsement from the ~~State Construction Office.~~Department.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the ~~State Construction Office:~~Department:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the person pursuant to subsection (b) of this section, the ~~State Construction Office~~Department shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The ~~State Construction Office~~ Department shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within an area that surrounds the major military installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The ~~State Construction Office~~Department shall not endorse a tall building or structure if the ~~State Construction Office~~Department finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the ~~State Construction Office~~Department may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the ~~State Construction Office~~Department does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the ~~State Construction Office~~Department shall deem the tall building or structure as ~~endorsed~~ eligible by the base commander.

(2) The ~~State Construction Office~~Department is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(d1) A person seeking endorsement for a proposed tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility shall consult with the Adjutant General to determine whether any activities of the facility may be adversely affected by the proposed tall building or structure. A written summary of the consultation between the person and the Adjutant General, including findings and recommendations of the Adjutant General as to whether or not to endorse the proposed tall building or structure, shall be submitted to the ~~State Construction Office~~Department and evaluated in accordance with subsections (d2) and (e) of this section.

(d2) The ~~State Construction Office~~Department shall not endorse a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility if the ~~State Construction Office~~Department finds any one or more of the following:

(1) As evidenced by receipt of the written summary from the Adjutant General submitted pursuant to subsection (d1) of this section, construction of the proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of National Guard Facility and result in a detriment to its continued presence in the State. In its evaluation, the ~~State Construction Office~~Department may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received as provided in subsection (d1) of this section. Provided, however, if the ~~State Construction Office~~Department does not receive the written statement pursuant to subsection (d1) of this section within 45 days of the date of the consultation between the person and the Adjutant General, the ~~State Construction Office~~Department shall construe the Adjutant General's failure to submit the written statement as a recommendation to deny endorsement of the tall building or structure.

(2) The ~~State Construction Office~~Department is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The ~~State Construction Office~~Department shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which either (i) the ~~State Construction Office~~Department requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section or (ii) the ~~State Construction Office~~Department received the written summary of the consultation between the person and the Adjutant General submitted in accordance with subsection (d1) of this section. If the ~~State Construction Office~~Department determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the ~~State Construction Office~~Department shall deny the request. The ~~State Construction Office~~Department shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~State Construction Office~~Department fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to deny endorsement of the tall building or structure.

"§ 143B-1315G. Application to existing tall buildings and structures.

~~G.S. 143-151.73~~G.S. 143B-*1315*D applies to tall buildings or structures that existed in an area surrounding major military installations on October 1, 2013, as follows:

(1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with ~~G.S. 143-151.73~~ G.S. 143B-1315D on October 1, 2013.

(2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with ~~G.S. 143-151.73~~ G.S. 143B-1315D on October 1, 2013.

"**§ 143B-1315H. Enforcement and penalties.**

(a) In addition to injunctive ~~relief,~~relief, as provided by subsection (e) of this section, the Secretary may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this section. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(b) The Secretary 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 Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar 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 calendar days after it is due, the Secretary shall request that the Attorney General 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. A civil action must be filed within one year 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.

(c) 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, the prior record of the violator in complying or failing to comply with this Article, and the action of the person to remedy the violation.

(d) The clear proceeds of civil penalties collected by the Secretary under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Whenever the Secretary has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article, a rule implementing this Article, or any of the terms of any endorsement issued pursuant to this Article, the ~~State Construction Office~~ Department may, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the request of the ~~State Construction Office~~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 the Attorney General's discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has the person's principal place of business. Upon a determination by the court that the alleged violation of the provisions of this Article or the regulations of the ~~State Construction Office~~Department 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 Article."

SECTION 4.(c) This section becomes effective October 1, 2018, and applies to requests for endorsements to construct tall buildings or structures submitted on or after that date.

PART V. MODIFY LOCAL GOVERNMENT ORDINANCE-MAKING PROCEDURES TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW AND COMMENT ON MILITARY-RELATED CRITERIA

SECTION 5.(a) G.S. 153A-323 reads as rewritten:

"**§ 153A-323. Procedure for adopting, amending, or repealing ordinances under this Article and Chapter 160A, Article 19.**

(a) Before adopting, amending, or repealing any ordinance authorized by this Article or Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice, to the Department of Military and Veterans Affairs and the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the Department of Military and Veterans Affairs and the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the board does not receive a response within 30 days of the notice, the Department of Military and Veterans Affairs and the military ~~is~~ are deemed to waive the comment period. If the Department of Military and Veterans Affairs and the military ~~provides~~ provide comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.

(2) Changes that affect the permitted uses of land.

(3) Changes relating to telecommunications ~~towers or windmills.~~towers and tall buildings and structures, as that term is defined in Article 9G of Chapter 143 of the General Statutes.

(3a) Changes relating to wind energy facilities or wind energy facility expansions as those terms are defined in Article 21C of Chapter 143 of the General Statutes.

(4) Changes to proposed new major subdivision preliminary plats.

(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

SECTION 5.(b) G.S. 160A-364 reads as rewritten:

"**§ 160A-364. Procedure for adopting, amending, or repealing ordinances under Article.**

(a) Before adopting, amending, or repealing any ordinance authorized by this Article, the city council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the governing body of the local government shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice, to the Department of Military and Veterans Affairs and the

commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the Department of Military and Veterans Affairs and the military may provide comments or analysis to the board [governing body of the local government] regarding the compatibility of the proposed changes with military operations at the base. If the board [governing body of the local government] does not receive a response within 30 days of the notice, the Department of Military and Veterans Affairs and the military ~~is~~ are deemed to waive the comment period. If the Department of Military and Veterans Affairs and the military ~~provides~~ provide comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the governing body of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.

(2) Changes that affect the permitted uses of land.

(3) Changes relating to telecommunications ~~towers or windmills.~~towers and tall buildings and structures, as that term is defined in Article 9G of Chapter 143 of the General Statutes.

(3a) Changes relating to wind energy facilities or wind energy facility expansions as those terms are defined in Article 21C of Chapter 143 of the General Statutes.

(4) Changes to proposed new major subdivision preliminary plats.

(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

PART VI. CONFORMING CHANGES

SECTION 6.(a) G.S. 143B-1211 is amended by adding a new subdivision to read:

"**§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

...

(25) Maintain, and make available to the public, including posting to the Department's Web site, accurate maps of (i) the zones identified on the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas, as provided in G.S. 143-215.116A, and (ii) the areas surrounding major military installations, and military training routes and military operating areas, as defined in G.S. 143B-1315B, that are subject to the provisions of Part 12 of this Article."

SECTION 6.(b) G.S. 143-135.29 is repealed.

SECTION 6.(c) This section is effective when this act becomes law.

SECTION 7.(a) G.S. 143B-1211, as amended by Section 6(a) of this act, is amended by adding two new subdivisions to read:

"**§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

...

(26) Issue recommendations to the Department of Environmental Quality as to whether the Department of Environmental Quality should approve or deny an application for a proposed wind energy facility or wind energy facility expansion as provided in G.S. 143-215.120A, and otherwise assist in

administration and implementation of the provisions of Article 21C of Chapter 143 of the General Statutes.

(27) Issue endorsements for the construction of proposed tall buildings or structures as provided in G.S. 143B-1315F and otherwise assist in the administration and implementation of the provisions of Part 12 of this Article."

SECTION 7.(b) This section becomes effective October 1, 2018, and applies to certifications and endorsements issued on or after that date.

PART VII. ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE

SECTION 8.(a) Committee Established. – There is established the North Carolina Sentinel Landscape Committee (Committee) administratively housed within the College of Natural Resources at North Carolina State University.

SECTION 8.(b) Findings and Purpose. – The General Assembly finds that sentinel landscapes are places where preserving the working and rural character of the State's private lands is important for both national defense and conservation priorities. It is the intent of the General Assembly to direct the Committee to coordinate the overlapping priority areas in the vicinity of and where testing and training occurs on major military installations, as that term is defined in G.S. 143-215.115. Further, the Committee shall assist landowners in improving their land to benefit their operations and enhance wildlife habitats while furthering the State's vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major military installations and National Guard facilities. In its work, the Committee shall develop and implement programs and strategies that (i) protect working lands in the vicinity of and where testing and training occurs on major military installations, (ii) address restrictions that inhibit military testing and training, and (iii) forestall incompatible development in the vicinity of and where testing and training occurs on military installations.

SECTION 8.(c) Powers and Duties. – The Committee shall:

(1) Identify and designate certain lands to be contained in the sentinel landscape of this State that are of particular import to the nation's defense and in the vicinity of and where testing and training occur on major military installations. In this work, the Committee may seek advice and recommendations from stakeholders who have experience in this sort of identification and designation.

(2) In designating sentinel lands as directed by subdivision (1) of this subsection, the Committee shall evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions conducted in this State. In its evaluation of which lands to designate as sentinel lands, the Committee shall consult with and seek input from:
   a. The United States Department of Defense.
   b. The North Carolina Commander's Council.
   c. The United States Department of Agriculture.
   d. The United States Department of the Interior.
   e. Elected officials from units of local government located in the vicinity of and where testing and training occurs on the proposed sentinel lands.
   f. Any other stakeholders that the Committee deems appropriate.

(3) Develop recommendations to encourage landowners located within the sentinel landscape designated pursuant to subdivision (1) of this subsection to voluntarily participate in and begin or continue land uses compatible with the United States Department of Defense operations in this State.

(4) Provide technical support services and assistance to landowners who voluntarily participate in the sentinel landscape program.

SECTION 8.(d) Membership. – The Committee shall consist of at least the four following members:

(1) The Commissioner of Agriculture, or the Commissioner's designee
(2) The Secretary of the Department of Military and Veterans Affairs, or the Secretary's designee.
(3) The Secretary of Natural and Cultural Resources, or the Secretary's designee.
(4) The Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

The Committee chair shall be one of the four listed members above and the Committee chair may appoint members representing other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands.

SECTION 8.(e) Transaction of Business. – The Committee shall meet, at a minimum, at least once during each calendar quarter and at other times at the call of the chair. A majority of members of the Committee shall constitute a quorum. The first Committee meeting shall take place within 30 days of the effective date of this act.

SECTION 8.(f) Reports. – The Committee shall report on its activities conducted to implement this section, including any findings, recommendations, and legislative proposals, to the North Carolina Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2016, and annually thereafter until such time as the Committee completes its work.

SECTION 8.(g) Administrative Assistance. – All clerical and other services required by the Committee shall be supplied by the membership and shall be provided with funds available.

SECTION 8.(h) Effective Date. – This section becomes effective when this act becomes law.

PART VIII. STUDY POTENTIAL CONFLICTS BETWEEN ENERGY-RELATED INFRASTRUCTURE DEVELOPMENT AND LOW LEVEL FLIGHT COMPATIBILITY

SECTION 9. The Department of Military and Veterans Affairs, in consultation with the Division of Energy, Mineral, and Land Resources in the Department of Environmental Quality, shall study the potential conflicts posed by energy-related infrastructure development within the Red, Orange, and Yellow Zones as detailed in the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas. In the conduct of its study, the Department shall evaluate on- and near-shore infrastructure development related to wind, solar, and oil and gas energy activities. The Department shall also study infrastructure that has the potential to disrupt or weaken radar operability or reliability. The Department may maintain records and documents that support the work of this study confidentially in accordance with G.S. 143B-1216. The Department of Military and Veterans Affairs shall report its findings, recommendations, and any legislative proposals to the Joint Legislative Energy Policy Commission on or before December 15, 2017.

PART IX. EFFECTIVE DATE

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 763
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Short Title: Military Operations Protection Act of 2016. (Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROTECT NORTH CAROLINA'S MILITARY FOOTPRINT BY: (1) MODIFYING THE PERMITTING PROCESS FOR WIND ENERGY FACILITIES, THE ENDORSEMENT PROCESS FOR CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES, AND THE PROCEDURE FOR ADOPTING, AMENDING, OR REPEALING ORDINANCES IN ORDER TO PROVIDE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS WITH THE RESPONSIBILITY FOR CONSIDERATION AND REVIEW OF MILITARY-RELATED CRITERIA AND (2) ESTABLISHING THE NORTH CAROLINA SENTINEL LANDS COMMITTEE TO COORDINATE THE OVERLAPPING PRIORITY AREAS IN THE VICINITY OF THE STATE'S MAJOR MILITARY INSTALLATIONS.

The General Assembly of North Carolina enacts:

PART I. MODIFY THE APPROVAL PROCESS FOR PERMITTING WIND ENERGY FACILITIES

SECTION 1.(a) Article 21C of Chapter 143 of the General Statutes reads as rewritten:

"Article 21C.

Permitting of Wind Energy Facilities.

§ 143-215.115. Definitions.

In addition to the definitions set forth in G.S. 143-212, the following definitions apply to this Article:

(1) "Major military installation" means Fort Bragg, Pope Army Airfield, Marine Corps Base Camp Lejeune, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, Camp Butner, North Carolina National Guard Joint Force Headquarters, and any facility located within the State that is subject to the installations' oversight and control.

(2) "Wind energy facility" means the turbines, accessory buildings, transmission facilities, and any other equipment necessary for the operation of the facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, have a rated capacity of one megawatt or more of energy.

(3) "Wind energy facility expansion" means any activity that (i) adds or substantially modifies turbines or transmission facilities, including increasing the height of such equipment, over that which was initially permitted or (ii) increases the footprint of the wind energy facility over that which was initially permitted.

§ 143-215.116. Permit to site wind energy facilities.

No person shall undertake construction, operation, or expansion activities associated with a wind energy facility in this State without first obtaining a permit from the Department.

§ 143-215.116A. Prohibitions; low level flight compatibility.

(a) Construction, operation, or expansion activities associated with a wind energy facility shall be prohibited in any location identified as a "Red Zone," "Orange Zone," "Yellow Zone," "Green Zone," or "Grey Zone–Rotary Operations Area" as those zones are identified on the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas.

(b) The Department shall consult with the Military Affairs Commission and the Department of Military and Veterans Affairs, at least annually, to ensure that the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas, is up-to-date to reflect potential development conflicts to existing military operations and to future military operations that may be considered for military's mission, readiness, and training. Based on their review, the Department of Military and Veterans Affairs and the Commission may update Figure 3-1 from time-to-time. After an update has occurred, the agencies shall present the new map and relevant data to the General Assembly for the General Assembly's consideration of a statutory revision to incorporate the updated map.

(c) The Department is authorized to withhold from the public record any relevant data that it deems critical to national security but, when queried, shall identify where such data has been protected from inclusion in public records.

§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.

...

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the Department. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion, including (i) the approximate number, type, and height of wind turbines to be constructed; (ii) the total planned capacity of the facility; and (iii) a description of any ancillary facilities.

(2) A map showing the approximate location of the proposed wind energy facility or proposed wind energy facility expansion.

(3) A description of any known potential impacts of the proposed wind energy project location on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations. The applicant may use data made available by the Department of Military and Veterans Affairs pursuant to G.S. 143-215.123 to satisfy this requirement.

(4) A description of species of concern, habitats that support species of concern, critical areas of wildlife congregation, and protected lands, as those species, habitats, and critical areas are referenced in the March 23, 2012, United States

Fish and Wildlife Service Land-Based Wind Energy Guidelines (OMB Control No. 1018-0148) that are or believed to be present at the site of the proposed wind energy facility or proposed wind energy facility expansion. The applicant may use data made available by the North Carolina Wildlife Resources Commission, the Department, or other governmental agency to satisfy this requirement.

(5) A list of the federal, State, and local agencies from which approvals will be obtained and the name of those approvals required in order to authorize the construction, operation, or expansion of the proposed wind energy facility.

(6) A schedule showing the anticipated dates for commencement of construction, testing, and commercial operation of the proposed wind energy facility or proposed wind energy facility expansion.

...

§ 143-215.118. Permit application scoping meeting and notice.

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant and the Department. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion. ~~The applicant and the Department shall review the permit for the proposed wind energy facility or proposed facility expansion at the scoping meeting.~~

...

§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the permit:

(1) A narrative description of the proposed wind energy facility or proposed wind energy facility expansion.

(2) A map showing the location of the proposed wind energy facility or proposed wind energy facility expansion that identifies the specific location of each turbine.

(3) A copy of a deed, purchase agreement, lease agreement, or other legal instrument demonstrating the right to construct, expand, or otherwise develop a wind energy facility on the property.

(4) Identification by name and address of property owners ~~adjacent to~~living within one-half mile of the proposed wind energy facility or proposed wind energy facility expansion. The applicant shall notify every property owner identified pursuant to this subdivision by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4, in a form approved by the Department. The notice shall include all of the following:

a. The location of the proposed wind energy facility or proposed wind energy facility expansion and the specific location of each turbine proposed to be located within one-half mile of the ~~boundary of the adjacent property owner.~~property.

b. A description of the proposed wind energy facility or proposed wind energy facility expansion.

(5) A description of civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other military operations that may be affected by the construction or operation of the proposed wind energy facility or proposed wind energy facility expansion.

(6) Documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense Clearinghouse pursuant to Part 211 of Title 32 Code of Federal Regulations (July 1, 2012 edition) and any mitigation actions agreed to by the applicant.

