

# NORTH CAROLINA GENERAL ASSEMBLY



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## HOUSE SELECT COMMITTEE ON NORTH CAROLINA RIVER QUALITY

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**REPORT TO THE  
2018 SESSION  
of the  
2017 GENERAL ASSEMBLY  
OF NORTH CAROLINA**

APRIL 26, 2018

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## TRANSMITTAL LETTER

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April 26, 2018

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TO THE MEMBERS OF THE 2018 REGULAR SESSION  
OF THE 2017 GENERAL ASSEMBLY

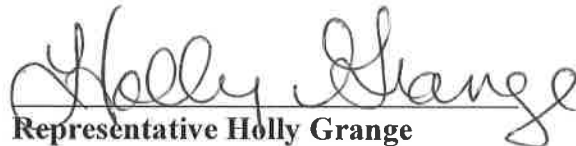
The House Select Committee on North Carolina River Quality, pursuant to G.S. 120-19.6(a1) and Rule 26(a) of the Rules of the House of Representatives of the 2017 General Assembly, respectfully submits the following report to the 2018 Regular Session of the 2017 General Assembly.



Representative Ted Davis, Jr.  
Senior Chair



Representative Frank Iler  
Co-Chair



Representative Holly Grange  
Co-Chair

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## COMMITTEE MEMBERSHIP

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2017-2018

The Committee consists of fourteen members appointed by the Speaker of the House of Representatives. The membership of the Committee shall include legislators as specified below. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time. Vacancies are filled by the Speaker of the House of Representatives. A Chair, Vice Chair, or other member of the Committee continues to serve until a successor is appointed.

### **Senior Chair**

Representative Ted Davis      [Ted.Davis@ncleg.net](mailto:Ted.Davis@ncleg.net)

### **Co-Chairs**

Representative Holly Grange      [Holly.Grange@ncleg.net](mailto:Holly.Grange@ncleg.net)  
Representative Frank Iler      [Frank.Iler@ncleg.net](mailto:Frank.Iler@ncleg.net)

### **Legislative Members**

Representative William Brisson      [William.Brisson@ncleg.net](mailto:William.Brisson@ncleg.net)  
Representative Jimmy Dixon      [Jimmy.Dixon@ncleg.net](mailto:Jimmy.Dixon@ncleg.net)  
Representative Elmer Floyd      [Elmer.Floyd@ncleg.net](mailto:Elmer.Floyd@ncleg.net)  
Representative Kyle Hall      [Kyle.Hall@ncleg.net](mailto:Kyle.Hall@ncleg.net)  
Representative Pricey Harrison      [Pricey.Harrison@ncleg.net](mailto:Pricey.Harrison@ncleg.net)  
Representative Pat McElraft      [Pat.McElraft@ncleg.net](mailto:Pat.McElraft@ncleg.net)  
Representative Chuck McGrady      [Chuck.McGrady@ncleg.net](mailto:Chuck.McGrady@ncleg.net)  
Representative Bob Muller      [Bob.Muller@ncleg.net](mailto:Bob.Muller@ncleg.net)  
Representative Bob Steinburg      [Bob.Steinburg@ncleg.net](mailto:Bob.Steinburg@ncleg.net)  
Representative Scott Stone      [Scott.Stone@ncleg.net](mailto:Scott.Stone@ncleg.net)  
Representative Larry Yarborough      [Larry.Yarborough@ncleg.net](mailto:Larry.Yarborough@ncleg.net)

### **Commission Staff:**

[Jeff Hudson](#), Commission Counsel  
[Jennifer McGinnis](#), Commission Counsel  
[Chris Saunders](#), Commission Counsel  
[Mariah Matheson](#), Commission Assistant  
Commission Clerk: [Judy Lowe](#)

### **Commission Contact Information:**

545 Legislative Office Building  
300 North Salisbury Street  
Raleigh, North Carolina 27603  
(919) 733-2578  
FAX: (919) 715-5460

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## COMMITTEE CHARGE

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**Section 1.** The House Select Committee on North Carolina River Quality (hereinafter "Committee") is established by the Speaker of the House of Representatives pursuant to Rule 26(a) of the Rules of the House of Representatives of the 2017 General Assembly.

