

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 388

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/11

Short Title: Transfer Forestry & Forestry Council to DACS.

(Public)

Sponsors:

Referred to:

March 22, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE DIVISION OF FOREST RESOURCES AND THE
3 FORESTRY COUNCIL OF THE DEPARTMENT OF ENVIRONMENT AND
4 NATURAL RESOURCES TO THE DEPARTMENT OF AGRICULTURE AND
5 CONSUMER SERVICES AND TO MAKE CONFORMING CHANGES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** The Division of Forest Resources is transferred from the
8 Department of Environment and Natural Resources to the Department of Agriculture and
9 Consumer Services with all the elements of a Type I transfer as defined by G.S. 143A-6.

10 **SECTION 1.(b)** G.S. 143B-279.3(a) reads as rewritten:

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

14 ...

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

17"

18 **SECTION 1.(c)** Article 7 of Chapter 143A of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 143A-65.1. Division of Forest Resources.**

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

24 **SECTION 1.(d)** All functions, powers, duties, and obligations previously vested in
25 the Forestry Council are transferred from the Department of Environment and Natural
26 Resources to and vested in the Department of Agriculture and Consumer Services by a Type II
27 transfer, as defined in G.S. 143A-6.

28 **SECTION 1.(e)** G.S. 143B-279.3(b) reads as rewritten:

29 "(b) All functions, powers, duties, and obligations previously vested in the following
30 commissions, boards, councils, and committees of the following departments are transferred to
31 and vested in the Department of Environment and Natural Resources by a Type II transfer, as
32 defined in G.S. 143A-6:

33 ...

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

36"



1 **SECTION 1.(f)** Part 12 of Article 7 of Chapter 143B of the General Statutes
2 (G.S. 143B-308, 143B-309, and 143B-310) is recodified in Article 7 of Chapter 143A of the
3 General Statutes as G.S. 143A-66.1, 143A-66.2, and 143A-66.3.

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

6 **"§ 143A-66.1. Forestry Council – creation; powers and duties.**

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

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

33 **SECTION 1.(h)** G.S. 143A-66.2, as recodified in subsection (f) of this section,
34 reads as rewritten:

35 **"§ 143A-66.2. Forestry Council – members; chairperson; selection; removal;**
36 **compensation; quorum.**

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

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

- 1 (7) Two persons who are forest scientists with knowledge of the functioning and
2 management of forest ecosystems.
3 (8) One person who represents a banking institution that manages forestland.
4 (9) One person with expertise in urban forestry.
5 (10) One person with active experience in city and regional planning.

6 ...
7 (h) All clerical and other services required by the Council, including the support
8 required to carry out studies it is requested to make, shall be supplied by the ~~Secretary of~~
9 ~~Environment and Natural Resources~~ Commissioner of Agriculture."

10 **SECTION 1.(i)** G.S. 106-22 is amended by adding two new subdivisions to read:

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

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

15 **SECTION 1.(j)** G.S. 113-8 reads as rewritten:

16 **"§ 113-8. Powers and duties of the Department.**

17 The Department shall make investigations of the natural resources of the State, and take
18 such measures as it may deem best suited to promote the conservation and development of such
19 resources.

20 It shall have ~~charge of the work of forest maintenance, forest fire prevention, reforestation,~~
21 ~~and the protection of lands and water supplies by the preservation of forests; supplies;~~ it shall
22 also have the care of State forests and parks, and other recreational areas now owned or to be
23 acquired by the State, including the lakes referred to in G.S. 146-7.

24 It shall make such examination, survey and mapping of the geology, mineralogy and
25 topography of the State, including their industrial and economic utilization, as it may consider
26 necessary; make investigations of water supplies and water powers, prepare and maintain a
27 general inventory of the water resources of the State, and take such measures as it may consider
28 necessary to promote their development.

29 It shall have the duty of enforcing all laws relating to the conservation of marine and
30 estuarine resources.

31 The Department may take such other measures as it may deem advisable to obtain and
32 make public a more complete knowledge of the State and its resources, and it is authorized to
33 cooperate with other departments and agencies of the State in obtaining and making public such
34 information.

35 The Department may acquire such real and personal property as may be found desirable and
36 necessary for the performance of the duties and functions of the Department and pay for same
37 out of any funds appropriated for the Department or available unappropriated revenues of the
38 Department, when such acquisition is approved by the Governor and Council of State. The title
39 to any real estate acquired shall be in the name of the State of North Carolina for the use and
40 benefit of the Department."

41 **SECTION 1.(k)** G.S. 113-22 is repealed.

42 **SECTION 1.(l)** G.S. 106-22 is amended by adding three new subdivisions to read:

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

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

47 (20) Property for state forests. – Acquire real and personal property as desirable
48 and necessary for the performance of the duties and functions of the
49 Department under subdivision (19) of this section and pay for the property
50 out of any funds appropriated for the Department or available
51 unappropriated revenues of the Department, when such acquisition is

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

4 **SECTION 1.(m)** The title of Subchapter II of Chapter 113 of the General Statutes
5 reads as rewritten:

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

7 **SECTION 1.(n)** Article 2 of Chapter 113 of the General Statutes reads as
8 rewritten:

9 "Article 2.

10 "Acquisition and Control of State Forests and Parks.

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

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

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

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

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

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

1 ~~"§ 113-30. Use of lands acquired by counties through tax foreclosures as demonstration~~
2 ~~forests.~~

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

7 ~~"§ 113-31. Procedure for acquisition of delinquent tax lands from counties.~~

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

19 ~~"§ 113-32. Purchase of lands for use as demonstration forests.~~

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

26 ~~"§ 113-33. Forest management appropriation.~~

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

29 ~~"§ 113-34. Power to acquire lands as State forests, parks, and other recreational areas;~~
30 ~~donations or leases by United States; leases for recreational purposes.~~

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

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

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

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

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

17 **"§ 113-34.1. Power to acquire conservation lands not included in the State Parks System.**

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

27 **"§ 113-35. ~~State timber may be sold by Department; forest nurseries; control~~Control
28 over State parks; operation of public service facilities; concessions to private
29 concerns; authority to charge fees and adopt rules.**

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

45 (a1) The Department may adopt rules under which the Secretary may issue a special-use
46 permit authorizing the use of pyrotechnics in State parks in connection with public exhibitions.
47 The rules shall require that experts supervise the use of pyrotechnics and that written
48 authorization for the use of pyrotechnics be obtained from the board of commissioners of the
49 county in which the pyrotechnics are to be used, as provided in G.S. 14-410. The Secretary may
50 impose any conditions on a permit that the Secretary determines to be necessary to protect
51 public health, safety, and welfare. These conditions shall include a requirement that the

1 permittee execute an indemnification agreement with the Department and obtain general
2 liability insurance covering personal injury and property damage that may result from the use
3 of pyrotechnics with policy limits determined by the Secretary.

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

9 (1) The erection, maintenance, and use of docks, piers, and any other structures
10 permitted in or on State lakes under rules adopted by the Department.

11 (2) ~~Hunting privileges on State forests and fishing~~ Fishing privileges in State
12 ~~forests, State parks,~~ parks and State lakes, provided that these privileges shall
13 be extended only to holders of State hunting and fishing licenses who
14 comply with all State game and fish laws.

15 (3) Vehicle access for off-road driving at the beach at Fort Fisher State
16 Recreation Area.

17 (4) The erection, maintenance, and use of a marina at Carolina Beach.

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

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

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

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

34 **~~§ 113-36. Applications of proceeds from sale of products.~~**

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

40 (b) ~~Tree Cone and Seed Purchase Fund. A percentage of the money obtained from the~~
41 ~~sale of seedlings and remaining unobligated at the end of a fiscal year, shall be placed in a~~
42 ~~special, continuing and nonreverting Tree Cone and Seed Purchase Fund under the control and~~
43 ~~direction of the Secretary. The percentage of the sales placed in the fund shall not exceed ten~~
44 ~~percent (10%). At the beginning of each fiscal year, the Secretary shall select the percentage for~~
45 ~~the upcoming fiscal year depending upon the anticipated costs of tree cones and seeds which~~
46 ~~the department must purchase. Money in this fund shall not be allowed to accumulate in excess~~
47 ~~of the amount needed to purchase a four year supply of tree cones and seed, and shall be used~~
48 ~~for no purpose other than the purchase of tree cones and seeds.~~

49 (c) ~~Forest Seedling Nursery Program Fund. The Forest Seedling Nursery Program~~
50 ~~Fund is created within the Department of Environment and Natural Resources, Division of~~
51 ~~Forest Resources, as a special revenue fund. Except as provided in subsection (b) of this~~

1 section, this Fund shall consist of receipts from the sale of seed and seedlings as authorized in
2 G.S. 113-35 and any gifts, bequests, or grants for the benefit of this Fund. No General Fund
3 appropriations shall be credited to this Fund. Any balance remaining in this Fund at the end of
4 any fiscal year shall not revert. The Department may use this Fund only to develop, improve,
5 repair, maintain, operate, or otherwise invest in the Forest Seedling Nursery Program.

