

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 891
SENATE BILL 141

AN ACT TO REWRITE THE PUBLIC HEALTH LAWS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 130 of the General Statutes is repealed, except for G.S. 130-3(a), 130-9(e), 130-9.5, 130-9.7, 130-166.21D, 130-170.1, 130-170.2, 130-187, 130-203 through 130- 205, 130-230, 130-232 through 130-235, and 130-264 through 130- 277.

Sec. 2. A new Chapter 130A is added to the General Statutes to read as follows:

"CHAPTER 130A.

"Public Health.

"ARTICLE 1.

"Definitions, General Provisions and Remedies.

"Part 1. General Provisions.

"§ 130A-1. Title.—This Chapter shall be known as the Public Health Law of North Carolina.

"§ 130A-2. Definitions.—The following definitions shall apply throughout this Chapter unless otherwise specified:

- (1) 'Commission' means the Commission for Health Services.
- (2) 'Department' means the Department of Human Resources.
- (3) 'Imminent hazard' means a situation which is likely to cause an immediate threat to life or a serious risk of irreparable damage to the environment if no immediate action is taken.
- (4) 'Local board of health' means a district board of health or a county board of health.
- (5) 'Local health department' means a district health department or a county health department.
- (6) 'Local health director' means the administrative head of a local health department appointed pursuant to this Chapter.
- (7) 'Person' means an individual, corporation, company, association, partnership, unit of local government or other legal entity.
- (8) 'Secretary' means the Secretary of the Department of Human Resources.
- (9) 'Unit of local government' means a county, city, consolidated city-county, sanitary district or other local political subdivision, authority or agency of local government.

(10) 'Vital records' means birth, death, fetal death, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter.

"§ 130A-3. Appointment of the State Health Director.—The Secretary shall appoint the State Health Director. The State Health Director shall be a physician licensed to practice medicine in this State. The State Health Director shall perform duties and exercise authority assigned by the Secretary.

"§ 130A-4. Administration.—(a) The Secretary shall have the authority and responsibility to administer and enforce the provisions of this Chapter and the rules of the Commission. A local health director shall have the authority and responsibility to administer the programs of the local health department and to enforce the rules of the local board of health.

(b) When requested by the Secretary, a local health department shall enforce the rules of the Commission under the supervision of the Department. The local health department shall utilize local staff authorized by the Department to enforce the specific rules. However, the preceding sentence is inapplicable to the exercise of enforcement and permit authority under G.S. 130A-277.

"§ 130A-5. Duties of the Secretary.—The Secretary shall have the authority:

(1) To enforce the State health laws and the rules of the Commission;

(2) To investigate the causes of epidemics and of infectious, communicable and other diseases affecting the public health in order to control and prevent these diseases; to provide, under the rules of the Commission, for the prevention, detection, reporting and control of communicable, infectious or any other diseases or health hazards considered harmful to the public health;

(3) To develop and carry out reasonable health programs that may be necessary for the protection and promotion of the public health and the control of diseases. The Commission is authorized to adopt rules to carry out these programs;

(4) To make sanitary and health investigations and inspections;

(5) To investigate occupational health hazards and occupational diseases and to make recommendations for the elimination of the hazards and diseases. The Secretary shall work with the Industrial Commission and shall file sufficient reports with the Industrial Commission to enable it to carry out all of the provisions of the Workers' Compensation Act with respect to occupational disease.

(6) To receive donations of money, securities, equipment, supplies, realty or any other property of any kind or description which shall be used by the Department for the purpose of carrying out its public health programs;

(7) To acquire by purchase, devise or otherwise in the name of the Department equipment, supplies and other property, real or personal, necessary to carry out the public health programs;

(8) To use the official seal of the Department. Copies of documents in the possession of the Department may be authenticated with the seal of the Department, attested by the signature or a facsimile of the signature of the Secretary, and when authenticated shall have the same evidentiary value as the originals;

(9) To disseminate information to the general public on all matters pertaining to public health; to purchase, print, publish, and distribute free, or at cost, documents,

reports, bulletins and health informational materials. Money collected from the distribution of these materials shall remain in the Department to be used to replace the materials;

(10) To be the health advisor of the State and to advise State officials in regard to the location, sanitary construction and health management of all State institutions; to direct the attention of the State to health matters which affect the industries, property, health and lives of the people of the State; to inspect at least annually State institutions and facilities; to make a report as to the health conditions of these institutions or facilities with suggestions and recommendations to the appropriate State agencies. It shall be the duty of the persons in immediate charge of these institutions or facilities to furnish all assistance necessary for a thorough inspection;

(11) To establish a schedule of fees based on income to be paid by a recipient for services provided by Migrant Health Clinics and Developmental Evaluation Centers;

(12) To establish fees for the sale of specimen containers, vaccines and other biologicals. The fees shall not exceed the actual cost of such items, plus transportation costs; and

(13) To establish a fee to cover costs of responding to requests by employers for industrial hygiene consultation services and occupational consultation services. The fee shall not exceed two hundred dollars (\$200.00) per on site inspection.

"§ 130A-6. Delegation of authority.—Whenever authority is granted by this Chapter upon a public official, the authority may be delegated to another person authorized by the public official.

"§ 130A-7. Grants-in-aid.—The State is authorized to accept, allocate and expend any grants-in-aid for public health purposes which may be made available to the State by the federal government. This Chapter is to be liberally construed in order that the State and its citizens may benefit fully from these grants-in-aid. The Commission is authorized to adopt rules, not inconsistent with the laws of this State, as required by the federal government for receipt of federal funds. Any federal funds received are to be deposited with the State Treasurer and are to be appropriated by the General Assembly for the public health purposes specified.

"§ 130A-8. Counties to recover indirect costs on certain federal public health or mental health grants.—(a) The Department shall include in its request for federal funds applicable to public health or mental health grants from the federal government to the State or any of its agencies, indirect costs incurred by counties acting as subgrantees under the grants or otherwise providing services to the Department with regard to the grants to the full extent permitted by OMB Circular A-87 or its successor. The Department shall allow counties to claim and recover their indirect costs on these grants to the full extent permitted by the Circular.

(b) This section shall not apply to those federal public health or mental health grants which are formula grants to the State or which are otherwise limited as to the maximum amounts receivable on a statewide basis.

"§ 130A-9. Standards.—The Commission is authorized to establish reasonable standards governing the nature and scope of public health services rendered by local health departments.

"§ 130A-10. Advisory Committees.—The Secretary is authorized to establish and appoint as many special advisory committees as may be necessary to advise and confer with the Department concerning the public health. Members of any special advisory committee shall serve without compensation but may be allowed travel and subsistence expenses in accordance with G.S. 138-6.

"§ 130A-11. Residencies in public health.—The Department shall establish a residency program designed to attract physicians and dentists into the field of public health and to train them in the specialty of public health practice. The program shall include practical experience in public health principles and practices.

"§ 130A-12 to 130A-16: Reserved for future codification purposes.

"Part 2. Remedies.

"§ 130A-17. Right of Entry.—The Secretary and a local health director shall have the right of entry upon the premises of any place where entry is necessary to carry out the provisions of this Chapter or the rules adopted by the Commission or a local board of health. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to G.S. 15-27.2. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

"§ 130A-18. Injunction.—If a person shall violate any provision of this Chapter or the rules adopted by the Commission or rules adopted by a local board of health, the Secretary or a local health director may institute an action for injunctive relief, irrespective of all other remedies at law, in the superior court of the county where the violation occurred or where a defendant resides.

"§ 130A-19. Abatement of public health nuisance.—If the Secretary or a local health director determines that a public health nuisance exists, the Secretary or a local health director may issue an order of abatement directing the owner, lessee, operator or other person in control of the property to take any action necessary to abate the public health nuisance. If the person refuses to comply with the order, the Secretary or the local health director may institute an action in the superior court of the county where the public health nuisance exists to enforce the order. The action shall be calendared for trial within 60 days after service of the complaint upon the defendant. The court may order the owner to abate the nuisance or direct the Secretary or the local health director to abate the nuisance. If the Secretary or the local health director is ordered to abate the nuisance, the Department or the local health department shall have a lien on the property for the cost of the abatement of the nuisance in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A of the General Statutes and the lien may be enforced as provided therein.

"§ 130A-20. Abatement of an imminent hazard.—If the Secretary or a local health director determines that an imminent hazard exists, the Secretary or a local health director may, after notice to or reasonable attempt to notify the owner, enter upon any property and take any action necessary to abate the imminent hazard. The Department or the local health department shall have a lien on the property for the cost of the abatement of the imminent hazard in the nature of a mechanic's and materialmen's lien as provided in Chapter 44A and the lien may be enforced as provided therein. The lien

may be defeated by a showing that an imminent hazard did not exist at the time the Secretary or the local health director took the action.

"§ 130A-21. Embargo.—(a) The Secretary and a local health director has authority to exercise embargo authority concerning food or drink pursuant to G.S. 106-125(a), (b) and (c) when delegated the authority by the Commissioner of Agriculture.

(b) If the Secretary or a local health director has probable cause to believe that any milk designated as Grade 'A' milk is misbranded or does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the Secretary or a local health director may detain or embargo the milk by affixing a tag to it and warning all persons not to remove or dispose of the milk until permission for removal or disposal is given by the official by whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed milk without that permission.

The official by whom the milk was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the milk is detained or embargoed for an order for condemnation of the article. If the court finds that the milk is misbranded or that it does not satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, either the milk shall be destroyed under the supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human consumption as Grade 'A' milk. All court costs and fees, storage, expenses of carrying out the court's order and other expense shall be taxed against the claimant of the milk. If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk sanitation rules adopted pursuant to G.S. 130A-275, the court, after the payment of all costs, fees, and expenses and after the claimant posts an adequate bond, may order that the milk be delivered to the claimant for proper labelling and processing under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court either that the milk is no longer mislabelled or in violation of the milk sanitation rules adopted pursuant to G.S. 130A-275, or that the milk will not be used for human consumption, and that in either case the expenses of supervision have been paid.

(c) If the Secretary or a local health director has probable cause to believe that any scallops, shellfish or crustacea is adulterated or misbranded, the Secretary or a local health director may detain or embargo the article by affixing a tag to it and warning all persons not to remove or dispose of the article until permission for removal or disposal is given by the official by whom it was detained or embargoed or by the court. It shall be unlawful for any person to remove or dispose of the detained or embargoed article without that permission.

The official by whom the scallops, shellfish or crustacea was detained or embargoed shall petition a judge of the district or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of the article. If the court finds that the article is adulterated or misbranded, that article shall be destroyed under the supervision of the petitioner. All court costs and fees, storage and other expense shall be taxed against the claimant of the article. If, the article, by proper labelling can be properly branded, the court, after the payment of all costs, fees, expenses, and an adequate bond, may order that the article be delivered to the claimant for proper

labelling under the supervision of the petitioner. The bond shall be returned to the claimant after the petitioner represents to the court that the article is no longer mislabelled and that the expenses of supervision have been paid.

(d) Nothing in this section is intended to limit the embargo authority of the Department of Agriculture. The Department of Human Resources and the Department of Agriculture are authorized to enter agreements respecting the duties and responsibilities of each agency in the exercise of their embargo authority.

(e) For the purpose of this section, a food or drink is adulterated if the food or drink is deemed adulterated under G.S. 106-129; and food or drink is misbranded if it is deemed misbranded under G.S. 106-130.

"§ 130A-22. Administrative penalties.—(a) The Secretary may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five hundred dollars (\$500.00) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed ten thousand dollars (\$10,000) per day in the case of a violation involving hazardous waste.

(b) The Secretary may impose an administrative penalty on a person who violates G.S. 130A-325. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed five thousand dollars (\$5,000) for each day the violation continues.

(c) The Secretary may impose an administrative penalty on a person who willfully violates Article 11 of this Chapter, rules adopted by the Commission pursuant to Article 11 or any condition imposed upon a permit issued under Article 11. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling.

(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage.

(e) A person contesting a penalty shall be entitled to an administrative hearing and judicial review in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act.

(f) The Commission shall adopt rules concerning the imposition of administrative penalties under this section.

(g) The Secretary may bring a civil action in the superior court of the county where the violation occurred or where the defendant resides to recover the amount of the administrative penalty whenever a person:

- (1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of the penalty; or
- (2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36 of the Administrative Procedure Act.

(h) A local health director may impose an administrative penalty on any person who willfully violates the sewage collection, treatment, and disposal rules of the local board of health adopted pursuant to G.S. 130A-335(c) or who willfully violates a condition imposed upon a permit issued under the approved local rules. An administrative penalty may not be imposed upon a person who establishes that neither the site nor the system may be improved or a new system installed so as to comply with Article 11 of this Chapter. The local health director shall establish and recover the amount of the administrative penalty in accordance with subsections (d) and (g). Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifty dollars (\$50.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of no more than 480 gallons or in the case of any system serving a single one-family dwelling. The penalty shall not exceed three hundred dollars (\$300.00) per day in the case of a sewage collection, treatment and disposal system with a design daily flow of more than 480 gallons which does not serve a single one-family dwelling. A person contesting a penalty imposed under this subsection shall be entitled to an administrative hearing and judicial review in accordance with G.S. 130A-24. A local board of health shall adopt rules concerning the imposition of administrative penalties under this subsection.

"§ 130A-23. Suspension and revocation of permits and program participation. – (a) The Secretary may suspend or revoke a permit issued under this Chapter upon a finding that a violation of the applicable provisions of this Chapter, the rules of the Commission or a condition imposed upon the permit has occurred. A permit may also be suspended or revoked upon a finding that its issuance was based upon incorrect or inadequate information that materially affected the decision to issue the permit.

(b) The Secretary may suspend or revoke a person's participation in a program administered under this Chapter upon a finding that a violation of the applicable provisions of this Chapter or the rules of the Commission has occurred. Program participation may also be suspended or revoked upon a finding that participation was based upon incorrect or inadequate information that materially affected the decision to grant program participation.

(c) A person shall be given notice that there has been a tentative decision to suspend or revoke the permit or program participation and that an administrative hearing will be held in accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the tentative decision.

(d) If a violation of the Chapter or the rules presents an imminent hazard, a permit may be suspended or revoked immediately. The Secretary shall immediately give notice of the revocation and notice that an administrative hearing will be held in

accordance with Chapter 150A of the General Statutes, the Administrative Procedure Act, at which time the person may challenge the decision.

"§ 130A-24. Appeals procedure.—(a) Appeals concerning the interpretation and enforcement of rules adopted by the Commission, concerning the suspension and revocation of permits and program participation by the Secretary and concerning the imposition of administrative penalties by the Secretary shall be governed by Chapter 150A of the General Statutes, the Administrative Procedure Act, except that judicial review of the imposition of administrative penalties shall be *de novo* by the superior court without a jury.

(b) Appeals concerning the interpretation and enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with subsections (b), (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken.

(c) The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the person not less than 10 days' notice of the date, time and place of the hearing. On appeal, the board shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

(d) A person who wishes to contest a decision of the local board of health under subsection (b) of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the board. The district court may affirm, modify or reverse the decision of the board for the reasons stated in G.S. 150A-51. Judicial review of the imposition of administrative penalties shall be *de novo* by the district court without a jury.

"§ 130A-25. Misdemeanor.—(a) A person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a misdemeanor.

(b) A person imprisoned for failure to obtain the treatment required by Part 3 or Part 5 of Article 6 of this Chapter may be discharged by the Secretary of the Department of Corrections if the medical consultant of the confinement facility and the local health director of the person's county of residence determine that the discharge does not represent a danger to the public health.

"§ 130A-26. Violations of Article 4.—A person who commits any of the following acts shall be guilty of a general misdemeanor:

(1) Willfully and knowingly makes any false statement in a certificate, record or report required by Article 4 of this Chapter or in an application for a certified copy of a vital record, or who willfully and

knowingly supplies false information intending that the information be used in the preparation of any report, record, or certificate, or amendment;

- (2) Without lawful authority and with the intent to deceive makes, counterfeits, alters, amends or mutilates a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report;
- (3) Willfully and knowingly obtains, possesses, uses, sells or furnishes to another person, for any purpose of deception, a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report, which is counterfeited, altered, amended or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased;
- (4) A person employed by the Vital Records Branch or designated under Article 4 of this Chapter who willfully and knowingly furnishes or processes a certificate of birth, or certified copy of a certificate of birth, with the knowledge or intention that it be used for the purposes of deception; or
- (5) Without lawful authority possesses a certificate, record or report required by Article 4 of this Chapter or a certified copy of the certificate, record or report knowing that it was stolen or otherwise unlawfully obtained.
- (6) Remove or permit the removal of a dead body of a human being without authorization provided in Article 4 of this Chapter;
- (7) Refuse or fail to furnish correctly any information in the person's possession or shall furnish false information affecting a certificate or record required by Article 4 of this Chapter;
- (8) Willfully alter, except as provided by G.S. 130A- 123, or falsify a certificate or record required by Article 4 of this Chapter; or willfully alter, falsify or change a photocopy, certified copy, extract copy or any document containing information obtained from an original or copy of a certificate or record required by Article 4 of this Chapter or willfully make, create or use any altered, falsified or changed record, reproduction, copy or document for the purpose of attempting to prove or establish for any purpose whatsoever any matter purported to be shown on it;
- (9) With the intention to deceive, willfully use or attempt to use a certificate of birth or certified copy of a record of birth knowing that the certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person;
- (10) Willfully and knowingly furnish a certificate of birth or certified copy of a record of birth with the intention that it be used by an unauthorized person or for an unauthorized purpose; or

(11) Fail, neglect or refuse to perform any act or duty required by Article 4 of this Chapter or by the instructions of the State Registrar prepared under authority of the Article.

"§ 130A-27. Recovery of money.—The Secretary may institute an action in the county where the action arose or the county where the defendant resides to recover any money, other property or interest in property or the monetary value of goods or services provided or paid for by the Department which are wrongfully paid or transferred to a person under a program administered by the Department pursuant to this Chapter.

"§ 130A-28. Forfeiture of gain.—In the case of a violation of this Chapter or the rules adopted by the Commission, money or other property or interest in property so acquired shall be forfeited to the State unless ownership by an innocent person may be established. An action may be instituted by the Attorney General or a district attorney pursuant to G.S. 1-532.

"§ 130A-29 to 130A-33: Reserved for future codification purposes.

"ARTICLE 2.

"Local Administration.

"Part 1. Local Health Departments.

"§ 130A-34. Provision of local public health services.—(a) A county shall provide public health services.

(b) A county shall operate a county health department, participate in a district health department or contract with the State for the provision of public health services.

"§ 130A-35. County board of health; appointment; terms.—(a) A county board of health shall be the policy-making, rule-making and adjudicatory body for a county health department.

(b) The members of a county board of health shall be appointed by the county board of commissioners. The board shall be composed of 11 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include: one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse, one licensed pharmacist, one county commissioner and four representatives of the general public. All members shall be residents of the county. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist available for appointment, an additional representative of the general public shall be appointed. If however, one of the six designated professions has only one person residing in the county, the county commissioners shall have the option of appointing that person or a member of the general public.

(c) Except as provided in this subsection, members of a county board of health shall serve three-year terms. No member may serve more than three consecutive three-year terms. The county commissioner member shall serve only as long as the member is a county commissioner. When a representative of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist becomes available for

appointment. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a three-year term.

- (d) Vacancies shall be filled for any unexpired portion of a term.
- (e) A chairperson shall be elected annually by a county board of health. The local health director shall serve as secretary to the board.
- (f) A majority of the members shall constitute a quorum.
- (g) A member may be removed from office by the county board of commissioners for cause.
- (h) A member may receive a per diem and reimbursement for subsistence and travel in an amount established by the county board of commissioners, not to exceed the amount established in G.S. 138-5.
- (i) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

"§ 130A-36. Creation of district health department.—(a) A district health department including more than one county may be formed in lieu of county health departments upon agreement of the county boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A county may join a district health department upon agreement of the boards of commissioners and local boards of health having jurisdiction over each of the counties involved. A district health department shall be a public authority as defined in G.S. 159-7(b)(10).

(b) Upon creation of or addition to a district health department, the existing rules of the former board or boards of health shall continue in effect until amended or repealed by the district board of health.

"§ 130A-37. District board of health.—(a) A district board of health shall be the policy-making, rule-making and adjudicatory body for a district health department and shall be composed of 15 members.

(b) The county board of commissioners of each county in the district shall appoint one county commissioner to the district board of health. The county commissioner members of the district board of health shall appoint the other members of the board, including at least one physician licensed to practice medicine in this State, one licensed dentist, one licensed optometrist, one licensed veterinarian, one registered nurse and one licensed pharmacist. The composition of the board shall reasonably reflect the population makeup of the entire district and provide equitable district-wide representation. All members shall be residents of the district. If there is not a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist available for appointment, an additional representative of the general public shall be appointed. If however, one of the six designated professions has only one person residing in the district, the county commissioner members shall have the option of appointing that person or a member of the general public.

(c) Except as provided in this subsection, members of a district board of health shall serve terms of three years. Two of the original members shall serve terms of one year and two of the original members shall serve terms of two years. No member shall serve more than three consecutive three-year terms. County commissioner members shall serve only as long as the member is a county commissioner. When a representative

of the general public is appointed due to the unavailability of a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist, that member shall serve only until a licensed physician, a licensed dentist, a licensed optometrist, a licensed veterinarian, a registered nurse or a licensed pharmacist becomes available for appointment. The county commissioner members may appoint a member for less than a three-year term to achieve a staggered term structure.

(d) Whenever a county shall join or withdraw from an existing district health department, the district board of health shall be dissolved and a new board shall be appointed as provided in subsection (c).

(e) Vacancies shall be filled for any unexpired portion of a term.

(f) A chairperson shall be elected annually by a district board of health. The local health director shall serve as secretary to the board.

(g) A majority of the members shall constitute a quorum.

(h) A member may be removed from office by the district board of health for cause.

(i) A member may receive a per diem and reimbursement for subsistence and travel in an amount established by the county board of commissioners, not to exceed the amount established in G.S. 138-5.

(j) The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

(k) A district board of health is authorized to provide liability insurance for the members of the board and the employees of the district health department. A district board of health is also authorized to contract for the services of an attorney to represent the board, the district health department and its employees, as appropriate. The purchase of liability insurance pursuant to this subsection waives both the district board of health's and the district health department's governmental immunity, to the extent of insurance coverage, for any act or omission occurring in the exercise of a governmental function. By entering into a liability insurance contract with the district board of health, an insurer waives any defense based upon the governmental immunity of the district board of health or the district health department.

"§ 130A-38. Dissolution of a district health department.—(a) Whenever the board of commissioners of each county constituting a district health department determines that the district health department is not operating in the best health interests of the respective counties, they may direct that the district health department be dissolved. In addition, whenever a board of commissioners of a county which is a member of a district health department determines that the district health department is not operating in the best health interests of that county, it may withdraw from the district health department. Dissolution of a district health department or withdrawal from the district health department by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a), no district health department shall be dissolved without prior written notification to the Department.

(c) Any budgetary surplus available to a district health department at the time of its dissolution shall be distributed to those counties comprising the district on the same

pro rata basis that the counties appropriated and contributed funds to the district health department budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the district health department. The district board of health shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159- 34. The same method of distribution of funds described above shall apply when one or more counties of a district health department withdraw from a district.

(d) Upon dissolution or withdrawal, all rules adopted by a district board of health shall continue in effect until amended or repealed by the new board or boards of health.

"§ 130A-39. Powers and duties of a local board of health.—(a) A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.

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

(c) The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.

(d) Not less than 10 days before the adoption, amendment or repeal of any local board of health rule, the proposed rule shall be made available at the office of each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement that copies of the proposed rule are available at the local health department. A local board of health rule shall become effective upon adoption unless a later effective date is specified in the rule.

(e) Copies of all rules shall be filed with the secretary of the local board of health.

(f) A local board of health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of this State, another state, any agency of the United States or by a generally recognized association. Copies of any material adopted by reference shall be filed with the rules.

(g) A local board of health may contract with any person, including any governmental agency, for the provision or receipt of public health services. A local board of health may impose a fee for services to be rendered by a local health

department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provisions of law, a local board of health may impose a fee for services performed pursuant to Article 11 of this Chapter, 'Sanitary Sewage Systems'. Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate county board or boards of commissioners. The fees collected under the authority of this subsection are to be deposited to the account of the local health department so that they may be expended for public health purposes in accordance with the provisions of the County Fiscal Control Act.

"§ 130A-40. Appointment of local health director.—A local board of health, after consulting with the appropriate county board or boards of commissioners, shall appoint a local health director. A local health director shall possess the qualifications established for the position by the Commission for Health Services under G.S. 143B-142(a) and qualifications established for the position by the State Personnel Commission in accordance with Chapter 126 of the General Statutes. However, a local health director shall not be required to be a physician. When a local board of health fails to appoint a local health director within 60 days of the creation of a vacancy, the State Health Director may appoint a local health director to serve until the local board of health appoints a local health director in accordance with this section.

"§ 130A-41. Powers and duties of local health director.—(a) A local health director shall be the administrative head of the local health department, shall perform public health duties prescribed by and under the supervision of the local board of health and the Department and shall be employed full time in the field of public health.

(b) A local health director shall have the following powers and duties:

- (1) To administer programs as directed by the local board of health;
- (2) To enforce the rules of the local board of health;
- (3) To investigate the causes of infectious, communicable and other diseases;
- (4) To exercise quarantine authority and isolation authority pursuant to G.S. 130A-145;
- (5) To disseminate public health information and to promote the benefits of good health;
- (6) To advise local officials concerning public health matters;
- (7) To enforce the immunization requirements of Part 2 of Article 7 of this Chapter;
- (8) To examine and investigate cases of venereal disease pursuant to Parts 3 and 4 of Article 6 of this Chapter;
- (9) To examine and investigate cases of tuberculosis pursuant to Part 5 of Article 6 of this Chapter;
- (10) To examine, investigate and control rabies pursuant to Part 6 of Article 6 of this Chapter;
- (11) To abate public health nuisances and imminent hazards pursuant to G.S. 130A-19 and G.S. 130A-20; and

(12) To employ and dismiss employees of the local health department in accordance with Chapter 126 of the General Statutes.

(c) Authority conferred upon a local health director may be exercised only within the county or counties comprising the local health department.

"§ 130A-42. Personnel records of district health departments.—Employee personnel records of a district health department shall have the same protections from disclosure as county employee personnel records under G.S. 153A-98. For the purposes of this section, the local health director shall perform the duties assigned to the county manager pursuant to G.S. 153A-98 and the district board of health shall perform the duties assigned to the county board of commissioners pursuant to G.S. 153A-98.

"§ 130A-43 to 130A-46: Reserved for future codification purposes.

"Part 2. Sanitary Districts.

"§ 130A-47. Creation by Commission.—For the purpose of preserving and promoting the public health and welfare, the Commission may create sanitary districts without regard for county, township or municipal lines. However, no municipal corporation or any part of the territory in a municipal corporation shall be included in a sanitary district except at the request of the governing board of the municipal corporation. If the municipal corporation has not levied any tax nor performed any official act nor held any elections within a period of four years preceding the date of the petition for the sanitary district, a request of the governing board shall not be required.

"§ 130A-48. Procedure for incorporating district.—A sanitary district shall be incorporated as follows. Either fifty-one percent (51%) or more of the resident freeholders within a proposed sanitary district or fifty-one percent (51%) or more of the freeholders within a proposed sanitary district, whether or not the freeholders are residents of the proposed sanitary district, may petition the county board of commissioners of the county in which all or the largest portion of the land of the proposed district is located. This petition shall set forth the boundaries of the proposed sanitary district and the objectives of the proposed district. For the purposes of this Part, the term 'freeholder' shall mean a person holding a deed to a tract of land within the district or proposed district, and also shall mean a person who has entered into a contract to purchase a tract of land within the district or proposed district, is making payments pursuant to a contract and will receive a deed upon completion of the contractual payments. The contracting purchaser, rather than the contracting seller, shall be deemed to be the freeholder. Upon receipt of the petition, the county board of commissioners, through its chairperson, shall notify the Department and the chairperson of the county board of commissioners of any other county or counties in which any portion of the proposed district lies of the receipt of the petition. The chairperson shall request that the Department hold a joint public hearing with the county commissioners of all the counties in which a portion of the district lies concerning the creation of the proposed sanitary district. The Secretary and the chairperson of the county board of commissioners shall name a time and place within the proposed district to hold the public hearing. The chairperson of the county board of commissioners shall give prior notice of the hearing by posting a notice at the courthouse door of the county and also by publication at least once a week for four successive weeks in a newspaper published

in the county. In the event the hearing is to be before a joint meeting of the county boards of commissioners of more than one county, or in the event the land to be affected lies in more than one county, publication and notice shall be made in each of the affected counties. In the event that all matters pertaining to the creation of this sanitary district cannot be concluded at the hearing, the hearing may be continued at a time and place within the proposed district named by the Department.

"§ 130A-49. Declaration that district exists; status of industrial villages within boundaries of district.—(a) If, after the required public hearing, the Commission and the county commissioners determine that a district shall be created for the purposes stated in the petition, the Commission shall adopt a resolution defining the boundaries of the district and declaring the territory within the boundaries to be a sanitary district. The Commission may make minor deviation in defining the boundaries from those prescribed in the petition when it determines the change to be in the interest of the public health.

(b) The owner or controller of an industrial plant may make application requesting that the plant or the plant and its contiguous village be included within or excluded from the sanitary district. The application shall be filed with the Commission on or before the date of the public hearing. If an application is properly filed, the Commission shall include or exclude the industrial plant and contiguous village in accordance with the application.

(c) Each district when created shall be identified by a name or number assigned by the Commission.

"§ 130A-50. Election and terms of office of sanitary district boards.—(a) The Department shall send a copy of the resolution creating the sanitary district to the county board or boards of county commissioners of the county or counties in which all or part of the district is located. The board or boards of commissioners shall hold a meeting or joint meeting for the purpose of electing the members of the sanitary district board.

(b) The sanitary district board shall be composed of either three or five members as the county commissioners in their discretion shall determine. The members first appointed shall serve as the governing body of the sanitary district until the next regular election for municipal and special district officers as provided in G.S. 163-279, which occurs more than 90 days after their appointment. At that election, their successors shall be elected. The terms of the members shall be for two years or four years and may be staggered as determined by the county board of commissioners so that some members are elected at each biennial election. The members of the sanitary district board shall be residents of the district. The county board of commissioners shall notify the county board of elections of any decision made under this subsection.