**Section 2.** The Committee consists of fourteen members appointed by the Speaker of the House of Representatives. The membership of the Committee shall include legislators as specified below. Members serve at the pleasure of the Speaker of the House of Representatives. The Speaker of the House of Representatives may dissolve the Committee at any time. Vacancies are filled by the Speaker of the House of Representatives. A Chair, Vice Chair, or other member of the Committee continues to serve until a successor is appointed.

Representative Ted Davis, Senior Chair	Representative Kyle Hall
Representative Holly Grange, Co-Chair	Representative Pricey Harrison
Representative Frank Iler, Co-Chair	Representative Pat McElraft
Representative Scott Stone	Representative Chuck McGrady
Representative William Brisson	Representative Bob Muller
Representative Jimmy Dixon	Representative Bob Steinburg
Representative Elmer Floyd	Representative Larry Yarborough

**Section 3.** The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02

**Section 4.** Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1.

**Section 5.** The expenses of the Committee including per diem, subsistence, travel allowances for Committee members, and contracts for professional or consultant services shall be paid upon the written approval of the Speaker of the House of Representatives pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the House of Representatives for its operations. Individual expenses of \$5,000 or less, including per diem, travel and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a Chair of the Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the Speaker of the House of Representatives.

**Section 6.** The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of Representatives shall assign clerical support staff to the Committee.

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# COMMITTEE PROCEEDINGS

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The House Select Committee on North Carolina River Quality met seven times after the 2017 Regular Session. The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

## AGENDA

**9:00 a.m. Thursday, September 28, 2017**

Room 643 Legislative Office Building  
Raleigh, North Carolina

1. Call to order  
Representative Davis, presiding
2. Introductory remarks by Cochairs  
Representative Davis  
Representative Grange  
Representative Iler
3. Presentation on the regulatory history of the Chemours Fayetteville Works facility including:
  - The permitting and enforcement history of the facility at the State and federal levels
  - All legal action taken by the State relative to the Chemours Fayetteville Works facility
  - Water quality test results for wells adjacent to the Chemours Fayetteville Works facility and efforts to address contamination
  - Investigation into potential air emissions  
(1 hour 30 minutes)  
Sheila Holman, Assistant Secretary for Environment  
Department of Environmental Quality
4. Presentation of action plan to implement Section 20(a)(1) of House Bill 56 (GenX Response Measures); report on the GenX contamination of the Cape Fear Public Utility Authority's aquifer storage (1 hour)  
Mike Brown, Chairman of the Board  
Cape Fear Public Utility Authority Board  
  
Frank Styers, Chief Operations Officer  
Cape Fear Public Utility Authority

(NPDES) permitting backlog, private well water contamination and potential monitoring, and federal emerging contaminant standards.

Mr. Mike Brown, Chairman of the Board, Cape Fear Public Utility Authority (CFPUA), and Mr. Frank Styers, Chief Operations Officer, CFPUA, reported on CFPUA's implementation of GenX response measures as directed by House Bill 56 (S.L. 2017-209).

The Committee discussed the Authority's use of reverse osmosis to treat contamination, Dr. Knappe's report on treatment options for emerging contaminants, and the Authority's ongoing and future testing and treatment operations.

Mr. Mark Lanier, Assistant to the Chancellor, University of North Carolina Wilmington (UNCW), and Dr. Ralph Mead, Professor, Department of Chemistry and Biochemistry, UNCW, reported on UNCW's implementation of GenX response measures as directed by House Bill 56 (S.L. 2017-209).

The Committee discussed UNCW's use of funding, establishment of health goals, possible bioaccumulation of GenX, the process to identify new chemicals, and similarities between C8, GenX and PFOA.

After a lunch break, Mr. Mark Benton, Deputy Secretary, Department of Health and Human Services (DHHS), Division of Public Health (DPH), and Dr. Zack Moore, State Epidemiologist, DHHS, DPH, presented on the presence and health effects of GenX and related compounds in the Lower Cape Fear River Basin.