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

14 **"§ 113-37. Legislative authority necessary for payment.**

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

18 ~~**"§ 113-38. Distribution of funds from sale of forestlands.**~~

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

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

28 **"§ 113-39. License fees for hunting and fishing on government-owned property**
29 **unaffected.**

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

38 ~~**"§ 113-40. Donations of property for forestry or park purposes; agreements with federal**~~
39 ~~**government or agencies for acquisition.**~~

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

44 **"§ 113-41. Expenditure of funds for development, etc.; disposition of products from**
45 **lands; rules.**

46 When lands are acquired or leased under G.S. 113-40, the Department is hereby authorized
47 to make expenditures from any funds not otherwise obligated, for the management,
48 development and utilization of such areas; to sell or otherwise dispose of products from such
49 lands, and to make such rules as may be necessary to carry out the purposes of G.S. 113-40 to
50 113-44.

51 **"§ 113-42. Disposition of revenues received from lands acquired.**

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

8 **"§ 113-43. State not obligated for debts created hereunder.**

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

12 **"§ 113-44. Disposition of lands acquired.**

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

18 **SECTION 1.(o)** Chapter 106 of the General Statutes is amended by adding a new
19 Article to read:

20 "Article 71.

21 "Acquisition and Control of State Forests.

22 **"§ 106-840. Policy and plan to be inaugurated by Department of Agriculture and**
23 **Consumer Services.**

24 (a) In this Article, unless the context requires otherwise, "Department" means the
25 Department of Agriculture and Consumer Services and "Commissioner" means Commissioner
26 of Agriculture.

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

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

49 **"§ 106-841. Growing of timber on unused State lands authorized.**

50 The Department of Administration may allocate to the Department, for management as a
51 State forest, any vacant and unappropriated lands, any marshlands or swamplands, and any

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

11 **"§ 106-842. Use of lands acquired by counties through tax foreclosures as demonstration**
12 **forests.**

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

17 **"§ 106-843. Procedure for acquisition of delinquent tax lands from counties.**

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

29 **"§ 106-844. Purchase of lands for use as demonstration forests.**

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

36 **"§ 106-845. Forest management appropriation.**

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

39 **"§ 106-846. Power to acquire lands as State forests; donations or leases by United States;**
40 **leases for recreational purposes.**

41 (a) The Governor may, upon recommendation of the Department, accept gifts of land to
42 the State to be held, protected, and administered by the Department as State forests, and to be
43 used so as to demonstrate the practical utility of timber culture and water conservation, and as
44 refuges for game. The gifts of land must be absolute except in cases where the mineral interest
45 on the land has previously been sold. The Department may purchase lands in the name of the
46 State, suitable chiefly for the production of timber, as State forests, for experimental,
47 demonstration, educational, and protection purposes, using for these purposes any special
48 appropriations or funds available. The Department may acquire by condemnation under the
49 provisions of Chapter 40A of the General Statutes, areas of land in different sections of the
50 State that may in the opinion of the Department be necessary for the purpose of establishing or
51 developing State forests and other areas and developments essential to the effective operation

1 of the State forestry activities under its charge. Condemnation proceedings shall be instituted
2 and prosecuted in the name of the State, and any property so acquired shall be administered,
3 developed, and used for experiment and demonstration in forest management, for public
4 recreation, and for other purposes authorized or required by law. Before any action or
5 proceeding under this section can be exercised, the approval of the Governor and Council of
6 State shall be obtained and filed with the clerk of the superior court in the county or counties
7 where the property is located. The Attorney General shall ensure that all deeds to the State for
8 land acquired under this section are properly executed before the gift is accepted or payment of
9 the purchase money is made.

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

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

21 **"§ 106-847. State timber may be sold by Department; forest nurseries; operation of**
22 **public service facilities; concessions to private concerns; authority to charge**
23 **fees and adopt rules.**

24 (a) Timber and other products of State forests may be sold, cut, and removed under
25 rules of the Department. The Department may establish and operate forest tree nurseries and
26 forest tree seed orchards. Forest tree seedlings and seed from these nurseries and seed orchards
27 may be sold to landowners of the State for purposes of forestation under rules adopted by the
28 Department. When the Commissioner determines that a surplus of seedlings or seed exists, this
29 surplus may be sold, and the sale shall be in conformity with the following priority of sale:
30 first, to agencies of the federal government for planting in the State of North Carolina; second,
31 to commercial nurseries and nurserymen within this State; and third, without distinction, to
32 federal agencies, to other states, and to recognized research organizations for planting either
33 within or outside of this State. The Department shall make reasonable rules governing the use
34 by the public of State forests under its charge. These rules shall be posted in conspicuous places
35 on and adjacent to the properties of the State and at the courthouse of the county or counties in
36 which the properties are located. A violation of these rules is punishable as a Class 3
37 misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No wording in G.S. 113-307.1(a), or any other North Carolina public, local, or special act, shall be construed to abrogate the vested rights of the State of North Carolina to collect fees for license for hunting and fishing on any government-owned land or in any government-owned stream in North Carolina including the license for county, State,

1 or nonresident hunters or fishermen; or upon any lands or in any streams hereafter acquired by
2 the federal government within the boundaries of the State of North Carolina. The lands and
3 streams within the boundaries of the Great Smoky Mountains National Park are exempt from
4 this section.

5 **"§ 106-852. Donations of property for forestry purposes; agreements with federal**
6 **government or agencies for acquisition.**

7 The Department is authorized to accept gifts, donations, or contributions of land suitable for
8 forestry purposes and to enter into agreements with the federal government or other agencies
9 for acquiring by lease, purchase, or otherwise such lands as in the judgment of the Department
10 are desirable for State forests.

11 **"§ 106-853. Expenditure of funds for development, etc.; disposition of products from**
12 **lands; rules.**

13 When lands are acquired or leased under G.S. 106-852, the Department may make
14 expenditures from any funds not otherwise obligated, for the management, development, and
15 utilization of such areas; to sell or otherwise dispose of products from such lands, and to make
16 such rules as may be necessary to carry out the purposes of G.S. 106-852 to G.S. 106-856.

17 **"§ 106-854. Disposition of revenues received from lands acquired.**

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

25 **"§ 106-855. State not obligated for debts created hereunder.**

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

30 **"§ 106-856. Disposition of lands acquired.**

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

35 **SECTION 1.(p)** Article 4 of Chapter 113 of the General Statutes (G.S. 113-51,
36 113-52, 113-53.1, 113-54, 113-55, 113-55.1, 113-55.2, 113-56, 113-56.1, 113-57, 113-58,
37 113-59, 113-60, 113-60.1, 113-60.2, and 113-60.3) is recodified as a new Article 72 of Chapter
38 106 of the General Statutes, G.S. 106-860 through G.S. 106-875.

39 **SECTION 1.(q)** Article 72 of Chapter 106 of the General Statutes, as recodified
40 under subsection (p) of this section, reads as rewritten:

41 "Article 72.

42 "Protection and Development of Forests; Fire Control.

43 **"§ 106-860. Powers of Department of ~~Environment and Natural Resources~~ Agriculture**
44 **and Consumer Services.**

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

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

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

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

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

4 **"§ 106-861. Forest rangers.**

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

9 **"§ 106-862. Forest laws defined.**

10 The forest laws consist of:

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

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

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

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

17 (5) Regulations and ordinances adopted under the authority of the above
18 statutes.