(c) The election shall be nonpartisan and decided by simple plurality as provided in G.S. 163-292 and shall be held and conducted by the county board of elections in accordance with the applicable provisions of Articles 23 and 24 of Chapter 163 of the General Statutes. If the district is in more than one county, then the county board of elections of the county including the largest part of the district shall conduct the election

for the entire district with the assistance and full cooperation of the boards of elections in the other counties.

(d) The board of elections shall certify the results of the election to the clerk of superior court. The clerk of superior court shall take and file the oaths of office of the board members elected.

(e) The elected members of the board shall take the oath of office on the first Monday in December following their election and shall serve for the term elected and until their successors are elected and qualified.

"§ 130A-51. City governing body acting as sanitary district board.—(a) When the General Assembly incorporates a city or town that includes within its territory fifty percent (50%) or more of the territory of a sanitary district, the governing body of the city or town shall become ex officio the governing board of the sanitary district if the General Assembly provides for this action in the incorporation act and if the existing sanitary district board adopts a final resolution pursuant to this section. The resolution may be adopted at any time within the period beginning on the day of ratification of the incorporation act and ending 270 days after the effective date.

(b) To begin the process leading to the city or town board becoming ex officio the sanitary district board, the board of the sanitary district shall first adopt a preliminary resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units of local government are governed by a single governing body. This resolution shall also set the time and place for a public hearing on the preliminary resolution.

(c) Upon adoption of this preliminary resolution, the chairperson of the sanitary district board shall publish a notice of the public hearing once at least 10 days before the hearing in a newspaper of general circulation within the sanitary district. This notice shall set forth the time and place of the hearing and shall briefly describe its purpose. At the hearing, the board shall hear any citizen of the sanitary district or of the city or town who wishes to speak to the subject of the preliminary resolution.

(d) Within 30 days after the day of the public hearing, the sanitary district board may adopt a final resolution finding that the interests of the citizens of the sanitary district and of the city or town will be best served if both units are governed by a single board. This resolution shall set the date on which the terms of office of the members of the sanitary district board end and that board is dissolved and service by the ex officio board begins. This date may be the effective date of the incorporation of the city or town or any date within one year after the effective date. At that time, the sanitary district board is dissolved and the mayor and members of the governing body of the city or town become ex officio the board of the sanitary district. The mayor shall act ex officio as chairperson of the sanitary district board.

(e) The chairperson of the sanitary district board that adopts a final resolution shall within 10 days after the day the resolution is adopted, send a copy of the resolution to the mayor and each member of the city or town governing board and to the Department.

"§ 130A-52. Special election if election not held in November of 1981.—(a) If in a sanitary district, an election of board members was required to be held in November of

1981 under G.S. 130A-50 but was not held, the board of commissioners of the county or counties in which the district is located may by resolution order a special election of all the board members to be held at the same time as the General Election in November of 1982.

(b) The election shall be held under the procedures of Articles 23 and 24 of Chapter 163 of the General Statutes and in accordance with G.S. 130A-50, except that filing shall open at noon on Monday, August 9, 1982, and close at noon on Monday, August 23, 1982.

(c) In the election held under this section, all of the members of the board shall be elected. If the board of commissioners has provided for two- or four-year terms, the members elected in 1982 shall serve until the 1983 or 1985 election, respectively, and then their successors shall be elected for the two- or four-year terms provided by the county board or boards of commissioners.

(d) Any resolution adopted under subsection (a) of this section shall be filed with the Department.

"§ 130A-53. Actions validated.—Any action of a sanitary district taken prior to June 1, 1982, shall not be invalidated by failure to hold an election for members of the board.

"§ 130A-54. Vacancy appointments to district boards.—Any vacancy in a sanitary district board shall be filled by the county commissioners until the next election for sanitary district board members. If the district is located in more than one county, the vacancy shall be filled by the county commissioners of the county from which the vacancy occurred.

"§ 130A-55. Corporate powers.—A sanitary district board shall be a body politic and corporate and may sue and be sued in matters relating to the sanitary district. Notwithstanding any limitation in the petition under G.S. 130A-48, but subject to the provisions of G.S. 130A-55(17)e., each sanitary district may exercise all of the powers granted to sanitary districts by this Article. In addition, the sanitary district board shall have the following powers:

(1) To acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types, including septic tank systems or other on-site collection, treatment or disposal facilities or systems; water supply systems; water purification or treatment plants and other utilities necessary for the preservation and promotion of the public health and sanitary welfare within the district. The utilities shall be constructed, operated and maintained in accordance with applicable statutes and rules.

(2) To acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems, water supply systems; water purification or treatment plants and other utilities, within and outside the corporate limits of the district, as may be necessary for the preservation of the public health and sanitary welfare outside the corporate limits of the district, within reasonable limitation. The utilities shall be constructed, operated and maintained in accordance with applicable statutes and rules.

a. The authority granted to a sanitary district by the provisions of this subsection is supplemental to the authority granted to a sanitary district by other provisions of law.

- b. Actions taken by a sanitary district to acquire, construct, maintain and operate sewage collection, treatment and disposal systems of all types; water supply systems; water purification or treatment plants and other utilities within and outside the corporate limits to provide service outside the corporate limits are approved and validated.
- c. This subsection shall apply only in counties with a population of 70,000 or greater, as determined by the most recent decennial federal census.

(3) To levy taxes on property within the district in order to carry out the powers and duties conferred and imposed on the district by law, and to pay the principal of and interest on bonds and notes of the district.

(4) To acquire either by purchase, condemnation or otherwise and hold real and personal property, easements, rights-of-way and water rights in the name of the district within or without the corporate limits of the district, necessary or convenient for the construction or maintenance of the works of the district.

(5) To employ and compensate engineers, counsel and other persons as may be necessary to carry out projects.

(6) To negotiate and enter into agreements with the owners of existing water supplies, sewage systems or other utilities as may be necessary to carry out the intent of this Part.

(7) To adopt rules necessary for the proper functioning of the district. However, these rules shall not conflict with rules adopted by the Commission for Health Services, Environmental Management Commission, or the local board of health having jurisdiction over the area.

(8)

- a. To contract with any person within or outside the corporate limits of the district to supply raw water without charge to the person in return for an agreement to allow the district to discharge sewage in the person's previous water supply. The district may so contract and construct at its expense all improvements necessary or convenient for the delivery of the water when, in the opinion of the sanitary district board and the Department, it will be for the best of the district.
- b. To contract with any person within or outside the corporate limits of the district to supply raw or filtered water and sewer service to the person where the service is available. For service supplied outside the corporate limits of the district, the sanitary district board may fix a different rate from that charged within the corporate limits but shall not be liable for damages for failure to furnish a sufficient supply of water and adequate sewer service.
- c. To contract with any person within or outside the corporate limits of the district for the treatment of the district's sewage in a sewage disposal or treatment plant owned and constructed or to be constructed by that person.

(9) After adoption of a plan as provided in G.S. 130A-60, the sanitary district board may, in its discretion, alter or modify the plan if the Department determines that

the alteration or modification does not constitute a material deviation from the objective of the plan and is in the public health interest of the district. The alteration or modification must be approved by the Department. The sanitary district board may appropriate or reappropriate money of the district for carrying out the altered or modified plan.

(10) To take action, subject to the approval of the Department, for the prevention and eradication of diseases transmissible by vectors by instituting programs for the eradication of the mosquito.

(11) To collect and dispose of garbage, waste and other refuse by contract or otherwise.

(12) To establish a fire department, or to contract for fire- fighting apparatus and personnel for the protection of life and property within the district.

(13) To provide or contract for rescue service, ambulance service, rescue squad or other emergency medical services for use in the district. The sanitary district shall be subject to G.S. 153A-250.

(14) To have privileges and immunities granted to other governmental units in exercise of the governmental functions.

(15) To use the income of the district, and if necessary, to levy and collect taxes upon all the taxable property within the district sufficient to pay the costs of collecting and disposing of garbage, waste and other refuse, and to provide fire protection and rescue services in the district. Taxes shall be levied and collected at the same time and in the same manner as taxes for debt service as provided in G.S. 130A-62.

(16) To adopt rules for the promotion and protection of the public health and for these purposes to possess the following powers:

- a. To require any person owning, occupying or controlling improved real property within the district to connect with either or both the water or sewage systems of the district when the local health director, having jurisdiction over the property, determines that the health of the people residing within the district will be endangered by a failure to connect.
- b. To require any person owning, occupying or controlling improved real property within the district where the water or sewage systems of the district are not immediately available or it is impractical with the systems, to install sanitary toilets, septic tanks and other health equipment or installations in accordance with applicable statutes and rules.
- c. To order a person to abate a public health nuisance of the district. If the person being ordered to abate the nuisance refuses to comply with the order, the sanitary district board may institute an action in the superior court of the county where the public health nuisance exists to enforce the order.
- d. To abolish or regulate and control the use and occupancy of all pigsties and other animal stockyards or pens within the district and for an additional distance of 500 feet beyond the outer boundaries of the

district, unless the 500 feet is within the corporate limits of a city or town.

- e. Upon the noncompliance by a person of a rule adopted by the sanitary district board, the board shall notify the person of the rule being violated and the facts constituting the violation. The person shall have a reasonable time to comply with the rule as determined by the local health director of the person's residence. Upon failure to comply within the specified time or within a time extended by the sanitary district board, the person shall be guilty of a misdemeanor.
- f. The sanitary district board is authorized to enforce the rules adopted pursuant to this Part by criminal action or civil action, including injunctive relief.

(17) For the purpose of promoting and protecting the public health, safety and the general welfare of the State, a sanitary district board is authorized to establish as zoning units any portions of the sanitary district not under the control of the United States or this State or any agency or instrumentality of either, in accordance with the following:

- a. No sanitary district board shall designate an area a zoning area until a petition signed by two-thirds of the qualified voters in the area, as shown by the registration books used in the last general election, and with a petition signed by two-thirds of the owners of real property in the area, as shown by the records in the office of the register of deeds for the county, is filed with the sanitary district board. The petition must be accompanied by a map of the proposed zoning area. The board shall hold a public hearing to obtain comment on the proposed creation of the zoning area. A notice of public hearing must be published in a newspaper of general circulation in the county at least two times, and a copy of the notice shall be posted at the county courthouse and in three other public places in the sanitary district.
- b. When a zoning area is established within a sanitary district, the sanitary district board as to the zoning area shall have all rights, privileges, powers and duties granted to municipal corporations under Part 3, Article 19, Chapter 160A of the General Statutes. However, the sanitary district board shall not be required to appoint any zoning commission or board of adjustment. If neither a zoning commission nor board of adjustment is appointed, the sanitary district board shall have all rights.
- c. A sanitary district board may enter into an agreement with any city, town or sanitary district for the establishment of a joint zoning commission.
- d. A sanitary district board is authorized to use the income of the district and levy and collect taxes upon the taxable property within the district necessary to carry out and enforce the rules and provisions of this subsection.

e. This subsection shall apply only to sanitary districts which adjoin and are contiguous to an incorporated city or town and are located within three miles or less of the boundaries of two other cities or towns.

(18) To negotiate for and acquire by contract any distribution system located outside the district when the water for the distribution system is furnished by the district. If the distribution system is acquired by a district, the district may continue the operation of the system even though it remains outside the district.

(19) To accept gifts of real and personal property for the purpose of operating a nonprofit cemetery; to own, operate and maintain cemeteries with the donated property; and to establish perpetual care funds for the cemeteries in the manner provided by G.S. 160A-347.

(20) To dispose of real or personal property belonging to the district according to the procedures prescribed in Article 12 of Chapter 160A of the General Statutes. For purposes of this subsection, references in Article 12 of Chapter 160A to the 'city', the 'council', or a specific city official refer, respectively, to the sanitary district, the sanitary district board, and the sanitary district official who most nearly performs the same duties performed by the specified city official. For purposes of this subsection, references in G.S. 160A-266(c) to 'one or more city officials' are deemed to refer to one or more sanitary district officials designated by the sanitary district board.

(21) To acquire, renovate property for or construct a medical clinic to serve the district, and to maintain real and personal property for a medical clinic to serve the district.

"§ 130A-56. Election of officers; board staff.—(a) Upon election, a sanitary district board shall meet and elect one of its members as chairperson and another member as secretary. Each member of the board may receive a per diem compensation and other compensation as provided for members of State boards under G.S. 138-5, payable from the funds of the district.

(b) The board may employ a clerk, stenographer or other assistants as necessary and may fix duties of and compensation for employees. A sanitary district board may remove employees and fill vacancies.

"§ 130A-57. Power to condemn property.—A sanitary district board may purchase real estate, right-of-way or easement within or outside the corporate limits of the district for improvements authorized by this Part. If a purchase price cannot be agreed upon, the board may condemn the real estate, right-of-way or easement in accordance with Chapter 40A of the General Statutes.

"§ 130A-58. Construction of systems by corporations or individuals.—When it is inadvisable or impractical for the sanitary district to build a water supply, sewage system or part of either to serve an area within the sanitary district, a corporation or residents within the sanitary district may build and operate a system at its or their own expense. The system shall be constructed and operated under plans and specifications approved by the district board and by the Department. The system shall also be constructed and operated in accordance with applicable rules and statutes.

"§ 130A-59. Reports.—Upon the election of a sanitary district board, the board shall employ engineers licensed by this State to make a report on the problems of the sanitary

district. The report shall be prepared and filed with the sanitary district board and shall include the following:

- (1) Comprehensive maps showing the boundaries of the sanitary district and, in a general way, the location of the various parts of the work that is proposed to be done and information as may be useful for a thorough understanding of the proposed undertaking;
- (2) A general description of existing facilities for carrying out the purposes of the district;
- (3) A general description of the various plans which might be adopted for accomplishment of the purposes of the district;
- (4) General plans and specifications for the work;
- (5) General description of property proposed to be acquired or which may be damaged in carrying out the work;
- (6) Comparative detail estimates of cost for the various construction plans; and
- (7) Recommendations.

"§ 130A-60. Consideration of reports and adoption of a plan.—(a) A report filed by the engineers pursuant to G.S. 130A-59 shall be given consideration by the sanitary district board and the board shall adopt a plan. Before adopting a plan the board may hold a public hearing for the purpose of considering objections to the plan. Once adopted, the sanitary district board shall submit the plan to the Department. The plan shall not become effective until it is approved by the Department.

(b) The provisions of this section and of G.S. 130A-58 shall apply when the sanitary district board determines that adoption of the plan requires the issuance of bonds. However, these provisions shall not apply to a proposed purchase of fire-fighting equipment and apparatus. Failure to observe or comply with these provisions shall not, however, affect the validity of the bonds of a sanitary district.

"§ 130A-61. Bonds and notes authorized.—A sanitary district is authorized to issue bonds and notes under the Local Government Finance Act.

"§ 130A-62. Annual budget; tax levy.—(a) A sanitary district shall operate under an annual balanced budget adopted in accordance with the Local Government Budget and Fiscal Control Act.

(b) A sanitary district has the option of either collecting its own taxes or having its taxes collected by the county or counties in which it is located. Unless a district takes affirmative action to collect its own taxes, taxes shall be collected by the county.

(c) For sanitary districts whose taxes are collected by the county, before May 1 of each year, the tax supervisor of each county in which the district is located shall certify to the district board the total assessed value of property in the county subject to taxation by the district, and the county's assessment ratio. By July 1 or upon adoption of its annual budget ordinance, the district board shall certify to the county board of commissioners the rate of ad valorem tax levied by the district on property in that county. If the assessment ratios are not identical in all counties, the district budget ordinance shall levy separate rates of ad valorem taxes for each county. These rates shall be adjusted so that the effective rate is the same for all property located in the district. The 'effective rate' is the rate of tax which will produce the same tax liability on

property of equal appraised value. Upon receiving the district's certification of its tax levy, the county commissioners shall compute the district tax for each taxpayer and shall separately state the district tax on the county tax receipts for the fiscal year. The county shall collect the district tax in the same manner that county taxes are collected and shall remit these collections to the district at least monthly. Partial payments shall be proportionately divided between the county and the district. The district budget ordinance may include an appropriation to the county for the cost to the county of computing, billing and collecting the district tax. The amount of the appropriation shall be agreed upon by the county and the district, but may not exceed five percent (5%) of the district levy. Any agreement shall remain effective until modified by mutual agreement. The amount due the county for collecting the district tax may be deducted by the county from its monthly remittances to the district or may be paid to the county by the district.

(d) Sanitary districts electing to collect their own taxes shall be deemed cities for the purposes of the Machinery Act. If a district is located in more than one county, the district board may adopt the assessments placed upon property located in the district by the counties in which the district is located if, in the opinion of the board, the same appraisal and assessment standards will apply uniformly throughout the district. If the board determines that adoption of the assessments fixed by the counties will not result in uniform appraisals and assessments throughout the district, the board may, by horizontal adjustments, equalize the appraisal values fixed by the counties and in accordance with the procedure prescribed in the Machinery Act, select and adopt an assessment ratio to be applied to the appraised values of property subject to district taxation as equalized by the board. Taxes levied by the district shall be levied uniformly on the assessments.

"§ 130A-63. Engineers to provide plans and supervise work; bids.—(a) The sanitary district board shall retain engineers licensed by this State to provide detailed plans and specifications and to supervise the work undertaken by the district. The work or any portion of the work may be done by the sanitary district board by purchasing the material and letting a contract for the work or by letting a contract for furnishing all the materials and doing the work.

(b) All contracts for work performed for construction or repair and for the purchase of materials by sanitary districts shall be in accordance with the provisions of Article 8, Chapter 143 of the General Statutes which are applicable to counties and municipal corporations.

(c) All work done shall be in accordance with the plans and specifications prepared by the engineers in conformity with the plan adopted by the sanitary district board.

"§ 130A-64. Service charges and rates.—A sanitary district board shall apply service charges and rates based upon the exact benefits derived. These service charges and rates shall be sufficient to provide funds for the maintenance, adequate depreciation and operation of the work of the district. If reasonable, the service charges and rates may include an amount sufficient to pay the principal and interest maturing on the outstanding bonds and, to the extent not otherwise provided for, bond anticipation notes

of the district. Any surplus from operating revenues shall be set aside as a separate fund to be applied to the payment of interest on or to the retirement of bonds or bond anticipation notes. The sanitary district board may modify and adjust these service charges and rates.

"§ 130A-65. Liens for sewer service charges in sanitary districts not operating water distribution system; collection of charges; disconnection of sewer lines.—In sanitary districts which maintain and operate a sewage system but do not maintain and operate a water distribution system, the charges made for sewer service or for use of sewer service facilities shall be a lien upon the property served. If the charges are not paid within 15 days after they become due and payable, suit may be brought in the name of the sanitary district in the county in which the property served is located, or the property, subject to the lien, may be sold by the sanitary district under the same rules, rights of redemption and savings as are prescribed by law for the sale of land for unpaid ad valorem taxes. A sanitary district is authorized to adopt rules for the use of sewage works and the collection of charges. A sanitary district is authorized in accordance with its rules to enter upon the premises of any person using the sewage works and failing to pay the charges, and to disconnect the sewer line of that person from the district sewer line or disposal plant. A person who connects or reconnects with district sewer line or disposal plant without a permit from the sanitary district shall be guilty of a misdemeanor.

"§ 130A-66. Removal of member of board.—A petition with the signatures of twenty-five percent (25%) or more of the voters within a sanitary district which requests the removal from office of one or more members of a sanitary district board for malfeasance or nonfeasance in office may be filed with the board of commissioners of the county in which all or the greater portion of the voters of a sanitary district are located. Upon receipt of the petition, the county board of commissioners shall meet and adopt a resolution to hold an election on the question of removal. In the event that more than one member of a sanitary district board is subjected to recall in an election, the names of each member of the board subjected to recall shall appear upon separate ballots. If in a recall election, a majority of the votes within the sanitary district are cast for the removal of a member or members of the sanitary district board subject to recall, the member or members shall cease to be a member or members of the sanitary district board. A vacancy shall be immediately filled. The expenses of holding a recall election shall be paid from the funds of the sanitary district.

"§ 130A-67. Rights-of-way granted.—A right-of-way in, along or across a county or State highway, street or property within a sanitary district is granted to a sanitary district in case the board finds it necessary or convenient for carrying out the work of the district. Any work done in, along or across a State highway shall be done in accordance with the rules of the Board of Transportation.

"§ 130A-68. Returns of elections.—In all elections provided for in this Part, the board of elections shall file copies of the returns with the county boards of commissioners, sanitary district board and clerk of superior court in which the district is located.

"§ 130A-69. Procedure for extension of district.—(a) If after a sanitary district has been created or the provisions of this Part have been made applicable to a sanitary

district, a petition signed by not less than fifteen percent (15%) of the resident freeholders within any territory contiguous to and adjoining the sanitary district may be presented to the sanitary district board requesting annexation of territory described in the petition. The sanitary district board shall send a copy of the petition to the board of commissioners of the county or counties in which the district is located and to the Department. The sanitary district board shall request that the Department hold a joint public hearing with the sanitary district board on the question of annexation. The Secretary and the chairperson of the sanitary district board shall name a time and place for the public hearing. The chairperson of the sanitary district board shall publish a notice of public hearing once in a newspaper or newspapers published or circulating in the sanitary district and the territory proposed to be annexed. The notice shall be published not less than 15 days prior to the hearing. If after the hearing, the Commission approves the annexation of the territory described in the petition, the Department shall advise the board or boards of commissioners of the approval. The board or boards of commissioners shall order and provide for the holding of a special election upon the question of annexation within the territory proposed to be annexed.

(b) If at or prior to the public hearing, a petition is filed with the sanitary district board signed by not less than fifteen percent (15%) of the freeholders residing in the sanitary district requesting an election be held on the annexation question, the sanitary district board shall send a copy of the petition to the board or boards of commissioners who shall order and provide for the submission of the question to the voters within the sanitary district. This election may be held on the same day as the election in the territory proposed to be annexed, and both elections and registrations may be held pursuant to a single notice. A majority of the votes cast is necessary for a territory to be annexed to a sanitary district.

(c) The election shall be held by the county board or boards of elections as soon as possible after the board or boards of commissioners orders the election. The cost of the election shall be paid by the sanitary district. Registration in the area proposed for annexation shall be under the same procedure as G.S. 163-288.2.

(d) Notice of the election shall be given as required by G.S. 163-33(8) and shall include a statement that the boundary lines of the territory to be annexed and the boundary lines of the sanitary district have been prepared by the district board and may be examined. The notice shall also state that if a majority of the those voting in the election favor annexation, then the territory annexed shall be subject to all debts of the sanitary district.

(e) The ballot shall be substantially as follows:

[] FOR annexation to the _____ Sanitary District
[] AGAINST annexation to the _____ Sanitary District.'

The board or boards of elections shall certify the results of the election to the sanitary district board and the board or boards of commissioners of the county or counties in which the district is located.

(f) Notwithstanding any other provisions of this section, if a petition for extension of the boundaries of a sanitary district is signed by not less than fifty-one percent (51%) of the resident freeholders within the territory proposed to be annexed, it

shall not be necessary to hold an election provided for by this section on the question of the extension of the boundaries of the sanitary district.

(g) Notwithstanding any other provisions of this section, if a petition for extension of the boundaries of a sanitary district is signed by the owners of all the real property within the territory proposed to be annexed, it shall not be necessary to hold any election or any hearings provided for by this section on the question of the extension of the boundaries of the sanitary district.

(h) No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court on any ground unless the action or proceeding is commenced within 30 days after the certification of the results by the board or boards of elections.

(i) When additional territory has been annexed to a sanitary district and the proposition of issuing bonds of the sanitary district after the annexation has been approved by the voters at an election held within one year subsequent to annexation, fifty- one percent (51%) or more of the resident freeholders within the annexed territory may petition the sanitary district board for the removal and exclusion of the territory from the sanitary district. No petition may be filed after bonds of the sanitary district have been approved in an election held at any time after annexation. If the sanitary district board approves the petition, it shall send a copy to the Department requesting that the petition be granted and shall send additional copies to the county board or boards of commissioners. A public hearing shall be conducted under the same procedure provided for the annexation of additional territory. If the Commission deems it advisable to comply with the request of the petition, the Commission shall adopt a resolution to that effect and shall redefine the boundaries of the sanitary district.

"§ 130A-70. District and municipality extending boundaries and corporate limits simultaneously.—(a) When the boundaries of a sanitary district lie entirely within or are coterminous with the corporate limits of a city or town and the sanitary district provides the only public water supply and sewage disposal system for the city or town, the boundaries of the sanitary district and the corporate limits of the city or town may be extended simultaneously as provided in this section.

(b) Twenty-five percent (25%) or more of the resident freeholders within the territory proposed to be annexed to the sanitary district and to the city or town may petition the sanitary district board and the governing board of the city or town setting forth the boundaries of the area proposed to be annexed and the objects annexation is proposed to accomplish. The petition may also include any area already within the corporate limits of the city or town but not already within the boundaries of the sanitary district. Upon receipt of the petition, the sanitary district board and the governing board of the city or town shall meet jointly and shall hold a public hearing prior to approval of the petition. Notice of the hearing shall be made by posting a notice at the courthouse door of the county or counties and by publishing a notice at least once a week for four consecutive weeks in a newspaper with a circulation in the county or counties. If at or after the public hearing the sanitary district board and the governing board of the city or town, acting jointly, shall each approve the petition, the petition shall be submitted to the Commission for approval. If the Commission approves the petition, the question

shall be submitted to a vote of all voters in the area or areas proposed to be annexed voting as a whole. The election shall be held on a date approved by the sanitary district board and by the governing board of the city or town.

(c) The words 'For Extension' and 'Against Extension' shall be printed on the ballots for the election. A majority of all the votes cast is necessary for a district and municipality to extend boundaries and corporate limits simultaneously.

(d) After declaration of the extension, the territory and its citizens and property shall be subject to all debts, ordinances and rules in force in the sanitary district and in the city or town, and shall be entitled to the same privileges and benefits as other parts of the sanitary district and the city or town. The newly annexed territory shall be subject to the sanitary district and the city or town taxes levied for the fiscal year following the date of annexation.

(e) The costs of holding and conducting the election for annexation pursuant to this section, shall be shared equally by the sanitary district and by the city or town.

(f) The sanitary district board and the governing board of the city or town acting jointly, may order the board or boards of elections of the county or counties in which the sanitary district and the city or town are located, to call, hold, conduct and certify the result of the election, according to the provisions of Chapter 163 of the General Statutes.

(g) When the boundaries of a sanitary district and the corporate limits of a city or town are extended as provided in this section, and the proposition of issuing bonds of the sanitary district as enlarged has not been approved by the voters at an election held within one year subsequent to the extension, the annexed territory may be removed and excluded from the sanitary district in the manner provided in G.S. 130A-69. If the petition includes areas within the present corporate limits of the city or town but not within the present boundaries of the sanitary district, these areas shall not be removed or excluded from the city or town under the provisions of this section.

(h) The powers granted by this section shall be supplemental and additional to powers conferred by any other law and shall not be regarded as in derogation to any powers now existing.

"§ 130A-71. Procedure for withdrawing from district.—Fifty- one percent (51%) or more of the resident freeholders of a portion of a sanitary district which has no outstanding indebtedness, with the approval of the sanitary district board, may petition the county board of commissioners of the county in which a major portion of the petitioners reside, that the identified portion of the district be removed and excluded from the district. If the county board of commissioners approves the petition, an election shall be held in the entire district on the question of exclusion. A majority of all the votes cast is necessary for a district to be removed and excluded from a sanitary district. The county board of commissioners shall notify the Commission who shall remove and exclude the portion of the district, and redefine the limits accordingly.

"§ 130A-72. Dissolution of certain sanitary districts.—Fifty- one percent (51%) or more of the resident freeholders of a sanitary district which has no outstanding indebtedness may petition the board of commissioners of the county in which all or the greater portion of the resident freeholders of the district are located to dissolve the

district. Upon receipt of the petition, the county board of commissioners shall notify the Department and the chairperson of the county board of commissioners of any other county or counties in which any portion of the district lies, of the receipt of the petition, and shall request that the Department hold a joint public hearing with the county commissioners concerning the dissolution of the district. The Secretary and the chairperson of the county board of commissioners shall name a time and place within the district for the public hearing. The county board of commissioners shall give prior notice of the hearing by posting a notice at the courthouse door of the county or counties and by publication in a newspaper or newspapers with circulation in the county or counties at least once a week for four consecutive weeks. If all matters pertaining to the dissolution of the sanitary district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If after the hearing, the Commission and the county board or boards of commissioners deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution to dissolve the sanitary district. The sanitary district board of the dissolved district is authorized to convey all assets, including cash, to any county, municipality, or other governmental unit, or to any public utility company operating or to be operated under the authority of a certificate of public convenience and necessity granted by the North Carolina Utilities Commission in return for the assumption of the obligation to provide water and sewage services to the area served by the district at the time of dissolution.

"§ 130A-73. Dissolution of sanitary districts having no outstanding indebtedness and located wholly within or coterminous with corporate limits of city or town.— When the boundaries of a sanitary district which has no outstanding indebtedness are entirely located within or coterminous with the corporate limits of a city or town, fifty-one percent (51%) or more of the resident freeholders within the district may petition the board of commissioners within the county in which all or the greater portion of the resident freeholders of the district are located to dissolve the district. Upon receipt of the petition, the board of commissioners shall notify the Department, the chairperson of the board of commissioners of any other county or counties in which any portion of the district lies and the governing body of the city or town within which the district lies of the receipt of the petition, and shall request that the Department hold a joint public hearing with the board or boards of commissioners and the governing body of the city or town. The Secretary, the chairperson of the board of commissioners of the county in which all or the greater portion of the resident freeholders are located and the presiding officer of the governing body of the city or town shall name a time and place within the boundaries of the district and the city or town for the public hearing. The county board of commissioners shall give notice of the hearing by posting prior notice at the courthouse door of the county or counties and also by publication in a newspaper or newspapers circulating in the district at least once a week for four consecutive weeks. If all matters pertaining to the dissolution of the sanitary district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If, after the hearing, the Commission, the county board or boards of commissioners and the governing body of the city or town shall deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution

dissolving the district. All taxes levied by the sanitary district which were levied prior to but which are collected after the dissolution shall vest in the city or town. All property held, owned, controlled or used by the sanitary district upon the dissolution or which may later be vested in the sanitary district, and all judgments, liens, rights and causes of actions in favor of the sanitary district shall vest in the city or town. At the dissolution, taxes owed to the sanitary district shall be collected by the city or town.