(7) Documentation that the applicant has either (i) submitted Federal Aviation Administration Form 7460-1 for the turbines associated with the proposed wind energy facility or proposed wind energy facility expansion or (ii) initiated an informal review by the Department of Defense Siting Clearinghouse of the proposed wind energy facility or proposed wind energy facility expansion. If the applicant has submitted Federal Aviation Administration Form 7460-1 in order to fulfill the requirements of this subdivision, the applicant shall provide any determination reached by the Federal Aviation Administration at the time the application is submitted to the Department. If the Federal Aviation Administration has not made a determination at the time the application is submitted to the Department, the application shall include a description of the status of the applicant's engagement with the Federal Aviation Administration and the Department of Defense Siting Clearinghouse.

(8) A study of the noise impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion.

(9) A study on shadow flicker impacts of the turbines to be associated with the proposed wind energy facility or proposed wind energy facility expansion, unless the turbines will be located in a sound or in offshore waters.

(10) A study of the impact of the proposed wind energy facility or proposed wind energy facility expansion on natural resources and uses, including avian, bat, and endangered and threatened species.

(11) An explanation of how the proposed wind energy facility or proposed wind energy facility expansion would be consistent with the criteria in subsection (a) of G.S. 143-215.120.

(12) The application fee required by subsection (c) of this section.

(13) A plan regarding the action to be taken upon the decommissioning and removal of the wind energy facility. The plan shall include an estimate of the cost to decommission and remove the wind energy facility. The plan shall also include the anticipated life of the project, an estimate of the cost to decommission and remove the wind energy facility, a description of the manner in which the facility will be decommissioned, and a description of the expected condition of the site once the wind energy facility has been decommissioned and removed.

(14) Other data or information the Department may reasonably require.

(a1) A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall provide copies of the noise and shadow flicker studies required pursuant to subdivisions (8) and (9) of subsection (a) of this section to the Department of Health and Human Services for review of the potential health effects posed by the proposed facility. The Department of Health and Human Services shall provide the results of its review of the studies and its recommendations for further action, if any, to the Department. If in the conduct of its review of either the noise or shadow flicker impact studies, or both, the Department of Health and Human Services determines that those impacts would be deleterious to human health, the Department of Health and Human Services shall notify the Department accordingly, in writing, with a recommendation that the Department deny the permit.

...

§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the ~~Department~~ Department, the Department of Military and Veterans Affairs, or any other provision of law.

(2) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.

(3) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would result in significant adverse impacts to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance; including national or State parks or forests, wilderness areas, historic sites, recreation areas, segments of the natural and scenic rivers system, wildlife refuges, preserves and management areas, areas that provide habitat for threatened or endangered species, primary nursery areas designated by the Marine Fisheries Commission and the Wildlife Resources Commission, and critical fisheries habitat identified pursuant to the Coastal Habitat Protection Plan.

(4) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on fish or wildlife.

(5) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would have a significant adverse impact on views from any State or national park, wilderness area, significant natural heritage area as compiled by the North Carolina Natural Heritage Program, or other public lands or private conservation lands designated or dedicated due to their high recreational values.

(6) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would obstruct major navigation channels or create a significant obstacle to navigation in coastal waters, as determined by the United States Army Corps of Engineers and the United States Coast Guard.

(7) A permit for a proposed wind energy facility or proposed wind energy facility expansion would be denied under any other criteria set out in G.S. 113A-120.

(8) Construction of the proposed wind energy facility or proposed wind energy facility expansion would be prohibited under Article 14 of Chapter 113A of the General Statutes, the Mountain Ridge Protection Act of 1983.

(9) The applicant is not in compliance with all applicable federal, State, or local permit requirements, licenses, or approvals, including local zoning requirements.

(10) That construction of the proposed wind energy facility or proposed wind energy facility expansion would pose a significant adverse impact on human health, as evidenced by receipt of the written notice from the Department of Health and Human Services submitted pursuant to G.S. 143-215.119(a1).

...

§ 143-215.123. Annual review of military presence.

The Department of Military and Veterans Affairs shall consult with representatives of the major military installations to review information regarding military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations at least once per ~~year.~~and shall provide such information to the Department. The Department shall provide relevant information on civil air navigation or military air navigation routes, air traffic control areas, military training routes, special-use air space, radar, or other potentially affected military operations to permit applicants as requested.

...

§ 143-215.125. Rule making.

The Department of Military and Veterans Affairs and the Environmental Management Commission shall adopt any rules necessary pertaining to their respective jurisdictions ~~for the implementation of~~to implement this Article. In adopting rules, the Environmental Management Commission shall consult with the Coastal Resources Commission to ensure that the development of statewide permitting requirements is consistent with and in consideration of the characteristics unique to the coastal area of the State to the maximum extent practicable.

...."

SECTION 1.(b) This section becomes effective when this act becomes law, and applies to applications for permits for a proposed wind energy facility or a proposed wind energy facility expansion submitted on or after that date.

PART II. DISCRETE MODIFICATION OF THE ENDORSEMENT PROCESS FOR THE CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES

SECTION 2.(a) Article 9G of Chapter 143 of the General Statutes reads as rewritten:

"Article 9G.

Military Lands Protection.

§ 143-151.70. Short title.

This Article shall be known as the Military Lands Protection Act of 2013.

§ 143-151.71. Definitions.

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

(1a) "Adjutant General" means the Adjutant General of the North Carolina National Guard, or the Adjutant General's designee.

(2) Repealed by Session Laws 2014-79, s. 2, effective July 22, 2014.

~~(3) "Commissioner" means the Commissioner of Insurance.~~

(4) "Construction" includes reconstruction, alteration, or expansion.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(5a) "National Guard facilities" means Camp Butner and the North Carolina National Guard Joint Force Headquarters.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "Secretary" means the Secretary of the Department of Administration.

~~(6a)~~(6b) "State Construction Office" means the State Construction Office of the Department of Administration.

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet (200') measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.

§ 143-151.72. Legislative findings.

North Carolina has a vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major ~~installations.~~military installations and National Guard facilities. Development located proximate to military installations has been identified as a critical issue impacting the long-term viability of the military in this State. Additional concerns associated with development include loss of access to air space and coastal and marine areas and radio frequency encroachment. The construction of tall buildings or structures in areas surrounding major military installations is of utmost concern to the State as those buildings and structures may interfere with or impede the military's ability to carry out activities that are vital to its function and future presence in North Carolina.

§ 143-151.73. Certain buildings and structures prohibited without endorsement.

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the State Construction Office pursuant to ~~G.S. 143-151.75 or proof of the State Construction Office's failure to act within the time allowed pursuant to~~ G.S. 143-151.75.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

§ 143-151.74. Exemptions from applicability.

(a) Wind energy facilities and wind energy facility expansions, as those terms are defined in Article 21C of Chapter 143 of the General Statutes, that are subject to the applicable permit requirements of that Chapter shall be exempt from obtaining the endorsement required by this Article.

(b) Cellular, radio, and television towers erected to temporarily replace cellular, radio, and television towers that are damaged or destroyed due to a natural disaster shall be exempt from obtaining the endorsement required by this Article provided all of the following conditions are met:

(1) The height of the cellular, radio, or television tower that is erected to temporarily replace the cellular, radio, or television tower that is damaged or destroyed does not exceed the height of the original cellular, radio, or television tower.

(2) A disaster has been declared pursuant to Chapter 166A of the General Statutes for the area in which the damaged or destroyed cellular, radio, or television tower is located.

(3) The temporary cellular, radio, or television tower shall only remain in place until the expiration of the declared disaster.

(c) The modification, replacement, removal, or addition of antennas on cellular, radio, or television towers in an area surrounding a major military installation shall be exempt from obtaining the endorsement required by this Article provided the modification, replacement, removal, or addition does not increase the vertical height of the structure.

§ 143-151.75. Endorsement for proposed tall buildings or structures required.

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without ~~either~~ first obtaining the endorsement from the State Construction ~~Office or proof of the State Construction Office's failure to act within the time allowed.~~Office.

(a1) No person shall undertake construction of a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility without first obtaining an endorsement from the State Construction Office.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the State Construction Office:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the ~~applicant~~ person pursuant to subsection (b) of this section, the State Construction Office shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The State Construction Office shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within ~~a protected~~an area that surrounds the major military installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The State Construction Office shall not endorse a tall building or structure if the State Construction Office finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by

members of affected communities. Provided, however, if the State Construction Office does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the State Construction Office shall deem the tall building or structure as ~~endorsed~~ denied by the base commander.

(2) The State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(d1) A person seeking endorsement for a proposed tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility shall consult with the Adjutant General to determine whether any activities of the facility may be adversely affected by the proposed tall building or structure. A written summary of the consultation between the person and the Adjutant General, including findings and recommendations of the Adjutant General as to whether or not to endorse the proposed tall building or structure, shall be submitted to the State Construction Office and evaluated in accordance with subsections (d2) and (e) of this section.

(d2) The State Construction Office shall not endorse a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility if the State Construction Office finds any one or more of the following:

(1) As evidenced by receipt of the written summary from the Adjutant General submitted pursuant to subsection (d1) of this section, construction of the proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of National Guard facility and result in a detriment to its continued presence in the State. In its evaluation, the State Construction Office may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received as provided in subsection (d1) of this section. Provided, however, if the State Construction Office does not receive the written statement pursuant to subsection (d1) of this section within 45 days of the date of the consultation between the person and the Adjutant General, the State Construction Office shall construe the Adjutant General's failure to submit the written statement as a recommendation to deny endorsement of the tall building or structure.

(2) The State Construction Office is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The State Construction Office shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which either (i) the State Construction Office requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this ~~section.~~ section or (ii) the State Construction Office received the written summary of the consultation between the person and the Adjutant General submitted in accordance with subsection (d1) of this section. If the State Construction Office determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the State Construction Office shall deny the request. The State Construction Office shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the State Construction Office fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to ~~endorse~~ deny endorsement of the tall building or structure.

~~(f) The State Construction Office may meet by telephone, video, or Internet conference, so long as consistent with applicable law regarding public meetings, to make a decision on a request for endorsement for a tall building or structure pursuant to subsection (e) of this section.~~

§ 143-151.76. Application to existing tall buildings and structures.

G.S. 143-151.73 applies to tall buildings or structures that existed in an area surrounding major military installations ~~upon the effective date of this Article~~on October 1, 2013, as follows:

(1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with G.S. 143-151.73 ~~upon its effective date.~~on October 1, 2013.

(2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with G.S. 143-151.73 ~~upon its effective date.~~on October 1, 2013.

§ 143-151.77. Enforcement and penalties.

(a) In addition to injunctive ~~relief,~~relief, as provided by subsection (e) of this section, the ~~Commissioner~~ Secretary may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this section. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(b) The ~~Commissioner~~ Secretary 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 Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar 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 ~~Commissioner~~ Secretary within 30 calendar days after it is due, the ~~Commissioner~~ Secretary shall request that the Attorney General 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. A civil action must be filed within one year 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.

(c) In determining the amount of the penalty, the ~~Commissioner~~ 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, the prior record of the violator in complying or failing to comply with this Article, and the action of the person to remedy the violation.

(d) The clear proceeds of civil penalties collected by the ~~Commissioner~~ Secretary under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Whenever the Secretary has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article, a rule implementing this Article, or any of the terms of any endorsement issued pursuant to this Article, the State Construction Office may, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the request of the State Construction Office 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 the Attorney General's discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has the person's principal place of business. Upon a determination by the court that the alleged

violation of the provisions of this Article or the regulations of the State Construction Office 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 Article."

SECTION 2.(b) This section is effective when this act becomes law, and applies to requests for endorsements to construct tall buildings or structures submitted on or after that date.

PART III. AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW MILITARY-RELATED CRITERIA FOR PERMITTING WIND ENERGY FACILITIES

SECTION 3.(a) Article 21C of Chapter 143 of the General Statues reads as rewritten:

"Article 21C.

Permitting of Wind Energy Facilities.

...

§ 143-215.117. Permit preapplication site evaluation meeting; notice; preapplication package requirements.

(a) Permit Preapplication Site Evaluation Meeting. – No less than 180 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility, a person shall request a preapplication site evaluation meeting to be held between the ~~applicant and the Department.~~applicant, the Department, and the Department of Military and Veterans Affairs. The preapplication site evaluation meeting shall be held no less than 120 days prior to filing an application for a permit to construct, operate, or expand a wind energy facility and may be used by the participants to:

...

(b) Permit Preapplication Package. – No less than 45 days prior to the date of the permit preapplication site evaluation meeting scheduled in accordance with subsection (a) of this section, the applicant for a wind energy facility or wind energy facility expansion shall submit a preapplication package to the ~~Department.~~ Department and the Department of Military and Veterans Affairs. To the extent that any documents contain trade secrets or confidential business information, those portions of the documents shall not be subject to disclosure under the North Carolina Public Records Act. The preapplication package shall include all of the following:

...

§ 143-215.118. Permit application scoping meeting and notice.

(a) Scoping Meeting. – No less than 60 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion, the applicant shall request the scheduling of a scoping meeting between the applicant, the Department, and the Department of Military and Veterans Affairs. The scoping meeting shall be held no less than 30 days prior to filing an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion.

...

§ 143-215.119. Permit application requirements; fees; notice of receipt of completed permit; public hearing; public comment.

(a) Permit Requirements. – A person applying for a permit for a proposed wind energy facility or proposed wind energy facility expansion shall include all of the following in an application for the ~~permit:~~permit to be submitted to the Department and the Department of Military and Veterans Affairs:

...

(f) Public Hearing and Comment. – The Department shall hold a public hearing in each county in which the wind energy facility or wind energy facility expansion is proposed to be located within 75 days of receipt of a completed permit application. The Department shall provide

notice including the time and location of the public hearing in a newspaper of general circulation in each applicable county. The notice of public hearing shall be published for at least two consecutive weeks beginning no less than 45 days prior to the scheduled date of the hearing. The notice shall provide that any comments on the proposed wind energy facility or proposed wind energy facility expansion should be submitted to the Department by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after distribution of the mailed notice, whichever is later. No less than 30 days prior to the scheduled public hearing, the Department shall provide written notice of the hearing to:

(1) The North Carolina Utilities Commission.
(2) The Office of the Attorney General of North Carolina.
(3) The commanding military officer of any potentially affected major military installation or the commanding military officer's designee.
(4) The board of commissioners for each county and the governing body of each municipality with jurisdictions over areas in which a potentially affected major military installation is located.
(5) The Department of Military and Veterans Affairs.

"**§ 143-215.120. Criteria for permit approval; time frame; permit conditions; other approvals required.**

(a) Permit Approval. – The Department shall approve an application for a permit for a proposed wind energy facility or proposed wind energy facility expansion unless the Department finds any one or more of the following:

(1) Construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would be inconsistent with or violate rules adopted by the Department, the Department of Military and Veterans Affairs, or any other provision of law.
(2) ~~Construction~~ The Department of Military and Veterans Affairs has issued a recommendation to deny the permit pursuant to G.S. 143-215.120A(b), on the basis that construction or operation of the proposed wind energy facility or proposed wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. ~~In its evaluation, the Department may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.~~

...

(b) Permit Decision.–The Department shall make a final decision on a permit application within 90 days following receipt of a completed application, except that the Department shall not be required to make a final decision until the Department has ~~received~~ received both (i) a recommendation, issued pursuant to G.S. 143-215.120A, from the Department of Military and Veterans Affairs as to whether approve or deny a permit for the proposed wind energy facility or proposed wind energy facility expansion, and (ii) a written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012 edition). If the Department requests additional information following the receipt of a completed application, the Department shall make a final decision on a permit application within 30 days of receipt of the requested information. If the Department determines that an application for a wind energy facility or a wind

energy facility expansion fails to meet the requirements for a permit under this section, the Department shall deny the application, and the application shall be returned to the applicant accompanied by a written statement of the reasons for the denial and any modifications to the permit application that would make the application acceptable. If the Department fails to act within the time period set forth in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided under Chapter 150B of the General Statutes.

...

"**§ 143-215.120A. Evaluation of military-related criteria required from the Department of Military and Veterans Affairs; recommendation to Department of Environmental Quality.**

(a) The Department of Military and Veterans Affairs shall evaluate whether the construction or operation of the proposed wind energy facility or wind energy facility expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Department of Military and Veterans Affairs may consider whether the proposed wind energy facility or proposed wind energy facility expansion would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on information submitted by the applicant pursuant to subdivisions (5) and (6) of subsection (a) of G.S. 143-215.119, and any information received by the Department pursuant to subdivision (2) of subsection (d) of G.S. 143-215.119.

(b) Based on its evaluation of the criteria set forth in subsection (a) of this section, the Department of Military and Veterans Affairs shall issue a recommendation to the Department as to whether the Department should approve or deny an application for a proposed wind energy facility or wind energy facility expansion, which shall include findings of fact that document the basis for the recommendation. The Department of Military and Veterans Affairs shall issue its recommendation as to whether to approve or deny an application for a permit within 60 days following receipt of a completed application. If the Department of Military and Veterans Affairs fails to act within the time period set forth in this subsection, the Department shall treat the failure to act as a recommendation to deny an application for a proposed wind energy facility or wind energy facility expansion on the basis that the facility or expansion would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State.

...."

SECTION 3.(b) This section becomes effective October 1, 2018, and applies to applications for permits for a proposed wind energy facility or a proposed wind energy facility expansion submitted on or after that date.

PART IV. AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW MILITARY-RELATED CRITERIA AND ENDORSE THE CONSTRUCTION OF TALL BUILDINGS AND STRUCTURES

SECTION 4.(a) The Revisor of Statutes shall make the following recodifications in connection with the transfer of the Military Lands Protection Act of 2013:

(1) Article 9G of Chapter 143 of the General Statutes (Military Lands Protection) is recodified into Part 12 of Article 14 of Chapter 143B of the General Statutes with the sections to be numbered as G.S. 143B-1315A through 143B-1315H, respectively.