19 **"§ 106-863. Duties of forest rangers; payment of expenses by State and counties.**

20 Forest rangers shall have charge of measures for controlling forest fires, protection of
21 forests from pests and diseases, and the development and improvement of the forests for
22 maximum production of forest products; shall post along highways and in other conspicuous
23 places copies of the forest fire laws and warnings against fires, which shall be supplied by the
24 ~~Secretary-Commissioner~~; shall patrol and man lookout towers and other points during dry and
25 dangerous seasons under the direction of the ~~Secretary-Commissioner~~; and shall perform such
26 other acts and duties as shall be considered necessary by the ~~Secretary-Commissioner~~ in the
27 protection, development and improvement of the forested area of each of the counties within
28 the State. No county may be held liable for any part of the expenses thus incurred unless
29 specifically authorized by the board of county commissioners under prior written agreement
30 with the ~~Secretary-Commissioner~~; appropriations for meeting the county's share of such
31 expenses so authorized by the board of county commissioners shall be provided annually in the
32 county budget. For each county in which financial participation by the county is authorized, the
33 ~~Secretary-Commissioner~~ shall keep or cause to be kept an itemized account of all expenses thus
34 incurred and shall send such accounts periodically to the board of county commissioners of said
35 county; upon approval by the board of the correctness of such accounts, the county
36 commissioners shall issue or cause to be issued a warrant on the county treasury for the
37 payment of the county's share of such expenditures, said payment to be made within one month
38 after receipt of such statement from the ~~Secretary-Commissioner~~. Appropriations made by a
39 county for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this Chapter
40 in the cooperative forest protection, development and improvement work are not to replace
41 State and federal funds which may be available to the ~~Secretary-Commissioner~~ for the work in
42 said county, but are to serve as a supplement thereto. Funds appropriated to the Department for
43 a fiscal year for the purposes set out in Articles ~~4, 4A, 4C and 6A~~ 72, 73, 75, and 79 of this
44 Chapter shall not be expended in a county unless that county shall contribute at least
45 twenty-five percent (25%) of the total cost of the forestry program.

46 **"§ 106-864. Powers of forest rangers to prevent and extinguish fires; authority to issue**
47 **citations and warning tickets.**

48 (a) Forest rangers shall prevent and extinguish forest fires and shall have control and
49 direction of all persons and equipment while engaged in the extinguishing of forest fires.
50 During a season of drought, the ~~Secretary-Commissioner~~ or his designate may establish a fire
51 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest

1 ranger shall attend forthwith and use all necessary means to confine and extinguish such fire.
2 The forest ranger or deputy forest ranger may summon any resident between the ages of 18 and
3 45 years, inclusive, to assist in extinguishing fires and may require the use of crawler tractors
4 and other property needed for such purposes; any person so summoned and who is physically
5 able who refuses or neglects to assist or to allow the use of equipment and such other property
6 required shall be guilty of a Class 3 misdemeanor and upon conviction shall only be subject to
7 a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No
8 action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned
9 by him for crossing lands, backfiring, burning out or performing his duties as a forest ranger or
10 deputy forest ranger.

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

16 **"§ 106-865. Powers of forest law-enforcement officers.**

17 The ~~Secretary-Commissioner~~ is authorized to appoint as many forest law-enforcement
18 officers as he deems necessary to carry out the forest law-enforcement responsibilities of the
19 Department. Forest law-enforcement officers shall have all the powers and the duties of a forest
20 ranger enumerated in ~~G.S. 113-54 and 113-55~~G.S. 106-863 and G.S. 106-864. Forest
21 law-enforcement officers shall, in addition to their other duties, have the powers of peace
22 officers to enforce the forest laws. Any forest law-enforcement officer may arrest, without
23 warrant, any person or persons committing any crime in his presence or whom such officer has
24 probable cause for believing has committed a crime in his presence and bring such person or
25 persons forthwith before a district court or other officer having jurisdiction. Forest
26 law-enforcement officers shall also have authority to obtain and serve warrants including
27 warrants for violation of any duly promulgated rule of the Department.

28 **"§ 106-866. Warning tickets for violations of the forest laws.**

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

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

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

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

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

51 **"§ 106-867. Compensation of forest rangers.**

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

12 **"§ 106-868. Overtime compensation for forest fire fighting.**

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

16 **"§ 106-869. Woodland defined.**

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

19 **"§ 106-870. Misdemeanor to destroy posted forestry notice.**

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

24 **"§ 106-871. Cooperation between counties and State in forest protection and
25 development.**

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

30 **"§ 106-872. Instructions on forest preservation and development.**

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

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

47 **"§ 106-873. Authority of Governor to close forests and woodlands to hunting, fishing and
48 trapping.**

49 During periods of protracted drought or when other hazardous fire conditions threaten
50 forest and water resources and appear to require extraordinary precautions, the Governor of the

1 State, upon the joint recommendation of the ~~Secretary-Commissioner~~ and the Executive
2 Director of the North Carolina Wildlife Resources Commission, may by official proclamation:

- 3 (1) Close any or all of the woodlands and inland waters of the State to hunting,
4 fishing and trapping for the period of the emergency.
5 (2) Forbid for the period of the emergency the building of campfires and the
6 burning of brush, grass or other debris within 500 feet of any woodland in
7 any county, counties, or parts thereof.
8 (3) Close for the period of the emergency any or all of the woodlands of the
9 State to such other persons and activities as he deems proper under the
10 circumstances, except to the owners or tenants of such property and their
11 agents and employees, or persons holding written permission from any
12 owner or his recognized agent to enter thereon for any lawful purpose other
13 than hunting, fishing or trapping.

14 **"§ 106-874. Publication of proclamation; annulment thereof.**

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

21 **"§ 106-875. Violation of proclamation a misdemeanor.**

22 Any person, firm or corporation who enters upon any woodlands or inland waters of the
23 State for the purpose of hunting, fishing or trapping, or who builds a campfire or burns brush,
24 grass or other debris within 500 feet of any woodland, after a proclamation has been issued by
25 the Governor forbidding such activities, or who violates any other provisions of the Governor's
26 proclamation with regard to permissible activities in closed woodlands shall be guilty of a Class
27 1 misdemeanor."

28 **SECTION 1.(r)** Article 4A of Chapter 113 of the General Statutes (G.S. 113-60.4,
29 113-60.5, 113-60.6, 113-60.7, 113-60.8, 113-60.9, 113-60.10) is recodified as a new Article 73
30 of Chapter 106 of the General Statutes, G.S. 106-880 through G.S. 106-886.

31 **SECTION 1.(s)** Article 73 of Chapter 106 of the General Statutes, as recodified
32 under subsection (r) of this section, reads as rewritten:

33 "Article 73.

34 "Protection of Forest Against Insect Infestation and Disease.

35 **"§ 106-880. Purpose and intent.**

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

41 (b) In this Article, unless the context requires otherwise, the expression "Department"
42 means the Department of ~~Environment and Natural Resources~~: "~~Secretary~~"~~Agriculture and~~
43 ~~Consumer Services, and "Commissioner"~~ means the ~~Secretary of Environment and Natural~~
44 ~~Resources-Commissioner of Agriculture.~~

45 **"§ 106-881. Authority of the Department.**

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

51 **"§ 106-882. Definitions.**

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

- 2 (1) "Control zone" means an area of potential or actual infestation or infection,
3 boundaries of which are fixed and clearly described in a manner to definitely
4 identify the zone.
- 5 (2) "Forestland" means land on which forest trees occur.
- 6 (3) "Forest trees" means only those trees which are a part and constitute a stand
7 of potential immature or mature commercial timber trees, provided that the
8 term "forest trees" shall be deemed to include shade trees of any species
9 around houses, along highways, and within cities and towns, if the same
10 constitute insect and disease menaces to nearby timber trees or timber
11 stands.
- 12 (4) "Infection" means attack by any disease affecting forest trees which is
13 declared by the ~~Secretary-Commissioner~~ to be dangerously injurious thereto.
- 14 (5) "Infestation" means attack by means of any insect, which is by the ~~Secretary~~
15 ~~Commissioner~~ declared to be dangerously injurious to forest trees.

16 **"§ 106-883. Action against insects and diseases.**

17 Whenever the ~~Secretary-Commissioner~~, or his agent, determines that there exists an
18 infestation of forest insect pests or an infection of forest tree diseases, injurious or potentially
19 injurious to the timber or forest trees within the State of North Carolina, and that said
20 infestation or infection is of such a character as to be a menace to the timber or forest growth of
21 the State, the ~~Secretary-Commissioner~~ shall declare the existence of a zone of infestation or
22 infection and shall declare and fix boundaries so as to definitely describe and identify said zone
23 of infestation or infection, and the ~~Secretary-Commissioner~~ or his agent shall give notice in
24 writing by mail or otherwise to each forest landowner within the designated control zone
25 advising him of the nature of the infestation or infection, the recommended control measures,
26 and offer him technical advice on methods of carrying out controls.