The Committee discussed the health effects of GenX on humans versus animals, how DPH began its investigation and the starting point for controlled laboratory studies, guidance for setting health standards, and establishing health standards and goals for GenX.

Ms. Tracy Skrabal, Coastal Scientist and Manager, Southeast Regional Office, North Carolina Coastal Federation, and Dr. Lee Ferguson, Associate Professor, Department of Civil and Environmental Engineering, Duke University, presented on emerging compounds and federal regulations, State regulations, and regulatory gaps.

The Committee discussed possible regulatory, technological, research, and infrastructure gaps in addressing emerging contaminants, where the burden of proof lies for proving certain discharges, other emerging contaminant monitoring systems, GenX detection in other states, whether GenX is included in the federal Safe Drinking Water Act, whether the Toxic Substances Control Act needs reform, and bioaccumulation of GenX in the environment.

5. Department of Health and Human Services update on response to emerging compounds and responses to previous questions, including:
  - Description of Departmental resources devoted to the monitoring, analysis, and regulation of emerging compounds
  - Overview of research and studies that contributed to the 140 parts per trillion health goal for GenX
  - Description of the Science Advisory Board and its work  
(45 minutes)Elizabeth Cuervo Tilson, MD, MPH  
State Health Director, Chief Medical Officer  
Department of Health and Human Services  
  
Danny Staley, MS  
Director, Division of Public Health  
Department of Health and Human Services  
  
Zack Moore, MD, MPH  
State Epidemiologist and Epidemiology Section Chief  
Division of Public Health, Department of Health and Human Services
6. Update on the action plan to implement Section 20(a)(1) of House Bill 56 (GenX Response Measures) and testing conducted by the Cape Fear Public Utility Authority for the filtration and removal of GenX and other emerging compounds from drinking water (45 minutes)  
Jim Flechtner, Executive Director  
Cape Fear Public Utility Authority  
  
Frank Styers, Chief Operations Officer  
Cape Fear Public Utility Authority
7. Presentation on issues concerning emerging compounds (30 minutes)  
Kemp Burdette, Cape Fear Riverkeeper  
Cape Fear River Watch
8. Commission discussion and announcements
9. Adjourn

The second meeting of the House Select Committee on North Carolina River Quality was held on Thursday, October 26, 2017, at 9:30 a.m. in Room 643 of the Legislative Office Building. Representative Davis presided.

Dr. Detlef Knappe, Professor, Department of Civil, Construction, and Environmental Engineering, North Carolina State University, presented on research into emerging



## AGENDA

9:30 a.m. Thursday, November 30, 2017

Room 643 Legislative Office Building

Raleigh, North Carolina

1. Call to order  
Representative Davis, presiding
2. Introductory remarks by Cochairs  
Representative Davis  
Representative Grange  
Representative Iler
3. Department of Environmental Quality update on response to emerging compounds and responses to previous questions, including:
  - Latest surface water and groundwater monitoring results
  - Information on air emissions from the Chemours Fayetteville Works facility
  - Enforcement actions, including enforcement actions related to an unreported chemical spill at the Chemours Fayetteville Works facility
  - Discovery of additional emerging compounds
  - Information on Departmental water quality monitoring  
(2 hours)

Sheila Holman, Assistant Secretary for Environment  
Department of Environmental Quality

Linda Culpepper, Deputy Director, Division of Water Resources  
Department of Environmental Quality

Michael Scott, Director, Division of Waste Management  
Department of Environmental Quality

Mike Abraczinskas, Director, Division of Air Quality  
Department of Environmental Quality

4. Discussion of schedule and plans for future committee meetings
5. Announcements
6. Adjourn

The third meeting of the House Select Committee on North Carolina River Quality was held on Thursday, November 30, 2017, at 9:30 a.m. in Room 643 of the Legislative Office Building. Representative Davis presided.

**AGENDA**  
**9:30 a.m. Thursday, January 4, 2018**  
Room 643 Legislative Office Building  
Raleigh, North Carolina

1. Call to order  
Representative Ted Davis, presiding
2. Introductory remarks by Cochairs  
Representative Ted Davis  
Representative Holly Grange  
Representative Frank Iler
3. Committee consideration and vote on short-term legislative proposals for the January 10, 2018 Session  
Representative Ted Davis  
  
Public Comment
4. Committee discussion on non-agenda items and announcements
5. Adjourn

The fourth meeting of the House Select Committee on North Carolina River Quality was held on Thursday, January 4, 2018, at 9:30 a.m. in Room 643 of the Legislative Office Building. Representative Davis presided.