SECTION 4.(b) Part 12 of Article 14 of Chapter 143B of the General Statutes, as recodified by subsection (a) of this section, reads as rewritten:

"~~Article 9G.~~Part 12
Military Lands Protection.

§ 143B-1315A. Short title.

This ~~Article~~ Part shall be known as the Military Lands Protection Act of 2013.

§ 143B-1315B. Definitions.

Within the meaning of this Article:

(1) "Area surrounding major military installations" is the area that extends five miles beyond the boundary of a major military installation and may include incorporated and unincorporated areas of counties and municipalities.

(1a) "Adjutant General" means the Adjutant General of the North Carolina National Guard, or the Adjutant General's designee.

(2) Repealed by Session Laws 2014-79, s. 2, effective July 22, 2014.

(3) Repealed.

(4) "Construction" includes reconstruction, alteration, or expansion.

(4a) "Department" means the Department of Military and Veterans Affairs.

(5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp Lejeune Marine Corps Air Base, New River Marine Corps Air Station, Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny Point, the United States Coast Guard Air Station at Elizabeth City, Naval Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort Fisher, and Seymour Johnson Air Force Base, in its own right and as the responsible entity for the Dare County Bombing Range, and any facility located within the State that is subject to the installations' oversight and control.

(5a) "National Guard facilities" means Camp Butner and the North Carolina National Guard Joint Force Headquarters.

(6) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

(6a) "Secretary" means the Secretary of the Department of ~~Administration.~~Military and Veterans Affairs.

~~(6b) "State Construction Office" means the State Construction Office of the Department of Administration.~~

(7) "Tall buildings or structures" means any building, structure, or unit within a multiunit building with a vertical height of more than 200 feet (200') measured from the top of the foundation of the building, structure, or unit and the uppermost point of the building, structure, or unit. "Tall buildings or structures" do not include buildings and structures listed individually or as contributing resources within a district listed in the National Register of Historic Places.

...

§ 143B-1315D. Certain buildings and structures prohibited without endorsement.

(a) No county or city may authorize the construction of and no person may construct a tall building or structure in any area surrounding a major military installation in this State, unless the county or city is in receipt of either a letter of endorsement issued to the person by the ~~State Construction Office~~Department pursuant to ~~G.S. 143-151.75.~~G.S. 143B-1315F.

(b) No county or city may authorize the provision of the following utility services to any building or structure constructed in violation of subsection (a) of this section: electricity, telephone, gas, water, sewer, or septic system.

...

§ 143B-1315F. Endorsement for proposed tall buildings or structures required.

(a) No person shall undertake construction of a tall building or structure in any area surrounding a major military installation in this State without first obtaining the endorsement from the ~~State Construction Office.~~Department.

(a1) No person shall undertake construction of a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility without first obtaining an endorsement from the ~~State Construction Office.~~Department.

(b) A person seeking endorsement for a proposed tall building or structure in any area surrounding a major military installation in this State shall provide written notice of the intent to seek endorsement to the base commander of the major military installation that is located within five miles of the proposed tall building or structure and shall provide all of the following to the ~~State Construction Office:~~Department:

(1) Identification of the major military installation and the base commander of the installation that is located within five miles of the proposed tall building or structure.

(2) A copy of the written notice sent to the base commander of the installation identified in subdivision (1) of this subsection that is located within five miles of the proposed tall building or structure.

(3) A written "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14 of the Code of Federal Regulations (January 1, 2012, Edition) for the proposed tall building or structure.

(c) After receipt of the information provided by the person pursuant to subsection (b) of this section, the ~~State Construction Office~~Department shall, in writing, request a written statement concerning the proposed tall building or structure from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section. The ~~State Construction Office~~ Department shall request that the following information be included in the written statement from the base commander:

(1) A determination whether the location of the proposed tall building or structure is within an area that surrounds the major military installation.

(2) A determination whether any activities of the installation may be adversely affected by the proposed tall building or structure. A detailed description of the potential adverse effects, including frequency disturbances and physical obstructions, shall accompany the determination required by this subdivision.

(d) The ~~State Construction Office~~Department shall not endorse a tall building or structure if the ~~State Construction Office~~Department finds any one or more of the following:

(1) The proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of any major military installation in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the ~~State Construction Office~~Department may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received from a base commander as provided in subsection (c) of this section and written comments received by members of affected communities. Provided, however, if the ~~State Construction Office~~Department does not receive a written statement requested pursuant to subsection (c) of this section within 45 days of issuance of the request to the base commander, the ~~State Construction Office~~Deaprtment shall deem the tall building or structure as ~~endorsed~~ denied by the base commander.

(2) The ~~State Construction Office~~Department is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the

Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(d1) A person seeking endorsement for a proposed tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility shall consult with the Adjutant General to determine whether any activities of the facility may be adversely affected by the proposed tall building or structure. A written summary of the consultation between the person and the Adjutant General, including findings and recommendations of the Adjutant General as to whether or not to endorse the proposed tall building or structure, shall be submitted to the ~~State Construction Office~~Department and evaluated in accordance with subsections (d2) and (e) of this section.

(d2) The ~~State Construction Office~~Department shall not endorse a tall building or structure in any area located within one-quarter mile (¼ mile) of a National Guard facility if the ~~State Construction Office~~Department finds any one or more of the following:

(1) As evidenced by receipt of the written summary from the Adjutant General submitted pursuant to subsection (d1) of this section, construction of the proposed tall building or structure would encroach upon or otherwise interfere with the mission, training, or operations of National Guard Facility and result in a detriment to its continued presence in the State. In its evaluation, the ~~State Construction Office~~Department may consider whether the proposed tall building or structure would cause interference with air navigation routes, air traffic control areas, military training routes, or radar based on the written statement received as provided in subsection (d1) of this section. Provided, however, if the ~~State Construction Office~~Department does not receive the written statement pursuant to subsection (d1) of this section within 45 days of the date of the consultation between the person and the Adjutant General, the ~~State Construction Office~~Department shall construe the Adjutant General's failure to submit the written statement as a recommendation to deny endorsement of the tall building or structure.

(2) The ~~State Construction Office~~Department is not in receipt of the written "Determination of No Hazard to Air Navigation" issued to the person by the Federal Aviation Administration required pursuant to subdivision (3) of subsection (b) of this section.

(e) The ~~State Construction Office~~Department shall make a final decision on the request for endorsement of a tall building or structure within 90 days from the date on which either (i) the ~~State Construction Office~~Department requested the written statement from the base commander of the major military installation identified in subdivision (1) of subsection (b) of this section or (ii) the ~~State Construction Office~~Department received the written summary of the consultation between the person and the Adjutant General submitted in accordance with subsection (d1) of this section. If the ~~State Construction Office~~Department determines that a request for a tall building or structure fails to meet the requirements for endorsement under this section, the ~~State Construction Office~~Department shall deny the request. The ~~State Construction Office~~Department shall notify the person of the denial, and the notice shall include a written statement of the reasons for the denial. If the ~~State Construction Office~~Department fails to act within any time period set forth in this section, the person may treat the failure to act as a decision to deny endorsement of the tall building or structure.

§ 143B-1315G. Application to existing tall buildings and structures.

~~G.S. 143-151.73~~G.S. 143B-1315D applies to tall buildings or structures that existed in an area surrounding major military installations on October 1, 2013, as follows:

(1) No reconstruction, alteration, or expansion may aggravate or intensify a violation by an existing building or structure that did not comply with ~~G.S. 143-151.73~~ G.S. 143B-1315D on October 1, 2013.

(2) No reconstruction, alteration, or expansion may cause or create a violation by an existing building or structure that did comply with ~~G.S. 143-151.73~~ G.S. 143B-1315D on October 1, 2013.

§ 143B-1315H. Enforcement and penalties.

(a) In addition to injunctive ~~relief,~~relief, as provided by subsection (e) of this section, the Secretary may assess and collect a civil penalty against any person who violates any of the provisions of this Article or rules adopted pursuant to this Article, as provided in this section. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation may constitute a separate violation.

(b) The Secretary 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 Rule 4 of G.S. 1A-1 and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar 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 calendar days after it is due, the Secretary shall request that the Attorney General 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. A civil action must be filed within one year 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.

(c) 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, the prior record of the violator in complying or failing to comply with this Article, and the action of the person to remedy the violation.

(d) The clear proceeds of civil penalties collected by the Secretary under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Whenever the Secretary has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of this Article, a rule implementing this Article, or any of the terms of any endorsement issued pursuant to this Article, the ~~State Construction Office~~ Department may, either before or after the institution of any other action or proceeding authorized by this Article, request the Attorney General to institute a civil action in the name of the State upon the request of the ~~State Construction Office~~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 the Attorney General's discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has the person's principal place of business. Upon a determination by the court that the alleged violation of the provisions of this Article or the regulations of the ~~State Construction Office~~Department 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 Article."

SECTION 4.(c) This section becomes effective October 1, 2018, and applies to requests for endorsements to construct tall buildings or structures submitted on or after that date.

PART V. MODIFY LOCAL GOVERNMENT ORDINANCE-MAKING PROCEDURES TO AUTHORIZE THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS TO REVIEW AND COMMENT ON MILITARY-RELATED CRITERIA

SECTION 5.(a) G.S. 153A-323 reads as rewritten:

"**§ 153A-323. Procedure for adopting, amending, or repealing ordinances under this Article and Chapter 160A, Article 19.**

(a) Before adopting, amending, or repealing any ordinance authorized by this Article or Chapter 160A, Article 19, the board of commissioners shall hold a public hearing on the ordinance or amendment. The board shall cause notice of the hearing to be published once a week for two successive calendar weeks. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the board of commissioners shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice, to the Department of Military and Veterans Affairs and the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the Department of Military and Veterans Affairs and the military may provide comments or analysis to the board regarding the compatibility of the proposed changes with military operations at the base. If the board does not receive a response within 30 days of the notice, the Department of Military and Veterans Affairs and the military ~~is~~ are deemed to waive the comment period. If the Department of Military and Veterans Affairs and the military ~~provides~~ provide comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the board of commissioners shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.

(2) Changes that affect the permitted uses of land.

(3) Changes relating to telecommunications ~~towers or windmills.~~towers and tall buildings and structures, as that term is defined in Article 9G of Chapter 143 of the General Statutes.

(3a) Changes relating to wind energy facilities or wind energy facility expansions as those terms are defined in Article 21C of Chapter 143 of the General Statutes.

(4) Changes to proposed new major subdivision preliminary plats.

(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

SECTION 5.(b) G.S. 160A-364 reads as rewritten:

"**§ 160A-364. Procedure for adopting, amending, or repealing ordinances under Article.**

(a) Before adopting, amending, or repealing any ordinance authorized by this Article, the city council shall hold a public hearing on it. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the governing body of the local government shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice, to the Department of Military and Veterans Affairs and the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the Department of Military and Veterans Affairs and the military may provide comments or analysis

to the board [governing body of the local government] regarding the compatibility of the proposed changes with military operations at the base. If the board [governing body of the local government] does not receive a response within 30 days of the notice, the Department of Military and Veterans Affairs and the military ~~is~~ are deemed to waive the comment period. If the Department of Military and Veterans Affairs and the military ~~provides~~ provide comments or analysis regarding the compatibility of the proposed ordinance or amendment with military operations at the base, the governing body of the local government shall take the comments and analysis into consideration before making a final determination on the ordinance. The proposed changes requiring notice are:

(1) Changes to the zoning map.

(2) Changes that affect the permitted uses of land.

(3) Changes relating to telecommunications ~~towers or windmills.~~towers and tall buildings and structures, as that term is defined in Article 9G of Chapter 143 of the General Statutes.

(3a) Changes relating to wind energy facilities or wind energy facility expansions as those terms are defined in Article 21C of Chapter 143 of the General Statutes.

(4) Changes to proposed new major subdivision preliminary plats.

(5) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land."

PART VI. CONFORMING CHANGES

SECTION 6.(a) G.S. 143B-1211 is amended by adding a new subdivision to read:

"**§143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

...

(25) Maintain, and make available to the public, including posting to the Department's Web site, accurate maps of (i) the zones identified on the Low Level Flight Compatibility, Figure 3-1 – March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas, as provided in G.S. 143-215.116A and (ii) the areas surrounding major military installations, and military training routes and military operating areas, as defined in G.S. 143B-1315B, that are subject to the provisions of Part 12 of this Article."

SECTION 6.(b) G.S. 143-135.29 is repealed.

SECTION 6.(c) This section is effective when this act becomes law.

SECTION 7.(a) G.S. 143B-1211 is amended by adding two new subdivisions to read:

"**§ 143B-1211. Powers and duties of the Department of Military and Veterans Affairs.**

It shall be the duty of the Department of Military and Veterans Affairs to do all of the following:

...

(26) Issue recommendations to the Department of Environmental Quality as to whether the Department of Environmental Quality should approve or deny an application for a proposed wind energy facility or wind energy facility expansion as provided in G.S. 143-215.120A, and otherwise assist in administration and implementation of the provisions of Article 21C of Chapter 143 of the General Statutes.

(27) Issue endorsements for the construction of proposed tall buildings or structures as provided in G.S. 143B-1315F and otherwise assist in the administration and implementation of the provisions of Part 12 of this Article."

SECTION 7.(b) This section becomes effective October 1, 2018, and applies to certifications and endorsements issued on or after that date.

PART VII. ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE

SECTION 8.(a) Committee Established. – There is established the North Carolina Sentinel Landscape Committee (Committee), administratively housed within the Department of Agriculture and Consumer Services.

SECTION 8.(b) Findings and Purpose. – The General Assembly finds that sentinel landscapes are places where preserving the working and rural character of the State's private lands is important for both national defense and conservation priorities. It is the intent of the General Assembly to direct the Committee to coordinate the overlapping priority areas in the vicinity of major military installations, as that term is defined in G.S. 143-215.115. Further, the Committee shall assist landowners in improving their land to benefit their operations and enhance wildlife habitats while furthering the State's vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major military installations and National Guard facilities. In its work, the Committee shall develop and implement programs and strategies that (i) protect working lands in the vicinity of major military installations, (ii) address restrictions that inhibit military testing and training, and (iii) forestall incompatible development in the vicinity of military installations.

SECTION 8.(c) Powers and Duties. – The Committee shall:

(1) Identify and designate certain lands to be contained in the sentinel landscape of this State, that are of particular import to the nation's defense and in the vicinity of major military installations.

(2) In designating sentinel lands as directed by subdivision (1) of this subsection, the Committee shall evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions conducted in this State. In its evaluation of which lands to designate as sentinel lands, the Committee shall consult with and seek input from:
   a. The United States Department of Defense Readiness and Environmental Protection Integration Program.
   b. The National Guard Bureau.
   c. The Army Compatible Use Buffer Program and other analogous programs of the military.
   d. The commanding officer of the major military installation located in the vicinity of the proposed sentinel lands.
   e. Elected officials from units of local government located in the vicinity of the proposed sentinel lands.
   f. Any other stakeholders that the Committee deems appropriate.

(3) Develop recommendations to encourage landowners located within the sentinel landscape designated pursuant to subdivision (1) of this subsection, to voluntarily participate in and begin or continue land uses compatible with the United States Department of Defense operations in this State.

(4) Provide technical support services and assistance to landowners who voluntarily participate in the sentinel landscape program.

SECTION 8.(d) Membership. – The Committee shall consist of at least the four following members:

(1) The Commissioner of Agriculture, or the Commissioner's designee, who shall serve as the chair of the Committee.

(2) The Secretary of the Department of Military and Veterans Affairs, or the Secretary's designee.
(3) The Secretary of Natural and Cultural Resources, or the Secretary's designee.
(4) The chair of the Soil and Water Conservation Commission.

In addition, the Committee chair may appoint members representing other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands.

SECTION 8.(e) Transaction of Business. – The Committee shall meet, at a minimum, at least once during each calendar quarter and at other times at the call of the chair. A majority of members of the Committee shall constitute a quorum. The first Committee meeting shall take place within 30 days of the effective date of this act.

SECTION 8.(f) Reports. – The Committee shall report on its activities conducted to implement this Section, including any findings, recommendations, and legislative proposals, to the North Carolina Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2016, and every six months thereafter until such time as the Committee completes its work.

SECTION 8.(g) Administrative Assistance. – All clerical and other services required by the Committee shall be supplied by the Department of Agriculture and Consumer Services and shall be provided with funds available.

SECTION 8.(h) Effective Date. – This section becomes effective when this act becomes law.

PART VIII. STUDY POTENTIAL CONFLICTS BETWEEN ENERGY-RELATED INFRASTRUCTURE DEVELOPMENT AND LOW LEVEL FLIGHT COMPATIBILITY

SECTION 9. The Department of Military and Veterans Affairs, in consultation with the Division of Energy, Mineral, and Land Resources in the Department of Environmental Quality, shall study the potential conflicts posed by energy-related infrastructure development within the Red, Orange, and Yellow Zones as detailed in the Low Level Flight Compatibility, Figure 3-1– March 2016 Edition of the North Carolina Military Affairs Commission Compatible Use Map Atlas. In the conduct of its study, the Department shall evaluate on- and near-shore infrastructure development related to wind, solar, and oil and gas energy activities. The Department shall also study infrastructure that has the potential to disrupt or weaken radar operability or reliability. The Department may maintain records and documents that support the work of this study confidentially in accordance with G.S. 143B-1216. The Department of Military and Veterans Affairs shall report its findings, recommendations, and any legislative proposals to the Joint Legislative Energy Policy Commission on or before December 15, 2017.