27 **"§ 106-884. Authority of ~~Secretary-Commissioner~~ and his agents to go upon private land**
28 **within control zones.**

29 The ~~Secretary-Commissioner~~ or his agents shall have the power to go upon the land within
30 any zone of infestation or infection and take measures to control, suppress or eradicate the
31 insect, infestation or disease infection. If any person refuses to allow the ~~Secretary~~
32 ~~Commissioner~~ or his agents to go upon his land, or if any person refuses to adopt adequate
33 means to control or eradicate the insect, infestation or disease infection, the ~~Secretary~~
34 ~~Commissioner~~ may apply to the superior court of the county in which the land is located for an
35 injunction or other appropriate remedy to restrain the landowner from interfering with the
36 ~~Secretary-Commissioner~~ or his agents in entering the control zone and adopting measures to
37 control, suppress or eradicate the insect infestation or disease infection, provided the cost of
38 court or control thereof shall not be a liability against the forest landowner nor constitute a lien
39 upon the real property of such infested area.

40 **"§ 106-885. Cooperative agreements.**

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

44 **"§ 106-886. Annulment of control zone.**

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

49 **SECTION 1.(t)** Article 4B of Chapter 113 of the General Statutes (G.S. 113-60.11,
50 113-60.12, 113-60.13, 113-60.14, and 113-60.15) is recodified as a new Article 74 of Chapter
51 106 of the General Statutes, G.S. 106-890 through G.S. 106-894.

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

2 **"§ 106-902. High hazard counties; permits required; standards.**

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

7 (b) It is unlawful for any person to willfully start or cause to be started any fire in any
8 woodland under the protection of the Department or within 500 feet of any such woodland
9 without first having obtained a permit from the Department. Permits for starting fires may be
10 obtained from forest rangers or other agents authorized by the county forest ranger to issue
11 such permits in the county in which the fire is to be started. Such permits shall be issued by the
12 ranger or other agent unless permits for the area in question have been prohibited or cancelled
13 in accordance with ~~G.S. 113-60.25 or 113-60.27~~G.S. 106-904 or G.S. 106-906.

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

20 (1) Prevailing winds at the time of ignition must be away from any city, town,
21 development, major highway, or other populated area, the ambient air of
22 which may be significantly affected by smoke, fly ash, or other air
23 contaminates from the burning.

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

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

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

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

38 (6) Initial burning may be commenced only between the hours of 9:00 A.M. and
39 3:00 P.M. and no combustible material may be added to the fire between
40 3:00 P.M. on one day and 9:00 A.M. on the following day, except that when
41 favorable meteorological conditions exist, any forest ranger authorized to
42 issue the permit may authorize in writing a deviation from the restrictions.

43 **"§ 106-903. Open burning in non-high hazard counties; permits required; standards.**

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

46 (b) It shall be unlawful for any person to start or cause to be started any fire or ignite
47 any material in any woodland under the protection of the Department or within 500 feet of any
48 such woodland during the hours starting at midnight and ending at 4:00 P.M. without first
49 obtaining a permit from the Department. Permits may be obtained from forest rangers or other
50 agents authorized by the forest ranger to issue such permits in the county in which the fire is to
51 be started. Such permits shall be issued by the ranger or other agent unless permits for the area

1 in question have been prohibited or cancelled under ~~G.S. 113-60.25 or 113-60.27.~~ G.S. 106-904
2 or G.S. 106-906.

3 **"§ 106-904. Open burning prohibited statewide.**

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

10 **"§ 106-905. Permit conditions.**

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

15 **"§ 106-906. Permit suspension and cancellation.**

16 Upon a determination that hazardous forest fire conditions exist the ~~secretary-~~
17 Commissioner is authorized to cancel any permit issued under this Article and suspend the
18 issuance of any new permits. Upon a determination by the Environmental Management
19 Commission or its agent that open burning permitted under this Article is causing significant
20 contravention of ambient air quality standards or that an air pollution episode exists pursuant to
21 Article 21B of Chapter 143 of the General Statutes, the ~~secretary-Commissioner~~ shall cancel
22 any permits issued under authority of this Article and shall suspend the issuance of any new
23 permits.

24 **"§ 106-907. Control of existing fires.**

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

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

48 (c) If a fire is set in accordance with a permit but the burning is taking place contrary to
49 the conditions of the permit, any forest ranger with authority to issue permits in the area in
50 question may order the permittee in writing to undertake the steps necessary to comply with the
51 conditions of his permit. If the permittee is not making a reasonable effort to comply with the

1 order, the forest ranger may enter the property and take reasonable steps to extinguish or
2 control the fire and the permittee shall reimburse the Department for the expenses incurred by
3 the Department.

4 **"§ 106-908. Penalties.**

5 Any person violating the provisions of this Article or of any permit issued under the
6 authority of this Article shall be guilty of a Class 3 misdemeanor. The penalties imposed by this
7 section shall be separate and apart and not in lieu of any civil or criminal penalties which may
8 be imposed by G.S. 143-215.114A or G.S. 143-215.114B. The penalties imposed are also in
9 addition to any liability the violator incurs as a result of actions taken by the Department under
10 ~~G.S. 113-60.28~~.G.S. 106-907.

11 **"§ 106-909. Effect on other laws.**

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

20 **"§ 106-910. Exempt fires; no permit fees.**

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

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

26 **SECTION 1.(y)** Article 4D of Chapter 113 of the General Statutes (G.S. 113-60.32
27 and G.S. 113-60.33) is recodified as a new Article 76 of Chapter 106 of the General Statutes,
28 G.S. 106-911 and G.S. 106-912.

29 **SECTION 1.(z)** Article 76 of Chapter 106 of the General Statutes, as recodified by
30 subsection (y) of this section, reads as rewritten:

31 "Article 76.

32 "Fire Fighters on Standby Duty.

33 **"§ 106-911. Definitions.**

34 As used in this Article:

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

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

44 **"§ 106-912. Standby duty.**

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

49 (b) Notwithstanding subsection (a) of this section, for at least two out of 14 consecutive
50 days that a fire fighter is on duty, the Department of ~~Environment and Natural~~
51 ~~Resources~~Agriculture and Consumer Services shall permit the fire fighter to be more than 25

1 miles from his duty station so long as the fire fighter gives the Department of ~~Environment and~~
2 ~~Natural Resources~~ Agriculture and Consumer Services a telephone number where he can be
3 reached; each month, the days the fire fighter is permitted to be more than 25 miles from his
4 duty station shall include one full weekend. On the days the fire fighter is permitted to be more
5 than 25 miles from his duty station, the Department of ~~Environment and Natural Resources~~
6 Agriculture and Consumer Services may call him only when there is a bona fide emergency."

7 **SECTION 1.(aa)** Article 4E of Chapter 113 of the General Statutes
8 (G.S. 113-60.40, 113-60.41, 113-60.42, 113-60.43, 113-60.44, and 113-60.45) is recodified as
9 a new Article 77 of Chapter 106 of the General Statutes, G.S. 106-920 through G.S. 106-925.

10 **SECTION 1.(bb)** Article 77 of Chapter 106 of the General Statutes, as recodified
11 by subsection (aa) of this section, reads as rewritten:

12 "Article 77.

13 "North Carolina Prescribed Burning Act.

14 **"§ 106-920. Legislative findings.**

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

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

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

48 **"§ 106-921. Definitions.**

49 As used in this Article:

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

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

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

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

"§ 106-922. Immunity from liability.

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

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

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

"§ 106-923. Prescribed burning.

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

(1) The landowner's name and address.

(2) A description of the area to be burned.

(3) A map of the area to be burned.

(4) An estimate in tons of the fuel located on the area.

(5) The objectives of the prescribed burning.

(6) A list of the acceptable weather conditions and parameters for the prescribed burning sufficient to minimize the likelihood of smoke damage and fire escaping onto adjacent areas.

(7) The name of the certified prescribed burner responsible for conducting the prescribed burning.

(8) A summary of the methods that are adequate for the particular circumstances involved to be used to start, control, and extinguish the prescribed burning.

(9) Provision for reasonable notice of the prescribed burning to be provided to nearby homes and businesses to avoid effects on health and property.

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

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

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

13 **"§ 106-924. Adoption of rules.**

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

17 **"§ 106-925. Exemption.**

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

22 **SECTION 1.(cc)** Article 5 of Chapter 113 of the General Statutes (G.S. 113-61,
23 113-62, 113-63, 113-64, 113-65, 113-66, 113-67, 113-68, 113-69, 113-70, 113-71, 113-72,
24 113-73, 113-74, 113-75, 113-76, and 113-77) is recodified as a new Article 78 of Chapter 106
25 of the General Statutes, G.S. 106-930 through G.S. 106-946.