"§ 130A-74. Validation of creation of districts.—All actions prior to June 6, 1961, taken by the county boards of commissioners by the State Board of Health, by any officer or by any other agency, board or officer of the State in the formation and creation of sanitary districts in the State, and the formation and creation, or the attempted formation and creation of any sanitary districts are in all respects validated. These sanitary districts are declared lawfully formed and created and in all respects legal and valid sanitary districts.

"§ 130A-75. Validation of extension of boundaries of districts.—(a) All actions prior to April 1, 1957, taken by the State Board of Health, a county board of commissioners, and a sanitary district board for the purpose of extending the boundaries of a sanitary district where the territory which was annexed contained no resident freeholders, and where the owner or owners of the real property annexed requested of the sanitary district board that the territory be annexed to the sanitary district, are validated, notwithstanding any lack of power to perform these acts or proceedings, and notwithstanding any defect or irregularity in the acts or proceedings.

(b) All actions and proceedings prior to April 1, 1979, taken by the State Board of Health, the Commission, a board of county commissioners and a sanitary district board for the purpose of annexing additional territory to a sanitary district or with respect to the annexation are validated notwithstanding any lack of power to perform these acts or proceedings or any defect or irregularity in any acts or proceedings, these sanitary districts are lawfully extended to include this additional territory.

"§ 130A-76. Validation of dissolution of districts.—All actions prior to January 1, 1981, taken by a county board of commissioners, by the State Board of Health or Commission, by an officer or by any other agency, board or officer of the State in the dissolution of a sanitary district and the dissolution or attempted dissolution of a sanitary district are validated.

"§ 130A-77. Validation of bonds of districts.—All actions and proceedings prior to April 1, 1979, taken, and all elections held in a sanitary district or in a district purporting to be a legal sanitary district by virtue of the purported authority and acts of a county board of commissioners, State Board of Health, Commission, or any other board, officer or agency for the purpose of authorizing, selling or issuing the bonds of the sanitary district, and all bonds at any time issued by or on behalf of a sanitary district, are in all respects validated. These bonds are declared to be the legal and binding obligations of the sanitary district.

"§ 130A-78. Tax levy for validated bonds.—Sanitary districts are authorized to make appropriations and to levy annually a tax on property having a situs in the district under the rules and according to the procedure prescribed in the Machinery Act for the purpose of paying the principal of and interest on bonds validated in G.S. 130A-77. The

tax shall be sufficient for this purpose and shall be in addition to all other taxes which may be levied upon the taxable property in the sanitary district.

"§ 130A-79. Validation of appointment or election of members of district boards.–

(a) All actions and proceedings prior to June 6, 1961, taken in the appointment or election of members of a sanitary district board are validated. Members of these boards shall have all the powers and may perform all the duties required or permitted of them to be pursuant to this Part.

(b) All actions and proceedings prior to May 1, 1959, taken in the appointment or election of members of a sanitary district board and the appointment or election of members are validated. Members of these boards shall have all the powers and may perform all the duties required or permitted of them pursuant to the provisions of this Part.

"§ 130A-80. Merger of district with contiguous city or town; election.–A sanitary district may merge with a contiguous city or town in the following manner:

(1) The sanitary district board and the governing board of the city or town may resolve that it is advisable to call an election within both the sanitary district and the city or town to determine if the sanitary district and the city or town should merge;

(2) If the sanitary district board and the governing board of the city or town resolve that it is advisable to call for an election, both boards shall adopt a resolution requesting the board of commissioners in the county or counties in which the district and the town or city or any portion is located to hold an election on a date named by the sanitary district board and the governing board of the city or town after consultation with the appropriate board or boards of elections. The election shall be held within the sanitary district and the city or town on the question of merger;

(3) The county board or boards of commissioners shall request the appropriate board or boards of elections to hold and conduct the election. All voters of the city or town and the sanitary district shall be eligible to vote if the election is called in both areas as authorized in subsection (1);

(4) Notice of the election shall be given as required in G.S. 163-33(8). The board or boards of elections may use either method of registration set out in G.S. 163-288.2;

(5) If an election is called as provided in subsection (2), the board or boards of elections shall provide ballots for the election in substantially the following form:

[] FOR merger of the Town of _____ and the _____ Sanitary District, if a majority of the registered voters of both the Sanitary District and the Town vote in favor of merger, the combined territories to be known as the Town of _____ and to assume all of the obligations of the Sanitary District and to receive from the Sanitary District all the property rights of the District; from and after merger residents of the District would enjoy all of the benefits of the municipality and would assume their proportionate share of the obligations of the Town as merged.

[] AGAINST merger.'

(6) A majority of all the votes cast by voters of the sanitary district and a majority of all the votes cast by voters of the city or town is necessary for the merger of

a sanitary district with the city or town. The merger shall be effective on July 1 following the election. If a majority of the votes cast in either the sanitary district or the city or town vote against the merger, any resolution or election on similar propositions of merger may not occur until one year from the date of the last election.

(7) Upon the merger of a sanitary district and a city or town pursuant to this section, the city or town shall assume all obligations of the sanitary district and the sanitary district shall convey all property rights to the city or town. The vote for merger shall include a vote for the city or town to assume the obligations of the district. The sanitary district shall cease to exist as a political subdivision from and after the effective date of the merger. After the merger, the residents of the sanitary district enjoy all of the benefits of the municipality and shall assume their share of the obligations of the city or town. All taxes levied and collected by the city or town from and after the effective date of the merger shall be levied and collected uniformly in all the territory included in the enlarged municipality; and

(8) If merger is approved, the governing board of the city or town shall determine the proportion of the district's indebtedness, if any, which was incurred for the construction of water systems and the proportion which was incurred for construction of sewage disposal systems. The governing board shall send a certified copy of the determination to the local government commission in order that the Commission and the governing body of the merged municipality can determine the net debt of the merged municipality as required by G.S. 159-55.

"§ 130A-81. Incorporation of municipality and simultaneous dissolution of sanitary district, with transfer of assets and liabilities from the district to the municipality.— The General Assembly may incorporate a municipality, which includes within its boundaries or is coterminous with a sanitary district and provide for the simultaneous dissolution of the sanitary district and the transfer of the district's assets and liabilities to the municipality, in the following manner:

(1) The incorporation act shall define the boundaries of the proposed municipality; shall set the date for and provide for a referendum on the incorporation of the proposed municipality and dissolution of the sanitary district; shall provide for registration of voters in the area of the proposed municipality in accordance with G.S. 163-288.2; shall set a proposed effective date for the incorporation of the municipality and the dissolution of the sanitary district; shall establish the form of government for the proposed municipality and the composition of its governing board, and provide for transitional arrangements for the sanitary district to the municipality; and may include any other matter appropriate to a municipal charter.

(2) The referendum shall be conducted by the board of elections of the county in which the proposed municipality is located. If the proposed municipality is located in more than one county, the board of elections of the county which has the greatest number of residents of the proposed municipality shall conduct the referendum. The board of election shall conduct the referendum in accordance with this section and the provisions of the incorporation act.

(3) The form of the ballot for a referendum under this section shall be substantially as follows:

[] FOR incorporation of the Town (City) of _____ and the simultaneous dissolution of the _____ Sanitary District, with transfer of the District's assets and liabilities to the Town (City), and assumption of the District's indebtedness by the Town (City).

[] AGAINST incorporation of the Town (City) of _____ and the simultaneous dissolution of the _____ Sanitary District, with transfer of the District's assets and liabilities, to the Town (City), and assumption of the District's indebtedness by the Town (City).'

(4) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the board of elections shall notify the Department and the Local Government Commission of the date on which the municipality will be incorporated and the sanitary district dissolved and shall state that all assets and liabilities of the sanitary district will be transferred to the municipality and that the municipality will assume the district's indebtedness.

(5) If a majority of those voting in the referendum vote in favor of incorporating the proposed municipality and dissolving the sanitary district, the municipality shall be incorporated and the sanitary district shall be simultaneously dissolved at 12 noon on the date set for incorporation in the incorporation act. At that time:

- a. The sanitary district shall cease to exist as a body politic and corporate;
- b. All property, real, personal and mixed, belonging to the sanitary district vests in and is the property of the municipality;
- c. All judgments, liens, rights and courses of action in favor of the sanitary district vest in favor of the municipality;
- d. All rentals, taxes, assessments and other funds, charges or fees owed to the sanitary district are owed to and may be collected by the municipality;
- e. Any action, suit, or proceeding pending against, or instituted by the sanitary district shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The municipality shall be a party to these actions, suits and proceedings in the place of the sanitary district and shall pay any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings;
- f. All obligations of the sanitary district, including outstanding indebtedness, are assumed by the municipality, and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the municipality. The full faith and credit of the municipality is deemed to be pledged for the payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the sanitary district, and all the taxable property within the municipality shall remain subject to taxation for these payments; and

g. All rules of the sanitary district shall continue in effect until repealed or amended by the governing body of the municipality.

(6) The transition between the sanitary district and the municipality shall be provided for in the incorporation act of the municipality.

"§ 130A-82. Dissolution of sanitary districts; referendum.— (a) A county board of commissioners in counties having a population in excess of 275,000 may dissolve a sanitary district by holding a referendum on the questions of dissolution and assumption by the county of any outstanding indebtedness of the district. The county board of commissioners may dissolve a sanitary district which has no outstanding indebtedness when the members of the district shall vote in favor of dissolution.

(b) Before the dissolution of any district shall be approved, a plan for continued operation and provision of all services and functions being performed or rendered by the district shall be adopted and approved by the board of county commissioners.

(c) No plan shall be adopted unless at the time of its adoption any water system or sanitary sewer system being operated by the district is in compliance with all local, State and federal rules and regulations, and if the system is to be serviced by a municipality, the municipality shall first approve the plan.

(d) When all actions relating to dissolution of the sanitary district have been completed, the chairperson of the county board of commissioners shall notify the Department.

"§ 130A-83. Merger of two contiguous sanitary districts.—Two contiguous sanitary districts may merge in the following manner:

(1) The sanitary district board of each sanitary district must first adopt a common proposed plan of merger. The plan shall contain the name of the new or successor sanitary district, designate the members of the merging boards who shall serve as the interim sanitary district board for the new or successor district until the next election required by G.S. 130A-50(b) and G.S. 163-279, and any other matters necessary to complete the merger.

(2) The merger may become effective only if approved by the voters of the two sanitary districts. In order to call an election, both boards shall adopt a resolution calling upon the board of county commissioners in the county or counties in which the districts are located to call for an election on a date named by the sanitary district boards after consultation with the appropriate boards of election. The board or boards of commissioners shall hold an election on the proposed merger of the sanitary districts.

(3) The county board or boards of commissioners shall request the appropriate board of elections to hold and conduct the elections. All voters of the two sanitary districts shall be eligible to vote.

(4) Notice of the elections shall be given as required in G.S. 163-33(8). The board of elections may use the method of registration set out in G.S. 163-288.2.

(5) If an election is called as provided in subsection (2), the board or boards of elections shall provide ballots for the election in substantially the following form:

[] FOR the merger of the _____ Sanitary District and the _____ Sanitary District into a single district to be known as the _____ Sanitary District, in which all the property, assets, liabilities, obligations, and indebtedness

of the two districts become the property, assets, liabilities, obligations, and indebtedness of the _____ Sanitary District.

[] AGAINST the merger of the _____ Sanitary District and the _____ Sanitary District into a single district to be known as the _____ Sanitary District, in which all the property, assets, liabilities, obligations, and indebtedness of the two districts become the property, assets, liabilities, obligations, and indebtedness of the _____ Sanitary District.'

(6) If a majority of all the votes cast in each sanitary district vote in favor of the merger, the two sanitary districts shall be merged on July 1 following the election. Should the majority of the votes cast in either sanitary district be against the proposition, the sanitary districts shall not be merged. If a majority of the votes cast in either sanitary district are against the merger, any resolution or election on similar propositions of merger may not occur until one year from the date of the last election.

(7) Upon the merger of two sanitary districts pursuant to this section and the creation of a new district, the merger becomes effective at 12 noon on the following July 1. At that time:

- a. The two sanitary districts shall cease to exist as bodies politic and corporate, and the new sanitary district exists as a body politic and corporate.
- b. All property, real, personal and mixed, belonging to the sanitary districts vests in and is the property of the new sanitary district.
- c. All judgments, liens, rights of liens and causes of action in favor of either sanitary district vest in the new sanitary district.
- d. All rentals, taxes, assessments and other funds, charges or fees owed to either of the sanitary districts are owed to and may be collected by the new sanitary district.
- e. Any action, suit, or proceeding pending against, or having been instituted by, either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The new sanitary district shall be a party to all these actions, suits and proceedings in the place of the dissolved sanitary district and shall pay any judgment rendered against either of the sanitary districts in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.
- f. All obligations of either of the sanitary districts, including any outstanding indebtedness, are assumed by the new sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the new sanitary district. The full faith and credit of the new sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the new sanitary district shall remain subject to taxation for these payments.

g. All rules of either of the sanitary districts shall continue in effect until repealed or amended by the governing body of the new sanitary district.

(8) Upon the merger of two sanitary districts pursuant to this section when one district is to be dissolved and the other district is to be a successor covering the territory of both, the merger becomes effective at 12 noon on the following July 1. At that time:

- a. One sanitary district shall cease to exist as a body politic and corporate, and the successor sanitary district continues to exist as a body politic and corporate.
- b. All property, real, personal and mixed, belonging to the sanitary districts vests in, and is the property of the successor sanitary district.
- c. All judgments, liens, rights of liens and causes of action in favor of either sanitary district vest in the successor sanitary district.
- d. All rentals, taxes, assessments and other funds, charges or fees owed either of the sanitary districts are owed to and may be collected by the successor sanitary district.
- e. Any action, suit, or proceeding pending against, or instituted by either of the sanitary districts shall not be abated by its dissolution, but shall be continued and completed in the same manner as if dissolution had not occurred. The successor sanitary district shall be a party to all these actions, suits and proceedings in the place of the dissolved sanitary district and shall pay any judgment rendered against the sanitary district in any of these actions or proceedings. No new process need be served in any of the actions, suits or proceedings.
- f. All obligations of either of the sanitary districts, including any outstanding indebtedness, are assumed by the successor sanitary district and all the obligations and outstanding indebtedness are constituted obligations and indebtedness of the successor sanitary district. The full faith and credit of the successor sanitary district is deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of either of the sanitary districts, and all the taxable property within the successor sanitary district shall be and remain subject to taxation for these payments.
- g. All rules of either of the sanitary districts shall continue in effect until repealed or amended by the governing body of the successor sanitary district.

"§ 130A-84. Withdrawal of water.—A sanitary district is empowered to engage in litigation or to join with other parties in litigation opposing the withdrawal of water from a river or other water supply.

"§ 130A-85 to 130A-87: Reserved for future codification purposes.

"ARTICLE 3.

"State Laboratory of Public Health.

"§ 130A-88. Laboratory established.—(a) A State Laboratory of Public Health is established within the Department. The Department is authorized to make examinations, and provide consultation and technical assistance as the public health may require.

(b) The Commission shall adopt rules necessary for the operation of the State Laboratory of Public Health.

"§ 130A-89: Reserved for future codification purposes.

"ARTICLE 4.

"Vital Statistics.

"§ 130A-90. Vital statistics program.—The Department shall maintain a Vital Statistics Program which shall operate the only system of vital records registration throughout this State.

"§ 130A-91. State Registrar.—The Secretary shall appoint a State Registrar of Vital Statistics. The State Registrar of Vital Statistics shall exercise all the authority conferred by this Article.

"§ 130A-92. Duties of the State Registrar.—(a) The State Registrar shall secure and maintain all vital records required under this Article and shall do all things necessary to carry out its provisions. The State Registrar shall:

- (1) Examine vital records received from local registrars to determine if these records are complete and satisfactory, and require the provision of information necessary to make the records complete and satisfactory;
- (2) Permanently preserve the vital records in a systematic manner in adequate fireproof space which shall be provided in a State building by the Department of Administration, and maintain a comprehensive and continuous index of all vital records;
- (3) Prepare and supply all forms used in carrying out the provisions of this Article which shall be the only forms used to file vital records in this State;
- (4) Appoint local registrars as required by G.S. 130A- 95 and exercise supervisory authority over local registrars, deputy local registrars and sub- registrars;
- (5) Enforce the provisions of this Article, investigate cases of irregularity or violations and report violations to law enforcement officials for prosecution under G.S. 130A-26;
- (6) Conduct studies and research and recommend to the General Assembly any additional legislation necessary to carry out the purposes of this Article; and
- (7) Adopt rules necessary to carry out the provisions of this Article.

"§ 130A-93. Access to vital records; copies.—(a) Only the State Registrar shall have access to original vital records.

(b) The State Registrar shall provide copies or abstracts of vital records, except those described in subsections (d), (e), (f) and (g), to any person upon request.

(c) The State Registrar shall provide certified copies of vital records, except those described in subsections (d), (e), (f), and (g), only to the following:

- (1) A person requesting a copy of the person's own vital records or that of the person's spouse, child, parent, brother or sister;
- (2) A person seeking information for a legal determination of personal or property rights; or
- (3) An authorized agent, attorney or legal representative of a person described above.

(d) Copies, certified copies or abstracts of birth certificates of adopted persons shall be provided in accordance with G.S. 48-29.

(e) Copies or abstracts of the health and medical information contained on birth certificates shall be provided only to a person requesting a copy of the health and medical information contained on the person's own birth certificate, a person authorized by that person, or a person who will use the information for research purposes. The State Registrar shall adopt rules providing for the use of this information for research purposes.

(f) Copies, certified copies or abstracts of new birth certificates issued to persons in the federal witness protection program shall be provided only to a person requesting a copy of the person's own birth certificate and that person's supervising federal marshall.

(g) No copies, certified copies or abstracts of vital records shall be provided to a person purporting to request copies, certified copies or abstracts of that person's own vital records upon determination that the person whose vital records are being requested is deceased.

(h) A certified copy issued under the provisions of this section shall have the same evidentiary value as the original and shall be *prima facie* evidence of the facts stated in the document. The State Registrar may appoint agents who shall have the authority to issue certified copies under a facsimile signature of the State Registrar. These copies shall have the same evidentiary value as those issued by the State Registrar.

(i) The State Registrar shall be entitled to a fee not to exceed three dollars (\$3.00) for issuing any copy of a vital record or for conducting a search of the files for the records when no copy is made. An account of all fees received shall be kept and the fees turned over to the State Treasurer for use by the Department for public health purposes.

(j) No person shall prepare or issue any certificate which purports to be an official certified copy of a vital record except as authorized in this Article or the rules.

"§ 130A-94. Local registrar.—The local health director shall serve, *ex officio*, as the local registrar of each county within the jurisdiction of the local health department.

"§ 130A-95. Control of local registrar.—The State Registrar shall direct, control and supervise the activities of local registrars and may remove a local registrar for cause.

"§ 130A-96. Appointment of deputy and sub-registrars.—(a) Each local registrar shall immediately upon appointment, appoint a deputy whose duty shall be to assist the local registrar and to act as local registrar in case of absence, illness, disability or removal of the local registrar. The deputy shall be designated in writing and be subject to all rules and statutes governing local registrars. The local registrar shall direct, control and

supervise the activities of the deputy registrar and may remove a deputy registrar for cause.

(b) The local registrar may, when necessary and with the approval of the State Registrar, appoint one or more persons to act as sub-registrars. Sub-registrars shall be authorized to receive certificates and issue burial-transit permits in and for designated portions of the county. Each sub-registrar shall enter the date the certificate was received and shall forward all certificates to the local registrar within three days.

(c) The State Registrar shall direct, control and supervise sub-registrars and may remove a sub-registrar for cause.

"§ 130A-97. Duties of local registrars.—The local registrar shall:

(1) Administer and enforce provisions of this Article and the rules, and immediately report any violation to the State Registrar;

(2) Furnish certificate forms and instructions supplied by the State Registrar to persons who require them;

(3) Examine each certificate when submitted to determine if it has been completed in accordance with the provisions of this Article and the rules. If a certificate is incomplete or unsatisfactory, the responsible person shall be notified and required to furnish the necessary information. All birth and death certificates shall be typed or written legibly in permanent black or blue-black ink;

(4) Enter the date on which a certificate is received and sign as local registrar;

(5) Transmit to the register of deeds of the county a copy of each certificate registered within seven days of receipt of a birth or death certificate. The copy transmitted shall include the race of the father and mother if that information is contained on the State copy of the certificate of live birth. Copies transmitted may be on blanks furnished by the State Registrar or may be photocopies made in a manner approved by the register of deeds. The local registrar may also keep a copy of each certificate for no more than two years;

(6) On the fifth day of each month or more often, if requested, send to the State Registrar all original certificates registered during the preceding month; and

(7) Maintain records, make reports and perform other duties required by the State Registrar.

"§ 130A-98. Pay of local registrars.—A local health department shall provide sufficient staff, funds and other resources necessary for the proper administration of the local vital records registration program.

"§ 130A-99. Register of deeds to preserve copies of birth and death records.—The register of deeds of each county shall file and preserve the copies of birth and death certificates furnished by the local registrar under the provisions of G.S. 130A-97, and shall make and keep a proper index of the certificates. These certificates shall be open to inspection and examination. Copies or abstracts of these certificates shall be provided to any person upon request. Certified copies of these certificates shall be provided only to those persons described in G.S. 130A-93(c).

"§ 130A-100. Register of deeds may perform notarial acts.—(a) The register of deeds is authorized to take acknowledgments, administer oaths and affirmations and to perform all other notarial acts necessary for the registration or issuance of certificates

relating to births, deaths or marriages. The register of deeds shall be entitled to a fee as prescribed in G.S. 161-10.

(b) All acknowledgments taken, affirmations or oaths administered or other notarial acts performed by the register of deeds relating to the registration of certificates of births, deaths or marriages prior to June 16, 1959, are validated.

"§ 130A-101. Birth registration.—(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within five days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician or other person in attendance shall provide the medical information required by the certificate and shall certify the facts of birth within five days after the birth. If the physician or other person in attendance does not certify the facts of birth within the five-day period, the person in charge of the facility may complete and sign the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth, or in the absence of such a person;
- (2) Any other person in attendance at or immediately after the birth, or in the absence of such a person;
- (3) The father, the mother or, in the absence or inability of the father and the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first removed from the conveyance in this State, the birth shall be registered in the county where the child is first removed from the conveyance, and that place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.

(f) If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate without written consent, under oath, of both the father and the mother. The surname of the child shall be determined by the mother, except if the father's name is entered on the certificate, the mother and father shall agree upon the child's surname. If there is no agreement, the child's surname shall be the same as that of the mother.

"§ 130A-102. Contents of birth certificate.—The certificate of birth shall contain those items recommended by the federal agency responsible for national vital statistics, except as amended or changed by the State Registrar. Medical information contained in a birth certificate shall not be public records open to inspection.

"§ 130A-103. Registration of birth certificates more than five days and less than one year after birth.—Any birth may be registered more than five days and less than one year after birth in the same manner as births are registered under this Article within five days of birth. The registration shall have the effect as if the registration had occurred within five days of birth. The registration however, shall not relieve any person of criminal liability for the failure to register the birth within five days of birth as required by G.S. 130A-101.

"§ 130A-104. Registration of birth one year or more after birth.—(a) When the birth of a person born in this State has not been registered within one year after birth, a delayed certificate may be filed with the register of deeds in the county in which the birth occurred. An applicant for a delayed certificate must submit the minimum documentation prescribed by the State Registrar.

(b) A certificate of birth registered one year or more after the date of the birth shall be marked 'delayed' and show the date of the delayed registration. A summary statement of evidence submitted in support of the delayed registration shall be endorsed on the certificate. The register of deeds shall forward the original and a duplicate to the State Registrar for final approval. If the certificate complies with the rules and has not been previously registered, the State Registrar shall file the original and return the duplicate to the register of deeds for recording.

(c) When an applicant does not submit the minimum documentation required or when the State Registrar finds reason to question the validity or adequacy of the certificate or documentary evidence, the State Registrar shall not register the delayed certificate and shall advise the applicant of the reasons for this action. If the deficiencies are not corrected, the applicant shall be advised of the right to an administrative hearing and of the availability of a judicial determination under G.S. 130A-106.

(d) Delayed certificates shall have the same evidentiary value as those registered within five days.

"§ 130A-105. Validation of irregular registration of birth certificates.—The registration and filing with the State Registrar prior to April 1, 1941, of the birth certificate of a person whose birth was not registered within five days of birth is validated. All copies of birth certificates filed prior to April 9, 1941, properly certified by the State Registrar, shall have the same evidentiary value as those registered within five days.

"§ 130A-106. Establishing fact of birth by persons without certificates.—(a) A person born in this State not having a recorded certificate of birth, may file a verified petition with the clerk of the superior court in the county of the petitioner's legal residence or place of birth, setting forth the date, place of birth and parentage, and petitioning the clerk to hear evidence, and to find and adjudge the date, place and parentage of the birth of the petitioner. Upon the filing of a petition, the clerk shall set a hearing date, and shall conduct the proceeding in the same manner as other special proceedings. At the

time set for the hearing, the petitioner shall present evidence to establish the facts of birth. If the evidence offered satisfies the court, the court shall enter judgment establishing the date, place of birth and parentage of the petitioner, and record it in the record of special proceedings. The clerk shall certify the judgment to the State Registrar who shall keep a record of the judgment. A copy shall be certified to the register of deeds of the county in which the petitioner was born.

(b) The clerk may charge a fee not to exceed two dollars (\$2.00) for services provided under this section.

(c) The record of birth established under this section, when recorded, shall have the same evidentiary value as other records covered by this Article.

"§ 130A-107. Establishing facts relating to a birth of unknown parentage; certificate of identification.—(a) A person of unknown parentage whose place and date of birth are unknown may file a verified petition with the clerk of the superior court in the county where the petitioner was abandoned. The petition shall set forth the facts concerning abandonment, the name, date and place of birth of petitioner and the names of any persons acting in loco parentis to the petitioner.

(b) The clerk shall find facts and, if there is insufficient evidence to establish the place of birth, it shall be conclusively presumed that the person was born in the county of abandonment. The clerk shall enter and record judgment in the record of special proceedings. The clerk shall certify the judgment to the State Registrar who shall keep a record of the judgment. A copy shall be certified to the register of deeds of the county of abandonment.

(c) A certificate of identification for a person of unknown parentage shall be filed by the clerk with the local registrar of vital statistics of the district in which the person was found.

(d) The clerk may charge a fee not to exceed two dollars (\$2.00) for services provided under this section.

"§ 130A-108. Certificate of identification for child of foreign birth.—In the case of an adopted child born in a foreign country and having legal settlement in this State, the State Registrar shall, upon the presentation of a certified copy of the original birth certificate from the country of birth and a copy of the final order of adoption signed by the clerk of court or other appropriate official, prepare a certificate of identification for the child. The certificate shall contain the same information required by G.S. 48-29(a) for children adopted in this State, except that the country of birth shall be specified in lieu of the state of birth.

"§ 130A-109. Birth certificate as evidence.—Certified copies of birth certificates shall be accepted by public school authorities in this State as *prima facie* evidence of the age of children registering for school attendance, and no other proof shall be required. In addition, certified copies of birth certificates shall be required by all factory inspectors and employers of youthful labor, as *prima facie* proof of age, and no other proof shall be required. However, when it is not possible to secure a certified copy of a birth certificate, school authorities, factory inspectors and employers may accept as secondary proof of age any competent evidence by which the age of persons is usually established.

"§ 130A-110. Registration of marriage certificates.—(a) On or before the fifteenth day of the month, the register of deeds shall transmit to the State Registrar a record of each marriage ceremony performed in the county during the preceding calendar month. The State Registrar shall prescribe a form containing the information required by G.S. 50-16 and additional information to conform with the requirements of the federal agency responsible for national vital statistics. The form shall be the official form of a marriage license, certificate of marriage and application for marriage license.

(b) Each form signed and issued by the register of deeds, assistant register of deeds or deputy register of deeds shall constitute an original or a duplicate original. Upon request, the State Registrar shall furnish a true copy of the marriage registration. The copy shall have the same evidentiary value as the original. A fee not to exceed three dollars (\$3.00) may be charged for this service.

(c) The register of deeds shall provide copies or abstracts of marriage certificates to any person upon request. Certified copies of these certificates shall be provided only to those persons described in G.S. 130A-93(c).

(d) Marriage certificates maintained by the local register of deeds shall be open to inspection and examination.

"§ 130A-111. Registration of divorces and annulments.—For each divorce and annulment of marriage granted by a court of competent jurisdiction in this State, a report shall be prepared and filed by the clerk of court with the State Registrar. The information necessary to prepare the report shall be furnished to the clerk by the parties or their legal representatives. The report shall contain as a minimum those items specified on the standard certificate of divorce and annulment as prepared by the federal agency responsible for national vital statistics. The State Registrar may require additional information. On or before the fifteenth day of each month, the clerk shall forward to the State Registrar the report of each divorce and annulment granted during the preceding calendar month.

"§ 130A-112. Notification of death.—A funeral director or person acting as such who first assumes custody of a dead body or fetus of 20 completed weeks gestation or more shall submit a notification of death to the local registrar in the county where death occurred, within 24 hours of taking custody of the body or fetus. The notification of death shall identify the attending physician responsible for medical certification, except that for deaths under the jurisdiction of the medical examiner, the notification shall identify the medical examiner and certify that the medical examiner has released the body to a funeral director or person acting as such for final disposition.

"§ 130A-113. Permits for burial-transit, authorization for cremation and disinterment-reinterment.—(a) The funeral director or person acting as such who first assumes custody of a dead body or fetus which is under the jurisdiction of the medical examiner shall obtain a burial-transit permit signed by the medical examiner prior to final disposition or removal from the State and within five days after death.

(b) A dead body shall not be cremated or buried at sea unless the provisions of G.S. 130A-388 are met.

(c) A permit for disinterment-reinterment shall be required prior to disinterment of a dead body or fetus except as otherwise authorized by law or rule. The permit shall

be issued by the local registrar to a funeral director, embalmer or other person acting as such upon proper application.

(d) No dead body or fetus shall be brought into this State unless accompanied by a burial-transit or disposal permit issued under the law of the state in which death or disinterment occurred. The permit shall be final authority for final disposition of the body or fetus in this State.

(e) The local registrar shall issue a burial-transit permit for the removal of a dead body or fetus from this State if the requirements of G.S. 130A-112 are met and that the death is not under the jurisdiction of the medical examiner.