PART IX. EFFECTIVE DATE

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 763
Second Edition Engrossed 4/28/15

Short Title:	Task Force on Regulatory Reform.	(Public)
Sponsors:	Representatives Millis, J. Bell, and Riddell (Primary Sponsor). For a complete list of Sponsors, see Bill Information on the NCGA Web Site.	
Referred to:	Regulatory Reform.	

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA JOINT LEGISLATIVE TASK FORCE ON REGULATORY REFORM.

The General Assembly of North Carolina enacts:

SECTION 1. There is established the North Carolina Joint Legislative Task Force on Regulatory Reform (Task Force). The purpose of the Task Force is to solicit, review, and recommend proposals provided by owners and managers of businesses, economic development professionals, employers, employees, independent contractors, consumers, and citizens from across the State on ways to improve the regulatory climate of North Carolina. In conducting its review, the Task Force shall consider all of the following:

(1) Methods to eliminate ineffective or overly burdensome regulation.
(2) Options to streamline implementation and reduce the cost of complying with certain State regulations.
(3) Avenues to quickly identify and review disproportionately misinterpreted or challenged regulations.
(4) Other ideas for improving the regulatory climate of the State.

SECTION 2. The Task Force shall consist of 12 members, appointed as follows:

(1) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; one of whom shall be a member of the House of Representatives, one of whom shall be an at-large public member, one of whom shall be a representative of an environmental advocacy group, and three of whom shall be appointed based upon their active participation and expertise in one of the following industries or economic sectors:
   a. Business Services.
   b. Environmental Services.
   c. Education and Workforce Development.
(2) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; one of whom shall be a member of the Senate, two of whom shall be at-large public members, and three of whom shall be appointed based upon their active participation and expertise in one of the following industries or economic sectors:
   a. Information Technology.
   b. Health care.
   c. Construction.

SECTION 3. The Task Force shall have two cochairs, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate. The cochairs shall convene the first meeting as soon as practicable after appointments have been made. The Task Force shall meet upon the call of the chair. A majority of the Task Force members shall constitute a quorum for the transaction of business.

SECTION 4. While in the discharge of its official duties, the Task Force may exercise all powers provided for under Article 5 of Chapter 120 of the General Statutes. The Task Force may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 5. Task Force members shall receive no compensation for their service but shall be paid per diem, subsistence, and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

SECTION 6. The Legislative Services Commission shall allocate from a portion of the funds appropriated to the General Assembly for each fiscal year for expenses of the Task Force.

SECTION 7. The Task Force may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Task Force in the State Legislative Building or the Legislative Office Building.

SECTION 8. The Task Force shall submit a final report on the results of its study, including any proposed legislation, to the members of the General Assembly on or before December 31, 2016, by filing a copy of the report with the Offices of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The Task Force shall terminate on December 31, 2016, or upon the filing of its final report, whichever occurs first.

SECTION 9. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 763

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H763-ATA-45 [v.1]

Amends Title [NO]
H763-CSTA-22 [v.12]

Date _____,2016

Senator _____

moves to amend the bill on page 20, line 7, through page 21, line 21, by rewriting those lines to read:

"PART VII. ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE

SECTION 8.(a) Committee Established. – There is established the North Carolina Sentinel Landscape Committee (Committee), administratively housed within the College of Natural Resources at North Carolina State University.

SECTION 8.(b) Findings and Purpose. – The General Assembly finds that sentinel landscapes are places where preserving the working and rural character of the State's private lands is important for both national defense and conservation priorities. It is the intent of the General Assembly to direct the Committee to coordinate the overlapping priority areas in the vicinity of and where testing and training occurs on major military installations, as that term is defined in G.S. 143-215.115. Further, the Committee shall assist landowners in improving their land to benefit their operations and enhance wildlife habitats while furthering the State's vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major military installations and National Guard facilities. In its work, the Committee shall develop and implement programs and strategies that (i) protect working lands in the vicinity of and where testing and training occurs on major military installations, (ii) address restrictions that inhibit military testing and training, and (iii) forestall incompatible development in the vicinity of and where testing and training occurs on military installations.

SECTION 8.(c) Powers and Duties. – The Committee shall:

(1) Identify and designate certain lands to be contained in the sentinel landscape of this State that are of particular import to the nation's defense and in the vicinity of and where testing and training occur on major military installations. In this work, the Committee may seek advice and recommendations from stakeholders who have experience in this sort of identification and designation.

(2) In designating sentinel lands as directed by subdivision (1) of this subsection, the Committee shall evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions conducted in this State. In its evaluation of which lands to designate as sentinel lands, the Committee shall consult with and seek input from:

a. The United States Department of Defense.
b. The North Carolina Commander's Council.
c. The United States Department of Agriculture.
d. The United States Department of the Interior.
e. Elected officials from units of local government located in the vicinity of and where testing and training occurs on the proposed sentinel lands.
f. Any other stakeholders that the Committee deems appropriate.

(3) Develop recommendations to encourage landowners located within the sentinel landscape designated pursuant to subdivision (1) of this subsection, to voluntarily participate in and begin or continue land uses compatible with the United States Department of Defense operations in this State.

(4) Provide technical support services and assistance to landowners who voluntarily participate in the sentinel landscape program.

SECTION 8.(d) Membership. – The Committee shall consist of at least the four following members:

(1) The Commissioner of Agriculture, or the Commissioner's designee
(2) The Secretary of the Department of Military and Veterans Affairs, or the Secretary's designee.
(3) The Secretary of Natural and Cultural Resources, or the Secretary's designee.
(4) The Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

The Committee chair shall be one of the four listed members above and the the Committee chair may appoint members representing other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands.

SECTION 8.(e) Transaction of Business. – The Committee shall meet, at a minimum, at least once during each calendar quarter and at other times at the call of the chair. A majority of members of the Committee shall constitute a quorum. The first Committee meeting shall take place within 30 days of the effective date of this act.

SECTION 8.(f) Reports. – The Committee shall report on its activities conducted to implement this Section, including any findings, recommendations, and legislative proposals, to the North Carolina Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2016, and annually thereafter until such time as the Committee completes its work.

SECTION 8.(g) Administrative Assistance. – All clerical and other services required by the Committee shall be supplied by the membership and shall be provided with funds available.

SECTION 8.(h) Effective Date. – This section becomes effective when this act becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 763

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

H763-ATA-45 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 763

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

H763-ATA-46 [v.1]

Amends Title [NO]
H763-CSTA-22 [v.12]

Date _____,2016

Senator _____

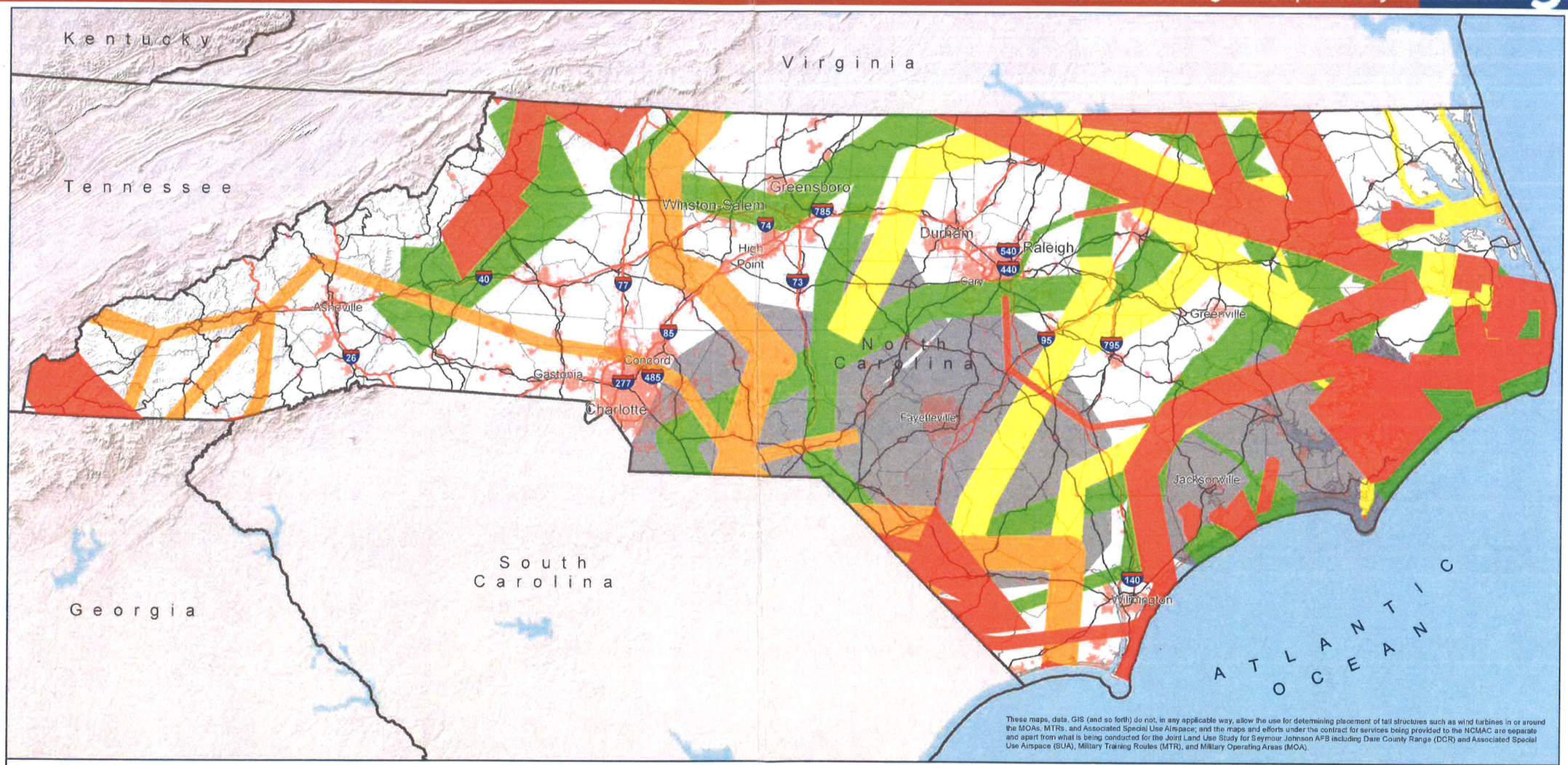
moves to amend the bill on page 15, line 48,
by rewriting that line to read:

"shall deem the tall building or structure as ~~endorsed~~ eligible by the base".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



Source: Matrix Design Group

Figure 3-1
Low Level Flight Compatibility

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jessica Smith Harris	Wilson County Coop. Ext./4H Dept
Thomas Knowles	Wilson 4-H Member
[illegible]	Wilson 4-H Member
	Nash 4H Member
	Nash 4H Member
	Nash 4-H Member
	Nash 4-H Member
Leah Barnes	Governor's office
Matthew Starr	Riverkeeper
Hannah Tedder	NCDHHS
Caroline Daly	Governors Office
Chris Broughton	MWC
Robert Hosford	NCDA+CS
Lacy Pate	NCDMVA
Joy Hicks	NCDA&CS
Julie Robinson	NCSEA
Donna Clark	[illegible]

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Robinson	NCRMA
Kayla Lee	Kayla Lee Farm
Shannon Harris	
JK hari Jones	
A Godwin	WRC
Jake Cashion	NCC
Steven Wands	NCWGA
Doug Lassiter	NCSTA
Hilleary Hardison	NCSOANA
Natalya Apes	NCSEA
Betsy McCorkle	SSGNC
Susan Via	Duke E
Brad Howard	NCMA
K Pengra	CCS
Isabel Villa-Garcia	NCAN
Katy Kingsbury	BP
Catherine Harward	NCFB

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCFB
Rob Hamme	RLA
Cat Ball	Audubon
Madda Dent	Audubon
David Heinen	NC Center for Nonprofits
Ann Lawrence Jai Kai Jones - Shannon Harris	4-H Citizenship Focus, Cooperative Ext. Service NC State
Sarah Collins	NCLM
Nancy Thompson	Weyerhaeuser
Sarah Jacobson	American Heart Association
Kunal Thakur	American Heart Association
Morgan Gramann	NC Alliance for Health
Cady Thomas	Focus Carolina, LLC
David McGowan	NCPC
Tommy Scott	MUH
Doug Howey	NCPCM
Trey Rabon	AT&T
Rick Zechini	Williams Mullen

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jackson Taylor	CCS
Stephen Kouba	CCS
John Cooper	CCS
Peter Daniell	CCS
Scott Laster	SSGNC
Chris Dillon	NARE

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID POWERS	WRSA
TOM BENN	EDF, NCSEA
Kohnor Gregory	DOJ
Kenan Cahn	DOJ
Cassie Gavin	Sierra Club
[illegible]	NCCN
Michelle Franzen	F/M/S
[illegible]	BAYER
Brooks Rainey Pearson	SELC
Amanda Smith	NCPC
[illegible]	DACS
Allison Pitts	NCDA
Betsy Bailey	CAGC
Berry Jenkins	CAGC
LAURA PURYEAR	LOLLC
Elizabeth Biser	[illegible]
Matt Wolf	PPAB

VISITOR REGISTRATION

Senate Agriculture/Environment/Natural Resources
(Committee Name)

June 15, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Campen	PPAB
Fernando Jimenez	New Frame
Phil Handley	NFS
Mia Bailey	Electricities
Will Parry-Hill	NCHFA
Carson Hurley	MVH
James Priddy	w/ Sen. Brock
Carson Hurley	MVA
Kevin Strawn	CMAE 301 S. McDowell ST. Charlotte 28204

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Wednesday, June 15, 2016 05:23 PM
To: Rep. Pat McElraft
Cc: Nancy Fox (Rep. Pat McElraft)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Thursday, June 16, 2016 at 9:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk _____
Reading Clerk _____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 16, 2016	9:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 593	Amend Environmental Laws-3.	Representative McElraft

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 16, 2016, 9:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Andrew Brock

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 593	Amend Environmental Laws-3.	Representative McElraft

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 16, 2016 at 9:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00 AM on June 16, 2016 in Room 544 of the Legislative Office Building. There were 11 members present.

Senator Andrew Brock presided.

Sgt.-At-Arms- John Enloe, Larry Hancock, Steve Wilson

Senator Brock introduced the pages: Trevor Hartley, Jacksonville, NC sponsored by Senator Brown; Owen Tierney from Raleigh sponsored by Senator Berger; Griffin Sullivan from Raleigh sponsored by Senator Alexander; Lindsey Lovitt from Marvin sponsored by Senator Tucker; Xan Wolstenholme-Britt from Cary sponsored by Senator Smith; Sam Wolstenholme-Britt from Cary sponsored by Senator Smith; Jacie Smith from Reidsville sponsored by Senator Berger; Alyssa Hansen from Apex sponsored by Senator Brock; Em Barringer from Cary sponsored by Senator Barringer.

The following bill was heard:

HB 593 Amend Environmental & Other Laws. (Representative McElraft)

There was a PCS for this bill. Senator Cook made a motion to accept the PCS. The motion carried.

Senator Wade was recognized to present the bill. Senator Wade had staff (Jeff Hudson, Jennifer McGinnis, Layla Cummings, Jennifer Mundt and Chris Saunders go through the bill by section).

Senator Cook presented an amendment to the bill. Senator Wade approved the amendment. The amendment was adopted.

Senator Brock opened the floor up for questions from the members. There were questions from Senator Ford, Senator Bingham, Senator Alexander, and Senator McInnis. After much discussion from the members, the floor was opened for public comment.

Public Comment

Mary Maclean Asbill, Southern Environmental Law Firm spoke against the bill.

Gordon Myers, Wildlife Resource Commission made a comment with regard to licensing.

Senator Ford made a motion for a Favorable report to the PCS and the motion carried

The meeting adjourned at 10:55 AM

Senator Andrew Brock, Presided

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Thursday, June 16, 2016

Senator Brock,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL

HB **593** **(CS#1)** Amend Environmental Laws-3.

Draft Number:	H593-PCS10555-SB-22
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 593

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 593
Committee Substitute Favorable 4/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H593-PCS10555-SB-22

Short Title: Amend Environmental & Other Laws. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND OTHER LAWS.

The General Assembly of North Carolina enacts:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environmental Quality shall implement 15A NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 1.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; ~~or~~ a trail as defined in G.S. 113A-85 that is either unpaved or paved

as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per ~~hour).~~hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.

(3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."

STORMWATER CONTROL SYSTEM DESIGN REGULATION

SECTION 3.(a) G.S. 143-214.7B reads as rewritten:

"**§ 143-214.7B. Fast-track permitting for stormwater management systems.**

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

(1) A process for permit application, review, and determination.

(2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have. The Commission shall include the following professionals who meet the North Carolina licensing requirements applicable to the type of stormwater management system proposed:

a. Landscape architects licensed pursuant to Chapter 89A of the General Statutes.

b. Engineers licensed pursuant to Chapter 89C of the General Statutes.

c. Geologists licensed pursuant to Chapter 89E of the General Statutes.

d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.

e. Any other licensed profession that the Commission deems appropriate.

(3) A process for ensuring compliance with the Minimum Design Criteria.

(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).

(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3.(b) The Environmental Management Commission shall amend its rules to implement subsection (a) of this section no later than July 1, 2017.