Mr. Jeffrey Hudson, Committee Counsel, House Select Committee on North Carolina River Quality, summarized a Proposed Committee Substitute, 2017-SBz-21 [v.13], that would implement short-term legislative proposals to address water quality issues relating to the Chemours discharge of GenX into the Cape Fear River. The entire PCS, 2017-SBz-21 [v. 13], is included in this report's Recommendations, on page 29.

The Committee discussed the requirement that the Department of Health and Human Services (DHHS) work with the Science Advisory Board to develop “health goals,” and whether health goals were legal/regulatory standards.

Public comment on the proposals focused on requesting funding for DEQ. Representative Davis said that the Committee was working to secure appropriations to address GenX, but could not promise the size or timing of the appropriation at the time of the meeting.

Representative McGrady echoed comments from the rest of the Committee, saying that the PCS was a good first step to move towards addressing the GenX issue, but that it is not intended to solve the GenX problem entirely.

**AGENDA**  
**9:30 a.m. Wednesday, February 21, 2018**  
Room 643 Legislative Office Building  
Raleigh, North Carolina

1. Call to order  
Representative Ted Davis, presiding
  
2. Introductory remarks by Cochairs  
Representative Ted Davis  
Representative Holly Grange  
Representative Frank Iler
  
3. Department of Environmental Quality update on response to emerging compounds and responses to previous questions, including:
  - Spikes in GenX concentrations near the Cape Fear Public Utility Authority Plant in December, 2017
  - Potential use of private drinking water well filtration systems
  - Update on enforcement actions taken*(1 hour 15 minutes)*  
  
Sheila Holman, Assistant Secretary for Environment  
Department of Environmental Quality  
  
Linda Culpepper, Deputy Director, Division of Water Resources  
Department of Environmental Quality  
  
Michael Scott, Director, Division of Waste Management  
Department of Environmental Quality  
  
Mike Abraczinskas, Director, Division of Air Quality  
Department of Environmental Quality
  
4. Interim report on implementation of Section 20(a)(1) of S.L. 2017-209 (House Bill 56) (GenX Response Measures); report on spikes in GenX concentrations near the Cape Fear Public Utility Authority Plant in December, 2017 *(30 minutes)*  
Jim Flechtner, Executive Director  
Cape Fear Public Utility Authority  
  
Frank Styers, Chief Operations Officer  
Cape Fear Public Utility Authority
  
5. Interim report on implementation of Section 20(a)(2) of S.L. 2017-209 (House Bill 56) (GenX Response Measures) *(45 minutes)*  
Dr. Robert Keiber, Professor and Graduate Coordinator  
Department of Chemistry and Biochemistry,

The Committee discussed the ability of citizens to use private wells, the difference in test results between CFPUA and DEQ, the potential of publishing test results outside of CFPUA's website, possible collaboration between CFPUA, DEQ, and Chemours, installing home filtration systems, fluctuating GenX levels, potential non-point sources of GenX, comparisons between GenX levels upstream and after filtration, notice to the public of ongoing filtration efforts, and additional research on GenX and other contaminants.

Dr. Robert Keiber, Professor, Department of Chemistry and Biochemistry, University of North Carolina Wilmington (UNCW), reported on UNCW's implementation of GenX response measures, as directed by S.L. 2017-209. Dr. Keiber updated the Committee on UNCW's research and contaminant sampling.

The Committee discussed CFPUA's efforts below the Cape Fear dam, how GenX could still show up in the Cape Fear River after Chemours moved to a closed-loop system, how UNCW has addressed GenX in sediment, and the extent and range of GenX and other emerging contaminants found throughout the State.

After a lunch break, Mr. Mark Strynar, Physical Scientist, National Exposure Research Laboratory, EPA, presented on the use and availability of high-resolution mass spectrometers at EPA's Raleigh-Durham facility.