26 **SECTION 1.(dd)** Article 78 of Chapter 106 of the General Statutes, as recodified
27 by subsection (cc) of this section, reads as rewritten:

28 "Article 78.

29 "Corporations for Protection and Development of Forests.

30 **"§ 106-930. Private limited dividend corporations may be formed.**

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

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

42 **"§ 106-931. Manner of organizing.**

43 A corporation formed under this Article shall be organized and incorporated in the manner
44 provided for organization of corporations under the general corporation laws of the State of
45 North Carolina, except where such provisions are in conflict with this Article. The certificate of
46 organization of any such corporation shall contain a statement that it is organized under the
47 provisions of this Article and that it consents to be and shall be at all times subject to the rules
48 and supervision of the ~~Secretary-Commissioner~~, and shall set forth as or among its purposes the
49 protection and development of forests and the purchase, acquisition, sale, conveyance and other
50 dealing in the same and the products therefrom, subject to the rules from time to time imposed
51 by the ~~Secretary-Commissioner~~.

1 **"§ 106-932. Directors.**

2 There shall not be less than three directors, one of whom shall always be a person
3 designated by the ~~Secretary, Commissioner~~, which one need not be a stockholder.

4 **"§ 106-933. Duties of supervision by ~~Secretary of Environment and Natural~~
5 ~~Resources, Commissioner.~~**

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

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

28 **"§ 106-934. Powers of ~~Secretary-Commissioner.~~**

29 The ~~Secretary-Commissioner~~ may:

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

47 **"§ 106-935. Provision for appeal by corporations to Governor.**

48 If any corporation organized under this Article is dissatisfied with or aggrieved at any rule
49 or order imposed upon it by the ~~Secretary, Commissioner~~, or any valuation or appraisal of any
50 of its property made by the ~~Secretary, Commissioner~~, or any failure of or refusal by the
51 ~~Secretary-Commissioner~~ to approve of or consent to any action which it can take only with

1 such approval or consent, it may appeal to the Governor by filing with him a claim of appeal
2 upon which the decision of the Governor shall be final. Such determination, if other than a
3 dismissal of the appeal, shall be set forth by the Governor in a written mandate to the
4 ~~Secretary, Commissioner,~~ who shall abide thereby and take such actions as the same may direct.

5 **"§ 106-936. Limitations as to dividends.**

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

12 **"§ 106-937. Issuance of securities restricted.**

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

18 **"§ 106-938. Limitation on bounties to stockholders.**

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

24 **"§ 106-939. Earnings above dividend requirements payable to State.**

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

33 **"§ 106-940. Dissolution of corporation.**

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

39 **"§ 106-941. Cutting and sale of timber.**

40 Any such corporation may cut and sell the timber on its land or permit the cutting thereof,
41 but all such cuttings shall be in accordance with the rules, restrictions and limitations imposed
42 by the ~~Secretary, Commissioner,~~ who shall impose such rules, restrictions and limitations with
43 respect thereto as may reasonably conform to the accepted custom and usage of good forestry
44 and forest economy, taking into consideration the situation, nature and condition of the tract so
45 cut or to be cut, and the financial needs of such corporation from time to time.

46 **"§ 106-942. Corporation may not sell or convey without consent of**
47 **~~Secretary, Commissioner,~~ or pay higher interest rate than 6%.**

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

- 49 (1) Sell, assign or convey any real property owned by it or any right, title or
50 interest therein, except upon notice to the ~~Secretary, Commissioner~~ of the
51 terms of such sale, transfer or assignment, and unless the ~~Secretary~~

1 ~~Secretary-Commissioner~~ shall consent thereto, and if the ~~Secretary-Commissioner~~ shall
2 require it, unless the purchaser thereof shall agree that such real estate shall
3 remain subject to the rules and supervision of the ~~Secretary-Commissioner~~
4 for such period as the latter may ~~require~~;require.

- 5 (2) Pay interest returns on its mortgage indebtedness at a higher rate than six per
6 centum (6%) per annum without the consent of the ~~Secretary-Commissioner~~.
7 (3) Mortgage any real property without first having obtained the consent of the
8 ~~Secretary-Commissioner~~.

9 **"§ 106-943. Power to borrow money limited.**

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

18 **"§ 106-944. ~~Secretary-Commissioner~~ to approve development of forests.**

19 No project for the protection and development of forests proposed by any such corporation
20 shall be undertaken without the approval of the ~~Secretary-Commissioner~~, and such approval
21 shall not be given unless:

- 22 (1) The ~~Secretary-Commissioner~~ shall have received a statement duly executed
23 and acknowledged on behalf of the corporation proposing such project, in
24 such adequate detail as the ~~Secretary-Commissioner~~ shall require of the
25 activities to be included in the project, such statement to set forth the
26 proposals as to
27 a. Fire prevention and protection,
28 b. Protection against insects and tree diseases,
29 c. Protection against damage by livestock and game,
30 d. Means, methods and rate of, and restrictions upon, cutting and other
31 utilization of the forests, and
32 e. Planting and spacing of trees.
33 (2) There shall be submitted to the ~~Secretary-Commissioner~~ a financial plan
34 satisfactory to him setting forth in detail the amount of money needed to
35 carry out the entire project, and how such sums are to be allocated, with
36 adequate assurances to the ~~Secretary-Commissioner~~ as to where such funds
37 are to be secured.
38 (3) The ~~Secretary-Commissioner~~ shall be satisfied that the project gives
39 reasonable assurance of the operation of the forests involved on a
40 sustained-yield basis except insofar as the ~~Secretary-Commissioner~~ shall
41 consider the same impracticable.
42 (4) The corporation proposing such project shall agree that the project shall at
43 all times be subject to the supervision and inspection of the
44 ~~Secretary-Commissioner~~, and that it will at all times comply with such rules
45 concerning the project as the ~~Secretary-Commissioner~~ shall from time to
46 time impose.

47 **"§ 106-945. Application of corporate income.**

48 The gross annual income of any such corporation, whether received from sales of timber,
49 timber operations, stumpage permits or other sources, shall be applied as follows: first, to the
50 payment of all fixed charges, and all operating and maintenance charges and expenses
51 including taxes, assessments, insurance, amortization charges in amounts approved by the

1 ~~Secretary-Commissioner~~ to amortize mortgage or other indebtedness and reserves essential to
2 operation; second, to surplus, and/or to the payment of dividends not exceeding the maximum
3 fixed by this Article; third, the balance, if any, in reduction of debts.

4 **"§ 106-946. Reorganization of corporations.**

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

8 **SECTION 1.(ee)** Article 6A of Chapter 113 of the General Statutes (G.S. 113-81.1,
9 113-81.2, and 113-81.3) is recodified as a new Article 79 of Chapter 106 of the General
10 Statutes, G.S. 106-950 through G.S. 106-952.

11 **SECTION 1.(ff)** Article 79 of Chapter 106 of the General Statutes, as recodified by
12 subsection (ee) of this section, reads as rewritten:

13 "Article 79.

14 "Forestry Services and Advice for Owners and Operators of Forestland.

15 **"§ 106-950. Authority to render scientific forestry services.**

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

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

18 ~~(1)(2)~~ "Department" means the Department of Environment and Natural
19 Resources, Agriculture and Consumer Services.

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

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

36 **"§ 106-951. Services under direction of ~~Secretary~~; Commissioner; compensation; when**
37 **services without charge.**

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

48 (b) For such designating, measuring or estimating services the ~~Secretary-Commissioner~~
49 may make a charge, on behalf of the Department, in an amount not to exceed five percent (5%)
50 of the sale price or fair market value of the stumpage so designated and measured or estimated.

1 Upon receipt from the ~~Secretary-Commissioner~~ of a statement of such charges, the landowner
2 or operator or his agent shall make payment to the ~~Secretary-Commissioner~~ within 30 days.

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

7 **"§ 106-952. Deposit of receipts with State treasury.**

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

10 **SECTION 1.(gg)** Article 11 of Chapter 113A of the General Statutes
11 (G.S. 113A-176, 113A-177, 113A-178, 113A-179, 113A-180, 113A-180.1, 113A-181,
12 113A-182, and 113A-183) is recodified as a new Article 80 of Chapter 106 of the General
13 Statutes, G.S. 106-955 through G.S. 106-963.