AMEND STREAM MITIGATION REQUIREMENTS

SECTION 4.(a) The Environmental Management Commission shall amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. The Commission shall adopt temporary rules as soon as practicable to implement this section.

SECTION 4.(b) During the time period for public comment specified by the Wilmington District of the United States Army Corps of Engineers in its published notice of the proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e) of the Clean Water Act, the Department of Environmental Quality shall submit written comments to the Washington, D.C., Headquarters and the Wilmington District Office of the United States Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting Regional Conditions that will increase the threshold for the requirement of mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet. The written comments shall include a history of why the current threshold of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that the State has established a 300 linear foot mitigation threshold.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

SECTION 5.(a) Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

SECTION 5.(b) The Coastal Resources Commission shall adopt temporary rules for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt permanent rules to implement this section.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

SECTION 6.(a) Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its implementation.

SECTION 6.(b) Sediment Criteria Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Sediment Criteria Rule, as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – The Commission shall exempt from the permitting requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 6.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

SECTION 7. The Division of Coastal Management of the Department of Environmental Quality, in consultation with the Coastal Resources Commission, shall study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H .0304 (AECS Within Ocean Hazard Areas) should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groins. The Division shall report on the results of the study to the Environmental Review Commission on or before December 31, 2016.

SOLID WASTE AMENDMENTS

SECTION 8.(a) Section 4.9(a) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(b) Section 4.9(b) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(b)** Section ~~14.20(a)~~14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(c) Section 4.9(c) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(d) Section 4.9(d) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(e) Section 14.20(e) of S.L. 2015-241 reads as rewritten:

"**SECTION 14.20.(e)** After July 1, 2016, the annual fee due pursuant to ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, for existing sanitary landfills and transfer stations with a valid permit issued before the date this act becomes effective is equal to the applicable annual fee for the facility as set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, less a permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due for the same period of time and (ii) multiplying the difference by a fraction, the numerator of which is the number of years remaining in the facility's time-limited permit and the denominator of which is the total number of years covered by the facility's time-limited permit. The amount of the permittee fee credit shall be allocated in equal annual installments over the number of years that constitute the facility's remaining life-of-site, as determined by the Department, unless the

Department accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes of this subsection, the following definitions apply:

(1) Life-of-site permit fee amount. – The amount equal to the sum of all annual fees that would be due under the fee structure set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

(2) Time-limited permit fee amount. – The amount equal to the sum of the application fee or renewal fee, whichever is applicable, and all annual fees paid or to be paid pursuant to subsections (c) and (d) of ~~G.S. 130A-295.8A,~~G.S. 130A-295.8, as repealed by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

The Department shall adopt rules to implement this subsection."

SECTION 9.(a) Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of S.L. 2015-286, reads as rewritten:

"**SECTION 14.20.(f)** This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i) executed on or after ~~October 1, 2015.~~ October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative franchise agreement consent to modify the agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill for which the agreement was executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015, and the Department shall not delay in processing such permit applications in consideration of changes made by this act, but such landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016."

SECTION 9.(b) G.S. 130A-294(b1)(2) reads as rewritten:

"(2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill ~~shall~~ shall (i) be granted for the life-of-site of the ~~landfill and shall~~ landfill, but for a period not to exceed 60 years, and (ii) include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility."

SECTION 9.(c) G.S. 160A-319(a) reads as rewritten:

"**§ 160A-319. Utility franchises.**

(a) A city shall have authority to grant upon reasonable terms franchises for a telephone system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A franchise granted by a city authorizes the operation of the franchised activity within the city. No franchise shall be granted for a period of more than 60 years, ~~except~~ including a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided, however, that a franchise for solid waste collection or disposal systems and ~~facilities~~ facilities, other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise without a franchise."

SECTION 9.(d) 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:

...

(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; provided, however, no franchise shall be granted for a period of more than 30 years, except for a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms may impair the authority of the board of commissioners to regulate fees as authorized by this section.

...."

SECTION 9.(e) Section 9(a) of this act applies to franchise agreements (i) executed on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative agreement consent to modify the agreement for the purpose of extending the agreement's duration of the life-of-site of the landfill for which the agreement was executed.

SECTION 10. The Division of Waste Management of the Department of Environmental Quality shall examine whether solid waste management activities in the State are being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly, areas of the State that have insufficient disposal capacity, as well as areas of the State with

disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The Department shall develop economic estimates of the short- and long-term costs of waste transport in these situations versus full utilization of capacity, or expansion of capacity, in the originating jurisdiction. The Department shall also provide information on landfill capacity that is permitted but not yet constructed and expansion opportunities for future landfill capacity. The Department shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

SECTION 11. G.S. 130A-294(a) reads as rewritten:

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

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

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.

2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers

system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.

5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.

6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.

7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.

8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.

9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. This subdivision shall apply only to the extent required by federal law.

d. Management of land clearing debris burned in accordance with 15A NCAC 02D.1903 shall not require a permit pursuant to this section.

e. For the purpose of the disposal of leachate and wastewater collected from a sanitary landfill, the Department shall approve aerosolization of such leachate and wastewater as an acceptable method of disposal. Aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes."

SECTION 12. Except as otherwise provided, Sections 8 and 9 of this act are effective retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.

FARRIERS/HORSESHOEING

SECTION 13. G.S. 90-187.10 is amended by adding a new subdivision to read:

"**§ 90-187.10. Necessity for license; certain practices exempted.**

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in

which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

...

(11) Any farrier or person actively engaged in the activity or profession of shoeing hooved animals as long as his or her actions are limited to the art of shoeing hooved animals or trimming, clipping, or maintaining hooves."

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

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

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

SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

"**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

...

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

SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new section to read:

"**§ 132-1.14. Personally identifiable information of public utility customers.**

(a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1, does not include personally identifiable information obtained by the Public Staff of the Utilities Commission from customers requesting assistance from the Public Staff regarding rate or service disputes with a public utility, as defined by G.S. 62-3(23).

(b) The Public Staff may disclose personally identifiable information of a customer to the public utility involved in the matter for the purpose of investigating such disputes.

(c) Such personally identifiable information is a public record to the extent disclosed by the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

(d) For purposes of this section, "personally identifiable information" means the customer's name, physical address, e-mail address, telephone number, and public utility account number."

SECTION 14.(d) This section becomes effective October 1, 2016.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

SECTION 15.(a) G.S. 14-419 reads as rewritten:

"**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

(a) In any case in which any law-enforcement officer or animal control officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the

officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park or to its designated representative for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this ~~subsection.~~subsection and may kill the reptile.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine ~~final~~an interim disposition of the reptile in a manner consistent with the safety of the public, ~~which in~~until a final disposition is determined by a court of competent jurisdiction. In the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~shall~~ the reptile may be euthanized unless the species is protected under the federal Endangered Species Act of 1973. Where the Museum or the Zoological Park or their designated representative determines euthanasia to be the appropriate interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to the reptile's owner.

(b1) Upon conviction of any offense contained in this Article, the court shall order a final disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which may include the transfer of title to the State of North Carolina and reimbursement for the necessary expenses incurred in the seizure, delivery, and storage thereof.

(c) If the Museum or the Zoological Park or their designated representatives find that the reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days."

SECTION 15.(b) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

SECTION 15.(c) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop recommendations for potential procedural and policy changes to improve the regulation of certain reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the Commission shall consider public health and safety risks, permitting requirements, exemptions, notification of escape, investigation of suspected violations, seizure and examination of reptiles, disposition of seized reptiles, and any other issues determined relevant to the regulation of certain reptiles. The Department and the Commission shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

SECTION 16.(a) 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the Commission, the Department of Health and

Human Services, and any other political subdivision of the State shall implement 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

SECTION 16.(b) Implementation. – Notwithstanding the Daily Flow Requirements rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public water supply system shall be exempt from the Daily Flow Requirements, and any other design flow standards established by the Department or the Commission, provided the flow rates and yields that are less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

SECTION 16.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 16.(d) Sunset. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS DECLARED INVALID

SECTION 17. G.S. 95-79 reads as rewritten:

"**§ 95-79. Certain agreements declared illegal.**

(a) Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

(b) Any provision that directly or indirectly conditions the purchase of agricultural ~~products or~~products, the terms of an agreement for the purchase of agricultural ~~products~~ products, or the terms of an agreement not to sue or to settle pending litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

COPIES OF CERTAIN PUBLIC RECORDS

SECTION 18.(a) G.S. 132-6.2 reads as rewritten:

"**§ 132-6.2. Provisions for copies of public records; fees.**

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

(a1) Notwithstanding subsection (a) of this section, a public agency may satisfy the requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to download the public record or computer database to obtain a copy. A public agency that provides access to public records or computer databases under this subsection is not required to provide copies through any other method or medium. If a public agency, as a service to the requester, voluntarily elects to provide copies by another method or medium, the public agency may negotiate a reasonable charge for the service with the requester. A public agency satisfying its requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to obtain a copy by download shall also allow for inspection of any public records also held in a nondigital medium.

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

(e) Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.

(f) For purposes of this section, the following definitions shall apply:

(1) Computer database. – As defined in G.S. 132-6.1(d)(1).

(2) Media or Medium. – A particular form or means of storing information."

SECTION 18.(b) The State Chief Information Officer, in consultation with the State Controller, the Office of State Budget and Management, Local Government Commission, The University of North Carolina, The North Carolina Community College System, The School of

Government at the University of North Carolina at Chapel Hill, the North Carolina League of Municipalities, the North Carolina School Boards Association, and the North Carolina County Commissioners Association, shall report, including any recommendations, to the 2017 Regular Session of the General Assembly on or before February 1, 2017, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 18.(c) This section becomes effective July 1, 2016.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

SECTION 19. G.S. 160A-296 reads as rewritten:

"**§ 160A-296. Establishment and control of streets; center and edge lines.**

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

...

(6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way management expenses related to the activities of those businesses exceed distributions under Article 5 of Chapter 105 of the General Statutes.

...."

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval, and failure to grant an approval within 24 hours shall be deemed as an approval of the request."

DELAY INSURANCE FOR MOPED OWNERS

SECTION 21.(a) Section 10 of S.L. 2015-125 reads as rewritten:

"**SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2015. The remainder of this act becomes effective July 1, ~~2016,~~2017, and applies to offenses committed on or after that date."

SECTION 21.(b) The Department of Insurance shall review which insurance companies provide moped liability insurance, including the typical costs and requirements that must be met by a moped owner in order to obtain moped liability insurance. By December 15, 2016, the Department shall report its findings, including a list of the companies identified as

providing moped liability insurance and any legislative recommendations, to the Joint Legislative Transportation Oversight Committee.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 22. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 23. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 593:
Amend Environmental & Other Laws.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 16, 2016
Introduced by:	Rep. McElraft	**Prepared by:**	Jeff Hudson, Erika Churchill, Jennifer McGinnis, Jennifer Mundt, Chris Saunders, and Layla Cummings Committee Staff
Analysis of:	PCS to Second Edition H593-CSSB-22		

SUMMARY: The Proposed Committee Substitute for House Bill 593 would amend a number of State laws related to environmental, natural resources, and other regulations.

BILL ANALYSIS:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

Section 1 would prohibit the Director of the Division of Water Resources in the Department of Environmental Quality (DEQ) from requiring the use of on-site stormwater control measures to protect downstream water quality standards unless required to do so by State or federal law.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

Section 2 would exempt from the definition of built-upon area for purposes of implementing stormwater programs, landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. Section 2 would also allow the owner or developer of property to opt out of any of the exemptions from built-upon area.

STORMWATER CONTROL SYSTEM DESIGN REGULATION

Section 3 would amend the statutes governing fast-track permitting for stormwater management to direct the Environmental Management Commission to revise its rules, by July 1, 2017, to include the following licensed professionals as qualified to prepare a stormwater management system permit without a technical review, so long as the application complies with the Minimum Design Criteria:

- Landscape architects.
- Professional engineers.
- Geologists.
- Soil scientists.
- Any other licensed professional that the EMC deems appropriate.

Karen Cochrane-Brown
Director

Legislative Analysis Division
919-733-2578

AMEND STREAM MITIGATION REQUIREMENTS

Section 4 would direct the Environmental Management Commission to amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. Section 4 would also direct DEQ to submit comments to the United States Army Corps of Engineers in support of the Corps increasing the threshold for mitigation from 150 linear feet to 300 linear feet.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

Section 5 would repeal a directive in the 2015 Appropriations Act that required the Coastal Resources Commission (CRC) to adopt updated rules for the use of sandbags by December 2015. The updated rules were approved at the May 2016 meeting of the CRC. This section would direct the CRC to adopt those rules as temporary rules.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

Section 6 would direct the CRC to amend the sediment criteria rule to allow sand from the cape shoals to be used as ocean beach nourishment without undergoing permitting requirements. Sand used for beach nourishment must be similar in quality and grain size as the area being nourished and the rule requires sediment samples to be taken from both the borrow site and recipient beach to determine if the sediment source is compatible.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

Section 7 would direct the Division of Coastal Management in DEQ, in consultation with the CRC, to study whether the long-term erosion rates should be modified in and around newly constructed terminal groins. Long-term erosion rates are evaluated by the Division about every five years and are used to determine setbacks for oceanfront development.

SOLID WASTE AMENDMENTS

Sections 8 and 9 would: (i) make technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations; (ii) provide that franchise agreements previously executed by local governments for sanitary landfills may be modified by agreement of all parties to a valid and operative franchise to last for a landfill's life-of-site; and (iii) provide that no franchise agreement for a sanitary landfill, modified or newly executed, shall exceed a duration of 60 years.

Section 10 would require the Division of Waste Management in DEQ to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The Department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by December 31, 2016.

Section 11 would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to require the Department to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill. In addition, this section would provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.

Section 12 would provide that Sections 8 and 9 would be effective retroactively to July 1, 2015, and that Sections 10 and 11 would become effective when the act becomes law.

FARRIERS/HORSESHOEING

Section 13 would clarify that a farrier or any person engaged in the activity or profession of shoeing hooved animals does not require a license from the North Carolina Veterinary Medical Board, provided that the person's actions are limited to shoeing hooved animals or trimming, clipping, or maintaining hooves.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

Section 14 would, effective October 1, 2016, provide that customer e-mail addresses received, and customer identification numbers issued, by the Wildlife Resources Commission (WRC) and the Marine Fisheries Commission are considered "identifying information" and may not be made available to the public. This section would also provide that any customer's name, physical address, email address, telephone number, or public utility account number received by the Public Staff of the Utilities Commission is not a public record, and may only be disclosed for the purpose of investigating a complaint against a public utility by the customer.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

Section 15.(a) would provide that if the North Carolina Museum of Natural Sciences (Museum) or the North Carolina Zoological Park (Zoo) finds that a seized illegally-owned reptile is a venomous reptile, large constricting snake, or a regulated crocodilian, the Museum or the Zoo must determine the interim disposition of the seized reptile until a final disposition is determined by a court. The Museum or Zoo are not liable to the owner of the reptile if the Museum or Zoo determines euthanasia to be the appropriate interim disposition, or if the seized reptile dies of natural or unintended causes. Upon conviction of any violation of Article 55 of Chapter 14 of the General Statutes (Regulation of Venomous Reptiles), the court shall issue a final disposition of the confiscated reptiles, which may include transfer of title to the State of North Carolina and reimbursement for the cost of seizure, delivery, and storage of the reptiles. This section would also authorize law enforcement officers or animal control officers to kill a dangerous reptile if the officer determines that there is an immediate threat to public safety.

Section 15.(b) would direct the Department of Natural and Cultural Resources (DNCR) and WRC to study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

Section 15.(c) would direct DNCR and WRC to study and make recommendations to the ERC by December 1, 2016, on potential procedural and policy changes to improve the regulation of dangerous reptiles.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

Section 16 would amend the North Carolina Administrative Code to exempt a public water supply system from the Daily Flow Requirements as provided by Table No. 1 of 15A NCAC 18C .0409(b)(1), provided the flow rates and yields that are less than those required by the rule are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS DECLARED INVALID

Section 17 would provide that any provision that directly or indirectly conditions the terms of an agreement not to sue or to settle pending litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable.

COPIES OF CERTAIN PUBLIC RECORDS

Section 18 would, effective July 1, 2016, provide that a public agency that makes its public records and computer databases available online, in a format that is downloadable, satisfies the requirement to allow persons access to public records, and is not required to provide copies through any other method or medium. That public agency may, but is not required to, provide copies by another method or in another medium and may negotiate a charge for that service if they so opt.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

Section 19 would prohibit a city from imposing a fee on gas, telecommunications, electricity, or video programming utilities for activities conducted in a right-of-way, unless the costs for those activities exceeds the amount the city has collected for sales and use tax.

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER INTO THE OCEAN

Section 20 would provide that except that as required by federal law, no State agency or unit of local government may prohibit a unit of the federal government from pumping standing stormwater landward of a primary dune over the dune and into the ocean.

DELAY INSURANCE FOR MOPED OWNERS

Section 21 would delay the effective date of provisions enacted in 2015 requiring that mopeds be insured, from July 1, 2016, to July 1, 2017, and would direct the Department of Insurance to review which insurance companies provide moped liability insurance, including the typical costs and requirements that must be met by a moped owner in order to obtain moped liability insurance.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 22 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 593
Committee Substitute Favorable 4/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H593-CSSB-22 [v.30]
06/15/2016 06:51:43 PM

Short Title: Amend Environmental & Other Laws. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND OTHER LAWS.