"§ 130A-114. Fetal death registration.—(a) Each spontaneous fetal death occurring in the State of 20 completed weeks gestation or more, as calculated from the first day of the last normal menstrual period until the day of delivery, shall be reported within five days after delivery to the local registrar of the county in which the delivery occurred. The report shall be made on a form prescribed and furnished by the State Registrar.

(b) When fetal death occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the cause of fetal death and other required medical information over the signature of the attending physician, and shall prepare and file the report with the local registrar.

(c) When a fetal death occurs outside of a hospital or other medical facility, the physician in attendance at or immediately after the delivery shall prepare and file the report. When a fetal death is attended by a person authorized to attend childbirth, the supervising physician shall prepare and file the report. Fetal deaths attended by lay midwives and all other persons shall be treated as deaths without medical attendance as provided for in G.S. 130A-115 and the medical examiner shall prepare and file the report.

"§ 130A-115. Death registration.—(a) A death certificate for each death which occurs in this State shall be filed with the local registrar of the county in which the death occurred within five days after the death. If the place of death is unknown, a death certificate shall be filed within five days in the county where the dead body is found. If the death occurs in a moving conveyance, a death certificate shall be filed in the county in which the dead body was first removed from the conveyance.

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate with the local registrar. The personal data shall be obtained from the next of kin or the best qualified person or source available. The funeral director or person acting as such is responsible for obtaining the medical certification of the cause of death, stating facts relative to the date and place of burial, and filing the death certificate with the local registrar within five days of the death.

(c) The medical certification shall be completed and signed by the physician in charge of the patient's care for the illness or condition which resulted in death, except when the death falls within the circumstances described in G.S. 130A-383. In the absence of the physician or with the physician's approval, the certificate may be completed and signed by an associate physician, the chief medical officer of the hospital or facility in which the death occurred or a physician who performed an autopsy upon the decedent under the following circumstances: the individual has access to the medical

history of the deceased; the individual has viewed the deceased at or after death; and the death is due to natural causes. The physician shall state the cause of death on the certificate in definite and precise terms. A certificate containing any indefinite terms or denoting only symptoms of disease or conditions resulting from disease as defined by the State Registrar, shall be returned to the person making the medical certification for correction and more definite statement.

(d) The physician or medical examiner making the medical certification as to the cause of death shall complete the medical certification no more than three days after death. The physician or medical examiner may, in appropriate cases, designate the cause of death as unknown pending an autopsy or upon some other reasonable cause for delay, but shall send the supplementary information to the local registrar as soon as it is obtained.

(e) In the case of death or fetal death without medical attendance, it shall be the duty of the funeral director or person acting as such and any other person having knowledge of the death to notify the local medical examiner of the death. The body shall not be disposed of or removed without the permission of the medical examiner. If there is no county medical examiner, the Chief Medical Examiner shall be notified.

"§ 130A-116. Contents of death certificate.—The certificate of death shall contain those items prescribed and specified on the standard certificate of death as prepared by the federal agency responsible for national vital statistics. The State Registrar may require additional information.

"§ 130A-117. Persons required to keep records and provide information.—(a) All persons in charge of hospitals or other institutions, public or private, to which persons resort for confinement or treatment of diseases or to which persons are committed by process of law, shall make a record of personal data concerning each person admitted or confined to the institution. The record shall include information required for the certificates of birth and death and the reports of spontaneous fetal death required by this Article. The record shall be made at the time of admission from information provided by the person being admitted or confined. When this information cannot be obtained from this person, it shall be obtained from relatives or other knowledgeable persons.

(b) When a dead body or dead fetus of 20 weeks gestation or more is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the decedent, date of death, name and address of the person to whom the body or fetus is released and the date of removal from the institution. If final disposition is made by the institution, the date, place, and manner of disposition shall also be recorded.

(c) A funeral director, embalmer, or other person who removes from the place of death, transports or makes final disposition of a dead body or fetus, shall keep a record which shall identify the body, and information pertaining to the receipt, removal, delivery, burial, or cremation of the body, as may be required by the State Registrar. In addition, that person shall file a certificate or other report required by this Article or the rules of the Commission.

(d) Records maintained under this section shall be retained for a period of not less than three years and shall be made available for inspection by the State Registrar upon request.

"§ 130A-118. Amendment of birth and death certificates.—(a) After acceptance for registration by the State Registrar, no record made in accordance with this Article shall be altered or changed, except by a request for amendment. The State Registrar may adopt rules governing the form of these requests and the type and amount of proof required.

(b) A new certificate of birth shall be made by the State Registrar when:

- (1) Proof is submitted to the State Registrar that the previously unwed parents of a person have intermarried subsequent to the birth of the person;
- (2) Notification is received by the State Registrar from the clerk of a court of competent jurisdiction of a judgment, order or decree disclosing different or additional information relating to the parentage of a person;
- (3) Satisfactory proof is submitted to the State Registrar that there has been entered in a court of competent jurisdiction a judgment, order or decree disclosing different or additional information relating to the parentage of a person; or
- (4) A written request from an individual is received by the State Registrar to change the sex on that individual's birth record because of sex reassignment surgery, if the request is accompanied by a notarized statement from the physician who performed the sex reassignment surgery or from a physician licensed to practice medicine who has examined the individual and can certify that the person has undergone sex reassignment surgery.

(c) A new birth certificate issued under subsection (b) may reflect a change in surname when:

- (1) A child is legitimated by subsequent marriage and the parents agree and request that the child's surname be changed; or
- (2) A child is legitimated under G.S. 49-10 and the parents agree and request that the child's surname be changed, or the court orders a change in surname after determination that the change is in the best interests of the child.

(d) For the amendment of a certificate of birth or death after its acceptance for filing, or for the making of a new certificate of birth under this Article, the State Registrar shall be entitled to a fee not to exceed seven dollars and fifty cents (\$7.50) to be paid by the applicant.

(e) When a new certificate of birth is made, the State Registrar shall substitute the new certificate for the certificate of birth then on file, and shall forward a copy of the new certificate to the register of deeds of the county of birth. The copy of the certificate of birth on file with the register of deeds, if any, shall be forwarded to the State Registrar within five days. The State Registrar shall place under seal the original

certificate of birth, the copy forwarded by the register of deeds and all papers relating to the original certificate of birth. The seal shall not be broken except by an order of a court of competent jurisdiction. Thereafter, when a certified copy of the certificate of birth of the person is issued, it shall be a copy of the new certificate of birth, except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth.

"§ 130A-119. Clerk of Court to furnish State Registrar with facts as to paternity of illegitimate children judicially determined.—Upon the entry of a judgment determining the paternity of an illegitimate child, the clerk of court of the county in which the judgment is entered shall notify the State Registrar in writing of the name of the person against whom the judgment has been entered, together with the other facts disclosed by the record as may assist in identifying the record of the birth of the child as it appears in the office of the State Registrar. If the judgment is modified or vacated, that fact shall be reported by the clerk to the State Registrar in the same manner. Upon receipt of the notification, the State Registrar shall record the information upon the birth certificate of the illegitimate child.

"§ 130A-120. Certification of birth dates furnished to veterans' organizations.—Upon application by any veterans' organization in this State in connection with junior or youth baseball, the State Registrar shall furnish certification of dates of birth without the payment of the fees prescribed in this Article.

"§ 130A-121 to 130A-123: Reserved for future codification purposes.

"ARTICLE 5.

"Maternal and Child Health.

"Part 1. In General.

"§ 130A-124. Department to establish maternal and child health program.—(a) The Department shall establish and administer a maternal and child health program for the delivery of preventive, diagnostic, therapeutic and rehabilitative health services to women of childbearing years, children and other persons who require these services. The program may include, but shall not be limited to, providing professional education and consultation, community coordination and direct care and counseling.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-125 to 130A-126: Reserved for future codification purposes.

"Part 2. Perinatal Health Care.

"§ 130A-127. Department to establish program.—(a) The Department shall establish and administer a perinatal health care program. The program may include, but shall not be limited to:

- (1) Prenatal health care services including health education and identification of high-risk pregnancies;
- (2) Prenatal, delivery and newborn health care services provided at hospitals participating at graduated levels of complexity; and
- (3) Regionalized perinatal health care services including a plan for effective communication, consultation, referral and transportation links among hospitals, health departments, physicians, schools and other

relevant community resources for mothers and infants at high risk for mortality and morbidity.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-128. Statewide advisory council.—The Secretary shall appoint a Perinatal Health Care Program Advisory Council composed of 10 members with representation as follows: obstetrics, pediatrics, public health, nursing, social services, hospital administration, consumers and other members. Members shall serve terms of three years except that members may be appointed for terms of less than three years to achieve a staggered term structure. The Council shall advise the Secretary in the planning, organization, administration and evaluation of the program. The Council shall annually elect a chairperson from among its members and shall meet at least quarterly and upon the request of the Secretary.

"§ 130A-129 to 130A-132: Reserved for future codification purposes.

"ARTICLE 6.

"Communicable Diseases.

"Part 1. In General.

"§ 130A-133. Definitions.—The following definitions shall apply throughout this Article:

(1) 'Communicable disease' means an illness due to an infectious agent or its toxic products which is transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host or vector, or through the inanimate environment.

(2) 'Isolation authority' means the authority to separate for the period of communicability, infected persons or animals in places and under conditions as will prevent the direct or indirect conveyance of the infectious agent from infected persons to other persons who are susceptible or who may spread the agent to others.

(3) 'Outbreak' means an occurrence of a case or cases of a disease in a locale in excess of the usual number of cases of the disease.

(4) 'Quarantine authority' means the authority to limit the freedom of movement of persons or animals which have been exposed to or are reasonably suspected of having been exposed to communicable disease for a period of time as may be necessary to prevent the spread of that disease. The term also means the authority to limit the freedom of movement of persons who have not received immunizations against a communicable disease listed in G.S. 130A-152 when the local health director determines that such immunizations are required to control an outbreak of that disease.

"§ 130A-134. Reportable diseases.—The Commission shall establish by rule a list of communicable diseases to be reported.

"§ 130A-135. Physician to report.—A physician licensed to practice medicine who has reason to suspect that a person about whom the physician has been consulted professionally has a disease declared by the Commission to be reported, shall within 24 hours report the name and address of the person to the local health director of the county or district in which the person is living at the time of consultation. If the person is a minor, the physician shall also notify the local health director of the name and address of the parent or guardian of the minor.

"§ 130A-136. School principals and day-care operators to report.—A principal of a school and an operator of a day-care facility, as defined in G.S. 110-86(3), shall notify the local health director of the county or district in which the school or facility is located of the name and address of any person within the school or day-care facility whom the principal, the operator or the staff has reason to suspect of having a disease declared by the Commission to be reported.

"§ 130A-137. Medical facilities may report.—A medical facility, in which there is a patient reasonably suspected of having a disease declared by the Commission to be reported, may report the name and address of the patient to the local health director of the county or district in which the patient is living.

"§ 130A-138. Local health directors to report to the Department.—A local health director shall report to the Department all cases of diseases reported to the local health director pursuant to this Article within 24 hours of the receipt of the report.

"§ 130A-139. Person in charge of laboratories to report positive tuberculosis tests.—(a) The person in charge of a bacteriological or pathological laboratory providing diagnostic service in this State shall report to the Department within seven days after diagnosis, the full name and other required information relating to the person whose sputa, gastric content or other specimens submitted for examination are smear positive for acid-fast bacilli or culture positive for mycobacterium tuberculosis. The report shall include the name and address of the physician or any person or agency referring the positive specimen for clinical diagnosis.

(b) The information contained in the reports required by subsection (a) shall be provided by the Department to local health departments for public health purposes.

"§ 130A-140. Physicians and others to report venereal disease cases and positive laboratory tests.—(a) The following persons shall report cases of venereal disease and positive laboratory tests for venereal disease to the local health director and they shall cooperate with the Department and local health departments in preventing the spread of venereal disease:

- (1) Any physician responsible for diagnosis or treatment or other person responsible for treatment of a patient with venereal disease.
- (2) An administrator of a hospital, dispensary or institution in which there is a patient or inmate with a venereal disease; and
- (3) The director of a laboratory performing a positive test for venereal disease.

(b) The local health director shall report to the Department all cases and positive laboratory tests for venereal disease reported pursuant to subsection (a) within 24 hours of the receipt of the report.

"§ 130A-141. Form and content of reports.—The Commission is authorized to adopt rules prescribing the form and content of reports required by this Article, and establishing the manner of making the reports.

"§ 130A-142. Immunity of persons who report.—A person who makes a report pursuant to the provisions of this Article shall be immune from any civil or criminal liability that might otherwise be incurred or imposed.

"§ 130A-143. Confidentiality of records.—(a) The reports made to a local health director or the Department pursuant to the provisions of this Article shall be confidential and shall not be public records open to inspection. The Commission shall provide by rule for the use of the reports for medical research. The local health director and the Department may release statistical information based upon the reports.

(b) No employee or officer of any State or local agency shall make an unauthorized release of the information contained in reports made pursuant to the provisions of this Article.

"§ 130A-144. Control measures.—(a) A person who has a disease declared by the Commission to be reported, and any householder in whose family or home there is a person who has a reportable disease, shall comply with instructions given by an attending physician or, if there is no attending physician, by the local health director, as to proper control measures for the disease as established by the rules of the Commission. It shall be the duty of the attending physician or local health director to give the required instructions.

(b) The Commission shall adopt rules regarding proper control measures for the reportable diseases.

"§ 130A-145. Local health director has quarantine and isolation authority.—The local health director is empowered to exercise quarantine authority and isolation authority within the jurisdiction of the local health department.

"§ 130A-146. Transportation of bodies of persons who have died of reportable diseases.—No person shall transport in this State the remains of any person who has died of a disease declared by the Commission to be reported until the body has been encased in a manner as prescribed by rule by the Commission. Only persons who have complied with the rules of the Commission concerning the removal of dead bodies shall be issued a burial-transit permit.

"§ 130A-147. Rules of the Commission.—For the protection of the public health, the Commission is authorized to adopt rules for the detection, control and prevention of communicable diseases.

"§ 130A-148 to 130A-151: Reserved for future codification purposes.

"Part 2. Immunization.

"§ 130A-152. Immunization required.—(a) Every child present in this State shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola) and rubella. In addition, every child present in this State shall be immunized against any other disease upon a determination by the Commission that the immunization is in the interest of the public health. Every parent, guardian, person in loco parentis and person or agency, whether governmental or private, with legal custody of a child shall have the responsibility to ensure that the child has received the required immunization at the age required by the Commission. If a child has not received the required immunizations by the specified age, the responsible person shall obtain the required immunization for the child as soon as possible after the lack of the required immunization is determined.

(b) A child who has been immunized for measles prior to attaining 12 months of age shall be required to obtain a second measles immunization after the child has attained 12 months of age in order to satisfy the requirement of subsection (a).

(c) The Commission shall adopt and the Department shall enforce rules concerning the implementation of the immunization program. The rules shall provide for:

- (1) The child's age at administration of each vaccine;
- (2) The number of doses of each vaccine;
- (3) Exemptions from the immunization requirements where medical practice suggests that immunization would not be in the best health interests of a specific category of children;
- (4) The procedures and practices for administering the vaccine; and
- (5) Redistribution of vaccines provided to local health departments.

(d) Only vaccine preparations which meet the standards of the United States Food and Drug Administration or its successor in licensing vaccines and are approved for use by the Commission may be used.

"§ 130A-153. Obtaining immunization; reporting by local health departments.—(a) The required immunization may be obtained from a physician licensed to practice medicine or from a local health department. Local health departments shall administer the required immunizations at no cost to the patient. The Department shall provide the vaccines for use by the local health departments. A local health department may redistribute these vaccines only in accordance with the rules of the Commission.

(b) Local health departments shall file monthly immunization reports with the Department. The report shall be filed on forms prepared by the Department and shall state each patient's age and the number of doses of each type of vaccine administered.

"§ 130A-154. Certificate of Immunization.—A physician or local health department administering a required vaccine shall give a certificate of immunization to the person who presented the child for immunization. The certificate shall state the name of the child, the name of the child's parent, guardian, or person responsible for the child obtaining the required immunization, the address of the child and the parent, guardian or responsible person, the date of birth of the child, the sex of the child, the number of doses of the vaccine given, the date the doses were given, the name and address of the physician or local health department administering the required immunization and other relevant information required by the Commission.

"§ 130A-155. Submission of certificate to day-care facility and school authorities; record maintenance; reporting.—(a) No child shall attend a school (K-12), whether public, private or religious, or a day-care facility as defined in G.S. 110-86(3), unless a certificate of immunization indicating that the child has received the immunizations required by G.S. 130A-152 is presented to the school or facility. The parent, guardian, or responsible person must present a certificate of immunization on the child's first day of attendance to the principal of the school or operator of the facility, as defined in G.S. 110-86(7). If a certificate of immunization is not presented on the first day, the principal or operator shall present a notice of deficiency to the parent, guardian or responsible person. The parent, guardian or responsible person shall have 30 calendar days from the

first day of attendance to obtain the required immunization for the child. If the administration of vaccine in a series of doses given at medically approved intervals requires a period in excess of 30 calendar days, additional days upon certification by a physician may be allowed to obtain the required immunization. Upon termination of 30 calendar days or the extended period, the principal or operator shall not permit the child to attend the school or facility unless the required immunization has been obtained.

(b) The school or day-care facility shall maintain on file immunization records for all children attending the school or facility which contain the information required for a certificate of immunization as specified in G.S. 130A-154. These certificates shall be open to inspection by the Department and the local health department during normal business hours. When a child transfers to another school or facility, the school or facility which the child previously attended shall, upon request, send a copy of the child's immunization record at no charge to the school or facility to which the child has transferred.

(c) Within 60 calendar days after the commencement of a new school year, the school shall file an immunization report with the Department. The day-care facility shall file an immunization report annually with the Department. The report shall be filed on forms prepared by the Department and shall state the number of children attending the school or facility, the number of children who had not obtained the required immunization within 30 days of their first attendance, the number of children who received a medical exemption and the number of children who received a religious exemption.

(d) Any adult who attends school (K-12), whether public, private or religious, shall obtain the immunizations required in G.S. 130A-152 and shall present to the school a certificate in accordance with this section. The physician or local health department administering a required vaccine to the adult shall give a certificate of immunization to the person. The certificate shall state the person's name, address, date of birth and sex; the number of doses of the vaccine given; the date the doses were given; the name and addresses of the physician or local health department administering the required immunization; and other relevant information required by the Commission.

"§ 130A-156. Medical\exemption.—If a physician licensed to practice medicine in this State certifies that an immunization required by G.S. 130A-152 is or may be detrimental to a person's health, the person is not required to receive the specified immunization until the physician certifies that the immunization will not be detrimental to the person's health.

"§ 130A-157. Religious\exemption.—If the bona fide religious beliefs of an adult or the parent, guardian or person in loco parentis of a child are contrary to the immunization requirements contained in this Part, the adult or the child shall be exempt from the requirements. Upon submission of a written statement of the bona fide religious beliefs and opposition to the immunization requirements, the person may attend the school or facility without presenting a certificate of immunization.

"§ 130A-158 to 130A-159: Reserved for future codification purposes.

"Part 3. Venereal Disease.

"§ 130A-160. Commission to adopt rules.—For the protection of the public health, the Commission shall adopt rules for the purpose of preventing, controlling, treating and eradicating venereal disease.

"§ 130A-161. Venereal disease definition.—For the purposes of this Part, venereal disease includes syphilis, gonorrhea, chancroid, granuloma inguinale, lymphogranuloma venereum and any other sexually transmitted disease that the Commission determines is or may be controllable and for which the Commission requires reporting.

"§ 130A-162. Venereal disease examination, treatment and investigation.—The Secretary or the local health director shall require a person reasonably suspected of being infected with venereal disease to be examined immediately. The Secretary or the local health director may detain these persons until the results of the examination are known, and isolate any person infected with venereal disease when it is necessary to protect the public health. A person infected or reasonably suspected of being infected with venereal disease shall report for treatment to a physician licensed to practice medicine or to the local health department until the disease is cured. The local health department shall provide the examination and treatment at no cost to the patient. The Secretary or the local health director shall interview all persons infected or reasonably suspected of being infected with venereal disease and shall investigate the sources of infection and the spread of venereal disease.

"§ 130A-163. Confidentiality of venereal disease information and\records.—Except as necessary to enforce the provisions of this Part and its rules concerning the control and treatment of venereal disease, all personally identifiable information or records held by the Department, local health departments or licensed physicians relating to known or suspected cases of venereal disease shall be confidential and shall not be public records. However, all suspected cases of abused juveniles shall be reported in accordance with Article 44 of Chapter 7A of the General Statutes and information or records held by the Department, local health departments or licensed physicians shall be admissible in any judicial proceeding in which a juvenile's abuse or neglect is in issue or in any judicial proceeding resulting from a report submitted under Article 44 of Chapter 7A of the General Statutes if the material is disclosed in camera.

"§ 130A-164. Certification of laboratories to perform serological tests for syphilis.—For the protection of the public health, the Commission shall adopt rules establishing standards for the certification of laboratories to perform serological tests for syphilis required by G.S. 130A-165. The rules shall address, but not be limited to, proficiency testing, record maintenance and adequate staffing.

"§ 130A-165. Pregnant women to have test for syphilis.—Every pregnant woman shall have a blood sample taken during pregnancy and submitted to a laboratory certified by the Department for performing serological or other tests for syphilis. The physician attending a pregnant woman shall ensure that the required blood sample is taken and submitted.

"§ 130A-166. Birth and fetal death certificates to contain information as to tests.—A person required by G.S. 130A-101 and G.S. 130A-114 to report a birth or a fetal death shall state on the birth or fetal death certificate whether the mother of the child was given a blood test for syphilis during pregnancy or at delivery.

"§ 130A-167 to 130A-170: Reserved for future codification purposes.

"Part 4. Inflammation of Eyes of Newborn.

"§ 130A-171. Inflammation of eyes of newborn defined.—For the purposes of this Part, 'inflammation of the eyes of the newborn' (ophthalmia neonatorum) means any swelling or unusual redness in either or both eyes occurring in a newborn infant within three weeks after birth.

"§ 130A-172. Inflammation of eyes of newborn to be reported.—A person attending or assisting in any way a newborn infant or its mother at childbirth or within three weeks after birth shall report immediately to the local health director of the county in which the newborn resides the name of any newborn with inflammation of the eyes. The local health director shall ensure that the infant receives appropriate treatment by a physician licensed to practice medicine.

"§ 130A-173. Eyes of all newborn infants to be treated; records.—A person in attendance at a childbirth shall immediately instill or have instilled in the eyes of the newborn a medication approved by the Commission for prevention of infection of the eyes of the newborn. A person in attendance at a childbirth or an administrator of the institution in which a birth occurs shall prepare records concerning treatment or inflammation of the eyes of the newborn as the Department shall direct.

"§ 130A-174. Duties of the Commission and local health directors for the treatment of the newborn.—The Commission shall adopt rules for the treatment of the eyes of the newborn. A local health director shall investigate reported cases of inflammation, all contacts necessary to trace the source of the infection and other suspected cases. A local health director shall report all confirmed cases of inflammation of eyes of the newborn and the results of investigations as directed by the Department and shall enforce the rules of the Commission.

"§ 130A-175 to 130A-176: Reserved for future codification purposes.

"Part 5. Tuberculosis.

"§ 130A-177. Department to establish program.—(a) The Department shall establish and administer a program for the detection and prevention of tuberculosis and the treatment of persons with tuberculosis. The program may include:

- (1) Contracts with medical facilities to provide for the care and treatment of tuberculosis patients who meet the eligibility requirements established by the Commission;
- (2) Contracts with medical facilities for the purpose of renovating facilities to meet airflow requirements necessary for the treatment of tuberculosis patients;
- (3) Contracts with local health departments for the purpose of improving the treatment and care of tuberculosis patients, suspects and contacts;
- (4) Provision of anti-tuberculosis drugs, skin test antigens and other pharmaceutical agents to local health departments; and
- (5) Provision of clinician, nursing and radiologic technology consultation services to local health departments, hospitals and physicians for the

purpose of improving the detection and prevention of tuberculosis and the treatment of persons with tuberculosis.

(6) Operation of medical facilities for the diagnosis and treatment of tuberculosis.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-178. Examination, treatment and investigation.—(a) A local health director shall require a person reasonably suspected of being infected with tuberculosis to be examined immediately. The local health director may detain the person until the results of the examination are known, and isolate any person who is reasonably suspected of being infected with tuberculosis in a communicable stage when it is necessary to protect the public health. Persons with tuberculosis shall report for treatment to a physician licensed to practice medicine or to the local health department and shall continue treatment until the disease is cured. The local health director shall also instruct the person concerning the precautions necessary to protect other persons from becoming infected, assist the person in obtaining the required treatment and monitor progress. The local health department shall provide the examination and treatment at no cost to the patient.

(b) A local health director shall interview persons infected or reasonably suspected of being infected with tuberculosis in order to identify other persons likely to be infected.

(c) A person found to have tuberculosis shall follow the instructions of the local health director, shall obtain the required treatment and shall minimize the risk of infecting others with tuberculosis.

"§ 130A-179. Authority of local health directors to examine medical records.—(a) Physicians and persons in charge of medical facilities shall, upon request, permit a local health director to examine, review and obtain a copy of medical records in their possession or under their control which pertain to the diagnosis or treatment of a person infected or reasonably suspected of being infected with tuberculosis.

(b) A physician or a person in charge of a medical facility who permits examination, review or copying of medical records pursuant to subsection (a) shall be immune from any civil or criminal liability that otherwise might be incurred or imposed.

(c) The information provided to a local health director pursuant to subsection (a) shall be confidential and shall not be public records open to inspection.

"§ 130A-180 to 130A-183: Reserved for future codification purposes.

"Part 6. Rabies.

"§ 130A-184. Definitions.—The following definitions shall apply throughout this Part:

(1) 'Animal Control Officer' means a city or county employee designated as dog warden, animal control officer, animal control official or other designations that may be used whose responsibility includes animal control.

(2) 'Cat' means a domestic feline.

(3) 'Certified rabies vaccinator' means a person appointed and certified to administer rabies vaccine to animals in accordance with this Part.

(4) 'Dog' means a domestic canine.

(5) 'Rabies vaccine' means an animal rabies vaccine licensed by the United States Department of Agriculture and approved for use in this State by the Commission.

(6) 'State Public Health Veterinarian' means a person appointed by the Secretary to direct the State public health veterinary program.

(7) 'Vaccination' means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

§ 130A-185. Vaccination of all dogs and cats.—(a) The owner of every dog and cat over four months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the Commission. Rabies vaccine shall be administered only by a licensed veterinarian or by a certified rabies vaccinator.

(b) Only animal rabies vaccine licensed by the United States Department of Agriculture and approved by the Commission shall be used on animals in this State.

§ 130A-186. Appointment and certification of certified rabies vaccinator.—In those counties where licensed veterinarians are not available to participate in all scheduled county rabies control clinics, the local health director shall appoint one or more persons for the purpose of administering rabies vaccine to animals in that county. Whether or not licensed veterinarians are available, the local health director may appoint one or more persons for the purpose of administering rabies vaccine to animals in their county and these persons will make themselves available to participate in the county rabies control program. The State Public Health Veterinarian shall provide at least four hours of training to those persons appointed by the local health director to administer rabies vaccine. Upon satisfactory completion of the training, the State Public Health Veterinarian shall certify in writing that the appointee has demonstrated a knowledge and procedure acceptable for the administration of rabies vaccine to animals. A certified rabies vaccinator shall be authorized to administer rabies vaccine to animals in the county until the appointment by the local health director has been terminated.

§ 130A-187. County rabies vaccination clinics.—The local health director shall organize or assist other county departments to organize quarterly countywide rabies vaccination clinics for the purpose of vaccinating dogs and cats. Public notice of the time and place of rabies vaccination clinics shall be published in a newspaper having general circulation within the area.

§ 130A-188. Fee for vaccination at county rabies vaccination clinics.—The county board of commissioners is authorized to establish a fee to be charged at the county rabies vaccination clinics. The fee shall include an administrative charge not to exceed four dollars (\$4.00) per vaccination, and a charge for the actual cost of the vaccine, the vaccination certificate, and the rabies vaccination tag.

§ 130A-189. Rabies vaccination certificates.—A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall complete a three-copy rabies vaccination certificate. The original rabies vaccination certificate shall be given to the owner of each dog or cat that receives rabies vaccine. One copy of the rabies vaccination certificate shall be retained by the licensed veterinarian or the certified rabies vaccinator. The other copy shall be given to the county agency responsible for animal control.

"§ 130A-190. Rabies vaccination tags.—A licensed veterinarian or a certified rabies vaccinator who administers rabies vaccine to a dog or cat shall issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag shall show the year issued, a vaccination number, the words 'North Carolina' or the initials 'N.C.' and the words 'rabies vaccine'. Dogs and cats shall wear rabies vaccination tags at all times. However, cats may be exempted from wearing the tags by local ordinance. Rabies vaccination tags, links and rivets may be obtained from the Department. The Secretary is authorized to establish by rule a fee for the rabies tags, links and rivets. The fee shall not exceed the actual cost of the rabies tags, links and rivets, plus transportation costs.

"§ 130A-191: Reserved for future codification purposes.

"§ 130A-192. Dogs and cats not wearing required rabies vaccination tags.—The Animal Control Officer shall canvass the county to determine if there are any dogs or cats not wearing the required rabies vaccination tag. If a dog or cat is found not wearing the required tag, the Animal Control Officer shall check to see if the owner's identification can be found on the animal. If the animal is wearing an owner identification tag, or if the Animal Control Officer otherwise knows who the owner is, the Animal Control Officer shall notify the owner in writing to have the animal vaccinated against rabies and to produce the required rabies vaccination certificate to the Animal Control Officer within three days of the notification. If the animal is not wearing an owner identification tag and the Animal Control Officer does not otherwise know who the owner is, the Animal Control Officer may impound the animal. The duration of the impoundment of these animals shall be established by the county board of commissioners, but the duration shall not be less than 72 hours. During the impoundment period, the Animal Control Officer shall make a reasonable effort to locate the owner of the animal. If the animal is not reclaimed by its owner during the impoundment period, the animal shall be disposed of in one of the following manners: returned to the owner; adopted as a pet by a new owner; sold to institutions within this State registered by the United States Department of Agriculture pursuant to the Federal Animal Welfare Act, as amended; or put to death by a procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or of the American Humane Association. The Animal Control Officer shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom any animal has been released.

"§ 130A-193. Vaccination and confinement of dogs and cats brought into this State.—(a) A dog or cat brought into this State shall immediately be securely confined and shall be vaccinated against rabies within one week after entry. The animal shall remain confined for two weeks after vaccination.