The Committee discussed West Virginia's experience with C8 processors, bottled water, various mass spectrometers, the University system's capability and capacity to handle water quality testing, targeted versus non-targeted testing, Senate discussions on mass spectrometers, and water sample testing for pharmaceuticals.

Mr. Andy Miller, Director of Legislative Affairs, DEQ, presented on the current availability of mass spectrometers in State government.

The Committee discussed funding for DEQ and the Department of Health and Human Services, staffing changes because of GenX contamination, the H189 proposal from earlier in the year, and continued support for addressing the GenX contamination.

Chairman Ted Davis, presented an overview of the differences between the House and Senate versions of H189.

There was extensive Committee discussion about ongoing university research, the need for DEQ to have a mass spectrometer, legislative strategies for working with the Senate to address GenX contamination, and how to move forward into the short session.

Ms. Sheila Holman, Assistant Secretary for the Environment, Department of Environmental Quality (DEQ), reported on DEQ's ongoing response to GenX contamination. Her presentation included specific updates on testing and enforcement actions from the Divisions of Water Resources, Waste Management, and Air Quality.

The Committee discussed how water sampling was conducted, possible explanation for spikes in GenX concentration in stormwater runoff, previous public comment on Chemours' wastewater permit applications, timelines for certain action by Chemours, funding requests from DEQ and the Department of Health and Human Services, providing clean water to affected citizens, developing health goals for GenX, potential enforcement mechanisms against Chemours, historical health goals for GenX, and additional funding.

The business meeting was followed by a tour of the Department of Environmental Quality's Water Sciences and Air Quality Lab Complex at 4403 Reedy Creek Road, Raleigh, North Carolina.

Ms. Sheila Holman, Assistant Secretary for the Environment, Department of Environmental Quality (DEQ), reported on DEQ's ongoing response to GenX contamination. Her presentation included specific updates on testing from the Divisions of Water Resources, Waste Management, and Air Quality, as well as updates on ongoing enforcement actions.

The Committee discussed GenX concentrations found in raw water, providing additional context for GenX concentrations in rainwater, potential revisions to the current GenX health goal, how DEQ is managing the increased workload, sludge testing, the long-term plan for providing clean water to affected homes, the use of newer rainwater collection buckets, and the timeline for installing a thermal oxidizer at the Chemours facility.

Mr. Jim Flechtner, Executive Director, Cape Fear Public Utility Authority (CFPUA), reported on CFPUA's implementation of GenX response measures, as directed by S.L. 2017-209.

The Committee discussed CFPUA's efforts to disseminate this information to the public, the raw water test results in CFPUA's report, whether the issue of emerging contaminants is unique to the Cape Fear or more widespread, whether CFPUA asked other industrial dischargers for chemical discharge information, the ability of DEQ to handle additional emerging contaminants, potential costs to ratepayers to cover infrastructure expenditures, the responsibilities of other industrial dischargers, and whether health goals exist for all emerging contaminants.

Dr. Ralph Mead, Professor, Department of Chemistry and Biochemistry, University of North Carolina Wilmington (UNCW), and Mr. Mark Lanier, Assistant to the Chancellor, UNCW, reported on UNCW's implementation of GenX response measures as directed by House Bill 56 (S.L. 2017-209).

The Committee discussed continued rain and wind modelling, the solubility of GenX, whether DEQ has the capacity to fully address emerging contaminants, when UNCW's research began, biosolid and sludge testing, the positive oyster study results, the difference between parts-per-billion and parts-per-trillion, concerns over interpretation of the study results, potential cost recovery by DEQ or CFPUA, making technical changes to the UNCW study, and when the UNCW report was made public.

The Committee then discussed the March 22 site visit and the inadequacy of DEQ's water testing equipment, past legislative attempts to address GenX, previous spending priorities by past DEQ administrations, and the legislative proposal in this report.

Representative Harrison moved to adopt this report, and the motion passed unanimously.

The Committee then discussed plans for the Committee, extending into the next interim, as well as the possibility of renaming the Committee to better reflect the work done in this interim.