The General Assembly of North Carolina enacts:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environmental Quality shall implement 15A NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 1.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; ~~or~~ a trail as defined in G.S. 113A-85 that is either unpaved or paved

as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per ~~hour).~~hour); or landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

(1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.

(2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.

(3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."

STORMWATER CONTROL SYSTEM DESIGN REGULATION

SECTION 3.(a) G.S. 143-214.7B reads as rewritten:

"**§ 143-214.7B. Fast-track permitting for stormwater management systems.**

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

(1) A process for permit application, review, and determination.

(2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have. The Commission shall include the following professionals who meet the North Carolina licensing requirements applicable to the type of stormwater management system proposed:

a. Landscape architects licensed pursuant to Chapter 89A of the General Statutes.

b. Engineers licensed pursuant to Chapter 89C of the General Statutes.

c. Geologists licensed pursuant to Chapter 89E of the General Statutes.

d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.

e. Any other licensed profession that the Commission deems appropriate.

(3) A process for ensuring compliance with the Minimum Design Criteria.

(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).

(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3.(b) The Environmental Management Commission shall amend its rules to implement subsection (a) of this section no later than July 1, 2017.

AMEND STREAM MITIGATION REQUIREMENTS

SECTION 4.(a) The Environmental Management Commission shall amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. The Commission shall adopt temporary rules as soon as practicable to implement this section.

SECTION 4.(b) During the time period for public comment specified by the Wilmington District of the United States Army Corps of Engineers in its published notice of the proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e) of the Clean Water Act, the Department of Environmental Quality shall submit written comments to the Washington, D.C. Headquarters and the Wilmington District Office of the United States Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting Regional Conditions that will increase the threshold for the requirement of mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet. The written comments shall include a history of why the current threshold of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that the State has established a 300 linear foot mitigation threshold.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

SECTION 5.(a) Sections 14.6.(p) and 14.6.(q) of S.L. 2015-241 are repealed.

SECTION 5.(b) The Coastal Resources Commission shall adopt temporary rules for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23, on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt permanent rules to implement this section.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

SECTION 6.(a) Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its implementation.

SECTION 6.(b) Sediment Criteria Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Sediment Criteria Rule, as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – The Commission shall exempt from the permitting requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 6.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

SECTION 7. The Division of Coastal Management of the Department of Environmental Quality, in consultation with the Coastal Resources Commission, shall study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H .0304 (AECS Within Ocean Hazard Areas), should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groins. The Division shall report on the results of the study to the Environmental Review Commission on or before December 31, 2016.

SOLID WASTE AMENDMENTS

SECTION 8.(a) Section 4.9(a) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(a)** Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(b) Section 4.9(b) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(b)** Section ~~14.20(a)~~14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(c) Section 4.9(c) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(c)** Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(d) Section 4.9(d) of S.L. 2015-286 reads as rewritten:

"**SECTION 4.9.(d)** Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~is rewritten to read:

...."

SECTION 8.(e) Section 14.20(c) of S.L. 2015-241 reads as rewritten:

"**SECTION 14.20.(e)** After July 1, 2016, the annual fee due pursuant to ~~G.S. 130A-295.8A(d1),~~G.S.130A-295.8(d1), as enacted by Section 14.20(c) of this act, for existing sanitary landfills and transfer stations with a valid permit issued before the date this act becomes effective is equal to the applicable annual fee for the facility as set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1) as enacted by Section 14.20(c) of this act, less a permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due for the same period of time and (ii) multiplying the difference by a fraction, the numerator of which is the number of years remaining in the facility's time-limited permit and the denominator of which is the total number of years covered by the facility's time-limited permit. The amount of the permittee fee credit shall be allocated in equal annual installments over the number of years that constitute the facility's remaining life-of-site, as determined by the Department, unless the

Department accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes of this subsection, the following definitions apply:

(1) Life-of-site permit fee amount. – The amount equal to the sum of all annual fees that would be due under the fee structure set forth in ~~G.S. 130A-295.8A(d1),~~G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

(2) Time-limited permit fee amount. – The amount equal to the sum of the application fee or renewal fee, whichever is applicable, and all annual fees paid or to be paid pursuant to subsections (c) and (d) of ~~G.S. 130A-295.8A,~~G.S. 130A-295.8 as repealed by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

The Department shall adopt rules to implement this subsection."

SECTION 9.(a) Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of S.L. 2015-286, reads as rewritten:

"**SECTION 14.20.(f)** This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i) executed on or after ~~October 1, 2015.~~ October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative franchise agreement consent to modify the agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill for which the agreement was executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015, and the Department shall not delay in processing such permit applications in consideration of changes made by this act, but such landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016."

SECTION 9.(b) G.S. 130A-294(b1)(2) reads as rewritten:

"(2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill ~~shall~~ shall (i) be granted for the life-of-site of the ~~landfill and shall~~ landfill, but for a period not to exceed 60 years and (ii) include all of the following:

a. A statement of the population to be served, including a description of the geographic area.

b. A description of the volume and characteristics of the waste stream.

c. A projection of the useful life of the sanitary landfill.

d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.

f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility."

SECTION 9.(c) G.S. 160A-319(a) reads as rewritten:

"**§ 160A-319. Utility franchises.**

(a) A city shall have authority to grant upon reasonable terms franchises for a telephone system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A franchise granted by a city authorizes the operation of the franchised activity within the city. No franchise shall be granted for a period of more than 60 years, ~~except~~ including a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided, however, that a franchise for solid waste collection or disposal systems and ~~facilities~~ facilities, other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise without a franchise."

SECTION 9.(d) 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:

...

(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; provided, however, no franchise shall be granted for a period of more than 30 years, except for a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms may impair the authority of the board of commissioners to regulate fees as authorized by this section.

...."

SECTION 9.(e) Section 9(a) of this act applies to franchise agreements (i) executed on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative agreement consent to modify the agreement for the purpose of extending the agreement's duration of the life-of-site of the landfill for which the agreement was executed.

SECTION 10. The Division of Waste Management of the Department of Environmental Quality shall examine whether solid waste management activities in the State are being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly, areas of the State that have insufficient disposal capacity, as well as areas of the State with

disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The Department shall develop economic estimates of the short- and long-term costs of waste transport in these situations versus full utilization of capacity, or expansion of capacity, in the originating jurisdiction. The Department shall also provide information on landfill capacity that is permitted but not yet constructed, and expansion opportunities for future landfill capacity. The Department shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

SECTION 11. G.S. 130A-294(a) reads as rewritten:

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

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

b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:

1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.

2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.

3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites;

recreation areas; segments of the natural and scenic rivers system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.

5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.

6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.

7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.

8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.

9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. This subdivision shall apply only to the extent required by federal law.

d. Management of land clearing debris burned in accordance with 15A NCAC 02D.1903 shall not require a permit pursuant to this section.

e. For the purpose of the disposal of leachate and wastewater collected from a sanitary landfill, the Department shall approve aerosolization of such leachate and wastewater as an acceptable method of disposal. Aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes.

..."

SECTION 12. Except as otherwise provided, Sections 8 and 9 of this act are effective retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.

FARRIERS/HORSESHOEING

SECTION 13. G.S. 90-187.10 is amended by adding a new subsection to read:

"**§ 90-187.10. Necessity for license; certain practices exempted.**

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and

obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

...

(11) Any farrier or person actively engaged in the activity or profession of shoeing hooved animals as long as his or her actions are limited to the art of shoeing hooved animals or trimming, clipping, or maintaining hooves."

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

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

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

SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

"**§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

...

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

SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new section to read:

"**§ 132-1.14. Personally identifiable information of public utility customers.**

(a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1, does not include personally identifiable information obtained by the Public Staff of the Utilities Commission from customers requesting assistance from the Public Staff regarding rate or service disputes with a public utility, as defined by G.S. 62-3(23).

(b) The Public Staff may disclose personally identifiable information of a customer to the public utility involved in the matter for the purpose of investigating such disputes.

(c) Such personally identifiable information is a public record to the extent disclosed by the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

(d) For purposes of this section, "personally identifiable information" means the customer's name, physical address, email address, telephone number, and public utility account number."

SECTION 14.(d) This section becomes effective October 1, 2016.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

SECTION 15.(a) G.S. 14-419 reads as rewritten:

"**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

(a) In any case in which any law-enforcement officer or animal control officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a

designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park or to its designated representative for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this ~~subsection.~~subsection, and may kill the reptile.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine ~~final~~an interim disposition of the reptile in a manner consistent with the safety of the public, until a final disposition is determined by a court of competent jurisdiction. ~~which in~~In the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~shall~~ the reptile may be euthanized unless the species is protected under the federal Endangered Species Act of 1973. Where the Museum or the Zoological Park or their designated representative determines euthanasia to be the appropriate interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to the reptile's owner.

(b1) Upon conviction of any offense contained in this Article, the court shall order a final disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which may include the transfer of title to the State of North Carolina and reimbursement for the necessary expenses incurred in the seizure, delivery and storage thereof.

(c) If the Museum or the Zoological Park or their designated representatives find that the reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days."

SECTION 15.(b) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

SECTION 15.(c) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop recommendations for potential procedural and policy changes to improve the regulation of certain reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the Commission shall consider public health and safety risks, permitting requirements, exemptions, notification of escape, investigation of suspected violations, seizure and examination of reptiles, disposition of seized reptiles, and any other issues determined relevant to the regulation of certain reptiles. The Department and the Commission shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

SECTION 16.(a) 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the Commission, the Department of Health and Human Services, and any other political subdivision of the State shall implement 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

SECTION 16.(b) Implementation. – Notwithstanding the Daily Flow Requirements rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public water supply system shall be exempt from the Daily Flow Requirements, and any other design flow standards established by the Department or the Commission, provided the flow rates and yields that are less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

SECTION 16.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 16.(d) Sunset. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS DECLARED INVALID

SECTION 17. G.S. 95-79 reads as rewritten:

"**§ 95-79. Certain agreements declared illegal.**

(a) Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

(b) Any provision that directly or indirectly conditions the purchase of agricultural ~~products or~~products, the terms of an agreement for the purchase of agricultural ~~products~~ products, or the terms of an agreement not to sue or to settle pending litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

COPIES OF CERTAIN PUBLIC RECORDS

SECTION 18.(a) G.S. 132-6.2 reads as rewritten:

"**§ 132-6.2. Provisions for copies of public records; fees.**

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public

records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

(a1) Notwithstanding subsection (a) of this section, a public agency may satisfy the requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to download the public record or computer database to obtain a copy. A public agency that provides access to public records or computer databases under this subsection is not required to provide copies through any other method or medium. If a public agency, as a service to the requester, voluntarily elects to provide copies by another method or medium, the public agency may negotiate a reasonable charge for the service with the requester. A public agency satisfying its requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to obtain a copy by download shall also allow for inspection of any public records also held in a non-digital medium.

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

(e) Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.

(f) For purposes of this section, the following definitions shall apply:

(1) Computer database. – As defined in G.S. 132-6.1(d)(1).

(2) Media or Medium.—A particular form or means of storing information."

SECTION 18.(b) The State Chief Information Officer, in consultation with the State Controller, the Office of State Budget and Management, Local Government Commission, The University of North Carolina, The North Carolina Community College System, The School of Government at the University of North Carolina Chapel Hill, the North Carolina League of Municipalities, the North Carolina School Boards Association, and the North Carolina County Commissioners Association, shall report, including any recommendations, to the 2017 Regular Session of the General Assembly on or before February 1, 2017, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 18.(c) This section becomes effective July 1, 2016.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

SECTION 19. G.S. 160A-296 reads as rewritten:

"**§ 160A-296. Establishment and control of streets; center and edge lines.**

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

. . .

(6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way management expenses related to the activities of those businesses exceeds distributions under Article 5 of Chapter 105 of the General Statutes.

...."

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER INTO THE OCEAN

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval and failure to grant an approval within 24 hours shall be deemed as an approval of the request.

DELAY INSURANCE FOR MOPED OWNERS

SECTION 21.(a) Section 10 of S.L. 2015-125 reads as rewritten:

"**SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2015. The remainder of this act becomes effective July 1, ~~2016,~~2017, and applies to offenses committed on or after that date."

SECTION 21.(b) The Department of Insurance shall review which insurance companies provide moped liability insurance, including the typical costs and requirements that

must be met by a moped owner in order to obtain moped liability insurance. By December 15, 2016, the Department shall report its findings, including a list of the companies identified as providing moped liability insurance and any legislative recommendations, to the Joint Legislative Transportation Oversight Committee.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 22. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 23. Except as otherwise provided, this act is effective when it becomes law.

HOUSE BILL 593
Committee Substitute Favorable 4/21/15

Short Title: Amend Environmental Laws-3. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

CLARIFY REIMBURSEMENT OF THIRD-PARTY CLAIMS FROM THE COMMERCIAL AND NONCOMMERCIAL LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP FUNDS

SECTION 1.(a) G.S. 143-215.94V(e) reads as rewritten:

"(e) If the Commission concludes under subsection (d) of this section that no cleanup, no further cleanup, or no further action will be required, the Department shall not pay or reimburse any costs otherwise payable or reimbursable under this Article from either the Commercial or Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment required by this section, unless:

(1) Cleanup is ordered or damages are awarded in a finally adjudicated judgment in an action against the owner or landowner. To be eligible for reimbursement of damages arising from a third-party claim for bodily injury or property damage awarded in a finally adjudicated judgment, however, an owner or operator shall (i) notify the Department of any such claim; (ii) provide the Department with all pleadings and other related documents if a lawsuit has been filed; and (iii) provide the Department copies of any medical reports, statements, investigative reports, or certifications from licensed professionals necessary to determine that a claim for bodily injury or property damage is reasonable and necessary. Reimbursement of claims for damages arising from a third-party claim for bodily injury or property damage awarded in a finally adjudicated judgment shall be subject to the limitations set forth in G.S. 143-215.94B(b)(5) and G.S. 143-215.94D(b1)(2), as applicable, and any other provision governing third-party claims set forth in this Article.

...."

SECTION 1.(b) G.S. 143-215.94A is amended by adding three new subdivisions to read:

"**§ 143-215.94A. Definitions.**

Unless a different meaning is required by the context, the following definitions shall apply throughout this Part and Part 2B of this Article:

...

(12) "Third party" means a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator. A property owner shall not be considered a third party if the property was transferred by the owner or operator of an underground storage tank in anticipation of damage due to a release.

(13) "Third-party bodily injury" or "bodily injury" when used in connection with "third-party" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator.

(14) "Third-party property damage" or "property damage" when used in connection with "third-party" means actual physical damage or damage due to specific loss of normal use that proximately resulted from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred to property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator."

SECTION 1.(c) G.S. 143-215.94B reads as rewritten:

"**§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.**

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

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

...

(5) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(d) G.S. 143-215.94D reads as rewritten:

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

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

...

(b1) The Noncommercial Fund shall be used for the payment of the costs of:

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

(1a) For releases discovered or reported to the Department on or after August 1, 2013, the cleanup of environmental damage as required by G.S.143-215.94E(a) in excess of two thousand dollars ($2,000) or the sum of the following amounts, whichever is less:
a. A deductible of one thousand dollars ($1,000) per occurrence.
b. A co-payment equal to ten percent (10%) of the costs of the cleanup of environmental damage, per occurrence.

(2) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars ($100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(e) This section is effective when it becomes law and applies to claims for reimbursement pending or submitted on or after that date.

EXEMPT CERTAIN WETLANDS MITIGATION ACTIVITIES FROM REQUIREMENTS UNDER THE SEDIMENTATION POLLUTION CONTROL ACT

SECTION 2. G.S. 113A-52.01 reads as rewritten:

"**§ 113A-52.01. Applicability of this Article.**

This Article shall not apply to the following land-disturbing activities:

(1) Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
b. Dairy animals and dairy products.
c. Poultry and poultry products.
d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
e. Bees and apiary products.
f. Fur producing animals.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life, including activities specified in an executive order issued under G.S. 166A-19.30(a)(5).

(5) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition)."

MODIFY IMPLEMENTATION OF THE ODOR CONTROL OF FEED INGREDIENT MANUFACTURING PLANTS RULE

SECTION 3.(a) Definitions. – "Odor Control of Feed Ingredient Manufacturing Plants Rule" means 15A NCAC 02D .0539 (Odor Control of Feed Ingredient Manufacturing Plants) for purposes of this section and its implementation.

SECTION 3.(b) Odor Control of Feed Ingredient Manufacturing Plants Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environment and Natural Resources shall implement the Odor Control of Feed Ingredient Manufacturing Plants Rule, as provided in subsection (c) of this section.

SECTION 3.(c) Implementation. – Notwithstanding the Odor Control of Feed Ingredient Manufacturing Plants Rule, the Commission shall implement the rule as follows:

(1) Raw material shall be considered in "storage" after it has been unloaded at a facility or after it has been located at the facility for at least 36 hours.

(2) A vehicle or container holding raw material, which has not been unloaded inside or parked inside an odor controlled area within the facility, shall be unloaded for processing of the raw material prior to the expiration of the following time limits:

a. For feathers with only trace amounts of blood, such as those obtained from slaughtering houses that separate blood from offal and feathers, no later than 48 hours after being weighed upon arrival at the facility.

b. For used cooking oil in sealed tankers, no later than 96 hours after being weighed upon arrival at the facility.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Odor Control of Feed Ingredient Manufacturing Plants Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(e) Effective Date. – Subsection (c) of this section expires when permanent rules to replace subsection (c) of this section have become effective, as provided by subsection (d) of this section.