(b) The provisions of subsection (a) shall not apply to:

- (1) A dog or cat brought into this State for exhibition purposes if the animal is confined and not permitted to run at large; or
- (2) A dog or cat brought into this State accompanied by a certificate issued by a licensed veterinarian showing that the dog or cat is

apparently free from and has not been exposed to rabies and that the dog or cat has received rabies vaccine within the past year.

"§ 130A-194. Quarantine of districts infected with rabies.—An area may be declared under quarantine against rabies by the local health director when the disease exists to the extent that the lives of persons are endangered. When quarantine is declared, each dog and cat in the area shall be confined on the premises of the owner or in a veterinary hospital. However, dogs or cats on a leash or under the control and in the sight of a responsible adult may be permitted to leave the premises of the owner or the veterinary hospital.

"§ 130A-195. Destroying stray dogs and cats in quarantine districts.—When quarantine has been declared and dogs and cats continue to run uncontrolled in the area, any peace officer or Animal Control Officer shall have the right, after reasonable effort has been made to apprehend the animals, to destroy the uncontrolled dogs and cats and properly dispose of their bodies.

"§ 130A-196. Confinement of all biting dogs and cats: notice to local health director; reports by physicians.—When a person has been bitten by a dog or cat, the person or parent, guardian or person standing in loco parentis of the person, and the person owning the animal or in control or possession of the animal shall notify the local health director immediately and give the name and address of the person bitten and the owner of the animal. All dogs and cats that bite a person shall be immediately confined for 10 days in a place designated by the local health director. If the owner or the person who controls or possesses a dog or cat that has bitten a person refuses to confine the animal as required by this section, the local health director may order seizure of the animal and its confinement for 10 days at the expense of the owner. A physician who attends a person bitten by an animal known to be a potential carrier of rabies shall report within 24-hours to the local health director the name, age and sex of that person.

"§ 130A-197. Infected dogs and cats to be destroyed; protection of vaccinated dogs and cats.—A dog or cat bitten by a proven rabid animal or animal suspected of having rabies that is not available for laboratory diagnosis shall be destroyed immediately by its owner, the county Animal Control Officer or a peace officer unless the dog or cat has been vaccinated against rabies in accordance with this Part and the rules of the Commission more than three weeks prior to being bitten, and is given a booster dose of rabies vaccine within three days of the bite.

"§ 130A-198. Confinement.—A person who owns or has possession of an animal which is suspected of having rabies shall immediately notify the local health director or county Animal Control Officer and shall securely confine the animal in a place designated by the local health director. Dogs and cats shall be confined for a period of 10 days. Other animals may be destroyed at the discretion of the State Public Health Veterinarian.

"§ 130A-199. Rabid animals to be destroyed: heads to be sent to State Laboratory of Public Health.—An animal diagnosed as having rabies by a licensed veterinarian shall be destroyed and its head sent to the State Laboratory of Public Health. The heads of all dogs and cats that die during the 10-day confinement period required by G.S. 130A-196, shall be immediately sent to the State Laboratory of Public Health for rabies diagnosis.

"§ 130A-200. Confinement or leashing of vicious animals.—A local health director may declare an animal to be vicious and a menace to the public health when the animal has attacked a person causing bodily harm without being teased, molested, provoked, beaten, tortured or otherwise harmed. When an animal has been declared to be vicious and a menace to the public health, the local health director shall order the animal to be confined to its owner's property. However, the animal may be permitted to leave its owner's property when accompanied by a responsible adult and restrained on a leash.

"§ 130A-201 to 130A-204: Reserved for future codification purposes.

"ARTICLE 7.

"Chronic Disease.

"Part 1. Cancer.

"§ 130A-205. Administration of program; rules.—(a) The Department shall establish and administer a program for the prevention and detection of cancer and the care and treatment of persons with cancer.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-206. Financial aid for diagnosis and treatment.—The Department shall provide financial aid for diagnosis and treatment of cancer to indigent citizens of this State having or suspected of having cancer. The Department may make facilities for diagnosis and treatment of cancer available to all citizens. Reimbursement shall only be provided for diagnosis and treatment performed in a medical facility which meets the minimum requirements for cancer control established by the Commission. The Commission shall adopt rules specifying the terms and conditions by which the patients may receive financial aid.

"§ 130A-207. Cancer clinics.—The Department is authorized to provide financial aid to sponsored cancer clinics in medical facilities and local health departments. The Commission shall adopt rules to establish minimum standards for the staffing, equipment and operation of the clinics sponsored by the Department.

"§ 130A-208. Central cancer registry.—A central cancer registry is established within the Department. The central cancer registry shall compile, tabulate and preserve statistical, clinical and other reports and records relating to the incidence, treatment and cure of cancer received pursuant to this Part. The central cancer registry shall provide assistance and consultation for public health work.

"§ 130A-209. Incidence reporting of cancer.—A physician shall report to the central cancer registry each diagnosis of cancer in any person for whom the physician is professionally consulted. The reports shall be made within 60 days of diagnosis. Diagnostic, demographic and other information as prescribed by the rules of the Commission shall be included in the report.

"§ 130A-210. Medical facilities may report.—A medical facility may submit to the central cancer registry clinical, statistical and other records relating to the treatment and cure of cancer.

"§ 130A-211. Immunity of persons who report cancer.—A person who makes a report pursuant to G.S. 130A-209 or G.S. 130A-210 to the central cancer registry shall be immune from any civil or criminal liability that might otherwise be incurred or imposed.

"§ 130A-212. Confidentiality of records.—The clinical records or reports of individual patients shall be confidential and shall not be public records open to inspection. The Commission shall provide by rule for the use of the records and reports for medical research.

"§ 130A-213. Cancer Committee of the North Carolina Medical Society.—In implementing this Part, the Department shall consult with the Cancer Committee of the North Carolina Medical Society. The Committee shall consist of at least one physician from each congressional district. Any proposed rules or reports affecting the operation of the cancer control program shall be reviewed by the Committee for comment prior to adoption.

"§ 130A-214. Duties of Department.—The Department shall study the entire problem of cancer including its causes, including environmental factors; prevention; detection; diagnosis and treatment. The Department shall provide or assure the availability of cancer educational resources to health professionals, interested private or public organizations and the public.

"§ 130A-215. Reports.—The Secretary shall make a report to the Governor and the General Assembly specifying the activities of the cancer control program and its budget. The report shall be made to the Governor annually and to the General Assembly biennially.

"§ 130A-216 to 130A-219: Reserved for future codification purposes.

"Part 2. Chronic Renal Disease.

"§ 130A-220. Department to establish program.—(a) The Department shall establish and administer a program for the detection and prevention of chronic renal disease and the care and treatment of persons with chronic renal disease. The program may include:

- (1) Development of services for the prevention of chronic renal disease;
- (2) Development and expansion of services for the care and treatment of persons with chronic renal disease, including techniques which will have a lifesaving effect in the care and treatment of those persons;
- (3) Provision of financial assistance on the basis of need for diagnosis and treatment of persons with chronic renal disease;
- (4) Equipping dialysis and transplantation centers; and
- (5) Development of an education program for physicians, hospitals, local health departments and the public concerning chronic renal disease.

(b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 3. Glaucoma and Diabetes.

"§ 130A-221. Department to establish program.—(a) The Department shall establish and administer a program for the detection and prevention of glaucoma and diabetes and the care and treatment of persons with glaucoma and diabetes. The program may include:

- (1) Education of patients, health care personnel and the public;
- (2) Development and expansion of services to persons with glaucoma and diabetes; and

- (3) Provision of supplies, equipment and medication for detection and control of glaucoma and diabetes.
- (b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 4. Arthritis.

"§ 130A-222. Department to establish program.—(a) The Department shall establish and administer a program for the detection and prevention of arthritis and the care and treatment of persons with arthritis. The purpose of the program shall be:

- (1) To improve professional education for physicians and allied health professionals including nurses, physical and occupational therapists and social workers;
- (2) To conduct programs of public education and information;
- (3) To provide detection and treatment programs and services for the at-risk population of this State;
- (4) To utilize the services available at the State medical schools, existing arthritis rehabilitation centers and existing local arthritis clinics and agencies;
- (5) To develop an arthritis outreach clinical system;
- (6) To develop and train personnel at clinical facilities for diagnostic work-up, laboratory analysis and consultations with primary physicians regarding patient management; and
- (7) To develop the epidemiologic studies to determine frequency and distribution of the disease.

- (b) The Commission is authorized to adopt rules necessary to implement the program.

"Part 5. Adult Health.

"§ 130A-223. Department to establish program.—(a) The Department shall establish and administer a program for the prevention of diseases, disabilities and accidents that contribute significantly to mortality and morbidity among adults. The program may also provide for the care and treatment of persons with these diseases or disabilities.

- (b) The Commission is authorized to adopt rules necessary to implement the program.

"§ 130A-224 to 130A-226: Reserved for future codification purposes.

"ARTICLE 8.

"Sanitation.

"Part 1. General.

"§ 130A-227. Department to establish program.—For the purpose of promoting a safe and healthful environment and developing corrective measures required to minimize environmental health hazards, the Department shall establish a sanitation program. The Department shall employ environmental engineers, sanitarians, soil scientists and other scientific personnel necessary to carry out the sanitation provisions of this Chapter and the rules of the Commission.

"Part 2. Meat Markets.

"§ 130A-228. Regulation of places selling meat.—For the protection of the public health, the Commission shall adopt rules governing the sanitation of markets where meat food products (as defined in G.S. 106-549.15(14)) or poultry products (as defined in G.S. 106-549.51 (26)) are prepared and sold. The rules shall also provide a system of grading the markets. A market shall satisfy the minimum sanitation requirements prescribed by the rules in order to operate. The rules shall include, but not be limited to, the establishment of sanitation requirements concerning the preparation and storage of all food at the markets; construction and cleanliness of the building, equipment and utensils; water supply; toilet and handwashing facilities; sewage collection, treatment and disposal facilities; disposal of waste; lighting and ventilation; vermin control; and health of employees.

"§ 130A-229. Application of Part.—The provisions of this Part shall not apply to markets where meat food products or poultry products are prepared and sold and which are under continuous inspection by the North Carolina Department of Agriculture or the United States Department of Agriculture.

"Part 3. Sanitation of Scallops, Shellfish and Crustacea.

"§ 130A-230. Commission to adopt rules; enforcement of rules.—For the protection of the public health, the Commission shall adopt rules establishing sanitation requirements for the harvesting, processing and handling of scallops, shellfish and crustacea of in-State origin. The rules of the Commission may also regulate scallops, shellfish and crustacea shipped into North Carolina. The Department is authorized to enforce the rules and may issue and revoke permits according to the rules.

"§ 130A-231. Agreements between Department of Human Resources and Department of Natural Resources and Community Development.— Nothing in this Part is intended to limit the authority of the Department of Natural Resources and Community Development to regulate aspects of the harvesting, processing and handling of scallops, shellfish and crustacea relating to conservation of the fisheries resources of the State. The Department of Human Resources and the Department of Natural Resources and Community Development are authorized to enter into agreements respecting the duties and responsibilities of each agency as to the harvesting, processing and handling of scallops, shellfish and crustacea.

"§ 130A-232 to 130A-234: Reserved for future codification purposes.

"Part 4. Institutions and Schools.

"§ 130A-235. Regulation of sanitation in institutions.—For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for hospitals, psychiatric hospitals, nursing homes, domiciliary homes, residential care facilities, educational institutions and other facilities where patients, residents or students are provided room or board. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10).

"§ 130A-236. Regulation of sanitation in schools.—For the protection of the public health, the Commission shall adopt rules to establish sanitation requirements for public, private and religious schools. The rules shall address, but not be limited to, the cleanliness of floors, walls, ceilings, storage spaces and other areas; adequacy of

lighting, ventilation, water supply, toilet and lavatory facilities; sewage collection, treatment and disposal facilities; and solid waste disposal. The Department shall inspect schools at least annually. The Department shall submit written inspection reports of public schools to the Department of Public Education and written inspection reports of private and religious schools to the Department of Administration.

"§ 130A-237. Inspections, reports, corrective action.—A principal or administrative head of a public, private or religious school shall inspect the facility every month to monitor the level of sanitation and to assure compliance with the sanitation rules. A principal or administrative head shall immediately take action to correct conditions which do not satisfy the sanitation rules. Sample inspection report forms may be obtained from the Department upon request.

"Part 5. Migrant Housing.

"§ 130A-238. Definitions.—The following definitions shall apply throughout this Part:

(1) 'Crew leader' means the individual who negotiates or manages the contract for employment of migrants or is recognized by the migrants as the leader.

(2) 'Migrant' means an agricultural worker, including a person who works in food processing operations, and a worker's dependents who travel and stay overnight in response to the demand for seasonal agricultural labor.

(3) 'Migrant housing' means one or more buildings or structures, tents, trailers or vehicles, together with the appurtenant land, that are established, operated or used as living quarters for 13 or more migrants.

"§ 130A-239. Commission to regulate sanitary conditions of migrant housing.—For the protection of the public health, the Commission shall adopt rules concerning the sanitation and safety of migrant housing. The rules shall include, but not be limited to:

(1) The issuance of a permit by the Department before migrant housing may be occupied or caused to be occupied;

(2) The establishment of an inspection system for migrant housing. No less than one inspection per year during occupancy of the migrant housing shall be required;

(3) The establishment of requirements for the sanitation and safety of migrant housing including, but not limited to, the site; structures; water supply; sewage collection, treatment and disposal facilities; toilet facilities; laundry facilities; handwashing and bathing facilities; lighting; solid waste disposal facilities; and kitchen and dining facilities. The rules shall also provide for insect and rodent control; provision of first aid; reporting of communicable disease and any other items as are necessary in the interest of public health.

"§ 130A-240. Permit for migrant housing; posting.—No person shall cause migrant housing to be occupied unless a valid permit has been obtained from the Department and is posted at the site of the migrant housing.

"§ 130A-241. Inspection and reports.—The Department is authorized to enter and inspect any migrant housing which is, will be or has been occupied. Every person responsible for the management or control of migrant housing shall render all assistance necessary to enable the Department to make a full, thorough and complete inspection of the housing. The Department shall leave a copy of the inspection report with the responsible person.

storage and serving; health of employees; and animal and vermin control. The rules shall contain a system for grading facilities, such as Grade A, Grade B and Grade C.

(b) No facility shall commence or continue operation that does not have a permit issued by the Department. The permit shall be issued to the owner or operator of the facility and shall not be transferable. A permit shall be issued only when the facility satisfies all of the requirements of the rules. A permit shall be revoked for failure of the facility to maintain a minimum grade of C, and a permit may be revoked for failure to comply with the other provisions of the rules where an imminent health hazard may exist.

"§ 130A-249. Inspections; report and grade card.—The Secretary may enter any facility where food or drink is prepared or served for pay or where lodging is provided for pay for the purpose of making inspections. The person responsible for the management or control of a facility shall permit the Secretary to inspect every part of the facility and shall render all aid and assistance necessary for the inspection. The Secretary shall leave a copy of the inspection form and a card showing the grade of the facility with the responsible person. The Secretary shall post the grade card in a conspicuous place as determined by the Secretary where it may be readily observed by the public upon entering the facility. The grade card shall not be removed by anyone, except by or upon the instruction of the Secretary.

"§ 130A-250. Exemptions.—This Part shall not apply to: (1) facilities which provide food or lodging to regular boarders or permanent house guests only; (2) private clubs; and (3) occasional fund-raising events conducted by the same person no more frequently than two consecutive days every three months. A food or drink stand operated for two weeks or less shall comply with the rules but shall not be subject to grading. A mobile food unit or pushcart shall comply with the rules and shall be operated in conjunction with a permitted restaurant but shall not be subject to grading.

"Part 7. Mass Gatherings.

"§ 130A-251. Legislative intent and purpose.—The intent and purpose of this Part is to provide for the protection of the public health, safety and welfare of those persons in attendance at mass gatherings and of those persons who reside near or are located in proximity to the sites of mass gatherings or are directly affected by them.

"§ 130A-252. Definition of mass gathering.—For the purposes of this Part, 'mass gathering' means a congregation or assembly of more than 5,000 people in an open space or open air for a period of more than 24 hours. A mass gathering shall include all congregations and assemblies organized or held for any purpose, but shall not include assemblies in permanent buildings or permanent structures designed or intended for use by a large number of people. To determine whether a congregation or assembly extends for more than 24 hours, the period shall begin when the people expected to attend are first permitted on the land where the congregation or assembly will be held and shall end when the people in attendance are expected to depart. To determine whether a congregation or assembly shall consist of more than 5,000 people, the number reasonably expected to attend, as determined from the promotion, advertisement and preparation for the congregation or assembly and from the attendance at prior congregations or assemblies of the same type, shall be considered.

"§ 130A-253. Permit required; information report; revocation of permit.—(a) No person shall organize, sponsor or hold any mass gathering unless a permit has been issued to the person by the Secretary under the provisions of this Part. A permit shall be required for each mass gathering and is not transferable.

(b) A permit may be revoked by the Secretary at any time if the Secretary finds that the mass gathering is being or has been maintained or operated in violation of this Part. A permit may be revoked upon the request of the permittee or upon abandonment of the operation. A permit will otherwise expire upon satisfactory completion of the post-gathering cleanup following the close of the mass gathering.

(c) The Secretary, upon information that a congregation or assembly of people which may constitute a mass gathering is being organized or promoted, may direct the organizer or promoter to submit within five calendar days an information report to the Department. The report shall contain the information required for an application for permit under G.S. 130A-254(b) and other information concerning the promotion, advertisement and preparation for the congregation or assembly and prior congregations or assemblies, as the Secretary deems necessary. The Secretary shall consider all available information including any report received and shall determine if the proposed congregation or assembly is a mass gathering. If the Secretary determines that a proposed congregation or assembly is a mass gathering, the Secretary shall notify the organizer or promoter to submit an application for permit at least 30 days prior to the commencement of the mass gathering.

"§ 130A-254. Application for permit.—(a) Application for a permit for a mass gathering shall be made to the Secretary on a form and in a manner prescribed by the Secretary. The application shall be filed with the Secretary at least 30 days prior to the commencement of the mass gathering. A fee as prescribed by the Secretary, not to exceed one hundred dollars (\$100.00), shall accompany the application.

(b) The application shall contain the following information: identification of the applicant; identification of any other person or persons responsible for organizing, sponsoring or holding the mass gathering; the location of the proposed mass gathering; the estimated maximum number of persons reasonably expected to be in attendance at any time; the date or dates and the hours during which the mass gathering is to be conducted; and a statement as to the total time period involved.

(c) The application shall be accompanied by an outline map of the area to be used, to approximate scale, showing the location of all proposed and existing privies or toilets; lavatory and bathing facilities; all water supply sources including lakes, ponds, streams, wells and storage tanks; all areas of assemblage; all camping areas; all food service areas; all garbage and refuse storage and disposal areas; all entrances and exits to public highways; and emergency ingress and egress roads.

(d) The application shall be accompanied by additional plans, reports and information required by the Secretary as necessary to carry out the provisions of this Part.

(e) A charge shall be levied by the Secretary to cover the cost of additional services, including police, fire and medical services, provided by the State or units of local government on account of the mass gathering. The Secretary shall reimburse the

State or the units of local government for the additional services upon receipt of payment.

"§ 130A-255. Provisional permit; performance bond; liability insurance.—(a) Within 15 days after the receipt of the application, the Secretary shall review the application and inspect the proposed site for the mass gathering. If it is likely that the requirements of this Part and the rules of the Commission can be met by the applicant, a provisional permit shall be issued.

(b) The Secretary shall require the permittee within five days after issuance of the provisional permit to file with the Secretary a performance bond or other surety to be executed to the State in the amount of five thousand dollars (\$5,000) for up to 10,000 persons and an additional one thousand dollars (\$1,000) for each additional 5,000 persons or fraction reasonably estimated to attend the mass gathering. The bond shall be conditioned on full compliance with this Part and the rules of the Commission and shall be forfeitable upon noncompliance and a showing by the Secretary of injury, damage or other loss to the State or local governmental agencies caused by the noncompliance.

(c) The permittee shall in addition file satisfactory evidence of public liability and property damage insurance in an amount determined by the Secretary to be reasonable, not to exceed one million dollars (\$1,000,000) in amount, in relation to the risks and hazards involved in the proposed mass gathering.

"§ 130A-256. Issuance of permit; revocation; forfeiture of bond; cancellation.—(a) If, upon inspection by the Secretary five days prior to the starting date of the mass gathering, or earlier upon request of the permittee, the required facilities are found to be in place, satisfactory arrangements are found to have been made for required services, the charge for additional services levied in accordance with G.S. 130A-254(e) has been paid and other applicable provisions of this Part and the rules of the Commission are found to have been met, the Secretary shall issue a permit for the mass gathering. If, upon inspection, the facilities, arrangements or other provisions are not satisfactory, the provisional permit shall be revoked and no permit shall be issued.

(b) Upon revocation of either the provisional permit or the permit, the permittee shall immediately announce cancellation of the mass gathering in as effective a manner as is reasonably possible including, but not limited to, the use or whatever methods were used for advertising or promoting the mass gathering.

(c) If the provisional permit or the permit is revoked prior to or during the mass gathering, the Secretary may order the permittee to install facilities and make arrangements necessary to accommodate persons who may nevertheless attend or be present at the mass gathering despite its cancellation and to restore the site to a safe and sanitary condition. In the event the permittee fails to comply with the order of the Secretary, the Secretary may immediately proceed to install facilities and make other arrangements and provisions for cleanup as may be minimally required in the interest of public health and safety, utilizing any State and local funds and resources as may be available.

(d) If the Secretary installs facilities or makes arrangements or provisions for cleanup pursuant to subsection (c), the Secretary may apply to a court of competent jurisdiction prior to or within 60 days after the action to order forfeiture of the

permittee's performance bond or surety for violation of this Part or the rules of the Commission. The court may order that the proceeds shall be applied to the extent necessary to reimburse State and local governmental agencies for expenditures made pursuant to the action taken by the Secretary upon the permittee's failure to comply with the order. Any excess proceeds shall be returned to the insurer of the bond or to the surety after deducting court costs.

"§ 130A-257. Rules of the Commission.—For the protection of the public health, safety and welfare of those attending mass gatherings and of other persons who may be affected by mass gatherings, the Commission shall adopt rules to carry out the provisions of this Part and to establish requirements for the provision of facilities and services at mass gatherings. The rules shall include, but not be limited to, the establishment of requirements as follows:

- (1) General requirements relating to minimum size of activity area including camping and parking space, distance of activity area from dwellings, distance from public water supplies and watersheds and an adequate command post for use by personnel of health, law enforcement and other governmental agencies;
- (2) Adequate ingress and egress roads, parking facilities and entrances and exits to public highways;
- (3) Plans for limiting attendance and crowd control, dust control and rapid emergency evacuation;
- (4) Medical care, including facilities, services and personnel;
- (5) Sanitary water supply, source and distribution; toilet facilities; sewage disposal; solid waste collection and disposal; food dispensing; insect and rodent control; and post-gathering cleanup; and
- (6) Noise level at perimeter; lighting and signs.

"§ 130A-258. Local ordinances not abrogated.—Nothing in this Part shall be construed to limit the authority of units of local government to adopt ordinances regulating, but not prohibiting, congregations and assemblies not covered by this Part.

"§ 130A-259 to 130A-260: Reserved for future codification purposes.

"Part 8. Bedding.

"§ 130A-261. Definitions.—The following definitions shall apply throughout this Part:

(1) 'Bedding' means any mattress, upholstered spring, sleeping bag, pad, comforter, cushion, pillow and any other item used principally for sleeping. This definition includes only those items which have a thickness of more than one inch. This definition also includes dual purpose furniture such as studio couches and sofa beds. The term 'mattress' does not include water bed liners, bladders or cylinders but does include padding or cushioning material which has a thickness of more than one inch.

(2) 'Itinerant vendor' means a person who sells bedding from a movable conveyance.

(3) 'Manufacture' means the making of bedding out of new materials.

(4) 'New material' means any material or article that has not been used for any other purpose and by-products of industry that have not been in human use.

(5) 'Previously used material' means any material of which previous use has been made, but manufacturing processes shall not be considered previous use.

(6) 'Renovate' means the reworking or remaking of used bedding or the making of bedding from previously used materials, except for the renovator's own personal use or the use of the renovator's immediate family.

(7) 'Sanitize' means treatment of secondhand bedding or previously used materials to be used in renovating for the destruction of pathogenic microorganisms and arthropods and the removal of dirt and filth.

(8) 'Secondhand bedding' means any bedding of which prior use has been made.

(9) 'Sell' or 'sold' means sell, have to sell, give away in connection with a sale, delivery or consignment; or possess with intent to sell, deliver or consign in sale.

"§ 130A-262. Sanitizing.—(a) No person shall sell any renovated bedding or secondhand bedding unless it is sanitized in accordance with rules adopted by the Commission.

(b) A sanitizing apparatus or process shall not be used for sanitizing bedding or material required to be sanitized under this Part until the apparatus is approved by the Department.

(c) A person who sanitizes bedding shall attach to the bedding a yellow tag containing information required by the rules of the Commission and shall affix to the bedding the adhesive stamp required by G.S. 130A-269.

(d) A person who sanitizes material or bedding for another person shall keep a complete record of the kind of material and bedding which has been sanitized. The record shall be subject to inspection by the Department.

(e) A person who receives used bedding for renovation or storage shall attach to the bedding a tag on which is legibly written the date of receipt and the name and address of the owner.

"§ 130A-263. Manufacture regulated.—All materials used in the manufacture of bedding in this State or used in manufactured bedding to be sold in this State shall be free of toxic materials and shall be made from new materials.

"§ 130A-264. Storage of used materials.—No establishment shall store any unsanitized previously used materials in the same room with bedding or materials that are new or have been sanitized unless the new or sanitized bedding or materials are completely segregated from the unsanitized materials in a manner approved by the rules of the Commission.

"§ 130A-265. Tagging requirements.—(a) A tag of durable material approved by the Commission shall be sewed securely to all bedding. The tag shall be at least two inches by three inches in size and shall have affixed to it the adhesive stamp or have a printed stamp exemption permit number provided for in G.S. 130A-269. The stamp shall be affixed so as not to interfere with the wording on the tag.

(b) The following shall be plainly stamped or printed upon the tag with ink in English:

- (1) The name and kind of material or materials used to fill the bedding which are listed in the order of their predominance;
- (2) A registration number obtained from the Department;

- (3) In letters at least one-eighth inch high the words 'made of new material', if the bedding contains no previously used material; or the words 'made of previously used materials', if the bedding contains any previously used material; or the word 'secondhand' on any bedding which has been used but not remade; and
- (4) A stamp exemption permit number when requirements of G.S. 130A-269 are met.

(c) A white tag shall be used for manufactured bedding and a yellow tag for renovated or sanitized bedding.

(d) The tag must be sewed to the outside covering before the filling material has been inserted. No trade name, advertisement nor any other wording shall appear on the tag.

"§ 130A-266. Altering tags prohibited.—No person, other than one purchasing bedding for personal use or a representative of the Department shall remove, deface or alter the tag required by this Part.

"§ 130A-267. Selling regulated.—(a) No person shall sell any bedding in this State (whether manufactured within or without this State) which has not been manufactured, tagged, labeled and stamped in the manner required by this Part and which does not otherwise comply with the provisions of this Part.

(b) This Part shall not apply to bedding sold by the owner and previous user from the owner's home directly to a purchaser for the purchaser's own personal use unless the bedding has been exposed to an infectious or communicable disease.

(c) Possession of any bedding in any store, warehouse, itinerant vendor's conveyance or place of business, other than a private home, hotel or other place where these articles are ordinarily used, shall constitute *prima facie* evidence that the item is possessed with intent to sell. No secondhand bedding shall be possessed with intent to sell for a period exceeding 60 days unless it has been sanitized.

"§ 130A-268. Registration numbers; licenses.—(a) All persons manufacturing or sanitizing bedding in this State or manufacturing bedding to be sold in this State shall apply for a registration number on a form prescribed by the Secretary. Upon receipt of the application, the Department shall issue to the applicant a certificate of registration showing the person's name and address, registration number and other pertinent information required by the rules of the Commission.

(b) For the purpose of defraying expenses incurred in the enforcement of the provisions of this Part, the following license fees are to be paid to the Department, deposited in the 'bedding law fund' and expended in accordance with the provisions of G.S. 130A-270. Unless exempted, no person shall sanitize any bedding until the person has received a 'sanitizer's license' upon the payment of twenty-five dollars (\$25.00) for the calendar year to the Department. Unless exempted, no person shall manufacture any bedding in this State or manufacture bedding to be sold in this State until that person has secured a 'manufacturer's license' upon the payment of twenty-five dollars (\$25.00) for the calendar year to the Department.

(c) If a bedding manufacturing or sanitizing business is established after June 30, the license shall be furnished at half the annual fee and shall be valid for the remainder

of the calendar year. The license may be transferred upon the sale of the business in accordance with the rules of the Commission.

(d) Licenses shall be kept conspicuously posted in the place of business of the licensee at all times.

(e) The Secretary may suspend a license of a person for up to six months for two or more serious violations of this Part or the rules of the Commission within any 12-month period.

"§ 130A-269. Enforcement funds.—(a) The Department shall administer and enforce this Part. The Department shall provide specially designated adhesive stamps for use under the provisions of this Part. Upon request and payment the Department shall furnish stamps at a rate of eighteen dollars (\$18.00) per 500 stamps.

(b) A person manufacturing bedding in North Carolina or manufacturing bedding to be sold in this State may, in lieu of purchasing and affixing the adhesive stamps, annually secure from the Department a stamp exemption permit and print the stamp exemption number on the label.

(c) A stamp exemption permit may be issued to a person who has done business in this State throughout the preceding calendar year at a cost determined annually by the total number of bedding units manufactured or sold in this State by the applicant during the calendar year immediately preceding the issuance of the permit at the rate of eighteen dollars (\$18.00) for each 500 bedding units or fraction of 500 units.

(d) A stamp exemption permit may be issued to a person who has not done business in this State throughout the preceding calendar year upon an initial payment of seven hundred twenty dollars (\$720.00) per year, prorated in accordance with the quarter of the calendar year in which the person makes application for the permit. After submission of proof of business volume amounts in accordance with subsection (h) for that part of the preceding calendar year in which the person used a stamp exemption permit issued under this subsection, the Department shall determine the cost of the permit for that time period by using a rate of eighteen dollars (\$18.00) for each 500 bedding units or fraction of 500 units. If the person's initial payment is more than the cost of the permit, the Department shall make a refund or an adjustment to the cost of the next permit in the amount of the difference. If the initial payment is less than the cost of the permit, the person shall pay the difference to the Department. Payments, refunds and adjustments shall be made in accordance with rules adopted by the Commission.