14 **SECTION 1.(hh)** Article 80 of Chapter 106 of the General Statutes, as recodified
15 by subsection (gg) of this section, reads as rewritten:

16 "Article 80.

17 "Forest Development Act.

18 **"§ 106-955. Title.**

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

20 **"§ 106-956. Statement of purpose.**

21 (a) The General Assembly finds that:

- 22 (1) It is in the public interest of the State to encourage the development of the
23 State's forest resources and the protection and improvement of the forest
24 environment.
- 25 (2) Unfavorable environmental impacts, particularly the rapid loss of forest land
26 to urban development, are occurring as a result of population growth. It is in
27 the State's interest that corrective action be developed now to offset forest
28 land losses in the future.
- 29 (3) Regeneration of potentially productive forest land is a high-priority problem
30 requiring prompt attention and action. Private forest land will become more
31 important to meet the needs of the State's population.
- 32 (4) Growing demands on forests and related land resources cannot be met by
33 intensive management of public and industrial forest lands alone.

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

- 36 (1) Provide financial assistance to eligible landowners to increase the
37 productivity of the privately owned forests of the State through the
38 application of forest renewal practices and other practices that improve tree
39 growth and overall forest health.
- 40 (2) Insure that forest operations in the State are conducted in a manner designed
41 to protect the soil, air, and water resources, including but not limited to
42 streams, lakes and estuaries through actions of landowners on lands for
43 which assistance is sought under provisions in this Article.
- 44 (3) Implement a program of voluntary landowner participation through the use
45 of a forest development fund to meet the above goals.

46 (c) It is the intent of the General Assembly that in implementing the program under this
47 Article, the ~~Secretary-Commissioner~~ will cause it to be coordinated with other related programs
48 in such a manner as to encourage the utilization of private agencies, firms and individuals
49 furnishing services and materials needed in the application of practices included in the forest
50 development program.

51 **"§ 106-957. Definitions.**

1 As used in this Article:

2 (1) "Approved forest management plan" means the forest management plan
3 submitted by the eligible landowner and approved by the
4 ~~Secretary-Commissioner~~. Such plan shall include forest management
5 practices to insure both maximum forest productivity and environmental
6 protection of the lands to be treated under the management plan.

7 (2) "Approved practices" mean those silvicultural practices approved by the
8 Secretary for the purpose of commercially growing timber through the
9 establishment of forest stands, of insuring the proper regeneration of forest
10 stands to commercial production levels following the harvest of mature
11 timber, or of insuring maximum growth potential of forest stands to
12 commercial production levels. Such practices shall include those required to
13 accomplish site preparation, natural and artificial forestation, noncommercial
14 removal of residual stands for silvicultural purposes, cultivation of
15 established young growth of desirable trees for silvicultural purposes, and
16 improvement of immature forest stands for silvicultural purposes. In each
17 case, approved practices will be determined by the needs of the individual
18 forest stand. These practices shall include existing practices and such
19 practices as are developed in the future to insure both maximum forest
20 productivity and environmental protection.

21 (2a) "Commissioner" means the Commissioner of Agriculture.

22 (3) "Department" means the Department of ~~Environment and Natural~~
23 ~~Resources~~. Agriculture and Consumer Services.

24 (3a) "Eligible land" means land owned by an eligible landowner.

25 (4) "Eligible landowner" means a private individual, group, association or
26 corporation owning land suitable for forestry purposes. Where forest land is
27 owned jointly by more than one individual, group, association or
28 corporation, as tenants in common, tenants by the entirety, or otherwise, the
29 joint owners shall be considered, for the purpose of this Article, as one
30 eligible landowner and entitled to receive cost-sharing payments as provided
31 herein only once during each fiscal year.

32 (5) Recodified as § 113A-178(3a).

33 (6) "Forest development assessment" means an assessment on primary forest
34 products from timber severed in North Carolina for the funding of the
35 provisions of this Article, as authorized by the General Assembly.

36 (7) "Forest development cost-sharing payment" means financial assistance to
37 partially cover the costs of implementing approved practices in such
38 amounts as the ~~Secretary-Commissioner~~ shall determine, subject to the
39 limitations of this Article.

40 (8) "Forest development fund" means the Forest Development Fund created by
41 ~~G.S. 113A-183~~. G.S. 106-963.

42 (8a) "Maintain" means to retain the reforested area as forestland for a 10-year
43 period and to comply with the provisions in the approved forest management
44 plan.

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

46 **"§ 106-958. Powers and duties.**

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

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

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

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

12 **"§ 106-959. Administration of cost sharing.**

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

- 15 (1) Prescribe the manner and requirements of making application for cost
16 sharing funds.
- 17 (2) Identify those approved forestry practices as defined in
18 ~~G.S. 113A-178(2)~~ G.S. 106-957(2) which shall be approved for cost sharing
19 under the provisions of this Article.
- 20 (3) Review periodically the cost of forest development practices and establish
21 allowable ranges for cost sharing purposes for approved practices under
22 varying conditions throughout the State.
- 23 (4) Determine, prior to approving forest development cost sharing payments to
24 any landowner, that all proposed practices are appropriate and are
25 comparable in cost to the prevailing cost of those practices in the general
26 area in which the land is located. Should the ~~Secretary-Commissioner~~
27 determine that the submitted cost of any practice is excessive, he shall
28 approve forest development cost sharing payments based upon an allowable
29 cost established under ~~G.S. 113A-180(3)~~, G.S. 106-959(3).
- 30 (5) Determine, prior to approving forest development cost sharing payments,
31 that an approved forest management plan as defined in
32 ~~G.S. 113A-178(1)~~ G.S. 106-957(1) for the eligible land has been filed with
33 the ~~Secretary-Commissioner~~ and that the landowner has indicated in writing
34 his intent to comply with the terms of such management plan.
- 35 (6) Determine, prior to approving forest development cost sharing payments,
36 that the approved practices for which payment is requested have been
37 completed in a satisfactory manner, conform to the approved forest
38 management plan submitted under ~~G.S. 113A-180(5)~~, G.S. 106-959(5), and
39 otherwise meet the requirements of this Article.
- 40 (7) Disburse from the Forest Development Fund to eligible landowners cost
41 sharing payments for satisfactory completion of practices provided for by
42 this Article and the ~~Secretary-Commissioner~~ shall, insofar as is practicable,
43 disburse the funds from the State's appropriation on a matching basis with
44 the funds generated by the Primary Forest Product Assessment.

45 **"§ 106-960. Cost-share agreements.**

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

50 (b) In the absence of Vis major or Act of God or other factors beyond the landowner's
51 control, a landowner who fails to maintain the practice or practices for a 10-year period in

1 accordance with the agreement set forth in subsection (a) of this section shall repay to the Fund
2 all cost-sharing funds received for that area.

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

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

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

14 **"§ 106-961. Limitation of payments.**

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

22 (b) The maximum amount of forest development cost sharing funds allowed to any
23 landowner in one fiscal year will be the amount required to complete all approved practices on
24 100 acres of land at the prevailing cost sharing rate established under
25 ~~G.S. 113A-181(a)G.S. 106-961(a).~~

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

29 **"§ 106-962. Participation by government political subdivisions.**

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

32 **"§ 106-963. Forest Development Fund.**

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

- 38 (1) Assessments on primary forest products collected under ~~Article 12 of~~
39 ~~Chapter 113A~~ Article 81 of Chapter 106 of the General Statutes.
- 40 (2) General Fund appropriations.
- 41 (3) Gifts and grants made to the Fund.

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

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

48 **SECTION 1.(ii)** Article 12 of Chapter 113A of the General Statutes
49 (G.S. 113A-189, 113A-190, 113A-191, 113A-192, 113A-193, 113A-194, 113A-195, and
50 113A-196) is recodified as a new Article 81 of Chapter 106 of the General Statutes,
51 G.S. 106-965 through G.S. 106-972.

1 **SECTION 1.(jj)** Article 81 of Chapter 106 of the General Statutes, as recodified by
2 subsection (ii) of this section, reads as rewritten:

3 "Article 81.

4 "Primary Forest Product Assessment Act.

5 **"§ 106-965. Short title.**

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

7 **"§ 106-966. Statement of purpose.**

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

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

14 **"§ 106-967. Definitions.**

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

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

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

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

28 (4) For the purpose of this Article, the following are not considered "primary
29 forest products":

30 a. Christmas trees and associated greens;

31 b. Material harvested from an individual's own land and used on said
32 land for the construction of fences, buildings or other personal use
33 developments;

34 c. Fuel wood harvested for personal use or use in individual homes.