PROHIBIT THE REQUIREMENT OF MITIGATION FOR IMPACTS TO INTERMITTENT STREAMS

SECTION 4.(a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams.**

Except as required by federal law and notwithstanding any other provision of State law, the Department of Environment and Natural Resources shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water."

SECTION 4.(b) The Department of Environment and Natural Resources and the Environmental Management Commission shall amend their rules so that the rules are consistent with the provisions of G.S. 143-214.7C, as enacted by subsection (a) of this section.

DIRECT THE NORTH CAROLINA FOREST SERVICE TO STUDY DANGERS AND RISKS FOR THE STATE'S FORESTS RESULTING FROM IMPORTATION OF FIREWOOD FROM OTHER STATES

SECTION 5. In order to ensure the protection, preservation, and sustainability of the State's forest resources, the North Carolina Forest Service of the Department of Agriculture and Consumer Services shall study: (i) dangers and risks associated with importation of firewood from other states including the threat of infestation from nonnative invasive species, pests, and disease, such as the emerald ash borer, Asian longhorned beetle, and thousand cankers disease; (ii) impacts from such pests and disease on the State's forests, including the costs to address impacts, as well as impacts on tourism and the wood product industry; (iii) regulations in effect in other states addressing dangers associated with importation of firewood; (iv) restrictions that may be advisable to protect the State's forests from invasive species, pests, and disease; and (v) any other issue the Service deems relevant. In conducting this study, the Service shall, at a minimum, consult with stakeholders including members of the Western North Carolina Public Lands Council, entomologists, and private foresters and landowners. The Service shall report its findings, including specific recommendations for legislative action, to the Environmental Review Commission on or before December 1, 2015.

CREATE STREAMLINED PROCESS FOR ON-SITE WASTEWATER SYSTEM APPROVAL

SECTION 6.(a) The Department of Health and Human Services, Division of Public Health, On-Site Water Protection Branch, shall engage with stakeholders representing the private wastewater system industry to cooperatively develop streamlined and uniform approval processes for new technologies that are introduced for use in on-site wastewater treatment and dispersal systems in this State. The On-Site Water Protection Branch and the industry stakeholders together shall identify and suggest amendments to G.S. 130A-343 (Approval of on-site subsurface wastewater systems) that are necessary to achieve and implement such a streamlined uniform approval process.

SECTION 6.(b) The Department of Health and Human Services shall report its findings and recommended amendments to G.S. 130A-343 to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on or before February 1, 2016.

SECTION 6.(c) This section shall in no way supersede or nullify the on-site wastewater approval clarifications with respect to certain dispersal media under G.S. 130-343(j1).

EFFECTIVE DATE

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 593

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

H593-ARI-90 [v.3]

Amends Title [NO]
H593-CSSB-22 [v.30]

Date _____,2016

Senator Cook

moves to amend the bill on page 13, lines 33 through 43,
by rewriting that line to read:

"**ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN**

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval and failure to grant an approval within 24 hours shall be deemed as an approval of the request."".

SIGNED Bill Cook
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____


BOWERS

Photo by Don Bowers

Record rainfall during the fall and winter has causes a series of flooding and standing water issues in the area of Cape Point.

PUBLIC COMMENT

HB593

NAME	ORGANIZATION	DATE
Mary Made Asbill	JLL	6/16/16
Gordon Myers	Wildlife Resource Commission	6/16/16

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

June 16, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Morgan	TNC
Doug Howey	NCPCM
Henry Jones	Jordan Price
Jackson Stancil	CCS
Peter Daniel	CCS
JAKE PARKER	NCFB
PAUL SHERMAN	NCFB
Tommy Stevens	Stevens Lobby
JERRY SCHILL	NCFA
[illegible]	CCS
Kathy Hawkins	Duke
CHRIS DILLON	WAKE
Joy Hicks	Ag
Elizabeth Bise	BP
Meghan Cook	NC DIT
Allison Pitts	NCDA
Aaron Oxendine	DACS

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

June 16, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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John Perfetti	Speaker
Trafton Dinwiddie	Rep. West
Preston Howard	NCMA
Sara R	Duke E
Rob Lamm	TCA
NATALYA ARES	NCSEA
Rivian Merwald	WM

09-21-201

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

June 16, 2016
Date

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Ben Agsten	CTNC
Mia D Bailey	ElectriCities
Andy Chase	KMA
Bruce Thompson	Parker Poe
Tonya Hyatt	TSS
Amanda Donovan	TSS
Ashton Godwin	WRC

09-21-201

VISITOR REGISTRATION SHEET

Senate Agriculture/Environment/Natural Resources

June 16, 2016
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Caroline Thomas	DEQ
Laura Puryear	LOLLC
Caroline Daly	Governors Office
Hannah Tedder	DHHS
[illegible]	NCCN
Mary Maude Ashley	SELC
Brooks R. Pearson	SELC
DAN CLAWFORD	NCLCV
Cassie Gavin	Sierra Club
RB Diggs	Waste Inc.
[illegible]	
Erma Clarke	LCINC 86
Martha Jenkins	DNCR
Sarah Collins	NCLM
Hugh Johnson	NCAE
Daniel Baum	Troutman Sanders
Fernando Jimenez	New Frame

09-21-201

Judy Edwards (Sen. Andrew Brock)

From: Judy Edwards (Sen. Andrew Brock)
Sent: Tuesday, June 21, 2016 03:55 PM
To: Rep. J.H. Langdon; Rep. Jimmy Dixon; Rep. Mark Brody; Rep. Bob Steinburg
Cc: Thomas Goffe (Rep. J.H. Langdon); Michael Wiggins (Rep. Jimmy Dixon); Neva Helms (Rep. Mark Brody); Bethany Hudson (Rep. Bob Steinburg)
Subject: <NCGA> Senate Agriculture/Environment/Natural Resources Committee Meeting Notice for Wednesday, June 22, 2016 at 10:00 AM
Attachments: Add Meeting to Calendar_LINC_.ics

Principal Clerk ____
Reading Clerk ____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 22, 2016	10:00 AM	544 LOB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 992	Amend Industrial Hemp Program.	Representative Brody Representative Dixon Representative Langdon Representative Steinburg
HB 345	Perquimans Fox Trap./Northampton Shoot. Range.	Representative Steinburg

Senator Andrew C. Brock, Co-Chair
Senator Bill Cook, Co-Chair
Senator Trudy Wade, Co-Chair

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 22, 2016, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks - Senator Trudy Wade

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 992	Amend Industrial Hemp Program.	Representative Brody Representative Dixon Representative Langdon Representative Steinburg
HB 345	Perquimans Fox Trap./Northampton Shoot. Range.	Representative Steinburg

Adjournment

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 22, 2016 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on June 22, 2016 in Room 544 of the Legislative Office Building. There were 10 members present.

Senator Trudy Wade presided.

Sgt.-At-Arms for today's meeting: Larry Hancock, Matt Urben, and Becky Myrick

Senator Wade introduced the pages: Ema Tonnemacher from Cary sponsored by Senator Woodard; Ashley Johnson from Asheboro sponsored by Senator Tillman; Ashlyn Pratt from Winston-Salem sponsored by Senator Krawiec; Sarah Sharpe from Hickory sponsored by Senator Daniel; Dalton McLamb from Greensboro sponsored by Senator Berger; Kensi Laube from Reidsville sponsored by Senator Berger; Claire Lewis from Reidsville sponsored by Senator Berger; Payton Laube from Reidsville sponsored by Berger.

The following bills were heard:

HB 992 Amend Industrial Hemp Program. (Representatives Brody, Dixon, Langdon, Steinburg)

Representative Brody was recognized to explain the bill
Senator Wade opened the floor for questions from the members. The following members had questions on the bill: Senator McInnis, Senator Cook, Senator Randleman, Senator Smith-Ingram, Senator Alexander and Senator Rabin. After much discussion, Senator McInnis made a motion for a Favorable Report for the bill with a recommended referral to Judiciary11. The motion carried.

HB 345 Northampton Shooting Ranges. (Representative Steinburg)

There was a PCS for this bill. Senator Smith-Ingram made a motion to adopt the PCS. The motion carried.

Representative Steinburg explained the bill. Senator Smith-Ingram asked for support of the bill.

Senator Wade opened the floor for questions. There were questions from Senator Brent Jackson and Senator McInnis. After discussion among the members, Senator Rabin moved for a Favorable Report for the PCS. The motion carried.

The meeting adjourned at 10:25 AM.

Senator Trudy Wade, Presiding

Judy Edwards, Committee Clerk

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT
Senator Brock, Co-Chair
Senator Cook, Co-Chair
Senator Wade, Co-Chair

Wednesday, June 22, 2016

Senator Wade,
submits the following with recommendations as to passage:

FAVORABLE

HB **992** **(CS#1)** Amend Industrial Hemp Program.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	Judiciary II
Long Title Amended:	No

UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2

HB **345** **(SCS#1)** Perquimans Fox Trap./Northampton Shoot. Range.

Draft Number:	H345-PCS10561-TQ-55
Sequential Referral:	None
Recommended Referral:	~~Judiciary II~~ None
Long Title Amended:	Yes

TOTAL REPORTED: 2

Senator Stan Bingham will handle HB 992
Senator Bill Cook will handle HB 345

CMR774-V-1

HOUSE BILL 992:
Amend Industrial Hemp Program.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 22, 2016
Introduced by:	Reps. Brody, Dixon, Langdon, Steinburg	**Prepared by:**	Chris Saunders Staff Attorney
Analysis of:	Fourth Edition		

SUMMARY: ***H992 would (i) expand the membership of the Industrial Hemp Commission (Commission), (ii) clarify the powers and duties of the Commission, including granting rulemaking authority to the Commission, and provide that the industrial hemp research program must be managed and coordinated by State land grant universities, (iii) set out specific responsibilities of licensees and authorized research purposes for the industrial hemp program, (iv) create civil and criminal penalties for various violations of the industrial hemp program, and (v) amend the definition of marijuana to allow for the production of industrial hemp when the Commission adopts temporary rules to implement the program.***

[As introduced, this bill was identical to S771, as introduced by Sens. B. Jackson, Cook, Wade, which is currently in Senate Agriculture/Environment/Natural Resources.]

BACKGROUND: The Industrial Hemp Commission was established as a five-member commission by S313 (2015) to implement an industrial hemp program in North Carolina. Section 7606 of the federal Agricultural Act of 2014 (Pub. L. 113-79) allows states to implement an agricultural pilot program to study the growth, cultivation, or marketing of industrial hemp, provided that state law allows the growth or cultivation of industrial hemp and the pilot program is conducted by an institution of higher education or a state department of agriculture.

S313 required the Commission to obtain funding of at least $200,000 from non-State sources to support its operations prior to meeting or undertaking any of its powers and duties. The Commission has obtained the required funding to begin its operations.

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would create new definitions for "industrial hemp research program" and "State land grant university."

Section 2 would increase the number of members of the Commission from five members to nine members. The four additional members of the Commission would be:

- One appointed by the Governor, who is a full-time faculty member of a State land grant university who regularly works in the field of agricultural science or research.
- One appointed by the Commissioner of Agriculture (Commissioner), who is a full-time farmer with at least 10 years of experience in agricultural production in North Carolina.

Karen Cochrane-Brown
Director

H992-SMTQ-119 E4 -V-1

Legislative Analysis Division
919-733-2578

- One appointed by the Commissioner, who is a professional agricultural consultant.
- One appointed by the Commissioner, who is an agribusiness professional.

Section 3 would make the following changes to the powers and duties of the Commission:

- Clarify that the industrial hemp research program is to be directly managed and coordinated by State land grant universities, and that the program must consist primarily of demonstration plots planted and cultivated in the State by selected licensed growers.
- Specify that the Commission may only issue licenses for growth and cultivation of industrial hemp for research purposes.
- Authorize the Department of Agriculture to collect and manage fees charged by the Commission, provided that the Department remits all funds to the Commission at least monthly. The Department may retain its actual expenses associated with the issuance of licenses from the amount to be remitted to the Commission.
- Authorize the Commission to adopt rules necessary to implement the program.
- Require the Commission to notify the State Bureau of Investigation (SBI) and all local law enforcement agencies of the duration, size, and location of all industrial hemp plots authorized under the program.

Section 4 would add two new sections to provide the responsibilities of licensees and to set out authorized research purposes under the industrial hemp program.

The responsibilities of licensees would be:

- To maintain records demonstrating compliance with the program.
- To retain all industrial hemp production records for at least three years.
- To allow all industrial hemp crops to be inspected by and at the discretion of the Commission, the SBI, and local law enforcement.
- To maintain a written agreement verifying that the grower is a participant in an industrial hemp research program managed by a State land grant university.

The authorized research purposes would include, among other things:

- Studying marketplace opportunities for hemp products.
- Studying methods of industrial hemp cultivation that are best suited to soil conservation and restoration.
- Overseeing the growth of industrial hemp for agronomy research and analysis of required soils, growing conditions, and harvest methods.
- Conducting seed research on various types of industrial hemp and creating North Carolina hybrid types.
- Studying the economic feasibility of developing an industrial hemp market for various types of industrial hemp that can be grown in the State, including by the commercial marketing and sale of industrial hemp.

Section 5 would authorize the Commissioner to assess a civil penalty of up to $2,500 for any of the following:

- Violating any provision of the Industrial Hemp Article or a rule adopted by the Commission, or violating the terms of a license or order issued by the Commission.
- Manufacturing, distributing, or delivering marijuana on property authorized for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, or attempting to do the same.
- Providing false or misleading information in relation to a license application, inspection, or investigation.
- Tampering with or adulterating a lawfully planted industrial hemp crop.

This section would also create the following three criminal penalties:

- Manufacturing, distributing, or delivering marijuana on property authorized for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, or attempting to do the same, would be a Class I felony.
- Providing false or misleading information in relation to a license application, inspection, or investigation would be a Class 1 misdemeanor.
- Tampering with or adulterating a lawfully planted industrial hemp crop would be a Class 1 misdemeanor.

Section 6 would make a conforming change to reflect the rulemaking authority of the Commission.

Section 7 would authorize the Commission to adopt temporary rules to implement the industrial hemp research program.

Section 8 would provide that the change to the definition of "marijuana" to exclude lawfully grown industrial hemp would become effective following the adoption of temporary rules by the Commission.

EFFECTIVE DATE: Section 5 of this act would become effective December 1, 2016, and would apply to offenses committed on or after that date. The remainder of this act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H 4

HOUSE BILL 992*
Committee Substitute Favorable 6/9/16
Third Edition Engrossed 6/13/16
Fourth Edition Engrossed 6/14/16

Short Title: Amend Industrial Hemp Program. (Public)

Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE INDUSTRIAL HEMP RESEARCH PROGRAM BY CLARIFYING THE DEFINITION OF RESEARCH PURPOSES AND THE RESPONSIBILITIES OF LICENSEES, CREATING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THE INDUSTRIAL HEMP PROGRAM, AND GRANTING RULE-MAKING AUTHORITY TO THE INDUSTRIAL HEMP COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-568.51 reads as rewritten:

"**§ 106-568.51. Definitions.**

The following definitions apply in this Article:

(1) Certified seed. – Industrial hemp seed that has been certified as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.

(2) Commercial use. – The use of industrial hemp as a raw ingredient in the production of hemp products.

(3) Commission. – The North Carolina Industrial Hemp Commission created by this Article.

(4) Department. – The North Carolina Department of Agriculture.

(5) Grower. – Any person licensed to grow industrial hemp by the Commission pursuant to this Article.

(6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties.

(7) Industrial hemp. – All parts and varieties of the plant Cannabis sativa (L.), cultivated or possessed by a grower licensed by the Commission, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

(7a) Industrial hemp research program. – The research program established pursuant to G.S. 106-568.53(1).

(7b) State land grant university. – North Carolina State University and North Carolina A&T State University.

(8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or

any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity."

SECTION 2. G.S. 106-568.52 reads as rewritten:

"**§ 106-568.52. North Carolina Industrial Hemp Commission.**

(a) Creation and Membership. – The North Carolina Industrial Hemp Commission is established and shall consist of ~~five~~ nine members as follows:

(1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as vice-chair.

(2) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who shall at the time of appointment be a municipal chief of police.

(3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who shall at the time of appointment be an elected sheriff or the sheriff's designee.

(4) ~~One~~ Two appointed by the Governor who shall at the time of appointment be a full-time faculty member of a State land grant university who regularly ~~teaches~~ works in the field of agricultural ~~science.~~science or research.

(5) ~~One~~ Two appointed by the Commissioner of Agriculture, who shall be a full-time farmer with at least 10 years of experience in agricultural production in the State.

(6) One appointed by the Commissioner of Agriculture, who shall be a professional agricultural consultant.

(7) One appointed by the Commissioner of Agriculture, who shall be an agribusiness professional.

(b) Terms of Members. – Members of the Commission shall serve terms of four years, beginning effective July 1 of the year of appointment, and may be reappointed to a second four-year term. The terms of members designated by subdivisions (a)(1), (a)(2), ~~and (a)(4)~~(a)(4), and (a)(6) of this section shall expire on June 30 of any year evenly divisible by four. The terms of the remaining members shall expire on June 30 of any year that follows by two years a year evenly divisible by four.

(c) Chair. – The members of the Commission shall elect a chair. The chair shall serve a two-year term and may be reelected.