(e) A maximum charge of seven hundred fifty dollars (\$750.00) shall be made for units of bedding manufactured in this State but not sold in this State.

(f) For the purpose of computing the cost of stamp exemption permits only, the following definitions shall apply: One mattress is defined as one bedding unit; one upholstered spring is defined as one bedding unit; one pad is defined as one bedding unit; one sleeping bag is defined as one bedding unit; five comforters or pillows are defined as one bedding unit; and any other item is defined as one bedding unit.

(g) An application for a stamp exemption permit must be submitted on a form prescribed by the Secretary. No stamp exemption permit may be issued to a person

unless the person complies with the rules of the Commission governing the granting of stamp exemption permits.

(h) The Commission shall adopt rules for the proper enforcement of this section. The rules shall include provisions governing the type and amount of proof which must be submitted by the applicant to the Department in order to establish the number of bedding units that were, during the preceding calendar year:

- (1) Manufactured and sold in this State;
- (2) Manufactured outside of this State and sold in this State; and
- (3) Manufactured in this State but not sold in this State.

(i) The Commission may provide in its rules for additional proof of the number of bedding units sold during the preceding calendar year when it has reason to believe that the proof submitted by the manufacturer is incomplete, misleading or incorrect.

"§ 130A-270. Bedding law fund.—(a) All money collected under this Part shall be paid to the Secretary who shall place all money in a special 'bedding law fund' which is created and specifically appropriated to the Department solely for expenses in furtherance of the enforcement of this Part. The Secretary shall semiannually render to the State Auditor a statement of all receipts and disbursements under the fund and the State Auditor shall furnish a copy of the statement to any person requesting it.

(b) All money in the 'bedding law fund' shall be expended solely for:

- (1) Salaries and expenses of inspectors and other employees who enforce this Part; or
- (2) Expenses directly connected with the enforcement of this Part, including attorney's fees, which are expressly authorized to be incurred by the Secretary without authority from any other source when in the Secretary's opinion it is advisable to employ an attorney to prosecute any persons. A sum not exceeding twenty percent (20%) of the salaries and expenses above enumerated may be used for supervision and general expenses of the Department.

"§ 130A-271. Enforcement by the Department.—(a) The Department shall enforce the provisions of this Part and the rules adopted by the Commission.

(b) The Secretary may prohibit sale and place an 'off sale' tag on any bedding which is not made, sanitized, tagged or stamped as required by this Part and the rules of the Commission. The bedding shall not be sold or otherwise removed until the violation is remedied and the Secretary has reinspected it and removed the 'off sale' tag.

(c) A person supplying material to a bedding manufacturer shall furnish an itemized invoice of all furnished material. Each material entering into willowed or other mixtures shall be shown on the invoice. The bedding manufacturer shall keep the invoice on file for one year subject to inspection by the Department.

(d) When the Secretary has reason to believe that bedding is not tagged or filled as required by this Part, the Secretary shall have authority to open a seam of the bedding to examine the filling, and, if unable after this examination to determine if the filling is of the kind stated on the tag, shall have the authority to examine purchase or other records necessary to determine definitely the kind of material used in the bedding. The Secretary shall have authority to seize and hold for evidence any records and any

bedding or bedding material which in the Secretary's opinion is made, possessed or offered for sale in violation of this Part or the rules of the Commission. The Secretary shall have authority to take a sample of any bedding or bedding material for the purpose of examination or for evidence.

"§ 130A-272. Exemptions for blind persons and State institutions.—(a) In cases where bedding is manufactured, sanitized or renovated in a plant or place of business which has qualified as a nonprofit agency for the blind or severely handicapped under P.L. 92-28, as amended, the responsible person shall satisfy the provisions of this Part and the rules of the Commission. However, the responsible persons at these plants or places of business shall not be required to affix stamps or pay a license tax. Bedding made at these plants or places of business may be sold by any dealer without the stamps being affixed.

(b) State institutions engaged in the manufacture, renovation or sanitizing of bedding for their own use or that of another State institution are exempted from all provisions of this Part.

"§ 130A-273. Rules.—The Commission shall adopt rules required by this Part in order to protect the public health.

"Part 9. Milk Sanitation.

"§ 130A-274. Definitions.—The following definitions shall apply throughout this Part:

(1) 'Milk' means the lacteal secretion practically free from colostrum obtained by the complete milking of one or more cows or goats.

(2) 'Grade "A" milk' means fluid milk and milk products which have been produced, transported, handled, processed and distributed in accordance with the provisions of the rules adopted by the Commission.

"§ 130A-275. Commission to adopt rules.—Notwithstanding the provisions of G.S. 106-267 et seq., the Commission is authorized and directed to adopt rules relating to the sanitary production, transportation, processing and distribution of Grade 'A' milk. The rules, in order to protect and promote the public health, shall provide definitions and requirements for: (1) the sanitary production and handling of milk on Grade 'A' dairy farms; (2) the sanitary transportation of Grade 'A' raw milk for processing; (3) the sanitary processing of Grade 'A' milk; (4) the sanitary handling and distribution of Grade 'A' milk; (5) the requirements for the issuance, suspension and revocation of permits; and (6) the establishment of quality standards for Grade 'A' milk. The rules shall be no less stringent than the 1978 Pasteurized Milk Ordinance recommended by the U.S. Public Health Service/Food and Drug Administration as amended effective January 1, 1982.

"§ 130A-276. Permits required.—No person shall produce, transport, process, or distribute Grade 'A' milk without first having obtained a valid permit from the Department.

"§ 130A-277. Duties of the Department.—The Department shall enforce the rules of the Commission governing Grade 'A' milk by making sanitary inspections of Grade 'A' dairy farms, Grade 'A' processing plants, Grade 'A' milk haulers and Grade 'A' distributors; by determining the quality of Grade 'A' milk; and by evaluating methods of handling Grade 'A' milk to insure compliance with the provisions of the rules of the

Commission. The Department shall issue permits for the operation of Grade 'A' dairy farms, processing plants and haulers in accordance with the provisions of the rules of the Commission and shall suspend or revoke permits for violations in accordance with the rules. Upon request by a local board of health the Department shall delegate enforcement and permit authority to the local health department.

"§ 130A-278. Certain authorities of Department of Agriculture not replaced.—This Part shall not repeal or limit the Department of Agriculture's authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide testing, other testing performed by the Department of Agriculture and any other function of the Department of Agriculture concerning Grade 'A' milk which is not inconsistent with this Article.

"§ 130A-279. Sale of milk.—Only milk which is Grade 'A' pasteurized milk may be sold directly to consumers for human consumption.

"§ 130A-280 to 130A-289: Reserved for future codification purposes.

"ARTICLE 9.

"Solid Waste Management.

"§ 130A-290. Definitions.—The following definitions shall apply throughout this Article:

(1) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(2) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.

(3) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

(4) 'Hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

(5) 'Hazardous waste facility' means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of hazardous waste.

(6) 'Hazardous waste landfill facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under this Article.

(7) 'Hazardous waste generation' means the act or process of producing hazardous waste.

(8) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

(9) 'Manifest' means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(10) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.

(11) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.

(12) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

(13) 'Recycling' means the process by which recovered resources are transformed into new products so that the original products lose their identity.

(14) 'Refuse' means all nonputrescible waste.

(15) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing the solid waste for recycling.

(16) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article.

(17) 'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

(18) 'Solid waste' means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans;
- b. Solid or dissolved material in:
 1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
 2. Irrigation return flows; and
 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under the Federal Resource

Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article;

- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article;
- d. Any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through 104E-23; or
- e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (PL 94-580), as amended, shall also be a solid waste for the purposes of this Article.

(19) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

(20) 'Solid waste generation' means the act or process of producing solid waste.

(21) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

(22) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.

(23) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.

(24) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any solid waste to neutralize the waste or to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. The term includes any activity or processing designed to change the physical form or chemical composition of solid waste to render it nonhazardous.

"§ 130A-291. Solid waste unit in Department.—For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of natural resources, the Department shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal and overall management of solid waste and the greatest possible recycling and recovery of resources, and the Department shall employ and retain qualified personnel as necessary. To the extent necessary, practicable and appropriate, the Department shall consult and coordinate with other State agencies, units of local government, the federal government, industries and individuals in the promotion of sanitary processing, treatment, disposal and overall management of solid waste and the recycling and recovery of resources.

"§ 130A-292. Conveyance of land used for hazardous waste landfill facility to the State.—(a) No land may be used for a commercial hazardous waste landfill facility until fee simple title to the land has been conveyed to this State. In consideration for the conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State will be the lessor and the grantor the lessee. The lease agreement shall specify that for an annual rent of fifty dollars (\$50.00), the lessee shall be allowed to use the land for the development and operation of a hazardous waste landfill facility. The lease agreement shall provide that the lessor or any person authorized by the lessor shall at all times have the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the provisions of this Article. The lessee shall remain fully liable for all damages, losses, personal injury or property damage which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and rules. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferable with the written consent of the lessor and the consent will not be unreasonably withheld. In the case of a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and rules. If the lessee or any successor in interest fails in any material respect to comply with any applicable law, rule or permit condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform, all acts necessary or required by law, rule, permit condition or the lease for the permanent closure of the site until the site has either been permanently closed or until a substitute operator has been secured and has assumed the obligations of the lessee.

(c) In the event of changes in laws or rules applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator. However, the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility.

"§ 130A-293. Local ordinances prohibiting hazardous waste facilities invalid; petition to establish facility.—(a) Notwithstanding any authority granted to counties,

municipalities or other local authorities to adopt local ordinances, including those regulating land use, any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility or a hazardous waste landfill facility which the Governor's Waste Management Board and the Governor have approved pursuant to subsections (b) and (c) of this section, shall be invalid only to the extent necessary to effectuate the purposes of this Article. For the purpose of this section, the Governor's Waste Management Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the local governing body: (1) of the city in which the proposed site is located; or (2) of the county in which the proposed site is located (if the proposed site is outside city limits). The terms of the members appointed by the local governing body shall end upon the final determination made by the Governor under this section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal or other local ordinance(s), the developer or operator of the facility may petition the Governor's Waste Management Board to review the matter. After receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall recommend that the Governor either approve or disapprove the establishment and operation of the facility. After receiving a written recommendation from the Board, if the Governor makes the four findings set forth in subsection (c) of this section, the Governor shall approve the establishment or operation of the facility. If the Governor does not make all of the four findings set forth in subsection (c) of this section, the Governor shall disapprove the establishment or operation of the facility. The Governor shall affirm or disaffirm the findings of the Board and may make additional findings. The decision of the Governor shall be final unless a party to the action shall, pursuant to G.S. 7A-29, file a written appeal within 30 days of the date of the decision. The record on appeal shall include all materials and information submitted to or considered by the Governor in accordance with subsection (c) of this section. The scope of judicial review shall be limited to questions of abuse of discretion.

(c) When a petition as described in subsection (b) of this section has been filed with the Governor's Waste Management Board, the Board shall hold a public hearing to consider the petition. The hearing shall be held in the affected locality in accordance with Article 2 of Chapter 150A of the General Statutes within a reasonable time after receipt of the petition by the Board. The Board shall publish notice of the hearing twice a week for two successive weeks in a newspaper of general circulation in the county where the proposed site is located. The final notice shall appear at least 15 days, but not more than 25 days, before the hearing date. Any interested persons may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, an interested person may submit written material to the Board for its consideration. No later than 60 days after the hearing, the Board shall present its written recommendation to the Governor to approve or disapprove the facility. Before recommending that the Governor approve the facility, the Board must make the following findings:

- (1) That the proposed facility is needed in order to establish adequate capability for the management of hazardous waste generated in this State and serves the interests of the citizens of the State as a whole;
- (2) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies;
- (3) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (4) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility developer or operator has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable ordinance(s).

The Board's written recommendation shall include a complete transcript of the hearing, all written material presented to the Board regarding the site location and the specific findings required in this subsection and any minority positions on the recommendation and the specific findings required in this subsection. The Governor shall issue a decision within a reasonable time following receipt of the recommendation from the Board and may consider any additional relevant information. The Governor's decision shall be in writing and shall identify the material submitted by the Board plus any additional materials used in arriving at the decision.

(d) The provisions of this section shall not apply to the siting of a hazardous waste landfill facility until the rules for the operation of the facilities have been adopted by the appropriate State agencies.

"§ 130A-294. Solid waste management program.—(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

- (1) Develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;
- (2) Advise, consult, cooperate and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;
- (3) Develop and adopt rules to establish standards for qualification as a waste 'recycling, reduction or resource recovering facility' or as waste 'recycling, reduction or resource recovering equipment' for the purpose of special tax classifications or treatment, and to certify as qualifying those applicants which meet the established standards. The standards shall be developed to qualify only those facilities and equipment exclusively used in the actual waste recycling, reduction or resource recovering process and shall exclude any incidental or supportive facilities and equipment;

- (4) Develop a permit system governing the establishment and operation of solid waste management facilities. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required for the applicant to obtain a permit;
- (5) Delegate authority and responsibility to units of local government, including counties, to perform all or any portion of a solid waste management program within a jurisdictional area. No authority over or control of the operations or properties of one unit of local government shall be delegated to any other unit of local government; and
- (6) The Department is authorized to charge and collect fees from operators of hazardous waste landfill facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility.

(b) The Commission shall adopt and the Department shall enforce rules for the establishment, location, operation, maintenance, use and discontinuance of solid waste management sites and facilities. These rules shall be designed to accomplish the maintenance of safe and sanitary conditions in and around solid waste management sites and facilities, and shall be based on recognized public health practices and procedures, sanitary engineering research and studies, and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

(c) The Commission shall adopt and the Department shall enforce rules concerning the management of hazardous waste. These rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste management and shall provide for:

- (1) Establishing criteria for hazardous waste, identifying the characteristics of hazardous waste and listing particular hazardous waste;

- (2) Record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;
- (3) Proper labeling of hazardous waste containers;
- (4) Use of appropriate containers for hazardous waste;
- (5) A manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;
- (6) Proper transportation of hazardous waste;
- (7) Treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;
- (8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste landfill facility or polychlorinated biphenyl landfill facility shall be located within 25 miles of any other hazardous waste landfill facility or polychlorinated biphenyl landfill facility;
- (9) Plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;
- (10) Proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures), training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;
- (11) Monitoring by owners or operators of hazardous waste facilities;
- (12) Inspection or copying of records required to be kept;
- (13) Obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;
- (14) A permit system governing the establishment and operation of hazardous waste facilities; and
- (15) Additional requirements as necessary for the effective management of hazardous waste.
- (16) The operator of the hazardous waste landfill facility shall maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Board shall determine what constitutes an adequate amount of insurance.
- (17) The bottom of a hazardous waste landfill facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the environment.

(18) The operator of a hazardous waste landfill facility shall make monthly reports to the Governor's Waste Management Board and to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility.

(d) The Commission is authorized to adopt and the Department is authorized to enforce rules where appropriate for public participation in the consideration, development, revision, implementation and enforcement of any permit rule, guideline, information or program under this Article. Such rules shall not limit in any way the rights of aggrieved parties to judicial review of decisions regarding permits as provided for by Article 4 of Chapter 150A of the General Statutes. For the purposes of such judicial review of permit decisions, 'aggrieved persons' shall include, but not be limited to, organizations with members residing in the county where the permitted activity is to take place, and organizations whose members regularly use the area of the permitted activity for recreational purposes.

(e) The rules adopted under this section shall be no less stringent than the most recent regulations adopted under the federal act and may be amended.

(f) Within five days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk to the county board of commissioners or, if the facility is located within a city, the city clerk where the facility is proposed to be located. Prior to the issuance of a permit or an amendment of an existing permit for a hazardous waste facility, the Department shall issue public notice and conduct a public hearing in any county in which a hazardous waste facility is to be located. Notice and public hearings shall be in accordance with the appropriate federal regulations adopted pursuant to the federal act and with Chapter 150A of the General Statutes. Where the provisions of the federal regulations and Chapter 150A of the General Statutes are inconsistent, the federal regulations shall apply.

"§ 130A-295. Additional requirements for hazardous waste facilities.—An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

(1) Any hazardous waste facility constructed or operated by the applicant, or any parent or subsidiary corporation if the applicant is a corporation, has been operated in accordance with sound waste management practices and in substantial compliance with federal and State laws, regulations and rules; and

(2) The applicant, or any parent or subsidiary corporation if the applicant is a corporation, is financially qualified to operate the proposed hazardous waste facility.

"§ 130A-296. Limitations on powers of local governments.—It is the intent of the General Assembly to prescribe a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in the State of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise, as provided in G.S. 143B-216.10(b).

"§ 130A-297. Receipt and distribution of funds.—The Department may accept loans and grants from the federal government and other sources for carrying out the purposes of this Article, and shall adopt reasonable policies governing the administration and

distribution of funds to units of local government, other State agencies, and private agencies, institutions or individuals for studies, investigations, demonstrations, surveys, planning, training, and construction or establishment of solid waste management facilities.

"§ 130A-298. Hazardous waste fund.—A nonreverting hazardous waste fund is established within the Department which shall be available to defray the cost to the State for monitoring and care of hazardous waste landfill facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes, rules or regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no way be construed to relieve or reduce the liability of facility operators or any persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 130A-294(a)(6).

"§ 130A-299. Single agency designation.—The Department is designated as the single State agency for purposes of the federal act or any State or federal legislation enacted to promote the proper management of solid waste.

"§ 130A-300. Effect on laws applicable to water pollution control.—This Article shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the Environmental Management Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the Environmental Management Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the General Statutes.

"§ 130A-301. Recordation of permits for disposal of waste on land.—(a) Whenever the Department approves a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land, the owner of the facility shall be granted both an original permit and a copy certified by the Secretary. The permit shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance.

(b) The owner of a facility granted a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land shall file the certified copy of the permit in the register of deeds' office in the county or counties in which the land is located.

(c) The register of deeds shall record the certified copy of the permit and index it in the grantor index under the name of the owner of the land.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b).

(e) When a sanitary landfill or a facility for the disposal of hazardous waste on land is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a sanitary landfill or a disposal site for hazardous waste and a reference by book and page to the recordation of the permit.

"§ 130A-302. Sludge deposits at sanitary landfills.—Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted

under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), or permits generated under G.S. 143-215.1 by the Environmental Management Commission shall not be deposited in or on a sanitary landfill permitted under this Article unless in compliance with the rules concerning solid waste adopted under this Article.

"§ 130A-303. Imminent hazard.—(a) The judgement of the Secretary that an imminent hazard exists concerning solid waste shall be supported by findings of fact made by the Secretary.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring that immediate action be taken to protect the public health or the environment. This order may be directed to a generator or transporter of solid waste or to the owner or operator of a solid waste management facility.

"§ 130A-304. Information received pursuant to this Article.— (a) For the purposes of this Article, upon a showing satisfactory to the Department by a person that all or any part of records, reports or information to which the Department has access under G.S. 130A-16, would divulge information entitled to protection under subsection (b), the Department shall consider the information confidential in accordance with the purposes of that subsection, except that the record, report or information may be disclosed to other officers, employees or authorized representatives of the Department concerned with carrying out this Article or when relevant in any proceeding under this Article.

(b) For the purposes of this Article, if an officer or employee of the Department publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information revealed in the course of employment or official duties or by reason of examination or investigation made by, or return, report or record made to or filed with the Department which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy or any book containing any abstract or its particulars to be seen or examined by any person except as provided in subsection (a) shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00) or imprisoned not more than two years or both; and shall be removed from office or employment.

"§ 130A-305. Construction.— This Article shall be interpreted as enabling the State to obtain federal financial assistance in carrying out its solid waste management program and to obtain the authority needed to assume primary enforcement responsibility for that portion of the solid waste management program concerning the management of hazardous waste.

"§ 130A-306 to 130A-310: Reserved for future codification purposes.

"ARTICLE 10.

"North Carolina Drinking Water Act.

"§ 130A-311. Short\title.—This Article shall be cited as the 'North Carolina Drinking Water Act.'

"§ 130A-312. Purpose.—The purpose of this Article is to regulate water systems within the State which supply drinking water that may affect the public health.

"§ 130A-313. Definitions.—The following definitions shall apply throughout this Article:

(1) 'Administrator' means the Administrator of the United States Environmental Protection Agency.

(2) 'Certified laboratory' means a facility for performing bacteriological, chemical or other analyses on water which has received interim or final certification by either the Environmental Protection Agency or the Department.

(3) 'Contaminant' means any physical, chemical, biological or radiological substance or matter in water.

(4) 'Drinking water rules' means rules adopted pursuant to this Article.

(5) 'Federal act' means the Safe Drinking Water Act of 1974, P. L. 93-523, as amended.

(6) 'Federal agency' means any department, agency or instrumentality of the United States.

(7) 'Maximum contaminant level' means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

(8) 'National primary drinking water regulations' means primary drinking water regulations promulgated by the Administrator pursuant to the federal act.

(9) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.

(10) 'Public water system' means a system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:

a. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and

b. Any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

A public water system is either a 'community water system' or a 'noncommunity water system' as follows:

a. 'Community water system' means a public water system which serves 15 or more service connections or which regularly serves at least 25 year-round residents.

b. 'Noncommunity water system' means a public water system which is not a community water system.

(11) 'Supplier of water' means a person who owns, operates or controls a public water system.

(12) 'Treatment technique requirement' means a requirement of the drinking water rules which specifies a specific treatment technique for a contaminant which leads to reduction in the level of the contaminant sufficient to comply with the drinking water rules.

"§ 130A-314. Scope of the Article.—(a) The provisions of this Article shall apply to each public water system in the State unless the public water system meets all of the following conditions:

- (1) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;
- (2) Obtains all of its water from, but is not owned or operated by, a public water system to which the drinking water rules apply;
- (3) Does not sell water to any person; and
- (4) Is not a carrier which conveys passengers in interstate commerce.

(b) A provision of any charter granted to a public water system in conflict with the provisions of this Article is repealed.

"§ 130A-315. Drinking water rules.—(a) The Commission shall adopt and the Secretary shall enforce drinking water rules to regulate public water systems. The rules may distinguish between community water systems and noncommunity water systems.

(b) The rules shall:

- (1) Specify contaminants which may have an adverse effect on the public health;
- (2) Specify for each contaminant either:
 - a. A maximum contaminant level which is acceptable in water for human consumption, if it is feasible to establish the level of the contaminant in water in public water systems; or
 - b. One or more treatment techniques which lead to a reduction in the level of contaminants sufficient to protect the public health, if it is not feasible to establish the level of the contaminants in water in a public water system; and
- (3) Establish criteria and procedures to assure a supply of drinking water which dependably complies with maximum contaminant levels and treatment techniques as determined in paragraph (2) of this subsection. These rules may provide for:
 - a. The minimum quality of raw water which may be taken into a public water system;
 - b. A program of laboratory certification;
 - c. Monitoring and analysis;
 - d. Record-keeping and reporting;
 - e. Notice of noncompliance, failure to perform monitoring, variances and exemptions;
 - f. Inspection of public water systems; inspection of records required to be kept; and the taking of samples;
 - g. Criteria for design and construction of new or modified public water systems;
 - h. Review and approval of design and construction of new or modified public water systems;
 - i. Siting of new public water system facilities;
 - j. Variances and exemptions from the drinking water rules; and

k. Additional criteria and procedures as may be required to carry out the purpose of this Article.

(c) The drinking water rules may be amended as necessary in accordance with required federal regulations.

"§ 130A-316. Department to examine waters.—The Department shall examine all waters and their sources and surroundings which are used as, or proposed to be used as, sources of public water supply to determine whether the waters and their sources are suitable for use as public water supply sources.

"§ 130A-317. Department to provide advice; submission and approval of public water system plans.—(a) The Department shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter or operate a public water system of the most appropriate source of water supply and the best practical method of purifying water from that source having regard to the present and prospective needs and interests of other persons and units of local government which may be affected. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration and operation of public water systems.

(b) All persons and units of local government constructing or altering a public water system shall give prior notice and submit plans, specifications and other information to the Department. The Commission shall adopt rules providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications and other information required to be submitted. The Commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the Department to review the plans, specifications and other information. The Department shall review the plans, specifications and other information, and notify the person, Utilities Commission and unit of local government of compliance or lack of compliance with applicable statutes and rules of the Commission.

(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless:

- (1) The plans for construction or alteration have been prepared by an engineer licensed by this State;
- (2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water rules;
- (3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, county or regional system;
- (4) The Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water system; and
- (5) The Department has approved the plans and specifications.

"§ 130A-318. Disinfection of public water systems.—(a) The Department is authorized to require disinfection of:

- (1) Public water systems introduced on or after January 1, 1972; and

(2) All public water systems, regardless of the date introduced, whenever:

- a. The maximum microbiological contaminant level is exceeded; or
- b. Conditions exist which make continued use of the water potentially hazardous to public health.

(b) Public water systems shall employ disinfection methods and procedures approved by the Department.

"§ 130A-319. Condemnation of lands for public water systems.— All units of local government operating public water systems and all water companies operating under franchise from the State or units of local government, may acquire by condemnation lands and rights in lands and water necessary for the successful operation and protection of their systems. Condemnation proceedings under this section shall be the same as prescribed by law under Chapter 40A of the General Statutes.

"§ 130A-320. Sanitation of watersheds; rules; inspections.— (a) The Commission shall adopt rules governing the sanitation of watersheds from which public drinking water supplies are obtained. In adopting these rules the Commission is authorized to consider the different classes of watersheds, taking into account general topography, nature of watershed development, density of population and need for frequency of sampling of raw water. The rules shall govern the keeping of livestock, operation of recreational areas, maintenance of residences and places of business, disposal of sewage, establishment of cemeteries or burying grounds, and any other factors which would endanger the public water supply.

(b) Any person operating a public water system and furnishing water from unfiltered surface supplies shall inspect the watershed area at least quarterly, and more often when the Department determines that more frequent inspections are necessary.

"§ 130A-321. Variances and exemptions; considerations; duration; condition; notice and hearing.—(a) The Secretary may authorize variances from the drinking water rules.

- (1) The Secretary may grant one or more variances to a public water system from any requirement respecting a maximum contaminant level of an applicable drinking water rule upon a finding that:
 - a. Because of characteristics of the raw water sources reasonably available to the system, the system cannot meet the requirements respecting the maximum contaminant levels of the drinking water rules despite application of the best technology, treatment techniques or other means which the Secretary finds are generally available (taking costs into consideration); and
 - b. The granting of a variance will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested variance and the degree to which the maximum contaminant level is being or will be exceeded.
- (2) The Secretary may grant one or more variances to a public water system from any requirement of a specified treatment technique of an

applicable drinking water rule upon a finding that the public water system applying for the variance has demonstrated that the treatment technique is not necessary to protect the public health because of the nature of the raw water source of the system.

(3) In consideration of whether the public water system is unable to comply with a contaminant level required by the drinking water rules because of the nature of the raw water sources, the Secretary shall consider factors such as:

- a. The availability and effectiveness of treatment methods for the contaminant for which the variance is requested; and
- b. Costs of implementing the best treatment(s), improving the quality of the raw water by the best means or using an alternate source.

(4) In consideration of whether a public water system should be granted a variance from a required treatment technique because the treatment is unnecessary to protect the public health, the Secretary shall consider factors such as:

- a. Quality of the water source including water quality data and pertinent sources of pollution; and
- b. Source protection measures employed by the public water system.

(b) The Secretary may authorize exemptions from the drinking water rules.

(1) The Secretary may exempt a public water system from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable drinking water rule upon a finding that:

- a. Due to compelling factors, including economic factors, the public water system is unable to comply with the contaminant level or treatment technique requirement;
- b. The public water system was in operation on the effective date of the contaminant level or treatment technique requirement or, for a system that was not in operation on that date, only if no reasonable alternative source of drinking water is available to the new system; and
- c. The granting of the exemption will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested exemption and the degree to which the maximum contaminant level is being or will be exceeded.

(2) In consideration of whether the public water system is unable to comply due to compelling factors, the Secretary shall consider factors such as:

- a. Construction, installation or modification of treatment equipment or systems;

- b. The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance; and
- c. Economic feasibility of immediate compliance.

(c) As a condition of issuance of either a variance or an exemption, the Secretary shall require that the public water system adhere to a schedule of compliance, including increments of progress with each drinking water rule for which the variance or exemption was issued. As a further condition of the variance or exemption, the Secretary shall require implementation by the public water system of any necessary control measures prescribed by the Secretary during the period ending on the date of compliance with the requirement. The schedules of compliance must be prescribed within one year of the date the variance or exemption has been granted. The compliance schedule for an exemption shall require compliance as expeditiously as practical but no later than January 1, 1984, for the initial drinking water rules, and no later than seven years after the date of revised drinking water regulations setting new maximum contaminant levels or treatment techniques. Compliance dates can be extended two years if the public water supply has entered into an enforceable agreement to become part of a regional water system.

(d) The Secretary shall provide notice and opportunity for public hearing on proposed variances and proposed variance and exemption schedules.

"§ 130A-322. Imminent hazard; power of the Secretary.—(a) The Secretary shall judge whether an imminent hazard exists concerning a present or potential condition in a public water system.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring the person or persons involved to immediately take action necessary to protect the public health. A copy of the order shall be delivered by certified mail or personal service. The order shall become effective immediately and shall remain in effect until modified or rescinded by the Secretary or by a court of competent jurisdiction.

"§ 130A-323. Emergency plan for drinking water; emergency circumstances defined.—(a) The Secretary shall develop and implement an adequate plan for the provision of drinking water under emergency circumstances. When the Secretary determines that emergency circumstances exist with respect to a need for drinking water, the Secretary may take action in accordance with the plan as necessary in order to provide drinking water.

(b) Emergency circumstances shall exist whenever the available supply of drinking water is inadequate.

"§ 130A-324. Notice of noncompliance, failure to perform monitoring, variances and exemptions.—Whenever a public water system:

- (1) Is not in compliance with the drinking water rules;
- (2) Fails to perform an applicable testing procedure or monitoring required by the drinking water rules;
- (3) Is subject to a variance granted for inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or

(5) Fails to comply with the requirements prescribed by a variance or exemption, the supplier shall as soon as possible, but not later than 48 hours after discovery, notify the Department and give public notification as prescribed by the drinking water rules.