35 **"§ 106-968. Operation of assessment system.**

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

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

41 **"§ 106-969. Duties.**

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

43 (1) Develop the necessary administrative procedures to collect the assessment;

44 (2) Collect the assessment from the primary forest product processors;

45 (3) Deposit funds collected from the assessment in the Forest Development
46 Fund;

47 (4) Audit the records of processors to determine compliance with the provisions
48 of this Article.

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

- 1 (1) Provide to the Secretary, Department of Revenue, lists of processors subject
2 to the assessment;
- 3 (2) Advise the Secretary, Department of Revenue, of the appropriate methods to
4 convert measurements of primary forest products by other systems to those
5 authorized in this Article;
- 6 (3) Establish in November prior to those sessions in which the General
7 Assembly considers the State budget, the estimated total assessment that will
8 be collectible in the next budget period and so inform the General Assembly;
- 9 (4) Within 30 days of certification of the State budget, notify the Secretary,
10 Department of Revenue, of the need to collect the assessment for those years
11 covered by the approved budget.
- 12 (5) By January 15 of each odd-numbered year, report to the General Assembly
13 on the number of acres reforested, type of owners assisted, geographic
14 distribution of funds, the amount of funds encumbered and other matters.
15 The report shall include the information by forestry district and statewide
16 and shall be for the two fiscal years prior to the date of the report.
- 17 (c) The Secretary of Revenue shall be reimbursed for those actual expenditures incurred
18 as a cost of collecting the assessment for the Forest Development Fund. This amount shall be
19 transferred from the Forest Development Fund in equal increments at the end of each quarter of
20 the fiscal year to the Department of Revenue. This amount shall not exceed five percent (5%)
21 of the total assessments collected on primary forest products during the preceding fiscal year.

22 **"§ 106-970. Assessment rates.**

- 23 (a) The assessment rates shall be based on the following standards:
- 24 (1) For primary forest products customarily measured in board feet, the
25 "International 1/4 Inch Log Rule" or equivalent will be used;
- 26 (2) For primary forest products customarily measured in cords, the standard
27 cord of 128 cubic feet or equivalent will be used;
- 28 (3) For any other type of forest product separated from the soil, the ~~Secretary of~~
29 ~~Environment and Natural Resources~~ Commissioner of Agriculture shall
30 determine a fair unit assessment rate, based on the cubic foot volume of one
31 thousand foot board measure, International 1/4 Inch Log Rule or one
32 standard cord, 128 cubic feet.
- 33 (b) The assessment levied on primary forest products shall be at the following rates:
- 34 (1) Fifty cents (50¢) per thousand board feet for softwood sawtimber, veneer
35 logs and bolts, and all other softwood products normally measured in board
36 feet;
- 37 (2) Forty cents (40¢) per thousand board feet for hardwood and bald cypress
38 sawtimber, veneer, and all other hardwood and bald cypress products
39 normally measured in board feet;
- 40 (3) Twenty cents (20¢) per cord for softwood pulpwood and other softwood
41 products normally measured in cords;
- 42 (4) Twelve cents (12¢) per cord for hardwood pulpwood and other hardwood
43 and bald cypress products normally measured in cords;
- 44 (5) All material harvested within North Carolina for shipment outside the State
45 for primary processing will be assessed at a percentage of the invoice value.
46 This percentage will be established to yield rates equal to those if the
47 material were processed within the State.

48 **"§ 106-971. Collection of assessment.**

- 49 (a) The assessment shall be levied against the processor of the primary forest product.
- 50 (b) The assessment shall be submitted on a quarterly basis of the State's fiscal year due
51 and payable the last day of the month following the end of each quarter.

1 (c) The assessment shall be remitted to the Secretary, Department of Revenue, by check
2 or money order, with such production reports as may be required by said Secretary.

3 (d) The processor shall maintain for a period of three fiscal years and make available to
4 the Secretary, Department of Revenue, such production records necessary to verify proper
5 reporting and payment of revenue due the Forest Development Fund.

6 (e) The production reports of the various processors shall be used only for assessment
7 purposes. Production information will not be made a part of the public record on an individual
8 processor basis.

9 (f) Any official or employee of the State who discloses information obtained from a
10 production report, except as may be necessary for administration and collection of the
11 assessment, or in the performance of official duties, or in administration or judicial proceedings
12 related to the levy or collection of the assessment, shall be guilty of a Class 3 misdemeanor
13 punishable only by a fine not to exceed fifty dollars (\$50.00).

14 **"§ 106-972. Enforcement of collection.**

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

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

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

24 **SECTION 1.(ll)** G.S. 20-81.12(b35) reads as rewritten:

25 "(b35) First in Forestry. – The Division must receive 300 or more applications for the First
26 in Forestry plate before the plate may be developed. The Division shall transfer quarterly
27 one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the
28 sale of the First in Forestry plates to the Division of Forest Resources of the Department of
29 Agriculture and Consumer Services for a State forests and forestry education program and shall
30 transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account
31 derived from the sale of the First in Forestry plates to the Forest Education and Conservation
32 Foundation for their programs."

33 **SECTION 1.(mm)** G.S. 97-2(2) reads as rewritten:

34 "(2) Employee. – The term "employee" means every person engaged in an
35 employment under any appointment or contract of hire or apprenticeship,
36 express or implied, oral or written, including aliens, and also minors,
37 whether lawfully or unlawfully employed, but excluding persons whose
38 employment is both casual and not in the course of the trade, business,
39 profession, or occupation of his employer, and as relating to those so
40 employed by the State, the term "employee" shall include all officers and
41 employees of the State, including such as are elected by the people, or by the
42 General Assembly, or appointed by the Governor to serve on a per diem,
43 part-time or fee basis, either with or without the confirmation of the Senate;
44 as relating to municipal corporations and political subdivisions of the State,
45 the term "employee" shall include all officers and employees thereof,
46 including such as are elected by the people. The term "employee" shall
47 include members of the North Carolina National Guard while on State active
48 duty under orders of the Governor and members of the North Carolina State
49 Defense Militia while on State active duty under orders of the Governor. The
50 term "employee" shall include deputy sheriffs and all persons acting in the
51 capacity of deputy sheriffs, whether appointed by the sheriff or by the

1 governing body of the county and whether serving on a fee basis or on a
2 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
3 part-time basis, and including deputy sheriffs appointed to serve in an
4 emergency, but as to those so appointed, only during the continuation of the
5 emergency. The sheriff shall furnish to the board of county commissioners a
6 complete list of all deputy sheriffs named or appointed by him immediately
7 after their appointment and notify the board of commissioners of any
8 changes made therein promptly after such changes are made. Any reference
9 to an employee who has been injured shall, when the employee is dead,
10 include also his legal representative, dependents, and other persons to whom
11 compensation may be payable: Provided, further, that any employee, as
12 herein defined, of a municipality, county, or of the State of North Carolina,
13 while engaged in the discharge of his official duty outside the jurisdictional
14 or territorial limits of the municipality, county, or the State of North Carolina
15 and while acting pursuant to authorization or instruction from any superior
16 officer, shall have the same rights under this Article as if such duty or
17 activity were performed within the territorial boundary limits of his
18 employer.

19 Every executive officer elected or appointed and empowered in
20 accordance with the charter and bylaws of a corporation shall be considered
21 as an employee of such corporation under this Article.

22 Any such executive officer of a corporation may, notwithstanding any
23 other provision of this Article, be exempt from the coverage of the
24 corporation's insurance contract by such corporation's specifically excluding
25 such executive officer in such contract of insurance, and the exclusion to
26 remove such executive officer from the coverage shall continue for the
27 period such contract of insurance is in effect, and during such period such
28 executive officers thus exempted from the coverage of the insurance contract
29 shall not be employees of such corporation under this Article.

30 All county agricultural extension service employees who do not receive
31 official federal appointments as employees of the United States Department
32 of Agriculture and who are field faculty members with professional rank as
33 designated in the memorandum of understanding between the North
34 Carolina Agricultural Extension Service, North Carolina State University, A
35 & T State University, and the boards of county commissioners shall be
36 deemed to be employees of the State of North Carolina. All other county
37 agricultural extension service employees paid from State or county funds
38 shall be deemed to be employees of the county board of commissioners in
39 the county in which the employee is employed for purposes of workers'
40 compensation.

41 The term "employee" shall also include members of the Civil Air Patrol
42 currently certified pursuant to G.S. 143B-491(a) when performing duties in
43 the course and scope of a State-approved mission pursuant to Article 11 of
44 Chapter 143B of the General Statutes.