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# RECOMMENDATIONS

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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**BILL DRAFT 2017-SBz-21 [v.13] (12/04)**

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)**  
**01/02/2018 11:16:06 AM**

Short Title: Short Term Response to Emerging Contaminants. (Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO IMPLEMENT SHORT-TERM MEASURES TO RESPOND TO  
3 EMERGING CONTAMINANTS IN THE ENVIRONMENT.  
4 The General Assembly of North Carolina enacts:  
5  
6 **DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO**  
7 **CONSULT WITH THE SECRETARIES' SCIENCE ADVISORY BOARD IN THE**  
8 **DEVELOPMENT OF HEALTH GOALS FOR CONTAMINANTS**  
9 **SECTION 1.(a)** For purposes of this section, the Secretaries' Science Advisory  
10 Board shall mean the Science Advisory Board established by the Secretary of  
11 Environmental Quality and the Secretary of Health and Human Services on July 28, 2017.  
12 **SECTION 1.(b)** The Department of Health and Human Services shall consult  
13 with the Secretaries' Science Advisory Board on the Department's process for the  
14 establishment of health goals for contaminants. The Secretaries' Science Advisory Board  
15 shall review the process by which the Department establishes health goals for contaminants  
16 and make recommendations on how to improve the process, including how to promote  
17 greater public understanding of and confidence in the health goals.  
18 **SECTION 1.(c)** To the extent practicable, the Department of Health and  
19 Human Services shall notify the Chair of the Secretaries' Science Advisory Board prior to  
20 issuing a provisional health goal for a contaminant. The Department of Health and Human  
21 Services shall submit all newly issued provisional health goals to the Secretaries' Science  
22 Advisory Board at their next scheduled meeting.  
23  
24 **STUDY NPDES PERMIT PROGRAM**

1 Environmental Control, the Tennessee Department of Environment and Conservation, the  
2 Virginia Department of Environmental Quality, and the West Virginia Department of  
3 Environmental Protection to improve processes for sharing information about  
4 contaminants identified in surface water or groundwater shared by or passing or flowing  
5 across the border of those states and this State. As needed, the Department shall share with  
6 those agencies water quality data for, and information about any contaminant identified in,  
7 surface water or groundwater shared by or passing or flowing across the border of those  
8 states and this State."  
9

10 **DEPARTMENT OF ENVIRONMENTAL QUALITY REPORTING AND NOTICE**  
11 **STUDY**

12 **SECTION 4.** The Department of Environmental Quality shall study the  
13 statutory requirements for dischargers of untreated wastewater, untreated waste, and other  
14 substances to notify the Department and the public of discharges, including the volumetric  
15 thresholds that trigger the reporting requirements, to ensure that the requirements are  
16 sufficient to protect public health and provide adequate notice to the Department and the  
17 public. The Department shall consider whether there are any conflicts or redundancies in  
18 the statutory notice and reporting requirements. The Department shall also study its  
19 processes for notifying the General Assembly and the Environmental Management  
20 Commission of the presence in the environment of emerging chemicals for which an  
21 applicable discharge standard has not been established under State or federal law. The  
22 Department shall report its findings, including any legislative recommendations, to the  
23 House Select Committee on North Carolina River Quality, the Senate Select Committee  
24 on North Carolina River Water Quality, and the Environmental Review Commission, no  
25 later than April 1, 2018.  
26

27 **WATER UTILITY CIVIL LIABILITY STUDY**

28 **SECTION 5.** The School of Government at the University of North Carolina  
29 at Chapel Hill shall study the extent to which public and private water utilities may be held  
30 civilly liable for distribution of drinking water contaminated by a pollutant without  
31 applicable discharge standards established under State or federal law, and the extent to  
32 which public water utilities and private water utilities are treated differently for purposes  
33 of civil liability. The School of Government shall submit the results of the study to the  
34 House Select Committee on North Carolina River Quality, the Senate Select Committee  
35 on North Carolina River Water Quality, and the Environmental Review Commission, no  
36 later than April 1, 2018.  
37

38 **EFFECTIVE DATE**

39 **SECTION 6.** Except as otherwise provided, this act is effective when it  
40 becomes law.