"§ 130A-325. Prohibited acts.—The following acts are prohibited:

(1) Failure by a supplier of water to comply with this Article, an order issued under this Article, or the drinking water rules;

(2) Failure by a supplier of water to comply with the requirements of G.S. 130A-324 or the dissemination by a supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with the drinking water rules;

(3) Refusal by a supplier of water to allow the Department or local health department to inspect a public water system as provided for in G.S. 130A-16;

(4) The willful defiling by any person of any water supply of a public water system or the willful damaging of any pipe or other part of a public water system;

(5) The discharge by any person of sewage or other waste above the intake of a public water system, unless the sewage or waste has been passed through a system of purification approved by the Department and the Department of Natural Resources and Community Development; and

(6) The failure by a person to maintain a system approved by the Department for collecting and disposing of all accumulations of human excrement located on the watershed of a public water system.

"§ 130A-326. Powers of the Secretary.—To carry out the provisions of this Article, the Secretary is authorized to:

(1) Administer and enforce the provisions of this Article, the drinking water rules and orders issued under this Article;

(2) Enter into agreements or cooperative arrangements with, or participate in related programs of other states, other state agencies, federal or interstate agencies, units of local government, educational institutions, local health departments or other organizations or individuals;

(3) Receive financial and technical assistance from the federal government and other public or private agencies;

(4) Require public water systems to take actions or make modifications as necessary to comply with the requirements of this Article or the drinking water rules;

(5) Prescribe policies and procedures necessary or appropriate to carry out the Secretary's function under this Article; and

(6) Establish and collect fees to recover the costs of laboratory analyses performed for compliance with this Article. The fees shall not exceed two hundred dollars (\$200.00) for each analysis.

"§ 130A-327. Construction.—This Article shall be interpreted as giving the State the authority needed to assume primary enforcement responsibility under the federal act.

"§ 130A-328 to 130A-332: Reserved for future codification purposes.

"ARTICLE 11.

"Sanitary Sewage Systems.

"§ 130A-333. Purpose.—The General Assembly finds and declares that continued installation, at a rapidly and constantly accelerating rate, of septic tank systems and other types of sanitary sewage systems in a faulty or improper manner and in areas where unsuitable soil and population density adversely affect the efficiency and functioning of these systems, has a detrimental effect on the public health and environment through contamination of land, groundwater and surface waters. Recognizing, however, that sewage can be rendered ecologically safe and the public health protected if methods of sewage collection, treatment and disposal are properly regulated and recognizing that sanitary sewage collection, treatment and disposal will continue to be necessary to meet the needs of an expanding population, the General Assembly intends to ensure the regulation of sewage collection, treatment and disposal systems so that these systems may continue to be used, where appropriate, without jeopardizing the public health.

"§ 130A-334. Definitions.—The following definitions shall apply throughout this Article:

(1) 'Construction' means any work at the site of placement done for the purpose of preparing a residence, place of business or place of public assembly for initial occupancy, or subsequent additions or modifications which increase sewage flow.

(2) 'Land sales business' means a business engaged in sales of land where a sanitary sewage collection, treatment and disposal system may be required. This definition shall not include sales of land upon which any residence, place of business or place of public assembly is being or has been constructed and for which an improvement permit has been issued pursuant to G.S. 130A-336.

(3) 'Location' means the initial placement for occupancy of a residence, place of business or place of public assembly.

(4) 'Mobile home dealer' means a person or firm offering mobile homes for sale or lease within the State.

(5) 'Mobile home sales lot' means a place where two or more mobile homes are displayed and offered for sale or lease.

(6) 'Place of business' means a store, warehouse, manufacturing establishment, place of amusement or recreation, service station, office building or any other place where people work.

(7) 'Place of public assembly' means a fairground, auditorium, stadium, church, campground, theater or any other place where people assemble.

(8) 'Public or community sewage system' means a single system of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

(9) 'Relocation' means the displacement of a residence or place of business from one site to another.

(10) 'Residence' means a private home, dwelling unit in a multiple family structure, hotel, motel, summer camp, labor work camp, mobile home, institution or any other place where people reside.

(11) 'Sanitary sewage system' means a complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, sewage reuse or recycle systems, mechanical or biological treatment systems, or other such systems.

(12) 'Septic tank system' means a subsurface sanitary sewage system consisting of a settling tank and a subsurface disposal field.

(13) 'Sewage' means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

"§ 130A-335. Sanitary sewage collection, treatment and disposal; rules.—(a) A person owning or controlling a residence, place of business or a place of public assembly shall provide a sanitary sewage system. A sanitary sewage system may include components for collection, treatment and disposal of sewage.

(b) Any public or community sanitary sewage system and any sanitary sewage system which is designed to discharge effluent to the land surface or surface waters shall be approved by the Department of Natural Resources and Community Development under rules adopted by the Environmental Management Commission. All other sanitary sewage systems shall be approved by the Department of Human Resources under rules adopted by the Commission for Health Services.

(c) A sanitary sewage system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

- (1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning sanitary sewage systems; and
- (2) The Department has found that the rules of the local board of health concerning sanitary sewage collection, treatment and disposal systems are at least as stringent as the Commission's rules, and are sufficient and necessary to safeguard the public health.

(d) The Department may, upon its own motion, upon the request of a local board of health or upon the request of a citizen of an affected county, review its findings under subsection (c) of this section.

(e) The rules of the Commission and the rules of the local board of health shall address at least the following: Sewage characteristics; Design unit; Design capacity; Design volume; Criteria for the design, installation, operation, maintenance and performance of sanitary sewage collection, treatment and disposal systems; Soil morphology and drainage; Topography and landscape position; Depth to seasonally high water table, rock and water impeding formations; Proximity to water supply wells, shellfish waters, estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps and other bodies of surface or groundwaters; Density of sanitary sewage collection, treatment and disposal systems in a geographical area; Requirements for issuance, suspension and revocation of permits; and Other factors which affect the effective operation and performance of sanitary sewage collection, treatment and

disposal systems. The rules regarding required design capacity and required design volume for sanitary sewage systems shall provide that exceptions may be granted upon a showing that a system is adequate to meet actual daily water consumption.

(f) The rules of the Commission and the rules of the local board of health shall classify sanitary systems of sewage collection, treatment and disposal according to size, type of treatment and any other appropriate factors. The rules shall provide construction requirements, standards for operation and ownership requirements for each classification of sanitary systems of sewage collection, treatment and disposal in order to prevent, as far as reasonably possible, any contamination of the land, groundwater and surface waters. The Department and local health departments may impose conditions on the issuance of permits and may revoke the permits for failure of the system to satisfy the conditions, the rules or this Article. The permits shall be valid for a period prescribed by the rules and may be renewed upon a showing satisfactory to the Department or the local health department that the system is in compliance with the current rules and this Article.

"§ 130A-336. Improvement permit required.—(a) No person shall commence or assist in the construction, location or relocation of a residence, place of business or place of public assembly in an area not served by an approved sanitary sewage system unless an improvement permit is obtained from the local health department. This requirement shall not apply to a residence exhibited for sale or stored for later sale and intended to be located at another site after sale.

(b) The local health department shall issue an improvement permit authorizing work to proceed and the installation or repair of a sanitary sewage system when it has determined after a field investigation that the system can be installed and operated in compliance with the rules and this Article. The Department and the local health department may impose conditions on the issuance of an improvement permit.

"§ 130A-337. Inspection; operation permit required.—(a) No sanitary system of sewage collection, treatment and disposal shall be covered or placed into use by any person until an inspection by the local health department has determined that the system has been installed or repaired in accordance with any conditions of the improvement permit, the rules and this Article.

(b) Upon determining that the system is properly installed or repaired and that the system is capable of being operated in accordance with the conditions of the improvement permit, the rules, this Article and any conditions to be imposed in the operation permit, the local health department shall issue an operation permit authorizing the residence, place of business or place of public assembly to be occupied and for the system to be placed into use. However, if the system is limited to a single septic tank system without a pump or other appurtenances serving a single one-family dwelling, then a certificate of completion shall be issued instead of an operation permit; also, if the system is limited to a single septic tank system without a pump or other appurtenances serving a single residence other than a one-family dwelling, or serving a place of business or a place of public assembly and having a design daily flow of not more than 480 gallons, then a certificate of completion shall be issued instead of an operation permit. A certificate of completion shall be issued when the septic tank

system is properly installed or repaired and is capable of being operated in accordance with the conditions of the improvement permit, the rules and this Article.

(c) Upon determination that an existing sanitary sewage system has a valid operation permit or a valid certificate of completion and is operating properly in a mobile home park, the local health department shall issue authorization in writing for a mobile home to be connected to the existing system and to be occupied. Notwithstanding G.S. 130A-336, an improvement permit is not required for the connection of a mobile home to an existing system with a valid operation permit or a valid certificate of completion in a mobile home park.

(d) No person shall occupy a residence, place of business or place of public assembly, or place a sanitary sewage system into use or reuse for a residence, place of business or place of public assembly until an operation permit or a certificate of completion has been issued or authorization has been obtained pursuant to G.S. 130A-337(c).

"§ 130A-338. Improvement permit or authorization required before other permits to be issued.—Where construction, location or relocation is proposed to be done upon a residence, place of business or place of public assembly, no permit required for electrical, plumbing, heating, air conditioning or other construction, location or relocation activity under any provision of general or special law shall be issued until an improvement permit has been issued under G.S. 130A-336 or authorization has been obtained under G.S. 130A-337(c).

"§ 130A-339. Limitation on electrical service.—No person shall allow permanent electrical service to a residence, place of business or place of public assembly upon construction, location or relocation until the official electrical inspector with jurisdiction as provided in G.S. 143-143.2 certifies to the electrical supplier that the required improvement permit and an operation permit, a certificate of completion or authorization under G.S. 130A-337(c) has been obtained. Temporary electrical service necessary for constructing a residence, place of business or place of public assembly can be provided upon compliance with G.S. 130A-338.

"§ 130A-340 to 130A-345: Reserved for future codification purposes.

"ARTICLE 12.

"Mosquito and Vector Control.

"Part 1. Mosquito and Vector Control Program.

"§ 130A-346. Mosquito and vector control program.—(a) The Department shall establish and administer a vector control program to protect the public health and to promote an environment suitable for habitation. A vector is a living transporter and transmitter of the causative agent of a disease. The program shall address the problems presented by vectors and other arthropods and rodents of public health significance in this State, including, but not limited to, mosquitoes, ticks, rodents, fleas and flies. The Department is authorized to engage in research, conduct investigations and surveillance, implement a vector control program and take other actions necessary to control vectors.

(b) The Commission shall adopt rules necessary to implement the program including rules for the control of vectors and other arthropods and rodents.

"§ 130A-347. Mosquito control funds.—Funds received by the Department for mosquito control may be used to aid mosquito control districts and other units of local government engaged in mosquito control. The Commission shall adopt rules concerning the allocation of the funds. The rules may include provisions to withhold part of the mosquito control funds for the suppression of potential or documented mosquito-borne disease outbreaks. State aid for local physical control methods such as, but not limited to, cleaning, reopening or construction of ditches, restoration of streams and construction of impoundments shall not exceed the amount of funds and the value of services and facilities provided locally except State aid may be provided up to twice the locally provided amount for physical control methods in salt marsh areas. State aid for local chemical and biological control methods such as, but not limited to, control of immature and adult mosquitoes by use of chemicals, bacteria, fungi and mosquito fish shall not exceed the amount of funds and the value of services and facilities provided locally. State aid shall not be granted with respect to each individual project until the Department finds and certifies in writing for each project that:

(1) the required local share is available; (2) there is a documented mosquito problem which requires abatement; (3) a work plan describing the method and procedures to be used for abatement is appropriate; and (4) the rules of the Commission have been met.

"§ 130A-348. Control of impounded water.—For the protection of the public health, the Commission shall adopt rules concerning the impoundment of water. The rules shall address proper preparation of the land for inundation, maintenance of the shoreline after inundation and any other factors necessary to control mosquitoes. Persons shall obtain permits from the Department before constructing impoundments and impounding water.

"§ 130A-349. Control of outbreaks.—In the event of potential or documented outbreaks of vector-borne disease as determined by the Secretary, the Secretary is authorized to use all appropriate means, including the expenditure of unallocated mosquito control funds, to prevent or suppress the outbreaks.

"§ 130A-350 to 130A-351: Reserved for future codification purposes.

"Part 2. Mosquito Control Districts.

"§ 130A-352. Creation and purpose of mosquito_ control districts.—For the purpose of protecting and promoting the public health and welfare by providing for the control of mosquitoes and other arthropods of public health significance, mosquito control districts may be created in accordance with the provisions of this Part. A mosquito control district may be comprised of one or more contiguous counties or contiguous parts of one or more counties.

"§ 130A-353. Nature of district; procedure for forming districts.—(a) A mosquito control district shall be a body politic and corporate and a political subdivision of the State. A mosquito control district may sue and be sued in its corporate name.

(b) If the proposed district lies wholly within a county, ten percent (10%) or more of the resident freeholders within the proposed district may petition the board of commissioners of the county in which the proposed district lies setting forth the boundaries of the district and a suggested name for the district. For the purposes of this Part, the term 'freeholders' shall mean persons holding a deed to a tract of land within

the district or proposed district, and also shall mean a person who has entered into a contract to purchase a tract of land within the district or proposed district, is making payments pursuant to a contract, and will receive a deed upon completion of the contractual payments. If the county board of commissioners considers the formation of the district to be in the interest of the public health, the board shall forward the petition to the Department. If the Department considers the formation of the district to be in the interest of the public health, the Department shall notify the county board of commissioners. Upon notification, the board shall give notice of a public hearing on the question of the formation of the district by advertising the time, place and purpose of the hearing once a week for four successive weeks prior to the hearing in a newspaper either published in the county or having a general circulation in the county. The public hearing shall be presided over by the chairman of the county board of commissioners and shall be attended by a representative of the Department. The hearing may be continued as may be necessary to hear the proponents and opponents of the formation of the district. If after the hearing, the county board of commissioners deem it advisable that the district be created, the board shall submit the question of whether or not the district shall be created to the voters residing within the proposed district at an election called for that purpose. Upon determining that the district should be created and established, and prior to the submission of the question of the formation of the district to the voters of the proposed district, the county board of commissioners may determine the maximum amount of special tax to be levied for mosquito control purposes should the formation of the district be approved by the voters. In no event shall the maximum authorized levy exceed thirty-five cents (35c) upon the one hundred dollar (\$100.00) assessed valuation. If the county board of commissioners determines that the maximum amount of special tax to be levied for mosquito control purposes is to be less than thirty-five cents (35c) on the one hundred dollar (\$100.00) valuation, the maximum amount must appear on the ballot to be used by the voters on the question of the creation of the district.

(c) Prior to the election, the county board of commissioners may make minor deviations in defining the boundaries of the proposed district if: (1) the board determines that minor deviation from the boundaries described in the petition is in the interest of public health; and (2) ten percent (10%) of the resident freeholders within the revised boundaries have signed the petition proposing the creation of the district or additional resident freeholders within the revised boundaries of the proposed district sign the petition to bring the total number of petitioners within the proposed revised boundaries to not less than ten percent (10%) of the voters therein.

(d) The county board of commissioners shall request the county board of elections to hold the election and shall pay the expense of the election. The election shall be held in accordance with the applicable provisions of Chapter 163 of the General Statutes. Notice shall be given as provided in G.S. 163-33(8).

(e) The form of the question to be stated on the ballot shall be in substantially the following words:

[] FOR creation of the (here insert name) Mosquito Control District and the levy of a special tax (here insert the words "not to exceed" and the

maximum amount of special tax to be levied for mosquito control purposes if the county board of commissioners has determined that the maximum authorized amount is to be less than thirty-five cents (35c) on the one hundred dollar (\$100.00) assessed valuation) for mosquito control purposes.

[] AGAINST creation of the (here insert name) Mosquito Control District and the levy of a special tax (here insert the words "not to exceed" and the maximum amount of special tax to be levied for mosquito control purposes if the county board of commissioners has determined that the maximum authorized amount is to be less than thirty-five cents (35c) on the one hundred dollar (\$100.00) assessed valuation) for mosquito control purposes.'

The affirmative and negative forms shall be printed on one ballot and the voters shall make a mark of an 'X' in one of the squares preceding the form.

(f) If a majority of the voters voting at the election vote in favor of creation of the district and the levy of the special tax, the county board of commissioners shall declare the district created and shall adopt a resolution to that effect.

(g) In the event the proposed mosquito control district shall embrace lands lying in two or more counties, the petition signed by the requisite number of resident freeholders within the proposed district shall be addressed to the Department. If the Department deems the formation of the proposed district to be in the interest of the public health, the Department shall hold public hearings within the proposed district after first giving notice of the time and place of the hearings by publication once a week for four successive weeks in a newspaper published or circulated in the proposed district. A public hearing shall be held in the courthouse of each of the counties in which any part of the proposed district is situated. After the hearing, if the Department deems the formation of the district to be in the interest of the public health, the Department shall order an election to be held upon the question of the formation of the district after first advertising the time of the election in the manner provided in subsection (d). At the request of the Commission, the county commissioners of the counties in which the proposed district lies shall request the county board of elections to hold an election on the question with substantially the same form of ballot set forth in subsection (e). Each county shall bear the expense of the election held in that county. The board of elections shall certify the results to the county commissioners and the Commission. If a majority of the votes cast favor creation of the district and the levy of the special tax, the Commission shall declare the district created and the county commissioners shall enter the certification upon the minutes of the board. Registration shall be in accordance with G.S. 163-288.2.

"§ 130A-354. Governing bodies for mosquito control districts.—(a) A mosquito control district shall be governed by a board of commissioners. In the case of a district lying wholly within a single county, the board shall be composed of five members, all of whom shall be residents of the district. Three of the members shall be appointed by the county board of commissioners, one for an initial term of one year, one for an initial term of two years and one for an initial term of three years. All subsequent

appointments made by the county board of commissioners shall be for terms of three years. One member shall be appointed by the Secretary and one member by the Director of the Wildlife Resources Commission. These two appointees shall serve at the pleasure of the appointing authority. A vacancy shall be filled by the authority which appointed the member creating the vacancy.

(b) In the case of a district lying in two or more counties, the Secretary shall appoint one member and the Director of the Wildlife Commission shall appoint one member. The board of commissioners of each county in which any part of the district lies shall appoint one member. In the event the district lies in only two counties, the board of commissioners of the county in which a majority of the acreage of the district lies shall appoint two members, one for an initial term of one year and the other for an initial term of two years. The other county shall appoint one member for an initial term of three years. All succeeding terms of county appointees shall be for three years. A vacancy shall be filled by the authority which appointed the member creating the vacancy, and the appointees of the Secretary and the Director of the Wildlife Resources Commission shall hold office at the pleasure of the appointing authority.

(c) At its first meeting, the board shall elect a chairman, a vice-chairman, a secretary and a treasurer. The office of secretary and treasurer may be held by the same member. All official acts done by the board shall be entered in a book of minutes to be kept by the secretary. The board shall meet at least quarterly and may meet in a special meeting at any time upon call of the chairman or any two members, and upon notice of the time, place and purpose of the meeting of not less than three days. Before entering upon the discharge of their duties, each member shall take and subscribe an oath of office as follows and the oath shall be entered in the minute book:

I, _____, do solemnly swear that I will well and truly perform my duties as a Commissioner of the _____ Mosquito Control District.

Signature

Affirmed and subscribed before me this _____ day of _____ 19____.

Signature of Officer Administering Oath.'

"§ 130A-355. Corporate powers.—A mosquito control district created in accordance with the provisions of this Part shall have and exercise through its board of commissioners the following corporate powers in addition to any incidental powers as may be necessary in order to discharge its corporate functions:

(1) To levy ad valorem taxes upon all the taxable property within the district at a rate not to exceed thirty-five cents (35c) upon the adjusted one hundred dollar (\$100.00) assessed valuation, except as provided in subdivision (a) of this subsection.

a. Where a mosquito control district lies solely within a single county and includes the entire county, the county board of commissioners may levy and determine the rate of ad valorem tax to be levied at a rate not to exceed thirty-five cents (35c) upon the adjusted one hundred dollar (\$100.00) assessed valuation. Where a mosquito control district lies wholly within a single county and the maximum authorized special tax

approved by the voters at the time of voting on the creation of the district was less than thirty-five cents (35c) on the one hundred dollar assessed valuation, the ad valorem tax levy shall not exceed the lesser amount.

- b. In the case of a district lying wholly within a single county, the valuations assessed by the county tax authorities shall be used by the mosquito control district or the county board of commissioners as the basis for its tax assessment. The mosquito control district or the county board of commissioners shall certify its tax rate to the county tax collector or supervisor in time to have the rate and the amount of tax due upon the valuation entered upon the official county tax receipts and stubs or duplicates. The county tax collector shall collect the taxes at the same time as county taxes are collected and shall deposit the receipts to the credit of the mosquito control district in a depository or depositories designated by the governing board of the district.
- c. In the case of a district lying in two or more counties, the commissioners of the mosquito control district shall horizontally equalize the assessed valuations of the property in all counties in which the district lies by adjusting the ratio of assessed valuation in the counties to the true values of the taxable property in the counties. From the adjusted and equalized valuations, any county board of commissioners may appeal to the Department of Revenue using the procedures set forth in Subchapter II of Chapter 105 of the General Statutes.
- d. The board of commissioners of the mosquito control district shall levy a tax based upon the equalized assessed valuations and shall certify the amount of the levy against each taxpayer to the appropriate county tax collector or supervisor in time for the amount of the mosquito control district tax to be entered upon the county tax receipts and stubs or duplicates. The county tax collectors shall collect the tax and deposit the receipts to the credit of the mosquito control district in a depository or depositories designated by the commissioners of the district.
- e. The taxes levied according to this Part shall become due; shall be subject to the same discounts, penalties and interest; and shall have the same remedies for the collection and refund of the taxes as provided for county and municipal ad valorem taxation by Chapter 310 of the Session Laws of 1939 as amended. These taxes shall constitute a lien to the same extent and with the same force and effect as county and municipal ad valorem taxes and shall have equal priority with those taxes;

(2) To accept gifts or endowments and to receive federal and State grants-in-aid. All money or property acquired under this section or any other source, shall be deposited in a separate fund to be used solely for the purpose of carrying out the provisions of this Part. The deposited funds shall be withdrawn by warrants signed by

the chairperson of the governing board of the district and countersigned by the secretary;

(3) To take all necessary and proper steps to prevent the breeding of mosquitoes and other arthropods of public health significance within the district, and to destroy adult mosquitoes and other arthropods of public health significance found within the district;

(4) To conduct arthropod control measures in cooperation with individuals, firms and corporations, and federal, State and local governmental agencies;

(5) To enter all places both publicly and privately owned within the district to inspect, survey and treat with proper means all places where mosquitoes or other arthropods of public health significance are breeding and to take other actions as may be necessary;

(6) To acquire by purchase, condemnation or otherwise, and to hold real and personal property, easements, rights-of-way or other property necessary or convenient for accomplishing the purpose of this Part. Any land which has been acquired by the board and improved by drainage, filling, diking or other treatment, and other real property held by the board may be sold or leased through competitive bidding. All condemnation proceedings are to be in accordance with the provisions of Chapter 40A of the General Statutes;

(7) To employ necessary personnel; fix salaries; purchase equipment, supplies and materials; make contracts; rent office or storage space; and perform other administrative functions necessary for the purpose of carrying out this Part;

(8) To borrow money in anticipation of tax collection and to execute and deliver its notes or bonds. Money shall be borrowed in gross amounts not to exceed the anticipated tax receipts for the fiscal year;

(9) To reimburse members and employees of the board for actual expenditures incurred in authorized travel; and

(10) To employ a district superintendent who is an engineer, entomologist or otherwise qualified as an arthropod control specialist. The professional qualifications of the superintendent must be approved by the Secretary.

"§ 130A-356. Adoption of plan of operation.—(a) At least 60 days prior to the initiation of operations, the governing board of each mosquito control district must submit to the Secretary, a plan of procedure and operation in a form and manner prescribed by the Secretary. The Secretary shall have authority to approve, modify or take other appropriate action in regard to the plans. No contract may be entered into, program commenced or work begun prior to the approval of the plan by the Secretary.

(b) At least 60 days prior to the expiration of each fiscal year, the governing board of each mosquito control district must submit to the Secretary a plan of procedure and operation for the next fiscal year in a form and manner prescribed by the Secretary. The Secretary shall have authority to approve, modify or take other appropriate action in regard to the plans. No contract may be entered into, program commenced or work begun or continued prior to the approval of the plan by the Secretary.

"§ 130A-357. Bond issues.—A mosquito control district shall have power to issue bonds and notes under the Local Government Bond Act.

"§ 130A-358. Dissolution of certain mosquito control districts.—Fifty-one percent (51%) or more of the resident freeholders of a mosquito control district which has no outstanding indebtedness may submit a petition for dissolution to the county board of commissioners in which all or the greater portion of the resident freeholders of the district are located. The county board of commissioners shall notify the Department and the county board of commissioners of any other county or counties in which any portion of the district lies, of the receipt of the petition, and shall request the Department to hold a joint public hearing with the county commissioners concerning the dissolution of the district. The Department and the chairperson of the county board of commissioners shall name a time and place within the district for the public hearing. The chairperson of the county board of commissioners of the county in which all or the greater portion of the resident freeholders of the district are located shall give prior notice of the hearing by posting a notice at the courthouse door of each county and also by publication in a newspaper or newspapers published in the county or counties at least once a week for four successive weeks. In the event that all matters pertaining to the dissolution of the mosquito control district cannot be concluded at the hearing, the hearing may be continued to a time and place determined by the Department. If after the hearing, the Commission and the county commissioners shall deem it advisable to comply with the request of the petition, the Commission shall adopt a resolution dissolving the district.

"§ 130A-359 to 130A-360: Reserved for future codification purposes.

"ARTICLE 13.

"Nutrition.

"§ 130A-361. Department to establish nutrition program.—(a) The Department shall establish and administer a nutrition program to promote the public health by achieving and maintaining optimal nutritional status in the population through activities such as nutrition screening and assessment; dietary counseling and treatment; nutrition education; follow-up; referral; and the direct provision of food. The program shall also include, but not be limited to, establishing policies and standards for nutritional practices; monitoring and surveillance of nutritional status; promoting interagency cooperation, professional education and consultation; providing technical assistance; conducting and supporting field research; providing direct care; and advising State and private institutions and other State agencies and departments in the establishment of food, nutrition and food service management standards.

(b) The Department shall adopt rules necessary to implement the program.

"§ 130A-362 to 130A-365: Reserved for future codification purposes.

"ARTICLE 14.

"Dental Health.

"§ 130A-366. Department to establish dental health program.—(a) The Department shall establish and administer a dental health program for the delivery of preventive, educational and dental care services to preschool children, school-age children, and adults. The program shall include, but not be limited to, providing teacher training, adult and child education, consultation, screening and referral, technical assistance, community coordination, field research and direct patient care.

(b) The Commission shall adopt rules necessary to implement the program.

"§ 130A-367 to 130A-370: Reserved for future codification purposes.

"ARTICLE 15.

"State Center For Health Statistics.

"§ 130A-371. State Center For Health Statistics established.— A State Center for Health Statistics is established within the Department.

"§ 130A-372. Definitions.—The following definitions shall apply throughout this Article:

(1) 'Health data' means information relating to the health status of individuals, the availability of health resources and services, and the use and cost of these resources and services. The term shall not include vital records registered under the provisions of Article 4 of this Chapter.

(2) 'Medical records' means health data relating to the diagnosis or treatment of physical or mental ailments of individuals.

"§ 130A-373. Authority and Duties.—(a) The State Center for Health Statistics is authorized to:

- (1) Collect, maintain and analyze health data on:
 - a. The extent, nature and impact of illness and disability on the population of the State;
 - b. The determinants of health and health hazards;
 - c. Health resources, including the extent of available work power and resources;
 - d. Utilization of health care;
 - e. Health care costs and financing; and
 - f. Other health or health-related matters; and
- (2) Undertake and support research, demonstrations and evaluations respecting new or improved methods for obtaining data.

(b) The State Center for Health Statistics may collect health data on behalf of other governmental or nonprofit organizations.

(c) The State Center for Health Statistics shall collect data only on a voluntary basis except when there is specific legal authority to compel mandatory reporting of the health data. In collecting health data on a voluntary basis, the State Center for Health Statistics shall give the person a statement in writing:

- (1) That the data is being collected on a voluntary basis and that the person is not required to respond; and
- (2) The purposes for which the health data is being collected.

(d) Subject to the provisions of G.S. 130A-374, the State Center for Health Statistics may share health data with other persons, agencies and organizations.

(e) The State Center for Health Statistics shall:

- (1) Take necessary action to assure that statistics developed under this Article are of high quality, timely and comprehensive, as well as specific and adequately analyzed and indexed; and
- (2) Publish, make available and disseminate statistics on as wide a basis as practical.

(f) The State Center for Health Statistics shall coordinate health data activities within the State in order to eliminate unnecessary duplication of data collection and to maximize the usefulness of data collected by:

- (1) Participating with State and local agencies in the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the State and local levels; and
- (2) Undertaking and supporting research, development, demonstration and evaluation respecting the cooperative system.

"§ 130A-374. Security of Health Data.—(a) Medical records of individual patients shall be confidential and shall not be public records open to inspection. The State Center for Health Statistics may disclose medical records of individual patients which identify the individual described in the record only if:

- (1) The individual described in the medical record has authorized the disclosure; or
- (2) The disclosure is for bona fide research purposes.

The Commission shall adopt rules providing for the use of the medical records for research purposes.

(b) The State Center for Health Statistics shall take appropriate measures to protect the security of health data collected by the Center, including:

- (1) Limiting the access to health data to authorized individuals who have received training in the handling of this data;
- (2) Designating a person to be responsible for physical security; and
- (3) Developing and implementing a system for monitoring security.

"§ 130A-375 to 130A-376: Reserved for future codification purposes.

"ARTICLE 16.

"Postmortem Investigation and Disposition.

"Part 1. Postmortem Medicolegal Examinations and Services.

"§ 130A-377. Establishment and maintenance of central and district offices.—The Department shall establish and maintain a central office with appropriate facilities and personnel for postmortem medicolegal examinations. District offices, with appropriate facilities and personnel, may also be established and maintained if considered necessary by the Department for the proper management of postmortem examinations.