45 "Employee" shall not include any person performing voluntary service as
46 a ski patrolman who receives no compensation for such services other than
47 meals or lodging or the use of ski tow or ski lift facilities or any combination
48 thereof.

49 Any sole proprietor or partner of a business or any member of a limited
50 liability company may elect to be included as an employee under the
51 workers' compensation coverage of such business if he is actively engaged in

1 the operation of the business and if the insurer is notified of his election to
2 be so included. Any such sole proprietor or partner or member of a limited
3 liability company shall, upon such election, be entitled to employee benefits
4 and be subject to employee responsibilities prescribed in this Article.

5 "Employee" shall include an authorized pickup firefighter of the Division
6 of Forest Resources of the Department of ~~Environment and Natural~~
7 ~~Resources~~Agriculture and Consumer Services when that individual is
8 engaged in emergency fire suppression activities for the Division of Forest
9 Resources. As used in this section, "authorized pickup firefighter" means an
10 individual who has completed required fire suppression training as a
11 wildland firefighter and who is available as needed by the Division of Forest
12 Resources for emergency fire suppression activities, including immediate
13 dispatch to wildfires and standby for initial attack on fires during periods of
14 high fire danger.

15 It shall be a rebuttable presumption that the term "employee" shall not
16 include any person performing services in the sale of newspapers or
17 magazines to ultimate consumers under an arrangement whereby the
18 newspapers or magazines are to be sold by that person at a fixed price and
19 the person's compensation is based on the retention of the excess of the fixed
20 price over the amount at which the newspapers or magazines are charged to
21 the person."

22 **SECTION 1.(nn)** G.S. 105-259(b)(41) reads as rewritten:

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

29 **SECTION 1.(oo)** G.S. 105-277.7(a)(2) reads as rewritten:

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

33 **SECTION 1.(pp)** G.S. 105-296(j) reads as rewritten:

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

42 The assessor may require the owner of classified property to submit any information,
43 including sound management plans for forestland, needed by the assessor to verify that the
44 property continues to qualify for present-use value taxation. The owner has 60 days from the
45 date a written request for the information is made to submit the information to the assessor. If
46 the assessor determines the owner failed to make the information requested available in the
47 time required without good cause, the property loses its present-use value classification and the
48 property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). If the
49 property loses its present-use value classification for failure to provide the requested
50 information, the assessor must reinstate the property's present-use value classification when the
51 owner submits the requested information within 60 days after the disqualification unless the

1 information discloses that the property no longer qualifies for present-use value classification.
2 When a property's present-use value classification is reinstated, it is reinstated retroactive to the
3 date the classification was revoked and any deferred taxes that were paid as a result of the
4 revocation must be refunded to the property owner. The owner may appeal the final decision of
5 the assessor to the county board of equalization and review as provided in G.S. 105-277.4(b1).

6 In determining whether property is operating under a sound management program, the
7 assessor must consider any weather conditions or other acts of nature that prevent the growing
8 or harvesting of crops or the realization of income from cattle, swine, or poultry operations.
9 The assessor must also allow the property owner to submit additional information before
10 making this determination."

11 **SECTION 1.(qq)** G.S. 106-202.14(b)(3) reads as rewritten:

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

14 **SECTION 1.(rr)** G.S. 113-291.10(a)(3) reads as rewritten:

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

18 **SECTION 1.(ss)** G.S. 143-166.2(d) reads as rewritten:

19 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and
20 all law-enforcement officers employed full-time, permanent part-time, or temporarily by a
21 sheriff, the State of North Carolina or any county or municipality thereof, whether paid or
22 unpaid; and all full-time custodial employees and probation and parole officers of the North
23 Carolina Department of Correction; and all full time institutional and full-time, permanent
24 part-time, and temporary detention employees of the Department of Juvenile Justice and
25 Delinquency Prevention and full-time, permanent part-time, and temporary detention officers
26 employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen"
27 shall mean both "eligible firemen" as defined in G.S. 58-86-25 and all full-time, permanent
28 part-time and temporary employees of the ~~North Carolina~~ Division of Forest Resources,
29 Department of ~~Environment and Natural Resources;~~Agriculture and Consumer Services, during
30 the time they are actively engaged in fire-fighting activities; and shall mean all full-time
31 employees of the North Carolina Department of Insurance during the time they are actively
32 engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad
33 workers, and during the time they are engaged in activities as members of the State Emergency
34 Response Team, when the Team has been activated; and shall mean all otherwise eligible
35 persons who, while actively engaged as firefighters or rescue squad workers, are acting in the
36 capacity of a fire or rescue instructor outside their own department or squad. The term "rescue
37 squad worker" shall mean a person who is dedicated to the purpose of alleviating human
38 suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by
39 providing the proper and efficient care or emergency medical services. In addition, this person
40 must belong to an organized rescue squad which is eligible for membership in the North
41 Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of
42 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the
43 North Carolina Association of Rescue Squads, Inc., must file a roster of those members
44 meeting the above requirements with the State Treasurer on or about January 1 of each year,
45 and this roster must be certified to by the secretary of said association. In addition, the term
46 "rescue squad worker" shall mean a member of an ambulance service certified by the
47 Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the
48 General Statutes. The Department of Health and Human Services shall furnish a list of
49 ambulance service members to the State Treasurer on or about January 1 of each year. The term
50 "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil
51 Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The

1 term "fireman" shall also mean county fire marshals when engaged in the performance of their
2 county duties. The term "rescue squad worker" shall also mean county emergency services
3 coordinators when engaged in the performance of their county duties."

4 **SECTION 1.(tt)** G.S. 143-166.7 reads as rewritten:

5 **"§ 143-166.7. Applicability of Article.**

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

14 **SECTION 1.(uu)** G.S. 143-214.25A(a) reads as rewritten:

15 "(a) The Division of Water Quality of the Department shall develop a program to train
16 and certify individuals to determine the presence of surface waters that would require the
17 application of rules adopted by the Commission for the protection of riparian buffers. The
18 Division may train and certify employees of the Division as determined by the Director of the
19 Division of Water Quality; employees of units of local government to whom responsibility for
20 the implementation and enforcement of the riparian buffer protection rules is delegated
21 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General
22 Statutes who are employees of the Division of Forest Resources of the Department of
23 Agriculture and Consumer Services as determined by the Director of the Division of Forest
24 Resources. The Director of the Division of Water Quality may review the determinations made
25 by individuals who are certified pursuant to this section, may override a determination made by
26 an individual certified under this section, and, if the Director of the Division of Water Quality
27 determines that an individual is failing to make correct determinations, revoke the certification
28 of that individual."

29 **SECTION 1.(vv)** G.S. 143-215.74M(d)(11) reads as rewritten:

30 "(11) The Director of the Division of Forest Resources of the Department of
31 Agriculture and Consumer Services or the Director's designee."

32 **SECTION 1.(ww)** G.S. 166A-18 reads as rewritten:

33 **"§ 166A-18. Division of Forest Resources designated as emergency response agency.**

34 The Division of Forest Resources of the Department of ~~Environment and Natural~~
35 ~~Resources~~ Agriculture and Consumer Services is designated an emergency response agency of
36 the State of North Carolina for purposes of:

- 37 (1) Supporting the Division of Emergency Management of the Department of
38 Crime Control and Public Safety in responding to all-risk incidents.
- 39 (2) Receipt of any applicable State or federal funding.
- 40 (3) Training of other State and local agencies in disaster and emergency
41 management.
- 42 (4) Any other disaster and emergency response roles for which the Division has
43 special training or qualifications."

44 **SECTION 1.(xx)** The Revisor of Statutes shall make the conforming statutory
45 changes necessary to reflect the transfers under this section. The Revisor of Statutes may
46 correct any reference in the General Statutes to the statutes that are recodified by this section
47 and make any other conforming changes necessitated by this section.

48 **SECTION 1.(yy)** The transfers under this section become effective July 1, 2011,
49 and funds transferred shall be net of any changes enacted by this section.

50 **SECTION 1.(zz)** Any references in this act to the Division of Forest Resources of
51 the Department of Environment and Natural Resources shall be construed to refer to the

1 Division of Forest Resources of the Department of Agriculture and Consumer Services. Any
2 references in this act to the Forestry Council of the Department of Environment and Natural
3 Resources shall be construed to refer to the Forestry Council of the Department of Agriculture
4 and Consumer Services.

5 **SECTION 2.** This act becomes effective July 1, 2011.