(d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(e) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(f) Reimbursement. – 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.

(g) Quorum. – ~~Three~~ Five members of the Commission shall constitute a quorum for the transaction of business.

(h) Staff. – The Commission is authorized and empowered to employ no more than two persons as staff to assist the Commission in the proper discharge of its duties and responsibilities. The chair of the Commission shall organize and direct the work of the Commission staff. The salaries and compensation of all such personnel shall be determined by the Commission; provided, however, that the aggregate cost for salaries and benefits of the staff may not exceed two hundred thousand dollars ($200,000)."

SECTION 3. G.S. 106-568.53 reads as rewritten:

"**§ 106-568.53. Powers and duties of the Commission.**

The Commission shall have the following powers and duties:

(1) To establish an ~~agricultural~~ industrial hemp research program to grow or cultivate industrial hemp in the ~~State.~~State, to be directly managed and coordinated by State land grant universities. The Commission shall pursue any permits or waivers from the United States Drug Enforcement Agency or any other federal agency that are necessary for the establishment of the industrial hemp ~~cultivation pilot~~ research program established by this Article. This research program shall consist primarily of demonstration plots planted and cultivated in North Carolina by selected growers. The growers shall be licensed pursuant to subdivision (2) of this section prior to planting any industrial hemp.

(2) To issue licenses allowing a person, firm, or corporation to cultivate industrial hemp for ~~commercial~~ research purposes to the extent allowed by federal law, upon proper application as the Commission may ~~specify.~~specify, and in accordance with G.S. 106-568.53A. Each licensee shall provide a complete and accurate legal description of the location of the industrial hemp farming operation, including GPS coordinates, and the license shall be issued for cultivation only in those locations identified in the application and shall include on its face the description of those areas. The Department shall provide administrative support to the Commission for the processing of applications and issuance of licenses.

(3) To support the Commission's activities, and to reimburse the Department for expenses associated with the issuance of cultivation licenses under subdivision (2) of this section, the Commission may charge the following fees:

a. An initial, graduated license fee, to be paid by each cultivator, based upon the number of acres proposed for cultivation of industrial hemp, not to exceed ten thousand dollars ($10,000), with incentive provisions to encourage the participation of small acreage farmers.

b. An annual fee that is the sum of two hundred fifty dollars ($250.00) and two dollars ($2.00) per acre of industrial hemp cultivated.

In setting fees under this subdivision, the Commission may create fair and reasonable licensing preferences for license applicants from North Carolina counties that have been recognized as economically depressed or disadvantaged. The Department shall collect and manage all fees charged by the Commission and shall remit all funds collected under this subdivision to the Commission at least monthly. The Department may retain its actual expenses associated with the issuance of cultivation licenses from the amount to be remitted to the Commission.

(4) To receive gifts, grants, federal funds, and any other funds both public and private needed to support the Commission's duties and programs.

(5) To establish procedures for reporting to the Commission by the growers and processors for agricultural or academic research and to collaborate and coordinate research efforts with the appropriate departments or programs of North Carolina State University and North Carolina A & T State University.

~~(6) To study and investigate marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.~~

~~(7) To study and investigate methods of industrial hemp cultivation that are best suited to soil conservation and restoration.~~

(8) To ~~propose to the Board of Agriculture for adoption reasonable~~ adopt rules ~~and regulations~~ necessary to carry out the purposes of this Article, which shall include, but are not limited to, rules for all of the following:

a. Testing of the industrial hemp during growth to determine tetrahydrocannabinol levels. Testing methods and protocols shall comply in all respects with any and all applicable federal requirements.
b. Supervision of the industrial hemp during its growth and harvest, including rules for verification of the type of seeds and plants used and grown by licensees.
c. The production and sale of industrial hemp, consistent with the rules of the United States Department of Justice and Drug Enforcement Administration for the production, distribution, and sale of industrial hemp.
d. Means and methods for assisting law enforcement agencies to efficiently ascertain information regarding the legitimate and lawful production of industrial hemp.
e. Strategies and programs for the promotion of industrial hemp products and markets, in conjunction with the North Carolina Department of Agriculture, the North Carolina Department of Commerce, the University of North Carolina system, and the community college system.
f. The fees authorized by subdivision (3) of this section.

The Commission shall ~~include in its rulemaking proposals the adoption~~ adopt by reference or otherwise the federal regulations in effect regarding industrial hemp and any subsequent amendments to those regulations. No North Carolina rule, regulation, or statute shall be construed to authorize any person to violate any federal law or regulation.

(9) To undertake any additional studies relating to the production, distribution, or use of industrial hemp as requested by the General Assembly, the Governor, or the Commissioner of Agriculture.

(10) To notify the State Bureau of Investigation and all local law enforcement agencies of the duration, size, and location of all industrial hemp demonstration plots authorized pursuant to the industrial hemp research program."

SECTION 4. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"**§ 106-568.53A. Responsibilities of licensees.**

A person granted an industrial hemp license pursuant to this section shall:

(1) Maintain records that demonstrate compliance with this Article and with all other State laws regulating the planting and cultivation of industrial hemp.
(2) Retain all industrial hemp production records for a minimum of three years.
(3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the Commission, the State Bureau of Investigation, or the chief law enforcement officer of the unit or units of local government where the farm is located.
(4) Maintain a current written agreement with a State land grant university that states that the grower is a participant in the industrial hemp research program managed by that institution.

"**§ 106-568.55. Authorized research purposes.**

As part of the industrial hemp research program directly managed by a State land grant university, a licensed grower may engage in any of the following research activities:

(1) Studying and investigating marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.

(2) Studying and investigating methods of industrial hemp cultivation that are best suited to soil conservation and restoration.

(3) Overseeing and analyzing the growth of industrial hemp by licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products.

(4) Conducting seed research on various types of industrial hemp that are best suited to be grown in North Carolina, including seed availability, creation of North Carolina hybrid types, and in-the-ground variety trials and seed production. The Commission may establish a program to recognize certain industrial hemp seeds as being North Carolina varieties of hemp seed.

(5) Studying the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the State, including by commercial marketing and sale of industrial hemp.

(6) Reporting on the estimated value-added benefits, including environmental benefits, to North Carolina businesses of an industrial hemp market of North Carolina-grown industrial hemp varieties.

(7) Studying the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and use.

(8) Researching and promoting on the world market industrial hemp and hemp seed that can be grown in the State.

(9) Promoting research into the development of industrial hemp and commercial markets for North Carolina industrial hemp and hemp products.

(10) Studying the feasibility of attracting federal or private funding for the North Carolina industrial hemp research program.

(11) Studying the use of industrial hemp in new energy technologies, including electricity generation, biofuels, or other forms of energy resources; the growth of industrial hemp on reclaimed mine sites; the use of hemp seed oil in the production of fuels; and the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy."

SECTION 5. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"**§ 106-568.56. Civil penalty.**

(a) In addition to any other liability or penalty provided by law, the Commissioner may assess a civil penalty of not more than two thousand five hundred dollars ($2,500) per violation against any person who:

(1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.

(2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp. This penalty may be imposed in addition to any other penalties provided by law.

(3) Provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.

(4) Tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article.

(b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"**§ 106-568.57. Criminal penalties.**

(a) Any person that manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, shall be deemed guilty of a Class I felony. This penalty may be imposed in addition to any other penalties provided by law.

(b) Any person that provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class 1 misdemeanor.

(c) Any person that tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article shall be deemed guilty of a Class 1 misdemeanor."

SECTION 6. G.S. 90-87(16) reads as rewritten:

"(16) "Marijuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. The term does not include industrial hemp as defined in G.S. 106-568.51, when the industrial hemp is produced and used in compliance with rules issued by ~~the Board of Agriculture upon the recommendation of~~ the North Carolina Industrial Hemp Commission."

SECTION 7. Section 3 of S.L. 2015-299 reads as rewritten:

"**SECTION 3.** The ~~Board of Agriculture~~ North Carolina Industrial Hemp Commission may adopt temporary rules to implement the provisions of this ~~act and shall adopt permanent rules as recommended by the North Carolina Industrial Hemp Commission.~~act. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective."

SECTION 8. Section 4 of S.L. 2015-299 reads as rewritten:

"**SECTION 4.** Section 2 of this act becomes effective on the first day of the month following the adoption of ~~permanent~~ temporary rules pursuant to Section 3 of this act and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date. The remainder of this act is effective when it becomes law. This act shall expire on June 30 of the fiscal year in which the North Carolina Industrial Hemp Commission adopts and submits to the Governor and to the Revisor of Statutes a resolution that a State pilot program allowing farmers to lawfully grow industrial hemp is no longer necessary because (i) the United States Congress has enacted legislation that removes industrial hemp from the federal Controlled Substances Act and (ii) the legislation has taken effect."

SECTION 9. Section 5 of this act becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 345:
Northampton Shooting Ranges.

2016-2017 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	**Date:**	June 22, 2016
Introduced by:	Rep. Steinburg	**Prepared by:**	Chris Saunders Staff Attorney
Analysis of:	PCS to Second Edition H345-CSTQ-48 [v.1]		

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 345 would allow Wildlife Resources Commission shooting ranges in Northampton County. The PCS eliminates a provision pertaining to fox trapping in Perquimans County.***

CURRENT LAW AND BILL ANALYSIS: S.L. 1973-78, as amended by S.L. 1979-548, makes it unlawful to fire any rifle larger than a .22 caliber without the written permission of the landowner where the shooting occurs. It is also unlawful to fire any rifle unless the person is at least eight feet above the ground in Northampton County (for example, in a deer stand).

The PCS would provide that the current law does not apply to shooting ranges managed by the North Carolina Wildlife Resources Commission or to individuals properly permitted on lands owned or managed by the North Carolina Wildlife Resources Commission.

EFFECTIVE DATE: This act would be effective when it becomes law.

Tawanda Foster, counsel to Senate State and Local Government, substantially contributed to this summary.

Karen Cochrane-Brown
Director

H345-SMTQ-120 CSTQ-48 -V-2

Legislative Analysis
Division
919-733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H D

HOUSE BILL 345

Senate State and Local Government Committee Substitute Adopted 6/7/16
PROPOSED COMMITTEE SUBSTITUTE H345-CSTQ-48 [v.1]
06/10/2016 09:47:15 AM

Short Title: Northampton Shooting Ranges. (Local)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ALLOW WILDLIFE RESOURCES COMMISSION SHOOTING RANGES IN NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 78 of the 1973 Session Laws, as amended by Chapter 548 of the 1979 Session Laws, reads as rewritten:

"**Section 1.** It shall be unlawful for any person to discharge (shoot) any rifle of a calibre larger than .22 for any purpose whatsoever, including but not limited to hunting or target practice, within Northampton County, without first securing the express written permission of the owner or lessee of the land on which such discharge is to occur. Furthermore, it shall be unlawful to discharge (shoot) any rifle as herein prescribed unless the person discharging (shooting) such rifle is positioned at least eight feet from the ground. This section shall not apply to shooting ranges managed by the North Carolina Wildlife Resources Commission or to individuals properly permitted on lands owned or managed by the North Carolina Wildlife Resources Commission."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H 2

HOUSE BILL 345

Senate State and Local Government Committee Substitute Adopted 6/7/16

Short Title: Perquimans Fox Trap./Northampton Shoot. Range. (Local)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SEASON FOR TAKING FOXES BY TRAPPING IN PERQUIMANS COUNTY AND TO ALLOW WILDLIFE RESOURCES COMMISSION SHOOTING RANGES IN NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding any other provision of law, there is an open season for taking foxes by trapping during the trapping season set by the Wildlife Resources Commission each year, with no tagging requirements prior to or after sale.

SECTION 1.(b) No bag limit applies to foxes taken under this act.

SECTION 1.(c) This section applies only to Perquimans County.

SECTION 1.(d) This section becomes effective October 1, 2016.

SECTION 2.(a) Section 1 of Chapter 78 of the 1973 Session Laws, as amended by Chapter 548 of the 1979 Session Laws, reads as rewritten:

"**Section 1.** It shall be unlawful for any person to discharge (shoot) any rifle of a calibre larger than .22 for any purpose whatsoever, including but not limited to hunting or target practice, within Northampton County, without first securing the express written permission of the owner or lessee of the land on which such discharge is to occur. Furthermore, it shall be unlawful to discharge (shoot) any rifle as herein prescribed unless the person discharging (shooting) such rifle is positioned at least eight feet from the ground. This section shall not apply to shooting ranges managed by the North Carolina Wildlife Resources Commission or to individuals properly permitted on lands owned or managed by the North Carolina Wildlife Resources Commission."

SECTION 2.(b) This section is effective when it becomes law.

SECTION 3. Except as otherwise provided, this act is effective when it becomes law.

REPRESENTATIVE MARK BRODY
N.C. HOUSE OF REPRESENTATIVES
55TH DISTRICT

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Office of Ag Marketing and Product Promotion

Industrial Hemp Facts

Industrial Hemp Facts

Industrial hemp is a variety of Cannabis sativa and is of the same plant species as marijuana. However, hemp is genetically different and distinguished by its use and chemical makeup. Industrial hemp refers to cannabis varieties that are primarily grown as an agricultural crop. Hemp plants are low in THC (delta-9 tetrahydrocannabinol, marijuana's primary psychoactive chemical). THC levels for hemp generally are less than 1 percent. Federal legislation that would exclude hemp from the legal definition of marijuana would set a ceiling of 0.3 percent THC for a cannabis variety to be identified as hemp. Marijuana refers to the flowering tops and leaves of psychoactive cannabis varieties, which are grown for their high content of THC. THC levels for marijuana average about 10 percent but can go much higher.

Industrial hemp products, production, and markets

From:
Kentucky Dept of Agriculture

Some estimate that the global market for hemp consists of more than **25,000 products**, including:

- fabrics and textiles
- yarns and raw or processed spun fibers
- paper
- carpeting
- home furnishings
- construction and insulation materials
- auto parts
- composites
- animal bedding
- foods and beverages
- body care products
- nutritional supplements
- industrial oils
- cosmetics
- personal care
- pharmaceuticals

An estimated 55,700 metric tons of industrial hemp are produced around the world each year. China, Russia, and South Korea are the leading hemp-producing nations. They account for 70 percent of the world's industrial hemp supply.

Canada had 38,828 licensed acres of industrial hemp in 2011. Canadian exports of hemp seed and hemp products were estimated at more than $10 million, with most going to the U.S.

Because there is no commercial industrial hemp production in the United States, the U.S. market is largely dependent on imports, both as finished hemp-containing products and as ingredients for use in further processing. More than 30 nations grow industrial hemp as an agricultural commodity. The United States is the only industrialized nation that does not allow industrial hemp production. Current industry estimates report that U.S. retail sales of all hemp-based products may exceed $300 million per year.

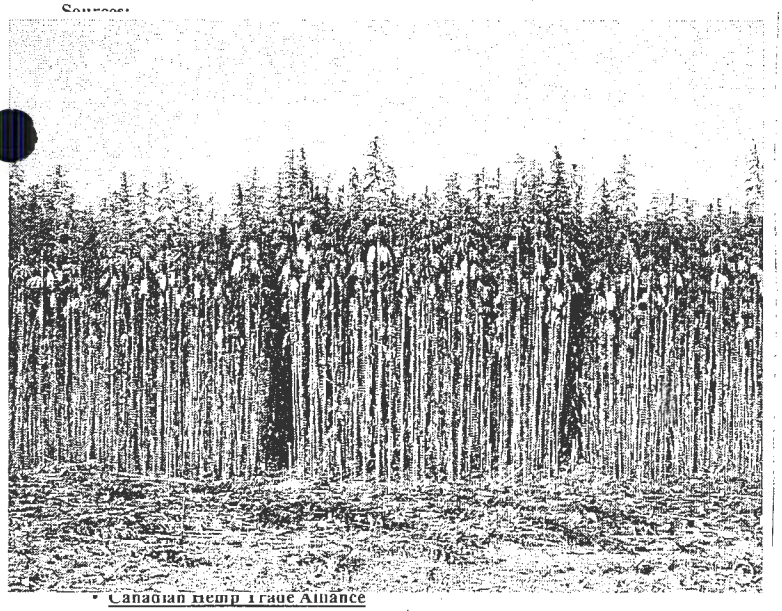
U.S. law governing hemp

Under the current U.S. drug policy, all cannabis varieties, including hemp, are considered Schedule I controlled substances under the Controlled Substances Act (CSA, 21 U.S.C. §§801 et seq.; Title 21 CFR Part 1308.11). Hemp production is controlled and regulated by the U.S. Drug Enforcement Administration (DEA). It is illegal to grow hemp without a DEA permit. Cannabis varieties may be legitimately grown for research purposes only.

Several states have legalized the cultivation and research of industrial hemp, including Colorado, Hawaii, Kentucky, Maine, Maryland, Montana, North Dakota, Oregon, Vermont, Washington, and West Virginia. However, a grower still must get permission from the DEA in order to grow hemp, or face the possibility of federal charges or property confiscation, even if he or she has a state-issued permit.

Legislation filed in both houses of Congress would exclude hemp from the legal definition of marijuana. House Resolution 525 is sponsored by Rep. Thomas Massie of Kentucky and has 39 co-sponsors, including Rep. John Yarmuth of Kentucky. Senate Bill 359 is sponsored by Sen. Ron Wyden of Oregon and has four co-sponsors, including Sens. Rand Paul and Mitch McConnell of Kentucky.

Sources:



- Canadian Hemp Trade Alliance
- Hemp History Week

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