"§ 130A-378. Qualifications and appointment of the Chief Medical Examiner.—The Chief Medical Examiner shall be a forensic pathologist certified by the American Board of Pathology and licensed to practice medicine. The Chief Medical Examiner shall be appointed by the Secretary.

"§ 130A-379. Duties of the Chief Medical Examiner.—The Chief Medical Examiner shall perform postmortem medicolegal examinations as provided in this Part. The Chief Medical Examiner may, upon request, provide instruction in health science, legal medicine and other subjects related to his duties at The University of North Carolina, the North Carolina Justice Academy and other institutions of higher learning.

"§ 130A-380. The Chief Medical Examiner's staff.—The Chief Medical Examiner may employ qualified pathologists to serve as Associate and Assistant Medical Examiners in

the central and district offices. The Associate and Assistant Medical Examiners shall perform duties assigned by the Chief Medical Examiner. Forensic chemists may be employed by the Chief Medical Examiner to provide toxicological and related support.

"§ 130A-381. Additional services and facilities.—In order to provide proper facilities for investigating deaths as authorized in this Part, the Chief Medical Examiner may arrange for the use of existing public or private laboratory facilities. The Chief Medical Examiner may contract with qualified persons to perform or to provide support services for autopsies and other studies and investigations.

"§ 130A-382. County medical examiners; appointment; term of office; vacancies.—One or more county medical examiners for each county shall be appointed by the Chief Medical Examiner for a three-year term. County medical examiners shall be appointed from a list of physicians licensed to practice medicine in this State submitted by the medical society of the county in which the appointment is to be made. If no names are submitted by the society, the Chief Medical Examiner shall appoint one or more medical examiners from physicians in the county licensed to practice medicine in this State. In the event no licensed physician in a county accepts an appointment, the Chief Medical Examiner may appoint one or more physicians licensed to practice medicine in this State from other counties or the local registrar, deputy registrar, subregistrar or coroner. In the event a medical examiner is unable to serve in a particular case or for a temporary period of time, the Chief Medical Examiner shall designate a physician licensed to practice medicine in this State, the local registrar, deputy registrar, subregistrar or coroner. A medical examiner may serve more than one county. The Chief Medical Examiner may take jurisdiction in any case or appoint another medical examiner to do so.

"§ 130A-383. Medical examiner jurisdiction.—(a) Upon the death of any person resulting from violence, poisoning, accident, suicide or homicide; occurring suddenly when the deceased had been in apparent good health or when unattended by a physician; occurring in a jail, prison, correctional institution or in police custody; or occurring under any suspicious, unusual or unnatural circumstance, the medical examiner of the county in which the body of the deceased is found shall be notified by a physician in attendance, hospital employee, law enforcement officer, funeral home employee, emergency medical technician, relative or by any other person having suspicion of such a death. No person shall disturb the body at the scene of such a death until authorized by the medical examiner unless in the unavailability of the medical examiner it is determined by the appropriate law enforcement agency that the presence of the body at the scene would risk the integrity of the body or provide a hazard to the safety of others. For the limited purposes of this Part, expression of opinion that death has occurred may be made by a nurse, an emergency medical technician or any other competent person in the absence of a physician.

(b) The discovery of anatomical material suspected of being part of a human body shall be reported to the medical examiner of the county in which the material is found.

"§ 130A-384. Notification concerning out-of-state body.—When a body is brought into this State for disposal and there is reason to believe either that the death was not

investigated properly or that there is not an adequate certificate of death, the body shall be reported to a medical examiner in the county where the body resides or to the Chief Medical Examiner. These deaths may be investigated by the same procedure as deaths occurring in this State under G.S. 130A-383.

"§ 130A-385. Duties of medical examiner upon receipt of notice; reports; copies.-(a) Upon receipt of a notification under G.S. 130A-383, the medical examiner shall take charge of the body, make inquiries regarding the cause and manner of death, reduce the findings to writing and promptly make a full report to the Chief Medical Examiner on forms prescribed for that purpose. The Chief Medical Examiner or the county medical examiner is authorized to inspect and copy the medical records of the decedent whose death is under investigation. The Chief Medical Examiner shall provide directions as to the nature, character and extent of an investigation and appropriate forms for the required reports. The facilities of the central and district offices and their staff services shall be available to the medical examiners and designated pathologists in their investigations.

(b) The medical examiner shall complete a certificate of death, stating the name of the disease which in his opinion caused death. If the death was from external causes, the medical examiner shall state on the certificate of death the means of death, and whether, in the medical examiner's opinion, the manner of death was accident, suicide, homicide or undetermined. The medical examiner shall also furnish any information as may be required by the State Registrar of Vital Statistics in order to properly classify the death.

(c) The Chief Medical Examiner shall have authority to amend a medical examiner death certificate.

(d) A copy of the report of the medical examiner investigation may be forwarded to the appropriate district attorney.

"§ 130A-386. Subpoena authority.-The Chief Medical Examiner and the county medical examiners are authorized to issue subpoenas for the attendance of persons and for the production of documents as may be required by their investigation.

"§ 130A-387. Fees.-For each investigation and prompt filing of the required report, the medical examiner shall receive a fee paid by the State. However, if the deceased is a resident of the county in which the death occurred, that county shall pay the fee. The fee shall be in an amount determined reasonable and appropriate by the Secretary, but shall not exceed fifty dollars (\$50.00).

"§ 130A-388. Medical examiner's permission necessary before embalming, burial and cremation.-(a) No person knowing or having reason to know that a death may be under the jurisdiction of the medical examiner pursuant to G.S. 130A-383 or G.S. 130A-384, shall embalm, bury or cremate the body without the permission of the medical examiner.

(b) A dead body shall not be cremated or buried at sea unless a medical examiner certifies that he has inquired into the cause and the manner of death and has the opinion that no further examination is necessary. This subsection shall not apply to deaths occurring less than 24 hours after birth or to deaths of patients resulting only from natural disease and occurring in a licensed hospital unless the death falls within the

jurisdiction of the medical examiner under G.S. 130A-383 or G.S. 130A-384. The Commission is authorized to adopt rules creating additional exceptions to this subsection. For making this certification, the medical examiner shall be entitled to a fee in an amount determined reasonable and appropriate by the Secretary, not to exceed fifty dollars (\$50.00), to be paid by the applicant.

"§ 130A-389. Autopsies.—(a) If, in the opinion of the medical examiner investigating the case or of the Chief Medical Examiner, it is advisable and in the public interest that an autopsy or other study be made; or, if an autopsy or other study is requested by the district attorney of the county or by any superior court judge, an autopsy or other study shall be made by the Chief Medical Examiner or by a competent pathologist designated by the Chief Medical Examiner. A complete autopsy report of findings and interpretations, prepared on forms designated for the purpose, shall be submitted promptly to the Chief Medical Examiner. Copies of the report shall be furnished the authorizing medical examiner, district attorney or superior court judge. A copy of the report shall be furnished to other persons upon request. A fee for the autopsy or other study shall be paid by the State. However, if the deceased is a resident of the county in which the death occurred, that county shall pay the fee. The fee shall be in an amount determined reasonable and appropriate by the Secretary, but shall not exceed four hundred dollars (\$400.00).

(b) In deaths where the Chief Medical Examiner and the medical examiner investigating the case do not deem it advisable and in the public interest that an autopsy be performed, but the next- of-kin of the deceased requests that an autopsy be performed, the Chief Medical Examiner or a designated pathologist may perform the autopsy and the cost shall be paid by the next-of-kin.

(c) When the next-of-kin of a decedent whose death does not fall under G.S. 130A-383 or G.S. 130A-384 requests that an autopsy be performed, the Chief Medical Examiner or a designated pathologist may perform that autopsy and the cost shall be paid by the next-of-kin.

(d) The report of autopsies performed pursuant to subsections (b) and (c) shall be a part of the decedents' medical records and therefore not public records open to inspection.

"§ 130A-390. Exhumations.—(a) In any case of death described in G.S. 130A-383 or G.S. 130A-384 where the body is buried without investigation by a medical examiner as to the cause and manner of death or where sufficient cause develops for further investigation after a body is buried as determined by a county medical examiner or the Chief Medical Examiner, the Chief Medical Examiner shall authorize an investigation and send a report of the investigation with recommendations to the appropriate district attorney. The district attorney may forward the report to the superior court judge and petition for disinterment. The judge may order that the body be exhumed and that an autopsy be performed by the Chief Medical Examiner. A report of the autopsy and other pathological studies shall be delivered to the judge. The cost of the exhumation, autopsy, transportation and disposition of the body shall be paid by the State. However, if the deceased is a resident of the county in which death occurred, that county shall pay the cost.

(b) Any person may petition a judge of the superior court for an order of exhumation. Upon showing of sufficient cause, the judge may order the body exhumed. The cost incurred shall be assigned to the petitioner.

(c) Without applying for a judicial exhumation order, the next-of-kin of a deceased person may have the remains exhumed, examined by the Chief Medical Examiner and redisposed. The cost shall be paid by the next-of-kin.

"§ 130A-391. Corneal tissue removal.—(a) A medical examiner or a regional pathologist may provide corneal tissue from a decedent under the jurisdiction of the medical examiner or the regional pathologist to the North Carolina Eye and Human Tissue Bank or other donee specified in G.S. 130A-405 under the following conditions:

- (1)
 - a. Consent from next-of-kin is obtained in accordance with G.S. 130A-404; or
 - b. A reasonable attempt to determine next-of-kin has failed; or
 - c. The medical examiner or regional pathologist believes that there are no next-of-kin to be contacted for consent; and
- (2) The removal of the corneal tissue for transplant will not interfere with any subsequent course of investigation or autopsy or alter the postmortem facial appearance.

(b) If the requirements of subsection (a) have been met, neither the medical examiner, the regional pathologist, nor the donee shall be liable in any civil action brought by the next-of-kin on the contention that authorization of next-of-kin was required to remove the corneal tissue.

"§ 130A-392. Reports and records as evidence.—Reports of investigations made by a county medical examiner or by the Chief Medical Examiner and toxicology and autopsy reports made pursuant to this Part may be received as evidence in any court or other proceeding. Copies of records, photographs, laboratory findings and records in the Office of the Chief Medical Examiner, any county medical examiner or designated pathologist, when duly certified, shall have the same evidentiary value as the original.

"§ 130A-393. Rules.—The Commission shall adopt rules to carry out the intent and purpose of this Part.

"§ 130A-394. Coroner to hold inquests.—In every case requiring the medical examiner to be notified, as provided by G.S. 130A-198, the coroner shall be notified by the medical examiner, and the coroner shall hold an inquest and preliminary hearing in those instances as required in G.S. 152-7. The coroner shall file a written report of his investigation with the district attorney of the superior court and the medical examiner. The body shall remain in the custody and control of the medical examiner. However, if a county has abolished the office of coroner pursuant to the provisions of Chapter 152A at a time when Chapter 152A was in effect in the county: (i) The provisions of this Article relating to coroner shall not be applicable to the county, (ii) the provisions of G.S. 152A-9 shall remain in full force and effect in the county, and (iii) Chapter 152 of the General Statutes shall not be applicable in the county.

"§ 130A-395 to 130A-397: Reserved for future codification purposes.

"Part 2. Autopsies.

"§ 130A-398. Limitation on right to perform autopsy.—The right to perform an autopsy shall be limited to those cases in which:

- (1) The Chief Medical Examiner or a county medical examiner, acting pursuant to G.S. 130A-389, directs that an autopsy be performed;
- (2) The Commission of Anatomy, acting pursuant to G.S. 130A- 415, has given written consent for an autopsy to be performed on an unclaimed body;
- (3) A prosecuting officer or district attorney, acting pursuant to G.S. 15-7 in case of homicide, directs that an autopsy be performed;
- (4) The decedent directs in writing prior to death that an autopsy be performed upon the occurrence of the decedent's death;
- (5) The personal representative of the estate of the decedent requests that an autopsy be performed upon the decedent; or
- (6) Any of the following persons, in order of priority, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual opposition by a member of the same or prior class, authorizes an autopsy to be performed:
 - a. The spouse;
 - b. Any adult child or stepchild;
 - c. Any parent or stepparents;
 - d. Any adult sibling;
 - e. A guardian of the person of the decedent at the time of the decedent's death;
 - f. Any relative or person who accepts responsibility for final disposition of the body by other customary and lawful procedures;
 - g. Any person under obligation to dispose of the body.

"§ 130A-399. Postmortem examination of inmates of certain public institutions.—

Upon the death of any inmate of an institution maintained by the State, or a city, county or other political subdivision of the State, for the care of the sick, mentally ill or mentally retarded, the administrator of the institution in which the death occurs is empowered to authorize a postmortem examination of the deceased person. The examination shall be of a scope and nature necessary to promote knowledge of the human organism and its disorders.

"§ 130A-400. Written consent for postmortem examinations required.—An administrator of an institution shall not authorize a postmortem examination described in G.S. 130A-399 without first securing the written consent of the deceased person's spouse, one of the next-of-kin or nearest known relative, or other person charged by law with the duty of burial, in the order named and as known. A copy of the written consent shall be filed in the office of the administrator of the institution where the inmate died.

"§ 130A-401. Postmortem examinations in certain medical schools.—The postmortem examinations and studies authorized by G.S. 130A-399 may be made in the laboratories of medical schools of colleges and universities on conditions established by the administrator.

"Part 3. Uniform Anatomical Gift Act.

"§ 130A-402. Short title.—This Part may be cited as the Uniform Anatomical Gift Act.

"§ 130A-403. Definitions.—The following definitions shall apply throughout this Part:

- (1) 'Bank or storage facility' means a facility licensed, accredited or approved under the laws of any state for storage or distribution of a human body or its parts.
- (2) 'Decedent' means a deceased individual and includes a stillborn infant or fetus.
- (3) 'Donor' means an individual who makes a gift of all or part of the individual's body.
- (4) 'Hospital' means a hospital licensed, accredited or approved under the laws of any state and a hospital operated by the United States government, a state or its subdivision, although not required to be licensed under state laws.
- (5) 'Part' means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.
- (6) 'Physician' or 'surgeon' means a physician or surgeon licensed to practice medicine under the laws of any state.
- (7) 'State' includes any state, district, commonwealth, territory, insular possession and any other area subject to the legislative authority of the United States of America.
- (8) 'Qualified individual' means any of the following individuals who has completed a course in eye enucleation and has been certified as competent to enucleate eyes by an accredited school of medicine in this State:
 - a. An embalmer licensed to practice in this State;
 - b. A physician's assistant approved by the Board of Medical Examiners pursuant to G.S. 90-18(13);
 - c. A registered or a licensed practical nurse licensed by the Board of Nursing pursuant to Article 9 of Chapter 90 of the General Statutes;
 - d. A student who is enrolled in an accredited school of medicine operating within this State and who has completed two or more years of a course of study leading to the awarding of a degree of doctor of medicine.

"§ 130A-404. Persons who may make an anatomical gift.—(a) An individual of sound mind and 18 years of age or more may give all or any part of that individual's body for any purpose specified in G.S. 130A-405. The gift shall take effect upon death.

(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in G.S. 130A-405.

- (1) The spouse;
- (2) An adult child;
- (3) Either parent;
- (4) An adult sibling;
- (5) A guardian of the person of the decedent at the time of decedent's death;
- (6) Any other person authorized or under obligation to dispose of the body.

(c) The persons authorized by subsection (b) may make the gift after or immediately before death. However, the guardian of the person of a ward may make the gift at any time during the guardianship and the gift shall become effective upon the death of the ward unless the guardianship terminated before death.

(d) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift.

(e) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(f) The rights of the donee created by the gift are paramount to the rights of others except as provided by G.S. 130A-409(d).

"§ 130A-405. Persons who may become donees; purposes for which anatomical gifts may be made.—The following persons may become donees of gifts of a human body or its parts for the purposes stated:

(1) A hospital, surgeon or physician for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

(2) An accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy;

(3) A bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation;

(4) A specified individual for therapy or transplantation needed by that individual; or

(5) The Commission of Anatomy for the distribution of a human body or its parts for the purpose of promoting the study of anatomy in this State.

"§ 130A-406. Manner of making anatomical gifts.—(a) A gift of all or part of the body under G.S. 130A-404(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is valid and effective.

(b) A gift of all or part of the body under G.S. 130A-404(a) may also be made by a document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the individual, must be signed by the donor in the presence of two witnesses who must sign the document in the donor's presence. If the donor cannot sign, the document may be signed for the donor at the direction and in the presence of the donor and in the presence of two witnesses who must sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee.

(d) The donor may designate by will, card or other document of gift the surgeon or physician to carry out the appropriate procedures, subject to the provisions of G.S.

130A-409(b). In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for that purpose.

(e) In respect to a gift of an eye, a qualified individual may enucleate eyes for the gift after proper certification of death by a physician and upon the express direction of a physician other than the one who certified the death of the donor.

(f) A gift by a person designated in G.S. 130A-404(b) shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message. However, a guardian of the person of a ward who makes a gift of all or any part of the ward's body prior to the ward's death shall make the gift by a document signed by the guardian and filed with the clerk of court having jurisdiction over the guardian.

(g) The making of a gift shall be deemed to include an authorization to the donee to review any medical records of the donor after the death of the donor.

"§ 130A-407. Delivery of document of gift.—If the gift is made by the donor or the guardian to a specified donee, the will, card or other document or executed copy may be delivered to the donee at any time to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card or other document or executed copy may be deposited in a hospital, bank or storage facility, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's or ward's death, the person in possession shall produce the document for examination.

"§ 130A-408. Amendment or revocation of the gift.—(a) If the will, card or other document or executed copy has been delivered to a specified donee, the donor may amend or revoke the gift by:

- (1) The execution and delivery to the donee of a signed statement;
- (2) An oral statement made in the presence of two persons and communicated to the donee;
- (3) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or
- (4) A signed card or document found on the individual or in the individual's effects, and made known to the donee.

(b) A guardian may amend or revoke the gift by the execution and delivery to the donee of a signed statement.

(c) Any document of gift which has not been delivered to the donee may be revoked by the donor or guardian in the manner set out in subsection (a) or by destruction, cancellation or mutilation of the document and all executed copies.

(d) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills or as provided in subsection (a).

"§ 130A-409. Rights and duties at death.—(a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, the donee shall, subject to the terms of the gift, authorize embalming and the use of the body in funeral services, upon request of the surviving spouse or other person listed in the order stated in G.S. 130A-404(b). If the gift is of a part of the body, the donee, upon the death of the donor or ward and prior

to embalming, shall, within 24 hours, cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next-of-kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor or ward at death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts with due care in accord with the terms of this Part or the anatomical gift laws of another state is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for the act.

(d) The provisions of this Part are subject to the laws of this State prescribing powers and duties with respect to autopsies.

"§ 130A-410. Use of tissue declared a service; standard of care; burden of proof.—The procurement, processing, distribution or use of whole blood, plasma, blood products, blood derivatives and other human tissues such as corneas, bones or organs for the purpose of injecting, transfusing or transplanting any of them into the human body is declared to be, for all purposes, the rendition of a service by every participating person or institution. Whether or not any remuneration is paid, the service is declared not to be a sale of whole blood, plasma, blood products, blood derivatives or other human tissues, for any purpose. No person or institution shall be liable in warranty, express or implied, for the procurement, processing, distribution or use of these items but nothing in this section shall alter or restrict the liability of a person or institution in negligence or tort in consequence of these services.

"§ 130A-411. Giving of blood by persons 17 years of age or more.—A person who is 17 years of age or more may give or donate blood to an individual, hospital, blood bank or blood collection center without the consent of the parent or parents or guardian of the donor. It shall be unlawful for a person under the age of 18 years to sell blood.

"§ 130A-412. Uniformity of interpretation.—This Part shall be so construed to effectuate its general purpose to make uniform the law of those states which enact it.

"Part 4. Human Tissue Donation Program.

"§ 130A-413. Coordinated human tissue donation program; legislative findings and purpose; program established.—(a) The General Assembly finds that there is an increasing need for human tissues for transplantation purposes; that there is a continuing need for human tissues for the purposes of medical education and research; and that these needs are not being sufficiently filled at the present because of a shortage of human tissue donors. The General Assembly establishes a coordinated human tissue donation program to facilitate the acquisition and distribution of human tissues to promote the public health. For the purposes of this Part, the term 'human tissue' includes cadavers.

(b) The Department shall establish and administer a coordinated program among departments and agencies of the State and all groups, both public and private, involved in the acquisition and distribution of human tissue to:

- (1) Increase awareness of the need for human tissue donations and of the methods by which these donations are made;

- (2) Increase awareness of the existing programs of human tissue transplantation and of medical research and education which employs human tissue and share information with the public;
- (3) Study the problems surrounding the acquisition and distribution of human tissue and make suggestions for their solution;
- (4) Disseminate information to health and other professionals concerning the techniques of human tissue retrieval and transplantation, the legalities involved in making anatomical gifts; and
- (5) Arrange for the quick and precise transportation of donated human tissue in emergency transplant situations.

(c) All departments and agencies of the State and county and municipal law enforcement agencies shall cooperate with the coordinated human tissue donation program instituted by the Department.

"§ 130A-414. Human Tissue Advisory Council.—(a) A Human Tissue Advisory Council is established to advise the Secretary in the planning, organization, administration and evaluation of the coordinated Human Tissue Donation Program. Members of the Council shall be appointed as follows:

- (1) The Secretary shall appoint a representative from each of the following institutions:
 - a. The Bowman Gray School of Medicine of Wake Forest University,
 - b. The Duke University School of Medicine,
 - c. The North Carolina Association of the Blind,
 - d. The North Carolina Eye and Human Tissue Bank,
 - e. The North Carolina Funeral Directors' Association,
 - f. The North Carolina Hospital Association,
 - g. The National Kidney Foundation of North Carolina, Inc.,
 - h. The North Carolina Medical Society,
 - i. The University of North Carolina at Chapel Hill School of Medicine,
 - j. The East Carolina University School of Medicine; and
- (2) A representative of the Secretary;
- (3) A representative of the Chief Medical Examiner;
- (4) One member appointed by the Speaker of the House of Representatives; and
- (5) One member appointed by the President of the Senate.

(b) Members shall serve terms of three years except that members may be appointed for terms of less than three years to achieve a staggered-term structure. The Council shall elect a chairperson from among its membership and shall meet at least two times a year and upon the request of the Secretary. Members shall serve without compensation but shall be reimbursed for travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

"Part 5. Disposition of Unclaimed Bodies.

"§ 130A-415. Unclaimed bodies; disposition.—(a) All officers, employees and agents of the State or of any unit of local government in the State; all undertakers doing business within the State; or any person having charge or control of an unclaimed body shall immediately notify and, upon the request of the Commission of Anatomy, deliver the dead body to the Commission of Anatomy. The Commission of Anatomy may take and remove the dead body. No reward or fee shall be paid for notifying the Commission of Anatomy. The person having charge or control of an unclaimed body shall make reasonable efforts to notify any interested person of the decedent's death. The recipient to which the Commission of Anatomy delivers the body shall pay all expenses for the embalming and delivery of the body, and for the reasonable efforts made to notify the persons.

(b) For the purposes of this Part, an unclaimed body means a dead body which is not claimed for final disposition and which, as determined by the person having charge or control of the dead body, probably will not be claimed for final disposition within 10 days of the deceased's death. The unclaimed body shall remain in the charge or control of the person for a period of 10 days unless the period is shortened by the county director of social services upon determination that the dead body will not be claimed for final disposition within 10 days of the decedent's death. Upon expiration of the period, the person having charge or control of the unclaimed body will deliver it to the Commission of Anatomy at a time and place specified by the Commission of Anatomy or permit the Commission of Anatomy to take and remove the body.

(c) All dead bodies not claimed for final disposition within 10 days of the decedent's death may be received and delivered by the Commission of Anatomy pursuant to the authority contained in G.S. 143B-204 and this Part and in accordance with its rules. All interests in and rights to dead bodies unclaimed for final disposition within 10 days of the decedent's death and received by the Commission of Anatomy shall vest in the Commission of Anatomy.

(d) No autopsy shall be performed on an unclaimed body without the written consent of the Commission of Anatomy except that written consent is not required for an autopsy performed pursuant to Part 2 of this Article.

(e) Due caution shall be taken to shield the unclaimed body from public view.

(f) Notwithstanding anything contained in this section, an unclaimed body shall not mean a dead body for which the deceased has made a gift pursuant to Part 3 of this Article.

(g) Nothing in this Part shall require the officers, employees or agents of a county to notify the Commission of Anatomy regarding the bodies of minors who were in the custody of the county at the time of death and whose final disposition will be arranged by the county. In the absence of notification, the expenses of the final disposition shall be a charge upon the county having custody.

(h) The provisions of this Part shall not apply to bodies within the jurisdiction of the medical examiner under G.S. 130A- 383 or G.S. 130A-384.

"§ 130A-416. Commission of Anatomy rules.—The Commission of Anatomy is authorized to adopt rules necessary to implement the provisions of this Part. "Part 6.

Final Disposition or Transportation of Deceased Migrant Agricultural Workers and Their Dependents.

"§ 130A-417. Definitions.—The following definitions shall apply throughout this Part:

(1) 'Dependent' means child, grandchild, spouse or parent of a migrant agricultural worker who moves with the migrant agricultural worker in response to the demand for seasonal agricultural labor.

(2) 'Migrant agricultural worker' means a worker who moves in response to the demand for seasonal agricultural labor.

"§ 130A-418. Deceased migrant agricultural workers and their dependents.—(a) Notwithstanding any other provisions of law, a person having knowledge of the death of a migrant agricultural worker or a worker's dependent shall without delay report the death to the department of social services in the county in which the body is located together with any information regarding the deceased including identity, place of employment, permanent residence, and the name, address and telephone number of any relative and any interested person. The county department of social services shall, within a reasonable time of receiving this report, transmit to the Department notice of the death and information received upon notification. The Department shall make reasonable effort to inform the next-of-kin and any interested person of the death.

(b) If the identity of the person cannot be determined within a reasonable period of time, or if the body is unclaimed 10 days after death, the body shall be offered to the Commission of Anatomy and, upon its request, shall be delivered to the Commission of Anatomy. If the Commission of Anatomy does not request an unclaimed body offered it or the estate, and if the relatives or other interested persons claiming the body are unable to provide for the final disposition of the migrant agricultural worker or dependent, the Department is authorized and directed to arrange for the final disposition of the decedent.

(c) If the estate, relatives or interested persons are able to provide for final disposition but are unable to effect the transportation of the decedent to the decedent's legal residence or the legal residence of the relatives or interested persons, the Department is authorized and directed to allocate a sum of not more than two hundred dollars (\$200.00) to defray the transportation expenses.

(d) The Secretary is authorized to adopt rules necessary to implement this section."

Sec. 3. Article 14B of Chapter 90 of the General Statutes is repealed.

Sec. 4. Article 14C of Chapter 90 of the General Statutes is repealed.

Sec. 5. Article 15 of Chapter 90 of the General Statutes is repealed.

Sec. 6. Article 15A of Chapter 90 of the General Statutes is repealed.

Sec. 7. Article 5 of Chapter 72 of the General Statutes is repealed.

Sec. 8. Part 7 of Article 34 of Chapter 106 of the General Statutes is repealed.

Sec. 9. G.S. 67-32 is repealed.

Sec. 10. G.S. 143B-209 is repealed.

Sec. 11. G.S. 90-187.10(8) is rewritten to read as follows:

"(8) Any certified rabies vaccinator appointed, certified and acting with the provisions of G.S. 130A-186."

Sec. 12. G.S. 106-141 is amended by adding a new subsection (c) as follows:

"(c) The Commissioner of Agriculture is authorized to delegate embargo authority concerning food and drink pursuant to G.S. 106- 125 to the Secretary of Human Resources and to local health directors."

Sec. 13. G.S. 105-164.14 is amended in line 24 of subsection (c) by inserting between the words "statutes," and "regional" the words "district health departments".

Sec. 14. The first registered nurse member of a local board of health appointed pursuant to this act shall assume office upon expiration of the term of the first public member whose term expires on or after January 1, 1984. The first licensed optometrist member of a district board of health appointed pursuant to this act shall assume office upon expiration of the term of the second public member whose term expires on or after January 1, 1984. The first licensed veterinarian member of a district board of health appointed pursuant to this act shall assume office upon expiration of the term of the third public member whose term expires on or after January 1, 1984.

Sec. 15. G.S. 143B-142 is rewritten to read as follows:

"§ 143B-142. Commission for Health Services; creation, powers and duties.—(a) The Commission for Health Services of the Department of Human Resources is created with the authority and duty to adopt rules to protect and promote the public health.

(b) The Commission for Health Services is authorized to adopt rules necessary to implement the public health programs administered by the Department of Human Resources as provided in Chapter 130A of the General Statutes.

(c) The Commission for Health Services shall adopt rules:

- (1) For the operation of home health agencies as provided in Part C of Article 6 of Chapter 131E of the General Statutes;
- (2) Establishing standards for approving sewage- treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o);
- (3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522;
- (4) Establishing requirements for the sanitation of local confinement facilities as provided in G.S. 153-53.4; and
- (5) Governing environmental impact statements and information required in applications to determine eligibility for water supply systems under the provisions of the Clean Water Bond Act.

(d) The Commission is authorized to create:

- (1) Metropolitan water districts as provided in G.S. 162A-33;
- (2) Sanitary districts as provided in Part 2 of Article 2 of Chapter 130A of the General Statutes; and
- (3) Mosquito control districts as provided in Part 2 of Article 12 of Chapter 130A of the General Statutes.

(e) Rules adopted by the Commission for Health Services shall be enforced by the Department of Human Resources."

Sec. 16. This act shall not affect any civil or criminal litigation pending on the effective date of this act. Any act committed prior to the effective date of this act which violated any provision of the statutes repealed or amended by this act shall be subject to enforcement, prosecution, conviction and punishment as if this act had not been enacted. Any claim arising under any provisions of the statutes repealed or amended by this act prior to the effective date of this act shall remain valid as if this act had not been enacted.

Sec. 16.1. If any bill ratified by the 1983 General Assembly, whether ratified before or after this bill, amends a part of Chapter 130 of the General Statutes which is repealed by this bill, the bill will be construed to amend the appropriate part of the new Chapter 130A of the General Statutes enacted by this bill.

Sec. 17. This act shall become effective January 1, 1984, except that the provision in G.S. 130A-185 requiring the vaccination of all cats over four months of age shall become effective July 1, 1984. However, upon ratification of this act, the Commission for Health Services is authorized to adopt rules under the provisions of this act; provided, the rules shall not be effective before the effective date of the act.

In the General Assembly read three times and ratified, this the 20th day of July, 1983.